STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

May 16, 2011

Mr. Keith Petersen
SixTen and Associates
P.O Box 340430
Sacramento, CA 95834-0430

And Interested Parties and Affected State Agencies (See Mailing List)

Re: Final Staff Analysis and Hearing Date
Minimum Conditions for State Aid, 02-TC-25 and 02-TC-31
Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District Co-Claimants

Dear Mr. Petersen:

The final staff analysis on the above-named matter is enclosed.

Hearing

This matter is set for hearing on Thursday, **May 26, 2011**, at 9:30 a.m. **Please note that the hearing will be conducted in the offices of the Department of Finance, 915 L Street, Redwood Room, Sacramento, California 95814**. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Special Accommodations

For any special accommodations such as a sign language interpreter, an assistive listening device, materials in an alternative format, or any other accommodations, please contact the Commission office at least five to seven *working* days prior to the meeting.

Please contact Heidi Palchik at (916) 323-8218 if you have questions.

Sincerely,

Drew Bohan
Executive Director

OUTLINE OF STAFF ANALYSIS FOR MINIMUM CONDITIONS FOR STATE AID 02-TC-25 and 02-TC-31

I. Background 17
A. Overview of the role and governance of community colleges in California 19
B. Claimants' Position 21
C. California Community Colleges-Chancellor's Office Position (Chancellor's Office) 22
D. Department of Finance's Position (Finance) 23
II. Discussion 23
A. The "Handbook of Accreditation and Policy Manual" does not constitute executive orders subject to article XIII B, section 6 and therefore are not within the Commission's jurisdiction. The "Program and Course Approval Handbook" constitutes an executive order subject to article XIII B, section 6, and is within the Commission's jurisdiction. 25
(1) "Handbook of Accreditation and Policy Manual" 25
(2) "Program and Course Approval Handbook" 26
B. The executive order, test claim statutes, and regulations impose some state-mandated new programs or higher levels of service on community college districts subject to article XIII B, section 6 of the California Constitution 27
(1) Delineation of Functions of the Board of Governors of the California Community Colleges and the Governing Boards of Community College Districts (Ed. Code, §§ 70901, 70901.5, and 70902) 28
(2) Minimum Conditions Entitling Community College Districts to State Aid and Investigation and Enforcement of Minimum Conditions (Cal. Code Regs., tit. 5, §§ 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, and 51102) 29
a. Not all of the test claim statutes and administrative regulations pled by the claimants constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6) 30
b. California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027 do not impose any state-mandated activities 34

c. The regulations providing for the investigation and enforcement of minimum conditions do not impose any state-mandated activities (Cal. Code Regs., tit. 5, §§ 51100 and 51102) 38

d. The pre-existing duty of community college districts to comply with the "minimum standards" adopted by the Board of Governors does not preclude a finding of a new program or higher level of service regarding a new regulation adopted as a "minimum standard" that requires new activities....40

(3) Approval of New Colleges and Educational Centers (Cal. Code Regs., tit. 5, §§ 55825, 55827, 55828, 55829, 55830, and 55831) 41

a. Title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831, do not impose state-mandated activities 41

(4) Master Plans for Academics (Ed. Code, § 70902, subd. (b)(1), and Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404) 42

a. Not all of the statutes and regulations in the "Comprehensive or Master Plans for Academics" impose state-mandated activities 43

b. The activities mandated by Education Code section 70902, subd. (b)(1), and California Code of Regulations, title 5, section 55401, 55402, 55403, and 55404, do not constitute a reimbursable new program or higher level of service 43

(5) Faculty, Staff, and Student Participation in District and College Governance (Ed. Code, § 70902, subds. (b)(7) and (b)(14), and Cal. Code Regs., tit. 5, §§ 53200, 53202-53204, and 53207)....44

a. Education Code section 70902, subdivisions (b)(7) and (b)(14), and Title 5, sections 53202, 53203, and 53207, impose state-mandated activities....44

b. The activities mandated by Education Code section 70902, subdivisions (b)(7) and (b)(14), and California Code of Regulations, title 5, sections 53202, 53203, and 53207, constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution....48

(i) Summary of state-mandate new program or higher level of service....49

(6) Full-time/Part-time Faculty Ratio (Ed. Code, §§ 87482.6 and 87482.7; and Cal. Code Regs., tit. 5, §§ 51025, 53300-53302, 53308-53312, and 53314) 50

a. Education Code sections 87482.6 and 87482.7, and California Code of Regulations, title 5, sections 53300-53302, 53308-53312, and 53314, do not impose any state-mandated activities 52

(7) Matriculation (Ed. Code, §§ 78211.5, 78212, 78213, 78214, 78215, and 78216; and Cal. Code Regs., tit. 5, §§ 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, and 55534) 55

a. Education Code sections 78211.5, 78212, and 78213 – 78216, and California Code of Regulations, title 5, sections 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520 – 55526, 55530, 55532, and 55534 do not impose any state-mandated activities.....56

(8) Transfer Centers (Ed. Code, §§ 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, and 71027) 57

a. Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 impose state-mandated activities.....58

(i) Summary of state-mandated activities 70

b. The activities mandated by Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution 71

(i) Summary of state-mandated new program or higher level of service.....73

(9) Vocational Education (Ed. Code, §§ 78015 and 78016; and Cal. Code Regs., tit. 5, §§ 55600-55603, 55605, 55607, 55620, and 55630) 74

a. Education Code sections 78015 and 78016, and California Code of Regulations, title 5, section 55601, impose state-mandated activities on community college districts; however, California Code of Regulations, title 5, sections 55600, 55602-55603, 55605, 55607, 55620, and 55630 do not.....75

b. The state-mandated activities imposed by Education Code sections 78015 and 78016 constitute a new program or higher level of service; however, the activity mandated by California Code of Regulations, title 5, section 55601 does not 78

(i) Summary of state-mandated new program or higher level of service.....79

(10) Standards of Scholarship (Ed. Code, § 70902, subd. (b)(3), and Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765) 80

a. Education Code section 70902, subdivision (b)(3), and California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 requires community college districts to engage in state-mandated activities.....80

(i) Summary of state-mandated activities 94

b. Education Code section 70902, subdivision (b)(3), and California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 constitute a new program or higher level of service.....96

(i) Summary of state-mandated new program or higher level of service.....99

(11) Curriculum (Ed. Code, § 70902, subd. (b)(2), Cal. Code Regs., tit. 5, §§ 55000-55002.5, 55004-55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200-55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320-55322, 55340, and 55350; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001)) 103

a. Education Code section 70902, subdivision (b)(2), and California Code of Regulations, title 5, sections 55001, 55002, 55004, 55005, and 55006, and the "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001) impose state-mandated activities.....103

(i) Summary of state-mandated activities 116

b. Parts of California Code of Regulations, title 5, sections 55001, 55002, 55005, 55006, 55100, 55150, 55201, and 55202, constitute a new program or higher level of service 122

(i) Summary of state-mandated new program or higher level of service.....126

(12) Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809) 131

a. California Code of Regulations, title 5, sections 55800, 55800.5, 55805, 55805.5, 55806, 55808, and 55809 impose state-mandated activities.....132

(i) Summary of state-mandated activities 137

b. The state-mandated activities imposed by California Code of Regulations, title 5, sections 55800, 55805, 55805.5, and 55806 (Register 83, No. 29; Register 88, No. 42; Register 91, No. 43) constitute a new program or higher level of service 138

(i) Summary of state-mandated new program or higher level of service.....140

(13) Open Courses (Cal. Code Regs., tit. 5, §§ 58102, 58104, 58106, 58107, and 58108) 142

a. California Code of Regulations, title 5, sections 58102, 58104, and 58106, impose state-mandated activities.....142

(i) Summary of state-mandated activities 147

b. California Code of Regulations, title 5, sections 58102, 58104, and 58106 constitute a new program or higher level of service 148

(i) Summary of state-mandated new program or higher level of service.....149

(14) Student Fees (Ed. Code, § 70902, subd. (b)(9)).....149

a. Education Code section 70902, subdivision (b)(9), does not require community college districts to engage in any activities 149

(14) Notice to Students (Cal. Code Regs., tit. 5, 54626, 54805, 59404, and 59410) 150

a. Student Directory Information (Cal. Code Regs., tit. 5, § 54626 (Register 83, No. 18)) 150

(i) California Code of Regulations, title 5, section 54626, imposes a requirement on community college districts 150

(ii) The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute a federal mandate.....151

(iii) The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), constitutes a state mandate 152

(iv) The mandate of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute new program or higher level of service 152

b. Student Representation Fee (Cal. Code Regs., tit. 5, § 54805).....153

(i) California Code of Regulations, title 5, section 54805, does not impose state-mandated activities.....153

c. District Policies and Regulations for Instructional and Other Materials (Cal. Code Regs., tit. 5, § 59404) 154

(i) California Code of Regulations, title 5, section 59404, does not impose state-mandated activities....154

d. Withholding Grades, Transcripts, Diplomas, and Registration Privileges (Cal. Code Regs., tit. 5, § 59410)....155

(i) California Code of Regulations, title 5, section 59410, does not impose state-mandated activities....155

C. The state-mandated new program or higher level of service impose costs mandated by the state on community college districts within the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556....155

III. Conclusion....157

IV. Recommendation....171

ITEM 3

TEST CLAIM

FINAL STAFF ANALYSIS

Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7

Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169

California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410

Register 71, number 27; Register 76, number 10; Register 77, number 45; Register 78, number 51; Register 81, number 52; Register 82, number 31; Register 83, number 18; Register 83, number 29; Register 83, number 53; Register 84, number 26; Register 85, number 20; Register 88, number 20; Register 88, number 42; Register 90, number 37; Register 90, number 49; Register 91, number 23; Register 91, number 45; Register 91, number 46; Register 92, number 4; Register 92, number 7; Register 92, number 15; Register 92, number 17; Register 92, number 34; Register 93, number 25; Register 93, number 42; Register 94, number 18; Register 94, number 38; Register 98, number 7; Register 98, number 14; Register 2000, number 26; Register 2000, number 50; Register 2001, number 43; Register 2002, number 8; Register 2002, number 26; and Register 2003, number 18.

Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001)

EXECUTIVE SUMMARY

Overview

This consolidated test claim filed by Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District addresses Education Code sections, title 5 regulations, and an executive order that prescribe standards for the formation and basic operation of the California Community Colleges, and set forth minimum conditions, satisfaction of which entitles community college districts to receive state aid.

These conditions and standards cover various areas of operation and formation of community colleges including, but not limited to, the following: (1) standards of scholarship; (2) degrees and certificates; (3) open courses; (4) comprehensive or master plans for academics and facilities; (5) student fees; (6) approval of new colleges and educational centers; (7) accreditation; (8) counseling programs; and (9) investigation and enforcement of the minimum conditions by the Chancellor and the Board of Governors.

In addition, this test claim addresses regulations which provide that community college districts adopt policies or provide students with information or notices regarding: (1) student directory information, (2) student representation fees, (3) the provision of course materials, and (4) possible consequences of failing to pay a proper financial obligation due to the district or college.

Procedural History

The consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim was filed during the 2002-2003 fiscal year. As a result, the reimbursement period for any reimbursable state-mandated new programs or higher level of service found in this test claim begins on July 1, 2001.

Between 2003 and 2010 various parties requested and received multiple extensions to file comments on the *Notice to Students* (02-TC-25) and *Minimum Conditions for State Aid* (02-TC-31) test claims. During this period the Commission has received comments from the claimants and the Chancellor's Office on both test claims. Finance has submitted comments on the *Notice to Students* test claim, but notified the Commission of its intent to reserve comments on the *Minimum Conditions for State Aid* test claim until after the draft analysis was issued by the Commission.

On January 9, 2008 the Commission consolidated the *Notice to Students* (02-TC-25) and *Minimum Conditions for State Aid* (02-TC-31) test claims to form the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim. On April 2, 2008, the Commission severed a portion of the *Disabled Student Program and Services* (02-TC-22) test claim and consolidated it with the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim. On June 22, 2010, the Commission severed a portion of the consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31), and consolidated the severed portion with the *Discrimination Complaint Procedures* (02-TC-46) test claim.

On January 19, 2011 and May 6, 2011 the Commission severed a portion of *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) related to community college construction[1] and consolidated the severed portion with the *Community College Construction* (02-TC-47) test claim.

On January 31, 2011 the Commission issued the draft staff analysis. On April 21, 2011 the claimants filed comments on the draft staff analysis. The Commission has not received comments from Finance or the Chancellor's Office.

Position of Parties

Claimants' Position

The claimants allege that the test claim statutes and regulations impose reimbursable state-mandated activities on community college districts addressing various areas of operation and formation of community colleges discussed in the overview above. In addition, the claimants allege that regulations addressing the provision of information or notices to students impose reimbursable state-mandated activities on community colleges.

The claimants acknowledge that some funding may have or has been received by community college districts for some of the claimed activities, but argue that if funding has been received it is not enough to fully fund the state-mandated new programs or higher levels of service alleged.

The claimants' comments on the draft staff analysis generally: (1) disagree with the standard of review the Commission uses to determine whether a program is new or imposes a higher level of service; (2) disagree with all of the minimum conditions analysis; and (3) disagree with some of the individual findings that recommend a denial of reimbursement.

The California Community Colleges Chancellor's Office (Chancellor's Office)

The Chancellor's Office asserts generally that community college districts are not entitled to reimbursement for any of the pled activities, and that the test claim should be rejected in its entirety. The Chancellor's Office argues that the activities alleged by the claimants are conditions for receipt of state aid and that the claimants are not required to accept state aid, and therefore the claimants are not mandated to engage in any of the claimed activities. In addition, if the claimants have complied with the challenged provisions in order to receive state aid and have received state aid, the claimants have already been compensated for compliance and no further reimbursement is warranted. The Chancellor's Office also argues that some of the regulations are not new requirements, and that some of the activities are mandated by federal law.

The Department of Finance (Finance)

Finance has chosen to reserve comments in regard to the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim. However, in regard to the Education Code sections and title 5 regulations pled in the *Notice to Students* (02-TC-25) test claim, Finance argues that any costs associated with the code sections and title 5 regulations are fully supported by the general purpose apportionment funding allocated annually to community colleges in Schedule (1) Apportionments, of Item 6870-101-0001 of the Budget Act.

[1] Education Code sections 70902, subdivision (b)(1) (as it applies to facility plans), and 81820, 81821, and 81823.

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local governments and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local governments or school districts to be eligible for reimbursement, one or more similarly situated local governments or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.

Claims

The following chart provides a brief summary of the claims and issues raised by the claimant, and staff's recommendation.

Subject of Claim	Description	Issues	Staff Recommendation
Handbook of Accreditation and Policy Manual (Policy Manual)	The Policy Manual sets forth the eligibility requirements and standards for accreditation with the Accrediting Commission For Community and Junior Colleges (ACCJC).	The claimants allege that the Policy Manual constitutes an "executive order" and it imposes reimbursable state-mandated costs.	*Denied*: The ACCJC is not a state agency, and as a result, the Policy Manual is not an "executive order" under Government Code section 17516.
Program and Course Approval Handbook (Handbook)	The Handbook is intended to assist individuals at community colleges responsible for designing new programs or courses in seeking program or course approval from the Chancellor's Office.	The claimants allege that the Handbook constitutes an "executive order" subject to the Commission's jurisdiction, and imposes reimbursable state-mandated costs.	*Denied*: Although the Handbook constitutes an executive order, it does not impose a new program or higher level of service. See "Curriculum" section of the analysis.
Delineation of Functions	The Education Code sections pled in this section (§§ 70901, 70901.5, and70902) delineate the functions of the state and the local community college districts in postsecondary education.	The claimants do not allege any specific activities associated with these code sections.	*Denied:* The plain language of Education Code sections 70901 and 70901.5 does not impose any activities on community college districts. However, Education Code section 70902 is addressed throughout the rest of the analysis.

Minimum Conditions and the Investigation and Enforcement of Minimum Conditions	As a condition for entitlement to state aid, the title 5 regulations require community college operation activities including: standards of scholarship, student fees, accreditation, and counseling programs.	The claimants allege that the conditions for entitlement for state aid impose reimbursable state-mandated costs.	*Denied*: There is no evidence in the record that community college districts are legally or practically compelled to become entitled to state aid.
Approval of New Colleges and Educational Centers	The regulations address the process to obtain the Board of Governors' approval of a proposed new college or educational center by a community college district.	The claimants allege that districts are required to engage in activities associated with receiving approval of proposed new colleges or educational centers.	*Denied*: Districts are not required to propose new colleges or educational centers. As a result, districts are not mandated to comply with the regulations.
Master Plans for Academics	The code section and regulations address the preparation of a community college district's educational master plan.	The claimants allege that the code section and title 5 regulations pled in this section impose reimbursable state-mandated costs.	*Denied*: The activities are not new.
Faculty Participation in District and College Governance	The Education Code section and regulations address faculty participation in district and college governance through the formation of academic senates.	The claimants allege that Education Code section 70902 and the title 5 regulations impose reimbursable state-mandated costs.	*Partially Approved*: Education Code section 70902 and some of the regulations impose reimbursable state-mandated costs, but some of the activities imposed are not new or are fully funded.
Full-time/Part-time Faculty Ratio	The Education Code sections and title 5 regulations address the Board of Governors' goal that community college districts have a full-time faculty percentage of 75 percent.	The claimants allege that these code sections and regulations impose reimbursable state-mandated costs.	*Denied*: Districts do not face legal or practical compulsion to meet the 75 percent goal.
Matriculation	This section addresses the provision of matriculation programs pursuant to the Seymour-Campbell Matriculation Act of 1986.	The claimants allege that the Act imposes reimbursable state-mandated costs.	*Denied*: Districts are not legally or practically compelled to participate in the Act.

Transfer Centers	This section addresses activities associated with the transfer system between the three segments of California's higher education system (Community Colleges, UC and CSU).	The claimants allege that all of the code sections pled impose reimbursable state-mandated costs. The Chancellor's Office argues that the distribution of the core curriculum for transferring (transfer core curriculum) does not constitute a new program or higher level of service.	*Partially Approved*: Some of the code sections do not mandate any activities on community college districts. The distribution of the transfer core curriculum does constitute a new program or higher level of service.
Vocational Education	This section addresses activities that must be done prior to and after the establishment of vocational or occupational training programs.	The claimants allege all of the code sections and title 5 regulations impose reimbursable state-mandated costs.	*Partially Approved*: Although districts are required to engage in vocational or occupational training activities, some activities are not mandated and some are not new.
Standards of Scholarship	Education Code section 70902 and regulations address community college districts' standards regarding things such as district grading practices and standards of probation.	The claimants allege the regulations impose reimbursable state-mandated costs.	*Partially Approved*: Some of the regulations do not impose state-mandated activities.
Curriculum	Education Code section 70902 and regulations address requirements and procedures for securing approval of proposed courses and programs.	The claimants allege that the code section and all of the regulations impose reimbursable state-mandated costs.	*Partially Approved*: The Education Code section and some of the regulations do not impose state-mandated activities on community college districts.
Degrees and Certificates	The regulations address the award of degrees, certificates, and diplomas by community college districts.	The claimants allege all of the regulations impose reimbursable state-mandated costs.	*Partially Approved*: Some of the regulations do not impose state-mandated activities. In addition, some of the activities are not new.
Open Courses	The regulations address the provision of courses that are open to enrollment by any student admitted to the community college.	The claimants allege all of the regulations impose reimbursable state-mandated costs.	*Partially Approved*: Some of the regulations do not impose any activities on districts.
Student Fees	Education Code section 70902, subdivision (b)(9), addresses the establishment of student fees.	The claimants allege that the statute imposes reimbursable state-mandated costs.	*Denied*: The language of Education Code section 70902 does not impose any activities on community college districts.

Notices to Students	The regulations address the adoption of policies or the provision of notice to students regarding issues including: student representation fees and the provision of instructional or other materials.	The claimants allege that these regulations impose reimbursable state-mandated costs.	*Denied*: The regulations either are not new or do not impose state-mandated activities on community college districts.

Staff makes the following findings:

- The "Handbook of Accreditation and Policy Manual" Does Not Constitute an Executive Order

  The Handbook of Accreditation and Policy Manual is issued by the Accrediting Commission for Community and Junior Colleges (ACCJC). The "Handbook of Accreditation and Policy Manual" sets forth the eligibility requirements and standards for accreditation with the ACCJC.

  The claimants argue that the Handbook of Accreditation and Policy Manual constitutes an executive order. However, the ACCJC is one of three commissions that make up the Western Association of Schools and Colleges (WASC), a *non-governmental* corporate entity whose commissions evaluate and accredit public and private educational institutions. Thus, the "Handbook of Accreditation and Policy Manual" does not constitute an executive order issued by any agency, department, board, or commission of *state* government. As a result, the "Handbook of Accreditation and Policy Manual" does not constitute an executive order subject to article XIII B, section 6, and therefore, is not within the Commission's jurisdiction.

- The "Program and Course Approval Handbook" Constitutes an Executive Order

  The Program and Course Approval Handbook is issued by the Chancellor's Office and is intended to assist California community college administrators, staff, and faculty who are responsible for designing and submitting new programs or courses to the Chancellor's Office for approval.

  The Program and Course Approval Handbook provides that colleges are expected to follow the procedures and instructions contained in the Handbook in order to have proposed courses and programs approved by the Chancellor's Office. As provided in statute and regulation, community colleges are required to offer courses of instruction and programs. As a result, community college districts, which are required to offer courses and programs, are also required to follow the procedures and instructions contained in the Handbook when it is necessary to obtain the approval of the Chancellor's Office. However, to the extent that the Handbook provides guidelines and explanations of statutes and regulations, community college districts are not required to comply with the Handbook because these guidelines and explanations are not law. Therefore, the procedures and instructions contained in the Handbook constitute an executive order subject to article XIII B, section 6 of the California Constitution, and thus, subject to the Commission's jurisdiction.

- Delineation of Functions (Ed. Code, §§ 70901, 70901.5, and 70902)

  This section addresses Education Code sections 70901, 70901.5, and 70902, which delineate the roles and functions of the state and the local community college districts in postsecondary education.

Many of the title 5 regulations pled in this test claim were adopted by the Board of Governors pursuant to Education Code section 70901 and fulfill the duty of the Board of Governors to establish standards regarding the operation of community colleges and the duty to establish conditions, satisfaction of which entitle districts to receive state aid. Education Code sections 70901 and 70901.5 do not impose any activities on community college districts. Instead, as described above, sections 70901 and 70901.5 impose activities on the Board of Governors, and as a result, do not impose reimbursable state mandated activities subject to article XIII B, section 6 of the California Constitution.

In the claimants' response to the draft staff analysis, the claimants allege for the first time that Education Code section 70902 imposes affirmative duties resulting in reimbursable state-mandated activities. Specifically, the claimants allege that Education Code section 70902, subdivisions (b)(1), (2), (3), (7), (9), and (14), impose affirmative duties on community college districts, and suggest that these duties impose new programs or higher levels of service. For ease of discussion, whether Education Code section 70902, subdivisions (b)(1), (2), (3), (7), (9), and (14), and the title 5 regulations pled in this test claim constitute reimbursable state-mandated new programs or higher levels of service will be addressed throughout the rest of the test claim analysis.

- Minimum Conditions Entitling Community College Districts to State Aid and Investigation and Enforcement of Minimum Conditions (Cal. Code Regs., tit. 5, §§ 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, and 51102)
  The title 5 regulations in this section set forth the minimum conditions, satisfaction of which entitles community college districts to receive state aid. These conditions cover the following areas of basic operation: standards of scholarship, degrees and certificates, open courses, comprehensive plans, student fees, approval of new colleges and educational centers, accreditation, counseling programs, objectives, curriculum, instructional programs, faculty, staff, students, matriculation services, full-time/part-time faculty, and transfer centers. In addition, the regulations set forth the role of Chancellor's Office in investigating and enforcing the minimum conditions.

  The claimants have pled all of the Education Code sections and title 5 regulations as minimum conditions, satisfaction of which entitles a community college district to state aid. In addition the claimants allege that the minimum conditions impose state-mandated activities that are reimbursable under article XIII B, section 6 of the California constitution.

  The California Supreme Court held in *Department of Finance v. Commission on State Mandates* (*Kern High School Dist*.) that when analyzing state mandate claims, the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[2] The court also held open the possibility that a reimbursable state mandate might be found in circumstances short of legal compulsion where "'certain and severe … penalties', such as 'double … taxation' and other 'draconian' consequences,'"[3] would result if the local entity did not comply with the program.

---

[2] *Department of Finance v. Commission on State Mandates* (*Kern High School Dist*.) (2003) 30 Cal.4th 727, 743.

[3] *Id*. at p. 751.

Based on the plain language of the code sections and title 5 regulations staff finds that only title 5 sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027 constitute minimum conditions, satisfaction of which entitles a community college district to state aid. However, because community college districts perform the activities in the title 5 regulations as conditions for entitlement to state aid and there is no evidence in the record that districts are legally or practically compelled to become entitled to state aid, staff finds that the title 5 regulations do not impose activities mandated by the state pursuant to *Kern High School Dist*.

Title 5, sections 51100 and 51102, require the Chancellor's Office to engage in activities; however, they do not impose any activities on community college districts.

- Approval of New Colleges and Educational Centers (Cal. Code Regs., tit. 5, §§ 55825, 55827, 55828, 55829, 55830, and 55831)
  The title 5 regulations set forth the process to obtain the Board of Governors' approval of a community college district's proposed new college or educational center.

  The initial decision to create a new college or educational center, which triggers the activities required by section 55825-55831, is left to the discretion of the community college district. As a result, pursuant to *Kern High School Dist*. staff finds that California Code of Regulations, title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831 do not impose state-mandated activities subject to article XIII B, section 6 of the California Constitution.

- Master Plans for Academics (Ed. Code, § 70902, subd. (b)(1), and Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404)
  Education Code section 70902, subdivision (b)(1), and the title 5 regulations address the preparation of a community college district's education master plan. This includes activities such as establishing policies for current and long-range educational plans and programs for each community college in the district, updating these plans, and submitting these plans to the Chancellor.

  The claimants have pled Education Code section 70902, subdivision (b)(1), as added in 1988, and title 5 sections 55401, 55402, 55403, and 55404 as added in 1971 and last amended in 1991. However, the language of sections 55401, 55402, 55403, and 55404 has remained unchanged since the adoption of the sections in 1971. In addition, the provisions of Education Code section 70902, subdivision (b)(1), do not impose any activities that are not required by title 5 sections 55401, 55402, 55403, and 55404. As a result, staff finds that the activities mandated by Education Code section 70902, subdivision (b)(1), and California Code of Regulations, title 5, sections 55401, 55402, 55403, and 55404 do not constitute a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

- Faculty, Staff, and Student Participation in District and College Governance (Ed. Code, § 70902, subds. (b)(7) and (b)(14), and Cal. Code Regs., tit. 5, §§ 53200, 53202-53204, and 53207)
  Education Code section 70902, subdivisions (b)(7) and (b)(14), and the title 5 regulations address faculty, staff, and student participation in district and college governance. The activities that arise include the establishment of procedures to ensure faculty, staff, and students the opportunity to participate in district governance, the recognition of academic senates formed within colleges or districts, the adoption of policies for the delegation of authority and responsibility to the academic senates, consultation with the academic

senate, and the release of college faculty that are elected to serve on the state-wide academic senate.

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy. In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public. To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment. The requirement to recognize the college or district-wide academic senate formed in colleges or districts is not a new program or higher level of service.

However, the remaining state-mandated activities found in this section of the analysis constitute a reimbursable new program or higher level of service. These activities include: (1) establishing procedures to ensure faculty, staff, and students the opportunity to express their opinions at the campus level; (2) participating the consultation process established by the Board of Governors; and (3) adopting policies for the appropriate delegation of authority and responsibility to its college or district academic senate.

- Full-time/Part-time Faculty Ratio (Ed. Code, §§ 87482.6 and 87482.7; and Cal. Code Regs., tit. 5, §§ 53300-53302, 53308-53312, and 53314)
  The Education Code sections and title 5 regulations address the attempt of the Legislature and the Board of Governors to achieve the goal of the Board of Governors that community college districts have a full-time faculty percentage of 75 percent. The Legislature and the Board of Governors established a statutory and regulatory scheme in which community college districts are to use specified funds for the purpose of achieving a full-time faculty percentage of 75 percent. If a district fails to do so, the funds provided for this purpose will be withheld and redirected to community college districts for the purpose of promoting equal employment opportunity in districts.

  Thus, if a district chooses not to increase its full-time faculty percentage it will forgo funds that were to be used toward achieving the 75 percent standard. As a result, community college districts only forgo funds provided for this program, and do not face a substantial penalty independent of the program funds at issue. As a result, under *Kern High School Dist*., the Education Code sections and title 5 regulations not impose any state-mandated activities.

- Matriculation (Ed. Code, §§ 78211.5, 78212, 78213, 78214, 78215, and 78216; and Cal. Code Regs., tit. 5, §§ 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, and 55534)
  This section addresses the provision of matriculation programs by community college districts pursuant to the Seymour-Campbell Matriculation Act of 1986 and its implementing regulations. As defined by the code sections and title 5 regulations, "matriculation" is a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goals through the college's established programs, policies, and requirements.

  Compliance with the provisions of the Act and its implementing regulations is triggered by the underlying discretionary decisions made by community colleges or districts to participate in the Act in order to receive funds under the Act. Therefore, community colleges and districts are not legally compelled to comply with the provisions of the Act or its implementing regulations. Thus, staff finds that the Education Code sections and title 5 regulations do not impose any state-mandated activities upon community college

districts, and therefore, do not mandate a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

- Transfer Centers (Ed. Code, §§ 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, and 71027)
  This section addresses the transfer system between the three segments of California's higher education system and the functions of various entities involved in the transfer system. The activities that arise in this section include: the distribution of the current transfer core curriculum to community college students; designing and implementing policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University; maintaining student transfer counseling centers; and the development of discipline-specific articulation agreements between the community colleges and the campuses of the University of California and the California State University.

  Although some of the activities claimed by the claimants are not mandated by the code sections, some of the code sections impose reimbursable state-mandated new programs or higher levels of service. These new programs or higher levels of service include: (1) directing the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum; (2) distributing a copy of the current transfer core curriculum to each student; and (3) recognizing student matriculation from community colleges through the University and California State University as a central institutional priority of all segments of higher education.

- Vocational Education (Ed. Code, §§ 78015 and 78016; and Cal. Code Regs., tit. 5, §§ 55600-55603, 55605, 55607, 55620, and 55630)
  This section addresses the activities that must be done prior to and after the establishment of vocational or occupational training programs, the appointment of a vocational education advisory committee for each community college district, and the ability of community college districts to contract with private postsecondary schools, activity centers, work activity centers, or sheltered workshops to provide vocational skill training.

  Pursuant to *Kern High School Dist*., districts are not required to comply with the title 5 regulations that impose contracting requirements because community college districts are not required to contract with private postsecondary schools to provide vocational skills training.

  In addition, the appointment of a vocational education advisory committee does not constitute a new program or higher level of service, because districts were required to appoint the advisory committee in 1973.

  The remaining state-mandated activities found in this section of the analysis constitute a reimbursable new program or higher level of service, including: (1) conducting a job market study of the labor market area; (2) making copies of each job market study available to the public; and (3)determining whether or not the job market study justifies the proposed vocational education program.

- Standards of Scholarship (Ed. Code, § 70902, subd. (b)(3), and Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765)
  This section addresses a statute and regulations that set forth standards addressing the basic operation of community college districts regarding standards of scholarship, including but not limited to the following areas of scholarship: grading practices, credit-

no credit options, advanced placement examinations, standards for probation, academic record symbols, and grade point average.

Although some of the title 5 regulations do not impose state-mandated activities, the state-mandated activities imposed by Education Code section 70902, subdivision (b)(3), and the title 5 regulations constitute a reimbursable new program or higher level of service. This includes the following activities: (1) publishing regulations regarding standards of scholarship in the college catalog under appropriate headings, (2) file a copy of the regulations with the Chancellor, and (3) determining a uniform grading practice for the district based on sound academic principles.

- Curriculum (Ed. Code, § 70902, subd. (b)(2), and Cal. Code Regs., tit. 5, §§ 55000-55002.5, 55004-55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200-55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320-55322, 55340, and 55350; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001))
  This section addresses Education Code section 70902, subdivision (b)(2), and title 5 regulations and the "Program and Course Approval Handbook" (Handbook) addressing the requirements and procedures for securing approval of courses and programs proposed by community colleges or community college districts. The process for course approval begins with a recommendation for approval by the community college curriculum or district curriculum committee to the district governing board. The recommended course then needs approval by the district governing board, followed by the approval of the Chancellor.

  Community college districts have broad discretion over the governance of community colleges. This discretion extends to the courses and programs the community colleges offer. However, as provided in statute, the primary mission of community college districts is to provide academic and vocational instruction. In addition, community college districts by definition are degree-granting institutions. Thus, although community college districts maintain discretion in the curriculum the districts' offer, districts at a minimum must offer courses, and as a result, districts must comply with the regulations and procedures necessary to offer courses.

  The Education Code section and some of the title 5 regulations do not impose state-mandated activities or do not constitute a new program or higher level of service. In addition, the Handbook does not impose a new program or higher level of service. However, the other state-mandated activities imposed by the title 5 regulations constitute a reimbursable new program or higher level of service. This includes: (1) establishing policies for and approve educational programs; (2) establishing a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate; and (3) making available to students through college publications specified facts regarding each course.

- Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809)
  This section addresses regulations pertaining to the award of degrees, certificates, and diplomas by community college districts upon the completion of standards specified by the Board of Governors and the governing board of the community college district. The activities that arise in this section include the establishment of criteria to determine which courses may be used in implementing the district philosophy on General Education, conferring a degree on students who have successfully completed the requirements

established by the district, and designing specific courses that are needed to receive a degree.

Some of the title 5 regulations do not impose state-mandated activities. In addition, the requirement to confer a degree upon a student is not a new program or higher level of service. However, the other state-mandated activities imposed by the title 5 regulations constitute a reimbursable new program or higher level of service, including: (1) adopting a policy consistent with the Board of Governors regulations regarding Degrees and Certificates; (2) reviewing the policy and criteria of General Education; and (3) offering specified areas of study in general education.

- Open Courses (Cal. Code Regs., tit. 5, §§ 58102, 58104, 58106, 58107, and 58108)
  This section addresses regulations that set forth standards regarding the provision of courses open to enrollment by any student admitted to the community college. Many of the regulations pled in this section do not impose any state-mandated activities. However, the regulations do impose some reimbursable state-mandated new program or higher level of service on community districts including: (1) publishing a description of each course that is clear and understandable to the prospective student in the official catalog, schedule of classes, and addenda; and (2) handling challenges to enrollment limitations made by students.

- Student Fees (Ed. Code, § 70902, subd. (b)(9))

  This section addresses the establishment of student fees. The code section provides that community college districts are to establish student fees as required by law. However, the claimants have not pled any statutes or regulations that require the establishment of student fees, and the code section on its own does not impose any activities on community college districts.

- Notice to Students (Cal. Code Regs., tit. 5, 54626, 54805, 59404, and 59410)
  This section addresses the adoption of policies or the provision of notices to students regarding various issues related to the operation and governing of community colleges and community college districts, including: (1) student directory information; (2) student representation fees; (3) the provision of instructional or other materials; and (4) the possible consequences of failing to pay a proper financial obligation due to the district or college.

  The title 5 regulations either are not new or do not impose state-mandated activities on community college districts.

Conclusion

For the reasons discussed in the analysis, staff finds that the activities listed under section III of this analysis titled "Conclusion" constitute a reimbursable state-mandated new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 and 17556. Staff notes that some of the activities found to be reimbursable are broad and could be interpreted as including a wide range of activities in order to be implemented. However, these broad activities do not include activities that have been specifically denied in this analysis. Where necessary, the scope of the approved activities will be limited in the parameters and guidelines.

Finally, staff finds that all other test claim statutes, regulations, and alleged executive orders do not constitute a reimbursable state-mandated program because they either do not require any activities of community college districts, are voluntary or are downstream of a voluntary activity,

or are not new as compared to the legal requirements in effect immediately prior to their enactment.

Recommendation

Staff recommends that the Commission adopt this analysis to partially approve this test claim.

STAFF ANALYSIS

Co-Claimants

Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District

Chronology

06/05/03	Claimant, Los Rios Community College District, files test claim *Notice to Students* (02-TC-25) with the Commission on State Mandates (Commission)
06/23/03	Claimant, Santa Monica Community College District, files test claim *Minimum Conditions for State Aid* (02-TC-31) with the Commission
06/16/03	Claimant files revised test claim form for 02-TC-25[4]
06/19/03	Commission staff issues completeness letter and requests comments for 02-TC-25
07/03/03	Commission staff issues completeness letter and requests comments for 02-TC-31
07/07/03	The California Community Colleges, Chancellor's Office (Chancellor's Office) requests an extension of time for comments for 02-TC-25
07/08/03	Commission staff grants extension of time for comments for 02-TC-25 to August 18, 2003
08/21/03	The Chancellor's Office requests an extension of time for comment for 02-TC-25 and 02-TC-31
08/28/03	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to October 11, 2003
09/02/03	The Attorney General, on behalf of the Department of Finance (Finance), requests an extension of time for comments for 02-TC-25
09/03/03	Commission staff grants extension of time for comments for 02-TC-25 to October 18, 2003
09/08/03	The Attorney General, on behalf of Finance, requests an extension of time for comments for 02-TC-31
09/09/03	Commission staff grants extension of time for comments for 02-TC-31 to October 11, 2003
10/10/03	The Chancellor's Office requests an extension of time for comment for 02-TC-25 and 02-TC-31
10/17/03	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to December 15, 2003

[4] Potential period of reimbursement begins on July 1, 2001, the start of the 2001-2002 fiscal year. See Government Code section 17557, subdivision (e).

10/28/03	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
11/07/03	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to February 7, 2004
02/13/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
02/18/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to May 18, 2004
03/11/04	The Chancellor's Office files comments to 02-TC-31
03/16/04	The Chancellor's Office files comments to 02-TC-25
04/19/04	Claimant files response to the Chancellor's Office comments to 02-TC-25
05/05/04	Claimant files response to the Chancellor's Office comments to 02-TC-31
06/09/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
06/14/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to August 9, 2004
09/08/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
09/14/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to December 9, 2004
09/21/04	Claimant files additional response to the Chancellor's Office comments to 02-TC-31
12/21/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
12/28/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to March 9, 2005
03/14/05	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
03/17/05	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to June 9, 2005
09/22/05	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
10/03/05	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to December 1, 2005
02/03/06	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
02/07/06	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to April 3, 2006
10/02/07	Commission staff issues request for additional information to claimant for 02-TC-25

10/19/07	Commission staff issues request for additional information to the Chancellor's Office and Finance for 02-TC-25
10/22/07	Claimant files response to request for additional information for 02-TC-25
10/31/07	Chancellor's Office files response to request for additional information for 02-TC-25
11/14/07	Finance files comments on 02-TC-25
01/09/08	Commission staff issues Notice of Consolidation of 02-TC-25 and 02-TC-31
01/11/08	Commission staff requests comments for 02-TC-31
03/14/08	Claimant files supplement to 02-TC-31
04/02/08	Commission staff issues Notice of Severance and Consolidation of California Code of Regulations, title 5, sections 55522 and 55602.5 from test claim *Disabled Student Programs and Services* (02-TC-22) originally filed May 23, 2003
04/21/08	Commission staff requests additional information from Finance and the Chancellor's Office regarding the consolidated test claims 02-TC-25 and 02-TC-31
05/06/08	Finance files response reserving comments to 02-TC-31, and deferring to the Chancellor's Office to provide the request for additional information issued on April 21, 2008
06/23/08	Commission staff issues follow up request for additional information from the Chancellor's Office regarding the consolidated test claims.
06/22/10	Commission staff issues Notice of Severance and Consolidation of statutes and administrative regulations from consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) originally filed June 5, 2003 and June 13, 2003, to *Discrimination Complaint Procedures* (02-TC-46)
01/19/11	Commission staff issues Notice of Severance and Consolidation of statutes from consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) to *Community College Construction* (02-TC-47)
01/31/11	Commission staff issues draft staff analysis
04/21/11	Claimants file comments on draft staff analysis
05/06/11	Commission staff issues Notice of Severance and Consolidation of Education Code section 70902, subdivision (b)(1), as applicable to facility plans, from *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) to *Community College Construction* (02-TC-47)

I. Background

This claim addresses 27 statutes, 141 title 5 regulations, and two alleged executive orders that prescribe minimum standards for the formation and basic operation of community colleges and

community college districts.[5] [6] Some of the standards also constitute minimum conditions, satisfaction of which entitles community college districts to receive state aid. In addition, some of the administrative regulations address the adoption of policies or notification of students by community colleges of information related to the operation and governing of community colleges and community college districts.

On June 23, 2003 Santa Monica Community College District filed the *Minimum Conditions for State Aid* (02-TC-31) test claim, seeking reimbursement for costs associated with statutes, title 5 regulations, and alleged executive orders that prescribe standards for the formation and basic operation of the California Community Colleges, and set forth minimum conditions, satisfaction of which, entitles community college districts to receive state aid.

These conditions and standards cover various areas of operation and formation of community colleges including, but not limited to, the following: (1) standards of scholarship, (2) degrees and certificates, (3) open courses, (4) comprehensive or master plans for academics and facilities, (5) student fees, (6) approval of new colleges and educational centers, (7) accreditation, (8) counseling programs, (9) objectives for instructional programs, (10) curriculum, (11) instructional programs, (12) course articulation, (13) academic freedom, (14) staff, faculty, and student participation in district and college governance, (15) matriculation, (16) full-time/part-time faculty ratio, (17) transfer centers, and (18) investigation and enforcement of the minimum conditions by the Chancellor and the Board of Governors.[7]

On June 5, 2003 Los Rios Community College District filed the *Notice to Students* (02-TC-25) test claim seeking reimbursement for costs associated with statutes and title 5 regulations, many of which were pled in 02-TC-31.[8] In addition, Los Rios Community College District seeks reimbursement for administrative regulations which provide that community college districts adopt policies or provide students with information or notices regarding: (1) student directory information, (2) student representation fees, (3) the provision of course materials, and (4) possible consequences of failing to pay a proper financial obligation due to the district or college.

On January 9, 2008 the 02-TC-25 and 02-TC-31 test claims were consolidated into the *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim due to the fact that both claims pled many of the same statutes and administrative regulations that prescribe standards for the formation and basic operation of community college districts, some of which also entitle community college districts to receive state aid when satisfied.

---

[5] On June 22, 2010, the Commission severed a portion of the consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31), and consolidated the severed portion with the *Discrimination Complaint Procedures* (02-TC-46) test claim.

[6] References to "title 5" are to the California Code of Regulations, unless otherwise stated.

[7] West Kern Community College District filed the *Disabled Student Programs and Services* (02-TC-22) test claim alleging costs associated with the provision of services to disabled students within the California community colleges system. The 02-TC-22 test claim was heard and decided on September 26, 2008. However, prior to being heard and decided, title 5, sections 55522 and 55602.5, which address student matriculation and vocational education programs, were severed from the 02-TC-22 test claim and consolidated with the *Minimum Conditions for State Aid* (02-TC-22 and 02-TC-31) test claim on April 2, 2008.

[8] Education Code sections 66281.5 and 66721.5, and California Code of Regulations, title 5, sections 51006, 54805, 55005, 55202, 55530, 55534, 55750, 55752, 55753, 55758, 55759, 55760, 55761, 55762, 55764, 55765, 55800, 58102, 58104, 59404, and 59410.

On January 19, 2011 and May 6, 2011 the Commission severed a portion of *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) related to community college construction[9] and consolidated the severed portion with the *Community College Construction* (02-TC-47) test claim. This severance occurred because both test claims pled code sections relating to community college construction plans and the submission of these plans to the Board of Governors, and it was determined that it would be more efficient to analyze the severed code sections in the *Community College Construction* (02-TC-47) test claim.

Because the test claim statutes, regulations, and alleged executive orders pled in this test claim deal with some of the basic functions of community colleges, it is helpful to have a brief overview of the role and governance of community colleges in California in order to address the various issues that arise in this test claim analysis.

A. Overview of the role and governance of community colleges in California

In California, community colleges were originally established as extensions of local high schools.[10] In 1907, high schools were authorized to provide courses that were equivalent to the first two years of a collegiate curriculum.[11] In 1917, community colleges were designated, along with high schools and technical schools, as part of the secondary school system of the state.[12] The duties of high school boards that elected to offer community college courses included: (1) adopting regulations governing the organization of community college courses, (2) keeping attendance records of students enrolled in community college courses as required by the regulations of the state board of education, (3) including the average daily attendance of students in community college courses in the annual report of the average daily attendance of the high school district which was used in apportioning state high school funds, and (4) receiving approval for courses by the state board of education in order to receive funding for students attending those courses.[13]

In regard to the curriculum offered by a community college, the state authorized high school boards to prescribe a variety of courses, providing:

> [Community college] courses of study may include such studies as are required for the junior certificate at the University of California, and such other courses of training in the mechanical and industrial arts, household economy, agriculture, civic education and commerce as the high school board may deem it advisable to establish.[14]

Rapidly increasing enrollments and a need to differentiate the functions of the segments of higher education prompted the Legislature to request the preparation of a master plan for the development, expansion, and integration of the facilities, curriculum, and standards of higher education in community colleges, state colleges, the University of California, and other

---

[9] Education Code sections 70902, subdivision (b)(1) (as it applies to facility plans), and 81820, 81821, and 81823.

[10] Former Political Code section 1681, as added by Statutes 1907, chapter 69.

[11] *Ibid*.

[12] Former Political Code section 1720, as added by Statutes 1917, chapter 304.

[13] Former Political Code section 1750b, as added by Statutes 1917, chapter 304.

[14] *Ibid*.

institutions of higher education of the state.[15] In preparing this master plan a study titled, "A Master Plan for Higher Education in California, 1960-75" (Master Plan) was created. The Master Plan was originally prepared in 1959, and its recommendations were approved in principle by the affected governing boards of the higher education segments.

In 1960, legislation was enacted to implement some of the recommendations in the Master Plan, including the Donahoe Higher Education Act.[16] The Donahoe Higher Education Act addressed the mission and governance of California's public higher education system.[17] With the adoption of the Donahoe Higher Education Act, which defined public higher education to include all public community colleges, state colleges, and the University of California, the place of community colleges in the public education system shifted from secondary education to postsecondary education.[18] The role of and services provided by community colleges in public education, however, remained largely the same.[19] In addition to delineating the role of community colleges in higher education, the Donahoe Higher Education Act assigned to the State Board of Education the duty to exercise general supervision over community colleges and to prescribe minimum standards for the formation and operation of community colleges.[20] In 1967, the Legislature transferred the supervision and the establishment of minimum standards for the community colleges from the State Board of Education to the Board of Governors of the California Community Colleges (Board of Governors) and the California Community Colleges Chancellor's Office (Chancellor's Office).[21] [22]

After the creation of the original Master Plan in 1959, reviews of the Master Plan and the higher education system continued. These reviews resulted in the reaffirmation of the principles and achievements of the original Master Plan and set forth new recommendations to improve higher education.[23] As with the original Master Plan, legislation necessary to implement some of the

---

[15] Assembly Concurrent Resolution No. 88, Statutes 1959 (1959-1960 Reg. Sess.) resolution chapter 200, pp. 5769-5770.

[16] Education Code sections 66000 – 67400, formerly Education Code sections 22500-22705 (Stats. 1960, 1st Ex. Sess., ch.49); renumbered Education Code sections 66000 – 67007 (Stats. 1976, c. 1010).

[17] Former Education Code sections 22500-22705, as added by Statutes 1960, chapter 49.

[18] Former Education Code section 22500, *supra*.

[19] Former Education Code section 22651, as added by Statutes 1960, chapter 49, providing that community colleges are to "offer instruction through but not beyond the 14th grade level, which instruction may include, but shall not be limited to, … the following categories: (1) standard collegiate courses for transfer to higher institutions; (2) vocational and technical fields leading to employment; and (3) general or liberal arts courses. Studies in these fields may lead to the associate in arts or associate in science degree."

[20] Former Education Code sections 22650, as added by Statutes 1960, chapter 49.

[21] Former Education Code section 197, as added Statutes 1967, chapter 1549.

[22] The Chancellor's Office is the administrative branch of the California Community Colleges system and is responsible for allocating state funding to the community colleges and districts. The Chancellor's Office operates under the direction of the state chancellor who is guided by the Board of Governors.

[23] Joint Committee on the Master Plan for Higher Education "Report of the Joint Committee on the Master Plan for Higher Education" (Sept. 1973); Postsecondary Education Commission for

recommendations was enacted largely through amendments to the Donahoe Higher Education Act.[24] As will be discussed in the test claim analysis below, some of the legislation enacted during these reviews of the Master Plan amended certain activities that were previously expressed as intent language or suggestions into *required* activities.

Although primary authority over public education is vested in the Legislature, the Legislature has ceded substantial discretionary control to local school districts as authorized by the California Constitution.[25] In 1976 the Legislature utilized its authority under article IX, section 14 of the California Constitution to authorize community college districts to initiate and carry on any program, activity, or to otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.[26] This general authority that is embodied in current Education Code section 70902 became known as the "permissive code" concept under which a district's governing board can act under its general authority without specific statutory authorization.[27] While local districts possess great authority in the governance of community colleges within the districts, the state has maintained general supervision of the governance of community colleges.[28] Much of this supervision can be found in the test claim statutes and title 5 regulations pled in this test claim.

It is in the context of the long established provision of postsecondary education by local educational districts, the broad authority given to community college districts to engage in any activity not inconsistent with state law and regulations, and the general supervision of community college districts by the Board of Governors that the Commission must determine whether the activities addressing various areas of operation of community college districts are state-mandated new programs or higher levels of service.

B. Claimants' Position

Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District's consolidated test claim sets out a list of activities spanning over 220 pages[29] alleged to be newly required by 30 California Education Code sections,

---

the Review of the Master Plan for Higher Education "The Master Plan Renewed: Unity, Equity, Quality, and Efficiency in California" (July 1987); and Joint Committee for the Review of the Master Plan for Higher Education "California Faces…California's Future: Education for Citizenship in a Multicultural Democracy," (Mar. 1989).

[24] See Education Code section 66002, subdivision (b), setting forth legislative findings regarding the history of the Donahoe Higher Education Act.

[25] *Dawson v. East Side Union High School Dist.* (1994) 28 Cal.App.4th 998, 1017.

[26] Former Education Code section 72233, as added by Statutes 1976, chapter 1010. See also, article IX, section 14 of the California Constitution, which provides, "The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established."

[27] *Barnhart v. Cabrillo Community College* (1999) 76 Cal.App.4th 818, 824-825.

[28] See Education Code section 70901.

[29] Exhibit A, Test Claim 02-TC-25, pgs. 12 – 19; see also, Exhibit B, Test Claim 02-TC-31, pgs. 164 – 381.

143 California Code of Regulation sections, and two alleged executive orders.[30] The claimants allege that the state has required community college districts to "comply with a variety of state code and regulatory requirements (minimum requirements) the satisfaction of which entitles a college district to receive state aid and for which noncompliance results in fiscal and other penalties."[31]

In addition, the claimants assert that meeting the new requirements of some of the test claim statutes and regulations required increased costs to establish and implement policies and procedures, and periodically update those policies and procedures, for the notification of students regarding various issues related to the operation and governing of community colleges.[32]

The claimants acknowledge that community college districts may have received funding for some of the claimed activities, but argue that if funding has been received it is not enough to fully fund the state-mandated new programs or higher levels of service alleged.[33]

The claimants filed comments, dated April 19, 2004, May 5, 2004, and September 21, 2004, in rebuttal to the Chancellor's Office comments in response to the test claim filing. In addition, the claimants filed comments in response to the draft staff analysis, dated April 21, 2011. The claimants' comments on the draft staff analysis generally: (1) disagree with the standard of review the Commission uses to determine whether a program is new or imposes a higher level of service; (2) disagree with all of the minimum conditions analysis; and (3) disagree with some of the individual findings that recommend a denial of reimbursement.[34]

C. California Community Colleges-Chancellor's Office Position (Chancellor's Office)

On March 11, 2004 and March 16, 2004 the Chancellor's Office submitted comments on the *Minimum Conditions for State Aid* (02-TC-31) and *Notice to Students* (02-TC-25) test claims, respectively. The Chancellor's Office asserts generally for both claims that community college districts are not entitled to reimbursement for any of the pled activities, and that the test claims should be rejected in their entirety.

Regarding the *Minimum Conditions for State Aid* (02-TC-31) test claim, the Chancellor's Office argues: (1) If the claimants have complied with the challenged provisions in order to receive state aid and have received state aid, claimants have already been compensated for compliance and no further reimbursement is warranted, (2) the claimants are not required to collect state aid and to the extent that the claimants choose to do so that choice negates the finding of a state mandate for activities that are necessary to make claimants eligible for state aid, (3) minimum standards (statutes and regulations) are not eligible for reimbursement if they were required by legislative action that predated January 1, 1975, (4) a number of the regulations address areas that are already required by federal laws, and (5) a number of the regulations address areas of general law that are not based on a claimant's status as a local governmental body.

---

[30] Prior to the severance and consolidation with the *Discrimination Complaint Procedures* (02-TC-46) test claim, the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim addressed 61 California Education Code sections, 159 California Code of Regulation sections, and 3 alleged executive orders.

[31] Exhibit B, Test Claim 02-TC-31, p. 4.

[32] Exhibit A, Test Claim 02-TC-25, p. 12.

[33] *Id* at pgs. 385 – 386.

[34] Exhibit V, Claimants' response to draft staff analysis, dated April 21, 2011.

Regarding the *Notice to Students* (02-TC-25) test claim, the Chancellor's Office provides many of the same arguments provided for the *Minimum Conditions for State Aid* (02-TC-31) test claim.[35] However, the Chancellor's Office additionally argues that the notice requirements regarding educational programs do not carry out the governmental function of providing services to the public and therefore do not constitute a "program" under article XIII B of the California Constitution. In addition, the Chancellor's Office argues that the costs of the notices can be covered by funds already received from the state.[36]

The Chancellor's Office has not file any comments in response to the draft staff analysis.

D. Department of Finance's Position (Finance)

On November 9, 2007, Finance submitted comments on the *Notice to Students* (02-TC-25) test claim, but has chosen to reserve comments on the *Minimum Conditions for State Aid* (02-TC-31) test claim until after a draft staff analysis is issued. In regard to the *Notice to Students* (02-TC-25) test claim, Finance concurs with the Chancellor's Office conclusion that the test claim should be denied in its entirety. Finance argues the following:

- Any costs associated with Education Code section 66721.5 are "relatively minor, and fall well within the established purposes of each community college districts [*sic*] current general purpose funding provided in Schedule (1) of Item 6870-101-0001 of the annual Budget Act, pursuant to Chapter 5, of Part 50, of Division 7, of Title 3 of the Education Code."[37]
- In regard to the regulations, "[c]ommunity college districts receive general purpose funding from the state to support broad instructional services and programs of study for their students. As such, this source of funding is available and appropriate to support any costs of implementing the requirements set forth by the regulations. As in *Kern*, these are "reasonable" expenses that can be incurred. We further contend that the activities outlined in these notice regulations are more than just a general framework. These regulations provide a guideline for fundamental activities that are integral to providing instructional services and operating instructional programs, and in our view are fully supported by general purpose apportionment funding allocated annually to community colleges in Schedule (1) Apportionments, of Item 6870-101-0001 of the Budget Act pursuant to [Chapter 5, of Part 50, of Division 7, of Title 3 of the Education Code]."[38]

Finance has not filed any comments in response to the draft staff analysis.

II. Discussion

The courts have found that article XIII B, section 6 of the California Constitution[39] recognizes the state constitutional restrictions on the powers of local government to tax and spend.[40] "Its

---

[35] Exhibit D, Chancellor's Office Comments on 02-TC-25, dated March 16, 2004, p. 4-6.

[36] *Id*. at p. 6-26.

[37] Exhibit J, Finance Comments, dated November 9, 2007, p. 2.

[38] *Id*. at p. 3.

[39] California Constitution, article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for

purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[41] A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.[42] In addition, the required activity or task must be new, constituting a "new program," and it must create a "higher level of service" over the previously required level of service.[43]

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.[44] To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.[45] A "higher level of service" occurs when there is "an increase in the actual level or quality of governmental services provided."[46] Finally, the newly required activity or increased level of service must impose costs mandated by the state.[47]

In the claimants' April 21, 2011 comments, the claimants assert that the correct standard of review is to compare the statutes pled on the effective date of the test claim filing to the status of the law as of December 31, 1974, thus ignoring any intervening laws that were adopted.[48] The claimants base this argument on the definition of "costs mandated by the state" contained in Government Code section 17514.

However, the California Supreme Court in *San Diego Unified School Dist.* defined "new program or higher level of service" to mean "new in comparison with the preexisting scheme in

---

the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

[40] *Kern High School Dist., supra,* 30 Cal.4th at 735.

[41] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

[42] *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

[43] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

[44] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 (*Los Angeles I*); *Lucia Mar, supra,* 44 Cal.3d 830, 835).

[45] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878; *Lucia Mar, supra,* 44 Cal.3d 830, 835.

[46] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 877.

[47] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

[48] Exhibit V, Claimants' Comments on Draft Staff Analysis, *supra,* p. 2.

view of the circumstances that they did not exist prior to the enactment of" statutes pled in the test claim.[49] Thus, pursuant to the Supreme Court's decision in *San Diego Unified School Dist*., the Commission must compare the test claim statutes and executive orders pled with the legal requirements in effect immediately before the enactment.

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[50] In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[51]

A. The "Handbook of Accreditation and Policy Manual" does not constitute an executive order subject to article XIII B, section 6 and therefore is not within the Commission's jurisdiction. The "Program and Course Approval Handbook" constitutes an executive order subject to article XIII B, section 6, and is within the Commission's jurisdiction.

The claimants have pled the "Handbook of Accreditation and Policy Manual" and "Program and Course Approval Handbook" as "executive orders" and argue that these documents impose reimbursable state-mandated activities. However, in order to make this determination, it must be determined if these documents are executive orders such that the Commission has jurisdiction over them.

Pursuant to Government Code section 17551, the Commission hears and decides claims for reimbursement of costs mandated by the state. Government Code section 17514 defines "costs mandated by the state" as increased costs a school district is required to incur as a result of an enacted statute or an issued executive order which mandates a new program or higher level of service. An "executive order" is defined as any order, plan, requirement, rule, or regulation issued by: (1) the Governor; (2) any officer or official serving at the pleasure of the Governor; or (3) any agency, department, board, or commission of state government.[52]

(1) "Handbook of Accreditation and Policy Manual"

The claimants assert that community college districts incur reimbursable costs resulting from the "Revised Summer 2002" edition of the "Handbook of Accreditation and Policy Manual" issued by the Accrediting Commission for Community and Junior Colleges (ACCJC). The "Handbook of Accreditation and Policy Manual" sets forth the eligibility requirements and standards established by the ACCJC for accreditation with the ACCJC. The ACCJC is one of three commissions that make up the Western Association of Schools and Colleges (WASC), a *non-governmental* corporate entity whose commissions evaluate and accredit public and private educational institutions.[53] Thus, the "Handbook of Accreditation and Policy Manual" does not

---

[49] *San Diego Unified School Dist., supra,* 33 Cal.4th at p. 878.

[50] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[51] *County of Sonoma, supra,* 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[52] Government Code section 17516.

[53] Western Association of Schools and Colleges indicates that it is a 501(c)(3) nonprofit organization at <http://www.wascweb.org/> as of September 15, 2010. "501(c)(3) organization"

constitute an executive order issued by any agency, department, board, or commission of *state* government.[54] As a result, the "Handbook of Accreditation and Policy Manual" does not constitute an executive order subject to article XIII B, section 6, and therefore, is not within the Commission's jurisdiction.

The claimants argue that although the "Handbook of Accreditation and Policy Manual" was not issued by a nongovernmental agency, there is an independent basis for the mandate.[55] The claimants base this on the title 5 "minimum condition" regulations below, specifically section 51016. However, as discussed below, the "minimum condition" regulations, including section 51016, do not impose state-mandated activities. Thus, there is no independent basis for the alleged requirement to comply with the "Handbook of Accreditation and Policy Manual."

(2) "Program and Course Approval Handbook"

The September 2001 "Program and Course Approval Handbook" (Handbook) issued by the Chancellor's Office is a document "intended to assist California community college administrators, staff, and faculty who are responsible for designing and submitting new programs or courses to the Chancellor's Office for approval."[56] The Chancellor's Office issued the Handbook pursuant to California Code of Regulations, title 5, section 55000.5, which provides:

> The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

In compliance with this duty, the Handbook includes guidelines and explanations of statutory and regulatory requirements and duties of both the state and community college districts. In addition, the Handbook includes the procedures and forms for the approval process of new programs and courses.

The introduction to the Handbook provides that "[s]tatements in this handbook are not law, except for the regulations and statutes quoted in it."[57] The Handbook also provides that colleges are expected to follow the procedures and instructions contained in the Handbook in order to have proposed courses and programs approved by the Chancellor's Office.[58] As provided in statute and regulation, community colleges are required to offer courses of instruction and programs.[59] As a result, community college districts, which are required to offer courses and

---

refers to Title 26 of the United States Code section 501(c)(3), which exempts from taxation specific types of corporations, community chests, funds, or foundations.

[54] Staff notes that California Code of Regulations, Title 5, section 51016 assigns the ACCJC the duty to determine accreditation of California Community Colleges, and will address this issue in the "Minimum Conditions Entitling Community College Districts to State Aid" section of this analysis.

[55] Exhibit V, Claimants' Response to Draft Staff Analysis, dated April 21, 2011, p. 14.

[56] Exhibit B, Test Claim 02-TC-31, "Program and Course Approval Handbook."

[57] *Ibid*.

[58] *Ibid.*

[59] Education Code section 66010.4, subdivision (a)(1), as amended by Statutes 1996, chapter 1057. California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25); California Code of Regulations, title 5, section 55000, subdivision (g) (Register 2007, No. 35).

programs, are also required to follow the procedures and instructions contained in the Handbook when it is necessary to obtain the approval of the Chancellor's Office. However, to the extent that the Handbook provides guidelines and explanations of statutes and regulations, community college districts are not required to comply with the Handbook because these "statements … are not law." Therefore, the procedures and instructions contained in the Handbook constitute an executive order subject to article XIII B, section 6 of the California Constitution, and thus, subject to the Commission's jurisdiction.

Because the Handbook is subject to the Commission's jurisdiction it is necessary to determine whether or not the Handbook imposes a reimbursable state-mandated new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. This discussion will occur below in the "Curriculum" section of this analysis.

B. The executive order, test claim statutes, and regulations impose some state-mandated new programs or higher levels of service on community college districts subject to article XIII B, section 6 of the California Constitution

To be subject to article XIII B, section 6 of the California Constitution, the test claim statutes, regulations, and executive order must (1) mandate a new activity upon the claimant, which (2) constitutes a new program or higher level of service.

To meet the first prong, the language of the test claim statutes and regulations must mandate an activity or task on a local governmental entity or school district. If the language does not mandate or require the claimant to perform a task, article XIII B, section 6, does not apply.

> In statutory construction cases, our fundamental task is to ascertain the intent of lawmakers so as to effectuate the purpose of the statute. [Citations.] We begin by examining the statutory language, giving the words their usual and ordinary meaning. [Citations.] If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs.[60]

This rule of statutory construction is applicable to administrative regulations, as courts have held that, in general, the same rules of construction apply when interpreting administrative regulations as apply when interpreting statutes.[61]

In addition, the California Supreme Court held in *Kern High School Dist*. that when analyzing state mandate claims, the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[62] The court also held open the possibility that a reimbursable state mandate might be found in circumstances short of legal compulsion; where certain and severe penalties, such as double taxation and other draconian consequences would result if the local entity did not comply with the program.[63]

In order to meet the second prong, the state-mandated activities must constitute a "new program or higher level of service." To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities

---

[60] *Estate of Griswold*, (2001) 25 Cal.4th 904, 910-911.

[61] *Cal. Drive-In Restaurant Assn. v. Clark* (1943) 22 Cal.2d 287, 292.

[62] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 743.

[63] *Id*. at p. 751.

in the state in order to implement a state policy.[64] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[65] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[66]

When making this comparison courts have held:

> When a statute, although new in form, re-enacts an older statute without substantial change, even though it repeals the older statute, the new statute is but a continuation of the old. There is no break in the continuous operation of the old statute, and no abatement of any of the legal consequences of acts done under the old statute. Especially does this rule apply to the consolidation, revision, or codification of statutes, because, obviously, in such event the intent of the Legislature is to secure clarification, a new arrangement of clauses, and to delete superseded provisions, and not to affect the continuous operation of the law.[67]

For ease of discussion, the test claim statutes, regulations, and executive orders will be analyzed pursuant to the following sections: (1) delineation of functions of the Board of Governors of the California Community Colleges and the governing boards of community college districts; (2) minimum conditions entitling community colleges to state aid and the investigation and enforcement of minimum conditions; (3) approval of new colleges and educational centers; (4) comprehensive or master plans for academics and facilities; (5) faculty participation in district and college governance; (6) full-time/part-time faculty ratio; (7) matriculation; (8) transfer centers; (9) vocational education; (10) standards of scholarship; (11) curriculum; (12) degrees and certificates; (13) open courses; and (14) notices to students.

(1) Delineation of Functions of the Board of Governors of the California Community Colleges and the Governing Boards of Community College Districts (Ed. Code, §§ 70901, 70901.5, and 70902)

This section addresses Education Code sections 70901, 70901.5, and 70902. Section 70901 sets forth the duties and authority given to the Board of Governors of the California Community Colleges and section 70902 sets forth the broad duties and general authority given to the governing boards of local community college districts. In doing so, the Legislature delineates the roles and functions of the state and the local community college districts in postsecondary education. Education Code section 70901.5 sets forth the rulemaking process which the Board of Governors must engage in to adopt regulations.

Included in the duties and authority set forth in Education Code section 70901 is the duty of the Board of Governors to provide general supervision over community college districts. In furtherance of this duty, the Board of Governors is directed to establish minimum standards for various areas of operation for community colleges including student academic standards, employment of academic and administrative staff, the formation of community colleges and districts, and faculty, student and staff participation in the district and college governance. In

---

[64] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

[65] *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[66] *Ibid*.

[67] *In re Dapper* (1969) 71 Cal.2d 184, 189-190, quoting *Sobey v. Molony* (1940) 40 Cal.App.2d 381, 385.

addition, the Board of Governors is directed to adopt minimum conditions entitling districts to receive state aid for the support of community colleges.

Many of the title 5 regulations pled in this test claim were adopted by the Board of Governors pursuant to Education Code section 70901 and fulfill the duty of the Board of Governors to establish standards regarding the operation of community colleges and the duty to establish conditions, satisfaction of which entitle districts to receive state aid. Education Code sections 70901 and 70901.5 do not impose any activities on community college districts. Instead, as described above, sections 70901 and 70901.5 impose activities on the Board of Governors, and as a result, do not impose reimbursable state mandated activities subject to article XIII B, section 6 of the California Constitution.

In the claimants' response to the draft staff analysis, the claimants allege for the first time that Education Code section 70902 imposes affirmative duties resulting in reimbursable state-mandated activities.[68] Specifically, the claimants allege that Education Code section 70902, subdivisions (b)(1), (2), (3), (7), (9), and (14), impose affirmative duties on community college districts, and suggests that these duties impose new programs or higher levels of service.[69] For ease of discussion, whether Education Code section 70902, subdivisions (b)(1), (2), (3), (7), (9), and (14), and the title 5 regulations pled in this test claim constitute reimbursable state-mandated new programs or higher levels of service will be addressed throughout the rest of the test claim analysis.

(2) Minimum Conditions Entitling Community College Districts to State Aid and Investigation and Enforcement of Minimum Conditions (Cal. Code Regs., tit. 5, §§ 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, and 51102)

This section addresses California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027, which set forth minimum conditions, satisfaction of which entitles community college districts to receive state aid. In addition, this section addresses title 5, sections 51100 and 51102, which address the investigation and enforcement of the minimum conditions.

As discussed above, the Board of Governors is required to establish "minimum conditions" *and* "minimum standards." The claimants and the Chancellor's Office disagree as to the scope of what constitutes a "minimum condition" established pursuant to Education Code section 70901, subdivision (b)(6), and what constitutes a "minimum standard" established pursuant to Education Code section 70901, subdivision (b)(1). The claimants assert that the whole of this test claim addresses "minimum conditions" and the Chancellor's Office asserts that the whole of this test claim deals with "minimum standards" or makes no distinction between the two. In addition, the Chancellor's Office argues as a general matter that community college districts have a pre-existing duty to comply with "minimum conditions" or "minimum standards" established by the

---

[68] Exhibit V, Claimants' Response to Draft Staff Analysis, dated April 21, 2011, pgs. 7, 12, 13, 15, 17, 20-23. In the test claim filing and attachments for 02-TC-31 (Exhibit B), the claimants' allegations for costs associated with alleged reimbursable state-mandated new programs and higher levels of service begin on page 164 and end on page 381 of the test claim filing. Between pages 164 and 381, the claimants do not allege costs associated with Education Code section 70902.

[69] Exhibit V, Claimants' Response to Draft Staff Analysis, *supra*, at pgs. 7, 12, 13, 15, 17, and 20-23.

Board of Governors, and therefore none of the "minimum conditions" or "minimum standards" constitute a new program or higher level of service regardless of the content of the "minimum conditions" or "minimum standards."

The following discussion will first address what title 5 regulations constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6). Second, the discussion will address whether the title 5 regulations that constitute "minimum conditions" impose state-mandated activities on community college districts. Third, the discussion will address whether the title 5 regulations addressing the investigation and enforcement of the "minimum conditions" impose state-mandated activities on community college districts. Finally, the discussion will address whether a pre-existing duty to comply with "minimum standards" adopted by the Board of Governors precludes a finding of a new program or higher level of service regardless of the content of the "minimum standards."

a. Not all of the test claim statutes and administrative regulations pled by the claimants constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6)

The claimants have pled 27 Education Code sections, 141 regulations, and two alleged executive orders alleging state-mandated costs resulting from these statutes, regulations, and executive orders. The claimants have pled all of the Education Code sections, most of the administrative regulations,[70] and the alleged executive orders as "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6).[71]

Education Code section 70901 provides in relevant part:

> [¶] … [¶]
>
> (b) … the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:
>
> (1) Establish minimum standards as required by law, including, but not limited to, the following:
>
> (A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.
>
> (B) Minimum standards for the employment of academic and administrative staff in community colleges.
>
> (C) Minimum standards for the formation of community colleges and districts.
>
> (D) Minimum standards for credit and noncredit classes.
>
> (E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are

[70] Excluding California Code of Regulations, title 5, sections 54626, 54805, 59404, and 59410, which were the regulations pled in 02-TC-25 that did not overlap with the regulations pled in 02-TC-31.

[71] Exhibit A, Test Claim 02-TC-25, p. 25; Exhibit B, Test Claim 02-TC-31; see also Exhibit F, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, dated May 5, 2004, p. 8 – 13.

> given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.
>
> [¶] … [¶]
>
> (6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.
>
> [¶] … [¶].

When discussing the regulations pled by the claimants, the Chancellor's Office makes no distinction between "minimum standards" adopted under Education Code section 70901, subdivision (b)(1) and "minimum conditions" adopted under Education Code section 70901, subdivision (b)(6).[72] The claimants, however, argue that there is a distinction between the establishment of "minimum conditions" and the establishment of "minimum standards."[73]

Generally, when interpreting statutory language the plain meaning of the language governs.[74] In addition, where the Legislature uses a different word or phrase in one part of a statute than it does in other sections or in a similar statute concerning a related subject, it must be presumed that the Legislature intended a different meaning.[75] "Standard" is defined as, "A degree or level of requirement, excellence, or attainment."[76] In contrast, "condition" is defined as, "A proposition upon which another proposition depends; the antecedent of a conditional proposition."[77] The Legislature's decision to use "standard" in one section and "condition" in another, and the different meanings of these words, lead to the presumption that a distinction exists between "minimum standards" and "minimum conditions" as used in section 70901, subdivisions (b)(1) and (b)(6).

In addition to the distinction between "minimum standards" and "minimum conditions," the claimants further assert that the "minimum standards" established by the Board of Governors under Education Code section 70901, subdivision (b)(1), "are *only* applicable to" the areas of community college operation set forth by subdivisions (b)(1)(A) – (E).[78] The claimants appear to argue that the test claim statutes and executive orders claimed in this test claim do not constitute "minimum standards," rather "[t]his test claim is about the 'minimum conditions' for the receipt of state aid which were established in 1988."[79]

---

[72] Exhibit C, Chancellor's Office Comments on Test Claim 02-TC-31, dated March 11, 2004, p. 4.

[73] Exhibit F, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, *supra*, p. 8.

[74] *Estate of Griswold*, *supra*, 25 Cal.4th at pgs. 910-911.

[75] *Campbell v. Zolin* (1995) 33 Cal.App.4th 489, 497.

[76] American Heritage Dictionary (new college ed. 1979) p. 1256.

[77] American Heritage Dictionary (new college ed. 1979) p. 277.

[78] *Id*. at p. 12. (Emphasis added.)

[79] *Id*. at p. 13.

Although staff agrees that there is a distinction between the "minimum standards" established pursuant to subdivision (b)(1) and the "minimum conditions" established pursuant to subdivision (b)(6), the claimants' broad interpretation of subdivision (b)(6) is contrary to the plain language of Education Code section 70901 and the plain language of the regulations implementing subdivision (b)(6).

Subdivision (b)(1) provides, in relevant part, that the Board of Governors shall "[e]stablish minimum standards as required by law, *including, but not limited to*, [subdivision (b)(1)(A) – (E)]."[80] Thus, contrary to the claimants' assertion that the minimum standards established pursuant to Education Code section 70901, subdivision (b)(1), "are only applicable to" the areas of community college operation set forth in subdivisions (b)(1)(A) – (E), subdivision (b)(1) provides the Board of Governors with broad authority to establish "minimum standards" regarding the general operation of community colleges.

Although the language of Education Code section 70901, subdivision (b)(6), also provides the Board of Governors with broad authority to establish "minimum conditions" entitling districts to receive state aid, within the regulations that implement subdivision (b)(6) the Board of Governors has chosen to limit the scope of what constitutes a "minimum condition." California Code of Regulations, title 5, section 51000, which sets forth the scope of what constitutes minimum conditions established by the Board of Governors pursuant to Education Code section 70901, subdivision (b)(6), provides:

> The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and *comprise* the rules and regulations fixing and affirming the *minimum conditions*, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges. (Emphasis added.)

Based on the plain language of section 51000, the scope of what "comprise[s] the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district…to receive state aid…" is limited to the "provisions of this Chapter." The "Chapter" referenced in section 51000, consists of California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020-51025, 51027, 51100, and 51102. As a result, pursuant to the plain language of section 51000, 121 of the 141 California Code of Regulation sections, the 27 Education Code sections[81] and the executive order pled by the claimants do not constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6). According to the plain language of section 51000, only California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51010, 51012, 51014, 51016, 51018, 51020 – 51027, 51100, and 51102 comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a community college district to receive state aid.

The Office of Administrative Law, however, issued a Nomenclature Cross-Reference for title 5 of the California Code of Regulations,[82] effective April 1, 1990, that provides:

---

[80] Education Code section 70901, subdivision (b)(1). (Emphasis added.)

[81] The Education Code sections pled by the claimants also cannot constitute "minimum conditions" established by the Board of Governors because the Board of Governors lack the authority to adopt Education Code sections.

[82] Nomenclature Cross-Reference was issued under the authority of the Office of Administrative Law pursuant to Government Code sections Government Code section 11344.

> Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross-Reference Table for the new organizational headings used in this Title.[83]

The Cross-Reference Table then provides that "Part" should be read as "Division," "Division" as "Chapter," "Chapter" as "Subchapter," "Subchapter" as "Article," "Article" as "Subarticle," and "Section" remains as "Section."

California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51010, 51012, 51014, 51016, 51018, 51020-51027, 51100, and 51102, are located under "Chapter 2. Community College Standards." "Chapter 2. Community College Standards" consists of two subchapters, "Subchapter 1. Minimum Conditions," and "Subchapter 2. Investigation and Enforcement of Minimum Conditions." "Subchapter 1. Minimum Conditions" consists of sections 51000, 51002, 51004, 51006, 51008, 51010, 51012, 51014, 51016, 51018, and 51020-51027. "Subchapter 2. Investigation and Enforcement of Minimum Conditions" consists of sections 51100 and 51102.

From a plain reading of section 51000 it is unclear whether the Board of Governors has implemented the changes in hierarchical headings in section 51000. As a result, an ambiguity arises as to whether the provisions of "Chapter 2. Community College Standards" (Cal. Code Regs. §§ 51000 – 51102), or only the provisions of "Subchapter 1. Minimum Conditions," (Cal. Code Regs. §§ 51000-51027), "comprise the rules and regulations fixing and affirming the minimum conditions … ."

In order to determine whether the Board of Governors implemented the changes in hierarchical headings, it is necessary to look at the hierarchical headings and the language used in section 51000 prior to and after the effective date of the Nomenclature Cross-Reference for title 5. Immediately prior to the effective date of the Nomenclature Cross-Reference for title 5, section 51000 was part of "Chapter 1. Minimum Standards," while sections 51100 and 51102 were part of "Chapter 2. Investigation and Enforcement of Minimum Standards."[84]

In 1991, "Chapter 1. Minimum Standards" and "Chapter 2. Investigation and Enforcement of Minimum Standards" were brought under "Chapter 2. Community College Standards" and were renamed to "Subchapter 1. Minimum Conditions" and "Subchapter 2. Investigation and Enforcement of Minimum Conditions" by the Office of Administrative Law.[85] However, the language of section 51000 continued to provide, before and after the effective date of the Nomenclature Cross-Reference, "The provisions of this *chapter* … ."[86] As a result, it is evident that the Board of Governors has not implemented the changes in hierarchical headings in regard to section 51000, and thus, pursuant to the Nomenclature Cross-Reference for title 5, "Chapter" should be read as "Subchapter," and thus, limiting the scope of what constitutes a "minimum

---

[83] Office of Administrative Law, *Nomenclature Cross Reference*, effective April 1, 1990.

[84] California Code of Regulations, title 5, sections 51000 and 51100 (Register 83, No. 29 (July 16, 1983)).

[85] California Code of Regulations, title 5, section 51000 and 51100 (Register 91, No. 23 (June 7, 1991)).

[86] California Code of Regulations, title 5, section 51000 has underwent subsequent amendments, and still provides that the "provisions of this *chapter* … ."

condition" established pursuant to Education Code section 70901, subdivision (b)(6), to "Subchapter 1. Minimum Conditions."

Therefore, staff finds that the scope of what constitutes a "minimum condition," pursuant to Education Code section 70901, subdivision (b)(6), is limited to California Code of Regulations, title 5, Chapter 2, Subchapter 1, sections 51000 – 51027. Title 5, sections 51100 and 51102, which address the enforcement of the minimum conditions by the Chancellor's Office, are outside the scope of what constitutes a "minimum condition" pursuant to Education Code section 70901, subdivision (b)(6) and will be discussed later in this analysis. Similarly, the remaining title 5 regulations pled by the claimants are outside of the scope of what constitutes a "minimum condition." Instead, these title 5 regulations were adopted under the broad authority to adopt minimum standards provided by Education Code section 70901, subdivision (b)(1), or by other legislation requiring the adoption of implementing regulations. These regulations and the test claim statutes and executive order will be discussed later in this analysis.

b. California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027 do not impose any state-mandated activities.

This section addresses California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027. These regulations, established pursuant to Education Code section 70901, subdivision (b), set forth the minimum conditions, satisfaction of which entitles community college districts to receive state aid. These conditions cover the following areas of basic operation: standards of scholarship, degrees and certificates, open courses, comprehensive plans, student fees, approval of new colleges and educational centers, accreditation, counseling programs, objectives, curriculum, instructional programs, faculty, staff, students, matriculation services, full-time/part-time faculty, and transfer centers.

In reference to sections 51000-51027, section 51000 provides:

> The provisions of this [Subchapter] [sections 51000-51027] are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.[87]

The Chancellor's Office and the claimants both describe the language of section 51000 as providing that most of the regulations pled by the claimants[88] establish minimum conditions *for the receipt of* state aid.[89] Read in this manner, section 51000 conditions the receipt of state aid by community college districts on compliance with the minimum conditions. The resulting implication is that a failure to comply with the minimum conditions results in forgoing the receipt of state aid.

---

[87] California Code of Regulations, title 5, section 51000 (Register 95, No. 15 (April 14, 1995)).

[88] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*; Exhibit D, Chancellor's Office Comments on 02-TC-25, *supra*, pages 8-10; and Exhibit B, Test Claim Filing and Attachments for 02-TC-31.

[89] Exhibit C, Chancellor's Office Comments on 02-TC-31, dated March 11, 2004; Chancellor's Office Comments on 02-TC-25, dated March 16, 2004, p. 8 -10; Test Claim 02-TC-31.

Contrary to the plain language of section 51000 and Education Code section 70901, subdivision (b)(6), the Chancellor's Office response to the 02-TC-25/02-TC-31 test claim appears to have interpreted the language of section 51000 as requiring compliance with the minimum conditions in order to *receive* state aid.[90] It is generally recognized that an agency's interpretation of its own regulations becomes of controlling weight unless the agency's interpretation is plainly erroneous or inconsistent with the regulation.[91] In addition, an agency does not acquire special authority to interpret its own words when, instead of using its expertise and experience to formulate a regulation, it has elected merely to paraphrase the statutory language which it aims to implement.[92] California Code of Regulations, title 5, section 51000 paraphrases Education Code section 70901, subdivision (b)(6), which provides that the Board of Governors are to, "[e]stablish minimum conditions *entitling* districts to receive state aid for support of community colleges."[93] However, contrary to the plain language of section 51000 and Education Code section 70901, subdivision (b)(6), the Chancellor's Office response to the test claim appears to have interpreted the language of section 51000 as requiring compliance with the minimum conditions in order to *receive* state aid.[94]

When interpreting regulations, if the terms of the regulation are unambiguous, the plain meaning of the language governs, and an intent that cannot be found in the words of the regulation cannot be found to exist.[95] Additionally, an interpretation of a regulation should not render any language mere surplusage, and the language must be considered in the context of the regulatory framework as a whole.[96]

The plain language of section 51000 indicates that sections 51000-51027 are minimum conditions, "satisfaction of which *entitles*" a community college district to state aid. The language does not provide that a community college district which has not satisfied the minimum conditions, and therefore is not *entitled* to state aid, will not receive state aid. This intent cannot be found to exist absent language indicating such intent. In addition, interpreting section 51000 as providing that sections 51000-51027 constitute minimum conditions *for the receipt* of state aid would render the language of section 51000 that provides, "satisfaction of which entitles," unnecessary and mere surplusage. Giving effect to the usual and ordinary import of this language leads to an interpretation of section 51000 as providing that satisfaction of the minimum conditions leads to an *entitlement* to state aid by a community college district.

The plain language interpretation of section 51000 is also consistent with the regulatory scheme regarding minimum conditions. California Code of Regulations, title 5, section 51102, which addresses enforcement of the minimum conditions by the Chancellor, provides that after the Chancellor has notified a district of the Chancellor's finding of the district's noncompliance, and the district has responded or the time for a response has lapsed, the Chancellor shall take one or more of the following actions:

> (1) accept in whole or part the district's response regarding noncompliance;

---

[90] Exhibit C, Chancellor's Office Comments on 02-TC-31, dated March 11, 2004.

[91] *U.S. v Larionoff* (1977) 431 U.S. 864, 872.

[92] *Gonzales v. Oregon* (2006) 546 U.S. 243, 257.

[93] Emphasis added.

[94] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*.

[95] *Riebe v. Budget Financial Corp.* (1968) 264 Cal.App.2d 576, 585.

[96] *Fontana Unified School Dist. v. Burman* (1988) 45 Cal.3d 208, 218.

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.

The Chancellor has discretion on which action or actions to take upon a finding that a community college district is not in compliance with the "minimum conditions." Each of these actions that the Chancellor is authorized to take allow for the possible provision of state aid to a community college district. Accordingly, even if the Chancellor finds a community college district to be in noncompliance with title 5, sections 51000-51027, a community college district may receive state aid. Thus, compliance with the minimum conditions (Cal. Code Regs., tit. 5, §§ 51000-51027) is a downstream activity of becoming *entitled* to receive state aid. As a result, pursuant to *Kern High School Dist*., the underlying issue that must be addressed to determine whether title 5, sections 51000-51027, mandate any activities is whether community college districts are mandated to become *entitled* to receive state aid, and not whether community college districts are mandated to *receive* state aid as discussed by the Chancellor's Office and the claimants.[97]

Pursuant to *Kern High School Dist*., the Commission must look at the underlying program to determine if a claimant's participation in the underlying program is legally compelled. In addition, the court in *Kern High School Dist*. left open the possibility that a state mandate might be found in circumstances of practical compulsion, where a local entity faced certain and severe penalties as a result of noncompliance with a program that is not legally compelled. The court in *Dept of Finance v. Commission on State Mandates* (*POBRA*) (2009) 170 Cal.App.4th 1355, explained further that a finding of "practical compulsion" requires a concrete showing in the record that a failure to engage in the activity/activities at issue will result in certain and severe penalties.[98]

The claimants argue that a "*Kern* analysis" is unnecessary and not relevant, because districts are legally compelled to comply with the minimum conditions.[99] However, there is nothing in the governing statutes, regulations, or in the record that community college districts are required to become entitled to state aid. As a result, community college districts do not face *legal* compulsion to become entitled to state aid.

In addition, even if the Chancellor finds a community college district to be in noncompliance with the minimum conditions (Cal. Code Regs., tit. 5, §§ 51000-51027), and therefore not entitled to receive state aid, the district may still receive state aid. This was the situation faced by San Mateo County Community College District, an example cited to by the claimants in response to the staff analysis for the *Discrimination Complaint Procedures* (02-TC-46) test claim.[100] In 2001 and 2002, San Mateo County Community College District appointed the

---

[97] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*, p. 2; Exhibit D, Chancellor's Office Comments on 02-TC-25, *supra*, p. 9 – 10; Exhibit E, Clamaint Response to Chancellor's Office Comments on Test Claim, 02-TC-25, *supra*, p. 13; and Exhibit F, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, *supra*, pgs. 3-7.

[98] *POBRA*, *supra*, 170 Cal.App.4th at pgs. 1366-1369.

[99] Exhibit W, Claimant Comments on Draft Staff Analysis for *Discrimination Complaint Procedures* (02-TC-46), dated March 1, 2011, p. 8-9.

[100] *Id.* at p. 9.

Chancellor-Superintendent of the District without complying with section 51010, which requires as a condition to become entitled to state aid that community college districts substantially comply with the equal employment opportunity regulations (Cal. Code Regs., tit. 5, § 53000 et seq.). The claimants note that "the Chancellor recommended a penalty of $550,513 for the perceived noncompliance in this one instance."[101]

However, in ultimately settling the matter the San Mateo County Community College District and the Chancellor's Office came to an agreement in which San Mateo County Community College District agreed to increased monitoring. The District did not lose *any* state aid.[102] Thus, there is no concrete evidence that a failure to comply with the minimum conditions results in certain and severe consequences.

The claimants argue that the need for a "concrete showing" pursuant to *Department of Finance v. Commission on State Mandates* (*POBRA*), is unnecessary because title 5, section 51000, "is, by itself, legally compelling."[103] In addition, the claimants question the level of certainty needed when applying *POBRA* to this test claim.[104] Although there is evidence of the possible results of not becoming entitled to state aid, as discussed above, there is no evidence of the certainty or severity of any consequence. The idea of practical compulsion was borrowed by the court in *Kern High School Dist*. from the federal mandates analysis in *City of Sacramento*,[105] and the court in *POBRA* clarified the need for a concrete showing of certain and severe penalties.[106]

In *City of Sacramento* if the state failed to conform to federal law the certain result would be either double taxation of businesses within the state or the complete termination of the state's unemployment system, which the court determined to constitute certain and severe penalties.[107] In *Hayes v. Commission on State Mandates*, which is cited to in the federal mandates analyses below, the court found a federal mandate in a situation where districts had been sued in the past and faced future litigation with no real defense as an actual consequence of failing to comply with federal law that codified the equal protection rights of handicapped children, and thus compliance with the federal law would ultimately be compelled.[108] In making this finding the court noted that parents and organized groups representing handicapped children were becoming increasingly litigious in their efforts to secure appropriate education for handicapped children.[109] As an added consequence, districts that failed to comply with the federal law faced the possible loss of federal funds.

Here, there is only a possible loss of funding, but no evidence of the certainty of this loss, as exemplified by San Mateo County Community College District. In addition, there is no evidence

---

[101] *Ibid*.

[102] Exhibit W, "Agreement" in the Matter between Chancellor of the California Community Colleges and the San Mateo County Community College District.

[103] Exhibit V, Claimants' Response to Draft Staff Analysis, dated April 21, 2011, p. 5.

[104] *Id*. at pgs. 5-6.

[105] *Kern High School Dist*., *supra*. at p. 751, quoting *City of Sacramento*, *supra*, 50 Cal.3d at p. 74.

[106] *POBRA*, *supra*, 170 Cal.App.4th at pgs. 1367.

[107] *City of Sacramento*, *supra*, 50 Cal.3d at p. 74.

[108] *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1589-1592 (*Hayes*).

[109] *Id.* at p. 1592.

that districts face any other certain and severe consequence of not becoming entitled to state aid, such as litigation without any defense. Thus, pursuant to *POBRA* community college districts do not face *practical* compulsion to comply with the minimum conditions. As a result, staff finds that California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027, do not impose any state-mandated activities upon community college districts, and therefore do not mandate a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.[110]

c. The regulations providing for the investigation and enforcement of minimum conditions do not impose any state-mandated activities (Cal. Code Regs., tit. 5, §§ 51100 and 51102)

This section addresses the investigation and enforcement of the minimum conditions, satisfaction of which entitles a district to receive state aid for the support of its community colleges.

Section 51100, subdivision (a), requires the Chancellor to review each community college at least once every seven years "to determine whether it has met the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2." Subdivision (b) requires the Chancellor to inform the chief executive officer of a district if the Chancellor determines that a visit to a college in the district is necessary to investigate compliance. In addition, the Chancellor is required to specify the particular minimum conditions which will be investigated.

The plain language of section 51100 does not require community college districts or community colleges to engage in any activities. Rather, the plain language sets forth the duty of the Chancellor to review whether each community college has met the minimum conditions satisfaction of which entitles a district to receive state aid for the support of its community colleges. As a result, staff finds that California Code of Regulations, title 5, section 51100 does not impose any state-mandated activities on community college districts or colleges.

Section 51102 requires the Chancellor to notify the chief executive officer of a district in writing if a review conducted pursuant to section 51100 discloses that a college in the district is not in compliance "with the provisions of Subchapter 1 (commencing with Section 51100[111]) of Chapter 2." In addition, the Chancellor is required to request an official written response from the district by a date which the Chancellor is to specify. Subdivision (b) of section 51102 provides that after the Chancellor has received the district's response or if the time for a response has lapsed, the Chancellor is required to take one or more of the following actions:

(1) accept in whole or part the district's response regarding noncompliance;

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

---

[110] Throughout the claimants' response to the draft staff analysis, dated April 21, 2011, the claimants note that the "minimum condition" regulations are not analyzed on an individual basis. This is unnecessary due to the fact that regardless of the content and subject matter of the individual "minimum condition" regulations, each regulation is a minimum condition satisfaction of which entitles a district to state aid, and therefore does not impose any state-mandated activities on community college districts.

[111] The intended citation is to California Code of Regulations, title 5, section 51000, as "Subchapter 1 of Chapter 2" does not commence with section 51100. In addition, there are no activities in section 51100 directed at community college districts such that a district would be required to comply with its provisions.

(3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.[112]

Subdivision (c) of section 51102 requires the Chancellor to report to the Board of Governors on any of the above actions taken. If the Chancellor decides to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

The claimants allege that community college districts are required to: (1) adopt and implement policies and procedures to comply with any enforcement orders that the Chancellor may issue to the district regarding district compliance with the "minimum conditions" (pursuant to Cal. Code Regs., tit. 5, § 51102); (2) prepare and submit to the Chancellor an official written response by a date specified by the Chancellor (pursuant to Cal. Code Regs., tit. 5, § 51102, subd. (a)); and (3) prepare, submit, and implement a plan and timetable for achieving compliance as a condition for continued receipt of state aid if the Chancellor requires (pursuant to Cal. Code Regs., tit. 5, § 51102, subd. (b)).[113] The claimants argue that although the activities alleged to be required by section 51102 are not stated in the section, they are reasonable and necessary.[114]

However, based on the plain language of section 51102, community college districts are not required to engage in any of the activities alleged by the claimants. Upon a plain reading of section 51102, there is no language in the section that requires community college districts to implement policies and procedures to comply with enforcement orders that the Chancellor may issue. Thus, section 51102 does not impose a state mandate to implement policies and procedures to comply with enforcement orders that the Chancellor may issue.

In addition, although section 51102, subdivision (a), requires that the Chancellor request an official written response from a district found to be in noncompliance with the "minimum conditions," the plain language of section 51102 does not include a requirement on districts to prepare and submit an official written response to the Chancellor. In fact, subdivision (b) of section 51102 provides that the Chancellor can only take action "[a]fter receiving the district's written response, *or after the time for response has lapsed … .*"[115] Thus, not only does the language of section 51102 not require community college districts to prepare and submit an official written response, the language of section 51102 acknowledges the possibility of a district's failure to submit an official written response. As a result, section 51102 does not impose a state mandate to prepare and submit an official written response to the Chancellor.

Also, the plain language of section 51102, subdivision (b), does not impose any activities on community college districts. Instead, section 51102 provides the Chancellor authority to pursue various courses of actions if the Chancellor makes a determination that a community college district is not in compliance with the minimum conditions. No actual action by a community college district is required by section 51102, subdivision (b).

As a result, staff finds that California Code of Regulations, title 5, section 51102 does not impose any state-mandated activities on community college districts or colleges.

---

[112] California Code of Regulations, title 5, section 51102, subdivision (b).

[113] Exhibit B, Test Claim 02-TC-31, p. 381.

[114] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 20.

[115] California Code of Regulations, title 5, section 51102, subdivision (b).

d. The pre-existing duty of community college districts to comply with the "minimum standards" adopted by the Board of Governors does not preclude a finding of a new program or higher level of service regarding a new regulation adopted as a "minimum standard" that requires new activities.

The Chancellor's Office argues that the "…minimum standards of the Board of Governors do not constitute a new program or higher level of service if the Board of Governors was statutorily obligated to set minimum standards in these areas prior to 1975."[116] The Chancellor's Office cites as its authority the California Attorney General's opinion number 99-1214.[117] As relevant to this discussion, opinion number 99-1214 addresses the following question:

> When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, is the state required to reimburse the local agency for the costs incurred in meeting the standards?

The Attorney General found that local agencies are not entitled to reimbursement, pursuant to article XIII B, section 6 of the California Constitution, for bringing a juvenile detention facility into compliance with the "minimum standards" established by the Board of Corrections.[118] The Attorney General reasoned that the minimum standards adopted by the Board of Corrections establish what constitutes a "suitable" place for the detention of minors. In addition, counties have been required to maintain a "suitable" place for the detention of minors prior to 1975, and setting the minimum standards for what is "suitable" does not create a "higher" level of service because it has long been the level of service that has been required of local agencies.[119] The Attorney General notes that the minimum standards set by the Board of Corrections for local detention facilities reflect constitutional requirements.[120]

The Chancellor's Office argues that similarly the Board of Governors were required to establish "minimum standards" for the formation, operation, and governing of a community college prior to 1975, and that community college districts have been obligated to adhere to these "minimum standards" prior to 1975.[121] The Chancellor's Office concludes that pursuant to the Attorney General's analysis, "such minimum standards cannot be the basis for a mandate claim."[122]

Although an opinion of the Attorney General is entitled to great weight, it is not controlling legal authority.[123] Without making a finding on the specific statutes analyzed by the Attorney General, the application of the Attorney General's opinion in this instance would be contrary to the intent of article XIII B, section 6 of the California Constitution and prior case law.

Article XIII B, section 6 of the California Constitution was intended to preclude the state from shifting to local agencies and school districts the financial responsibility for providing public services in view of the restrictions on the taxing and spending power of local entities under

---

[116] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*, pgs. 3-5.

[117] 83 Ops.Cal.Atty.Gen. 111 (2000).

[118] *Ibid*.

[119] *Id*. at p. 119.

[120] *Ibid*.

[121] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*, at pgs. 3-4.

[122] *Id*. at p. 5.

[123] *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.* (2002) 100 Cal.App.4th 1066, 1075.

article XIII B and article XIII A of the California Constitution.[124] The intent of article XIII B, section 6, would be violated if the state, through the Board of Governors, could avoid reimbursing community college districts for individual regulations that impose a "new program or higher level of service" by simply adopting those regulations as part of the "minimum standards."

In addition, in *Long Beach Unified School Dist*., the Long Beach Unified School District sought reimbursement for regulations which required certain school districts to develop and adopt plans for the alleviation and prevention of racial and ethnic segregation of minority students in the district.[125] The state argued that the regulations did not mandate a new program or higher level of service because school districts have a pre-existing constitutional duty to make an effort to eliminate racial segregation in public schools.[126] The court, however, found that specific requirements imposed by the state to ensure compliance with this constitutional duty constituted a "higher level of service."[127] Thus, even with a pre-existing duty to adhere to constitutional requirements or minimum standards established by a state governing agency, a new specific requirement added to the constitutional requirements or minimum standards could result in a reimbursable state mandate if the new requirement increases the level of service to the public.

To the extent that any of the remaining regulations pled by the claimants constitute "minimum standards" and impose any state-mandated increases to the level of service to the public, staff finds that the pre-existing duty of community college districts to comply with the "minimum standards" adopted by the Board of Governors does not preclude a finding of a new program or higher level of service.

(3) Approval of New Colleges and Educational Centers (Cal. Code Regs., tit. 5, §§ 55825, 55827, 55828, 55829, 55830, and 55831)

This section addresses title 5, sections 55825 and 55827-55831. These regulations set forth the process to obtain the Board of Governors' approval of a community college district's proposed new college or educational center.

In claimants' response to the draft staff analysis, the claimants allege for the first time that Education Code section 70902, subdivision (b)(1), imposes duties on community college districts in relation to the approval of new colleges and educational centers.[128] Education Code section 70902, subdivision (b)(1), as it relates to facility plans was severed after the claimants' response to the draft staff analysis.[129] As a result, staff makes no findings on Education Code section 70902, subdivision (b)(1), in this section of the analysis.

a. Title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831, do not impose state-mandated activities.

---

[124] *Lucia Mar, supra,* 44 Cal.3d 830, 835-836.

[125] *Long Beach Unified School Dist. v. State of California, supra*, 225 Cal.App.3d 155.

[126] *Long Beach Unified School Dist. v. State of California, supra*, 225 Cal.App.3d at pgs. 172-173.

[127] *Id*. at p. 173.

[128] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 13.

[129] Exhibit W, Notice of severance and consolidation of Education Code section 70901, subdivision (b)(1), as applicable to facility plans, from Minimum Conditions for State Aid (02-TC-25 and 02-TC-31) to Community College Construction (02-TC-47), dated May 6, 2011.

Section 55825 sets forth the responsibilities of a district's governing board seeking approval of a proposed new college or educational center. Section 55825 provides:

> The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831.

Section 55827 sets forth the definitions of "college" and "educational center" as used by sections 55825-55831. Section 55828 sets forth the responsibilities of the Chancellor's Office and Board of Governors in the approval process. In addition, section 55828 further specifies the responsibilities of community college districts that are planning the formation of a new college or educational center. If a community college district is planning a new college or educational center, section 55828 requires the district to prepare and submit to the Chancellor's Office a proposal that "should contain at least" the following elements: (1) an assessment of needs and preferences, (2) an identification of objectives, and (3) an analysis of alternative delivery systems. Sections 55829, 55830 and 55831 specify what these three elements must contain.

Read in the context of the whole regulatory scheme rather than individual parts or words standing alone,[130] sections 55825, 55827, 55828, 55829, 55830, and 55831 do not impose any mandated activities on community college districts. As noted above, section 55825 et seq. sets forth requirements for a community college district planning the formation of a new college or educational center. However, pursuant to *Kern High School Dist.* a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity. Here, the initial decision to create a new college or educational center, which triggers any activities required by section 55825-55831, is left to the discretion of the community college district. As a result, staff finds that California Code of Regulations, title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831 do not impose state-mandated activities subject to article XIII B, section 6 of the California Constitution.[131]

(4) Master Plans for Academics (Ed. Code, § 70902, subd. (b)(1), and Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404)

This section addresses a statute and regulations regarding the preparation of a community college district's educational master plan.

In the claimant's April 21, 2011 response to the draft staff analysis, the claimants argue that this analysis does not analyze Education Code sections 81821-81823, which address a community college district's plan for capital construction, and thus, the analysis should be revised to include an analysis of whether these sections constitute a new program or higher level of service for community colleges. On January 19, 2011, Commission staff issued a notice of severance of Education Code sections 81821-81823 from this test claim and into the *Community College Construction* (02-TC-47) test claim. As a result, these code sections will not be analyzed here.

---

[130] *Fontana Unified School Dist. v. Burman, supra*, 45 Cal.3d at p. 218.

[131] In claimants' response to the draft staff analysis, the claimants continue to disagree with the finding that schools and community college districts are not required to build new instructional facilities as has been found in prior Commission decisions. See, Exhibit V, Claimants' response to the draft staff analysis, *supra*, p. 13.

In addition, Education Code section 70902, subdivision (b)(1), as it relates to facility plans was severed from this test claim.[132] As a result, any discussion regarding section 70902, subdivision (b)(1) will only address academic plans and programs.

a. Not all of the statutes and regulations in the "Master Plans for Academics" impose state-mandated activities.

Educational Master Plan (Ed. Code, § 70901, subd. (b)(1), and Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404)

Education Code section 70902, subdivision (b)(1), and title 5 sections 55401-55404 address the establishment of a community college district's current and long range educational plans for each community college within the district and for the district as a whole. The plain language of Education Code section 70902, subdivision (b)(1), and title 5 sections 55401-55404 require community college districts to engage in the following activities:

1. Establish policies for, and approve, current and long range educational plans and programs for each community college that the district maintains and for the district as a whole. (Ed. Code, § 70902, subd. (b)(1), and Cal. Code Regs., tit. 5, § 55401.)
2. Submit to the chancellor an educational master plan for each community college that it maintains and for the district as a whole on or before November 1 of each year. (Ed. Code, § 70902, subd. (b)(1), and Cal. Code Regs., tit. 5, § 55402.)
3. Modify and bring up to date annually each educational master plan. (Cal. Code Regs., tit. 5, § 55402.)
4. Submit each educational master plan on a form provided by the Chancellor and with information required by the Chancellor. (Cal. Code Regs., tit. 5, § 55403.)
5. Include in each educational master plan the educational objectives of the community college or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. (Cal. Code Regs., tit. 5, § 55404.)
6. Include in each educational master plan, plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aid on the basis of current and future enrollment. (Cal. Code Regs., tit. 5, § 55404.)

b. The activities mandated by Education Code section 70902, subdivision (b)(1), and California Code of Regulations, title 5, section 55401, 55402, 55403, and 55404, do not constitute a reimbursable new program or higher level of service

In order to be reimbursable under article XIII B, section 6, of the California Constitution, Education Code section 70902, subdivision (b)(1), and title 5 sections 55401, 55402, 55403, and 55404 have to have been adopted on or after 1975.[133] The claimants have pled Education Code section 70902, subdivision (b)(1), as added in 1988,[134] and title sections 55401, 55402, 55403, and 55404 as added in 1971 and last amended in 1991. However, the language of title 5sections

---

[132] Exhibit W, Notice of severance and consolidation of Education Code section 70901, subdivision (b)(1), as applicable to facility plans, from Minimum Conditions for State Aid (02-TC-25 and 02-TC-31) to Community College Construction, dated May 6, 2011.

[133] Government Code section 17514.

[134] Exhibit B, Test Claim 02-TC-31, p. 9, citing to Statutes 1988, chapter 973.

55401, 55402, 55403, and 55404 has remained unchanged since the adoption of the sections in 1971, and Education Code section 70902, subdivision (b)(1), does not impose any additional duties on community college districts that are not present in title 5 sections 55401, 55402, 55403, and 55404.

The claimants agree that the language of sections 55401, 55402, 55403, and 55404, has remained the same since 1971, but argue that title 5 section 51008, which is a "minimum condition," is the source of the mandate.[135] As discussed above, section 51008 does not impose any state-mandated activities on community college districts. However, even if section 51008 imposed a state-mandate to engage in the activities required by sections 55401, 55402, 55403, and 55404, these requirements were in place since 1971.

As a result, staff finds that the activities mandated by Education Code section 70902, subdivision (b)(1), and California Code of Regulations, title 5, sections 55401, 55402, 55403, and 55404 do not constitute a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

(5) Faculty, Staff, and Student Participation in District and College Governance (Ed. Code, § 70902, subds. (b)(7) and (b)(14); and Cal. Code Regs., tit. 5, §§ 53200, 53202-53204, and 53207)

This section discusses Education Code section 70902, subdivisions (b)(7) and (b)(14), and title 5, sections 53200, 53202-53204, and 53027, relating to faculty, staff, and student participation in district and college governance. Section 53200 contains the definitions of terms used in the title 5 regulations pled in this section of the analysis. Sections 53202 and 53203 provide for the formation of academic senates and the adoption of policies by the district delegating authority and responsibilities to an academic senate. Section 53204 sets forth the Board of Governors' intent in regard to the title 5 regulations pled in this section of the analysis. Section 53207 addresses the release of faculty members to serve on the Academic Senate of the California Community Colleges (ASCCC).

a. Education Code section 70902, subdivisions (b)(7) and (b)(14), and Title 5, sections 53202, 53203, and 53207, impose state-mandated activities

Polices to Ensure Staff, and Student Opportunities to Participate in College Governance (Ed. Code, § 70902, subds. (b)(7) and (b)(14))

Education Code section 70902, subdivision (b)(7), requires community college districts to establish procedures to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, and to ensure the right of the academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards. The procedures that community college districts are required to establish must be consistent with the minimum standards established by the Board of Governors. The minimum standards regarding faculty are set forth in title 5, sections 53200-53207, discussed below. In contrast, the minimum standards established by the Board of Governors addressing staff and student participation are set forth in title 5, sections 51023.5 and 51023.7, which the Board of Governors established as minimum conditions, satisfaction of which entitles a district to state aid. As a result, although the requirements of title 5, sections 51023.5 and 51023.7, do not independently impose state-mandated activities, Education Code section 70902, subdivision (b)(7), requires that community

[135] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 12.

college districts establish policies to ensure staff and students the opportunity to participate in college governance, that are consistent with sections 51023.5 and 51023.7.

Education Code section 70902, subdivision (b)(14), requires community college districts to participate in the consultation process established by the Board of Governors for the development and review of policy proposals. This activity refers to the process established by the Board of Governors pursuant to Education Code section 70901, subdivision (e). Education Code section 70901, subdivision (e), requires the Board of Governors to establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals before adoption by the Board of Governors.

Thus, staff finds that Education Code section 70902, subdivisions (b)(7) and (b)(14), impose the following state-mandated activities:

1. Establish procedures to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, and to ensure that these opinions are given every reasonable consideration, and to ensure the right of the academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

   The procedures established shall be consistent with the minimum standards set forth in California Code of Regulations, title 5, sections 53200-53207 (for faculty), 51023.5 (for staff), and 51023.7 (for students). (Ed. Code, § 70902, subds. (b)(7) (Stats. 1988, ch. 973).)

2. Participate in the consultation process established by the Board of Governors for the development and review of policy proposals pursuant to Education Code section 70901, subdivision (e). (Ed. Code, § 70902, subd. (b)(14) (Stats. 1988. Ch. 973).)

Formation and Powers of an Academic Senate (Cal. Code Regs., tit. 5, §§ 53202 and 53203)

In order to provide faculty with a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, title 5, section 53201, authorizes the formation of academic senates at the college or district level.[136] Section 53202 provides that the formation of an academic senate occurs by a vote to form an academic senate by the full-time faculty of a community college or district.[137] After the formation of the college or district academic senate, the district must recognize the academic senate and authorize the academic senate to engage in specific activities. Section 53203, requires community college districts to establish policies for the delegation of specific authority and responsibilities to the academic senates upon the formation of the academic senates. Reading section 53201 in context with section 53202, it is clear that the initial decision to establish a college or district academic senate lies with the faculty of the colleges and is not a decision made by the district itself. As a result, if the faculty of a college chooses to establish an academic senate, the district is mandated by the plain language of the regulations to recognize the academic senate and establish policies for the delegation of specific authority and responsibilities.

---

[136] The claimants have not pled section 53201 in this test claim.

[137] California Code of Regulations, title 5, section 53202, subdivision (e), provides for the formation of an academic senate by part-time faculty in the event that a college does not have any full-time faculty.

Pursuant to the above discussion, staff finds that title 5, sections 53202 and 53203, impose the following state-mandated activities:

1. Recognize the college or district-wide academic senate formed by the full-time faculty (or part-time faculty in the absence of any full-time faculty in the college) and authorize the faculty to:

    a. Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate, and

    b. Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate. (Cal. Code Regs., tit. 5, § 53202 (Register 90, No. 49).)

2. Adopt policies for appropriate delegation of authority and responsibility to its college or district academic senate.

    Policies must provide, at a minimum, that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. (Cal. Code Regs., tit. 5, § 53203, subd. (a) (Register 94, No. 38).)

3. Consult collegially with representatives of the academic senate when adopting the policies for appropriate delegation of authority and responsibility to its college or district academic senate pursuant to California Code of Regulations, title 5, section 53202, subd. (a). (Cal. Code Regs., tit. 5, § 53203, subd. (b) (Register 94, No. 38).)

4. Adopt procedures for responding to recommendations of the academic senate that incorporate the following:

    a. In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendation not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(1) (Register 94, No. 38).)

    b. In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(2) (Register 94, No. 38).)

<u>Scope of Regulations (Cal. Code Regs., tit. 5, § 53204)</u>

Title 5, section 53204, provides the Board of Governors' intent to limit the application of title 5, section 53200 et seq. Specifically, section 53204 provides:

> Nothing in [Cal. Code Regs., tit. 5, § 53200 et seq.] shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between

> academic senates and collective bargaining representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to the academic senate pursuant to these regulations.

As can be seen by the language quoted above, section 53204 does not impose any mandated activities on community college districts.

Release or Reassignment of Faculty Members to the Academic Senate of the California Community Colleges (ASCCC) (Cal. Code Regs., tit. 5, § 53207)

The ASCCC has been established through ratification by local academic senates, and that the ASCCC is recognized by the Board of Governors as the representative of community college academic senates before the Board of Governors.[138] The purpose of the ASCCC is to provide community college faculty with a formal and effective procedure for participating in the formation of *state* policies on academic and professional matters.

Title 5 section 53207 provides for the release or reassignment of faculty members elected to serve as president and vice president of the ASCCC, and for the reimbursement of the districts employing the faculty members elected by the ASCCC. Section 53207 provides:

> This section shall only be operative during any fiscal year in which sufficient funds are provided therefore to the ASCCC in the annual Budget Act for that fiscal year or other legislation."[139]

The claimants note that the sufficiency of the amount provided to the ASCCC is determined by the state, and that when funding is provided it is unclear whether reimbursements provided pursuant to section 53207 fully reimburse all costs for releasing faculty members.[140] Staff agrees. Thus, staff finds that title 5 section 53207 requires community college districts to engage in the following state-mandated activities, subject to offsets for reimbursement provided by the ASCCC for release and reassignment time:

1. Grant faculty members elected to serve as president and vice president of the Academic Senate of the California Community Colleges release or reassigned time from their terms of office. This activity is subject to offsetting revenue from reimbursement of release or reassigned time and administrative costs for hiring faculty to replace the faculty serving as president or vice president pursuant to title 5 section 53207, subdivision (b) (Register 2003, No. 18). (Cal. Code Regs., tit. 5, § 53207, subd. (a) (Register 2003, No. 18).)
2. Identify release or reassigned time prior to September of each year for employees elected to serve as president and vice president of the Academic Senate of the California Community Colleges for reimbursement at the part-time replacement cost. (Cal. Code Regs., tit. 5, § 53207, subd. (c) (Register 2003, No. 18).)
3. If the release or reassigned time need identified by the district is 100 percent and the position is in a hard to replace discipline area, certify this to the Chancellor by August 1

---

[138] California Code of Regulations, title 5, section 53206.

[139] California Code section 53207, subdivision (f). During the fiscal year in which the reimbursement period for this test claim begins (2001-2002 fiscal year), $497,000 was provided for reimbursement per California Code of Regulations, title 5, section 53207 (see, the 2001-02 Budget Act line-item 6870-101-0001, schedule (13)).

[140] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 22.

for reimbursement at the full-time temporary replacement cost of the employee released. (Cal. Code Regs., tit. 5, § 53207, subd. (c) (Register 2003, No. 18).)

b. The activities mandated by Education Code section 70902, subdivisions (b)(7) and (b)(14), and California Code of Regulations, title 5, sections 53202, 53203, and 53207, constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution.

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[141] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[142] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[143]

The activities mandated by Education Code section 70902, subdivisions (b)(7) and (b)(14), and title 5, sections 53202, 53203, and 53207, constitute a "program" within the meaning of article XIII B of the California Constitution by carrying out the governmental function of education through providing an avenue for faculty to participate in the formation of state policies on academics and professional matters.

The claimants have pled title 5, section 53202, as last amended in 1990.[144] Section 53202 mandates community college districts to engage in the following activity:

> Recognize the college or district-wide academic senate formed by the full-time faculty (or part-time faculty in the absence of any full-time faculty in the college) and authorize the faculty to:
>
> a. Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate, and
>
> b. Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate. (Cal. Code Regs., tit. 5, § 53202 (Register 90, No. 49).)

However, since 1974, community college districts have been required to engage in this activity, and as a result, the activity mandated by title 5, section 53202, does not constitute a new program or higher level of service.[145] The claimants argue that prior to 1975, section 53202 did not require community college districts to "recognize" the academic senate.[146] However, in 1974, former title 5 section 53203 required districts to consider and respond to the views and

---

[141] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

[142] *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[143] *Ibid.*

[144] Exhibit B, Test Claim 02-TC-31, page 89. This date coincides with Register 90, number 49.

[145] California Code of Regulations, title 5, section 53202, as added by Register 74, number 17 (April 27, 1974).

[146] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 22.

recommendations of the academic senate.[147] In addition, former title 5 section 53204 required community college districts to meet and confer with the academic senates upon request by the academic senate. Thus, pursuant to former title 5 sections 53203 and 53204, community college districts were required to recognize academic senates.

The claimants have pled Education Code section 70902, subdivisions (b)(7) and (b)(14), as added in 1988.[148] Immediately prior to 1988, community college districts were not required to engage in the activities mandated by section 70902, subdivisions (b)(7) and (b)(14). As a result, the activities mandated by section 70902, subdivisions (b)(7) and (b)(14), constitute new programs or higher levels of service.

Title 5, section 53203, as added in 1990 and last amended in 1994; and section 53207, as added in 2003.[149] Immediately prior to 1990 and 2003, community college districts were not required to engage in the activities mandated by sections 53203 and 53207, respectively. As a result, the activities mandated by title 5, sections 53203 and 53207, constitute a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that the following activities relating to faculty participation in district and college governance constitute a state-mandated new program or higher level of service:

1. Establish procedures to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, and to ensure that these opinions are given every reasonable consideration, and to ensure the right of the academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

   The procedures established shall be consistent with the minimum standards set forth in California Code of Regulations, title 5, sections 53200-53207 (for faculty), 51023.5 (for staff), and 51023.7 (for students). (Ed. Code, § 70902, subds. (b)(7) (Stats. 1988, ch. 973).)

2. Participate in the consultation process established by the Board of Governors for the development and review of policy proposals pursuant to Education Code section 70901, subdivision (e). (Ed. Code, § 70902, subd. (b)(14) (Stats. 1988. Ch. 973).)

3. Adopt policies for appropriate delegation of authority and responsibility to its college or district academic senate.

   Policies must provide, at a minimum, that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. (Cal. Code Regs., tit. 5, § 53203, subd. (a) (Register 94, No. 38).)

4. Consult collegially with representatives of the academic senate when adopting the policies for appropriate delegation of authority and responsibility to its college or district

---

[147] Former California Code of Regulations, title 5, sections 53203 and 53204 (Register 74, No. 17 (April 27, 1974).)

[148] Exhibit B, Test Claim 02-TC-31, p. 9.

[149] Exhibit B, Test Claim 02-TC-31, pages 89-90. These dates coincide with Register 90, number 49; Register 94, number 38; and Register 2003, number 18.

academic senate pursuant to California Code of Regulations, title 5, section 53202, subd. (a). (Cal. Code Regs., tit. 5, § 53203, subd. (b) (Register 94, No. 38).)

5. Adopt procedures for responding to recommendations of the academic senate that incorporate the following:

    a. In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendation not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(1) (Register 94, No. 38).)

    b. In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(2) (Register 94, No. 38).)

6. Grant faculty members elected to serve as president and vice president of the Academic Senate of the California Community Colleges release or reassigned time from their terms of office. This activity is subject to offsetting revenue from reimbursement of release or reassigned time and administrative costs for hiring faculty to replace the faculty serving as president or vice president pursuant to title 5 section 53207, subdivision (b) (Register 2003, No. 18). (Cal. Code Regs., tit. 5, § 53207, subd. (a) (Register 2003, No. 18).)

7. Identify release or reassigned time prior to September of each year for employees elected to serve as president and vice president of the Academic Senate of the California Community Colleges for reimbursement at the part-time replacement cost. (Cal. Code Regs., tit. 5, § 53207, subd. (c) (Register 2003, No. 18).)

8. If the release or reassigned time need identified by the district is 100 percent and the position is in a hard to replace discipline area, certify this to the Chancellor by August 1 for reimbursement at the full-time temporary replacement cost of the employee released. (Cal. Code Regs., tit. 5, § 53207, subd. (c) (Register 2003, No. 18).)

(6) Full-time/Part-time Faculty Ratio (Ed. Code, §§ 87482.6 and 87482.7; and Cal. Code Regs., tit. 5, §§ 53300-53302, 53308-53312, and 53314)

In 1988, the Legislature adopted Assembly Bill 1725 (A.B. 1725)[150] with the intent to reform and improve community college education programs and the allocation of education funds to community colleges. Included as part of these improvements was the initiation of "program-based funding," (Ed. Code, § 84750 et seq.) which the Legislature declared would more adequately and accountably fund the costs of providing community college education.[151] The

[150] Statutes 1988, chapter 973.

[151] Education Code section 84755.

Legislature noted, however, that program-based funding would not be implemented until fiscal year 1991-1992. As a result of the delayed implementation of program-based funding and the number of reforms community colleges were to face, the Legislature provided transitional funding for program improvements and mandates imposed as part of the A.B. 1725 reform that could operate until program-based funding was implemented.[152]

One of the reforms to be funded by the transitional program improvement funds addressed the policy of the Board of Governors to have at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors.[153] To effectuate the reform the Legislature adopted Education Code sections 87482.6 in 1988 and 87482.7 in 1991.[154] Education Code section 87482.6 requires the Board of Governors to adopt regulations governing the percentage of full-time instructors employed by a district and specifies the content of the regulations.[155] Education Code section 87482.7 addresses a related issue, requiring community college districts to adopt minimum condition regulations regarding the percentage of hours of credit instruction taught by full-time instructors.[156]

In 1990, the Board of Governors adopted California Code of Regulations, title 5, sections 53300 et seq. to implement Education Code section 87482.6.[157] These regulations largely restated the content of Education Code section 87482.6, by providing for the Chancellor's calculation of full-time faculty to be hired by districts using specific funding, and a specific reduction of funding for failing to hire the calculated amount. In 1991, the Board of Governors adopted California

---

[152] *Ibid*.

[153] Education Code sections 87455, subdivision (b)(12); and 87482.6, added by Statutes 1988, chapter 973.

[154] Education Code sections 87482.6 (Stats. 1988, ch. 973); and section 87482.7 (Stats. 1991, ch. 1038).

[155] Education Code section 87482.6, subdivision (b).

[156] Education Code section 87482.7, subdivision (a). Staff notes that Education Code section 87482.7 directs the Board of Governors to establish "minimum standards" pursuant to "paragraph (6) of subdivision (b) of Section 70901;" however, section 70901, subdivision (b)(6), directs the Board of Governors to adopt "minimum conditions." Courts have held that, "where the context of a statute, or other considerations arising therefrom, show that a word was erroneously used by the legislature for another word which, if substituted, will harmonize the statute with its obvious purpose and intent, the statute will be read as though the intended word had been used." (*Southern Pac. Co. v. Riverside County* (1939) 35 Cal.App.2d. 380, 388. Here, Education Code section 87482.7 cites directly to Education Code section 70901, subdivision (b)(6), which addresses "minimum conditions." In addition, Education Code section 87482.6, which was enacted prior to Education Code section 87482.7, directed the Board of Governors to adopt regulations governing the percentage of credit instruction taught by full-time faculty, but did not require these regulations to be adopted as minimum conditions. Interpreting Education Code section 87482.7 as requiring the Board of Governors to adopt "minimum standards" instead of "minimum conditions" would be duplicative of Education Code section 87482.6. Thus, in context with the above it is clear that the Legislature intended Education Code section 87482.7 to direct the Board of Governors to adopt "minimum conditions."

[157] California Code of Regulations, title 5, section 53300 et seq. (Register 90, Nos. 32-37).

Code of Regulations, title 5, section 51025, to implement Education Code section 87482.7.[158] By 2001, title 5, sections 51025 and 53300 et seq., had been amended to be read in conjunction with one another. In effect, section 51025 directs community college districts to use growth and program improvement allocations to secure full-time faculty. The number of faculty is to be determined by the Chancellor using the methods of calculation set forth in title 5, sections 53300-53314, which use the percentage of credit instruction hours taught by faculty as a factor.[159]

a. Education Code sections 87482.6 and 87482.7, and California Code of Regulations, title 5, sections 53300-53302, 53308-53312, and 53314, do not impose any state-mandated activities

In section 87482.6 the Legislature established a scheme governing the percentage of credit instruction taught by full-time instructors and linked the program improvement funds received by community college districts with the maintenance of the percentage. Subdivision (a) of section 87482.6 directs community college districts that have less than 75 percent of their hours of credit instruction taught by full-time instructors to apply a portion of the program improvement allocation as follows:

> (1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.
>
> (2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation. Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.[160]

Under *Kern High School Dist*., the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[161] In addition, in order to make a finding of practical compulsion the claimant must

---

[158] California Code of Regulations, title 5, section 51025 (Register 91, No. 46). California Code of Regulations, title 5, section 51025, has been found to not constitute a reimbursable state-mandated new program or higher level of service in the "Minimum Conditions Entitling Community College Districts to State Aid" section of this analysis.

[159] Staff notes that it has already found that title 5, section 51025, does not impose any state-mandated activities on community college districts, however, it is helpful to include a discussion of section 51025 for purposes of the below analysis. See the "Minimum Conditions Entitling Community College Districts to State Aid" section of the test claim analysis.

[160] Education Code section 87482.6, subdivision (a), as added by Statutes 1988, chapter 973.

[161] *Kern High School Dist*., *supra*, 30 Cal 4th 727, 743.

face certain and severe penalties independent of the program funds at issue, and that a loss of the program funds at issue does not constitute a severe penalty.[162]

The plain language of subdivision (a) of section 87482.6 directs how community college districts, which have less than 75 percent of their hours of credit instruction taught by full-time instructors, are to expend program improvement funds. However, as shown by the plain language of the subdivisions (a)(1) and (a)(2) of section 87482.6, districts have the ability to choose "instead not to improve its percentage." If a district chooses not to improve its full-time instructor percentage it will forgo the percentage of its program improvement funds that were to be used toward achieving the 75 percent standard. Thus, the claimants only face the loss of funding for an optional program, and do not face a "substantial penalty independent of the program funds at issue."[163] As a result, under *Kern High School Dist*., subdivision (a) of section 87482.6 does not impose any state-mandated activities.

Title 5, section 51025, which implements Education Code section 87482.6, contains provisions similar to subdivision (a) of section 87482.6. Specifically, title 5, section 51025, directs community college districts that have a full-time faculty percentage under 75 percent to use specified amounts of growth and program improvement allocations to increase the number of full-time faculty in the districts. If a district chooses not to increase its full-time faculty it is subject to a reduction of revenue equal to the average replacement cost of the faculty not hired, which would have been covered by the growth and program improvement allocations provided by the state. The revenue that is taken from community college districts is then redirected back to community college districts for purposes of faculty and staff diversity. Thus, like Education Code section 87482.6, the claimants do not face a "substantial penalty independent of the program funds at issue."[164] As a result, consistent with the finding in the "Minimum Conditions Entitling Community College Districts to State Aid" section of this test claim analysis, title 5, section 51025, does not impose any state-mandated activities on community college district in implementing the discretionary program set forth in Education Code section 87482.6.

Subdivision (b) of section 87482.6 provides, "The board of governors shall adopt regulations for the effective administration of this section [Ed. Code, § 87482.6]. Unless and until amended by the board of governors, the regulations shall provide as follows … ." Subdivision (b) proceeds to set forth the content of the regulations that the Board of Governors must adopt unless and until the Board of Governors decides to amend the content. Subdivision (b) does not impose any activities on community college districts. Instead, the plain language of subdivision (b) directs the Board of Governors to engage in a specified activity (i.e. adopt regulations to implement Ed. Code, § 87482.6). In addition, pursuant to the language of section 87482.6, subdivision (b), the provisions of subdivision (b) are no longer operative due to the Board of Governors' adoption of title 5, sections 53300 et seq. As a result, staff finds that Education Code section 87482.6 does not impose any state-mandated activities on community college districts.

In response to the draft staff analysis, the claimants argue that subdivision (b)(4) of section 87482.6, and former title 5, section 53320, indicate that a community college district faces an additional penalty, on top of losing a percentage of its program improvement allocation,

---

[162] *Id*. at pgs.731 and 751-754.

[163] *Id.* at p. 731.

[164] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 731.

if the district chooses not to increase its full-time instructor percentage.[165] Subdivision (b)(4) provides for a reduction of a district's base budget by an amount equivalent to the average replacement cost times the deficiency in the number of full-time faculty that the Chancellor determined a district was to retain with its program improvement allocation. Former title 5, section 53320, mirrored these provisions. The claimants assert that this "is clearly a penalty independent of the program funds at issue for any one fiscal year."[166]

However, subdivision (b) of section 87482.6 and title 5, sections 53300-53320, set forth provisions "for the effective administration" of the provisions of subdivision (a), which set forth a voluntary program. The assumption in the provisions of subdivision (b) is that a district is participating, as indicated by subdivision (b)(3), which provides that the Chancellor "shall compute the number of full-time faculty (FTF) which are to be secured *through the use of the prescribed portion of program improvement revenue* allocated to each district."[167] Thus, subdivision (b)(4) sets forth the result of a district's failure to obtain the amount of full-time faculty using program improvement revenue pursuant to a discretionary program.

In addition, even if a community college district did participate in the voluntary program set forth in Education Code section 87482.6, subdivision (a), any portion of its base budget that would be subject to reduction pursuant to Education Code section 87482.6, subdivision (b)(4), and former title 5, section 53320, would have come from its program improvement revenue. Subdivision (b)(4) of section 87482.6 and former title 5, section 53320, require the Chancellor to review the extent to which districts had retained full time faculty using the districts' program improvement revenue two years after the receipt of that revenue. Pursuant to the provisions of Education Code section 87455, subdivision (d), which addresses the allocation and use of program improvement revenue, the program improvement revenues would have become part of a district's base budget during the two year period. Thus, contrary to the claimant's assertion, there is not a penalty independent of the program funds at issue.

Finally, as noted above, pursuant to its own terms Education Code section 87482.6, subdivision (b), is no longer operative due to the adoption of title 5, sections 53300-53320. Former title 5, section 53320, which mirrored the terms of section 87482.6, subdivision (b), was repealed in 1994. Thus, even assuming that the provisions of Education Code section 87482.6, subdivision (b), and former title 5, section 53320, did impose an additional penalty independent of the program funds at issue, these provisions were not in effect during the reimbursement period of this test claim.[168] As a result, districts did not face the additional penalty during the reimbursement period that the claimants' argue compel districts to participate in the program set forth in Education Code section 87482.6, subdivision (a).

Education Code section 87482.7 addresses the adoption of regulations by the Board of Governors and the transfer of program improvement funds by the Department of Finance from community college districts, which do not maintain the percentage of their hours of credit instruction taught by full-time instructors at 75 percent, to the Employment Opportunity Fund. Section 87482.7 provides:

---

[165] Exhibit V, Claimants response to draft staff analysis, *supra*, p. 24. Former California Code of Regulations, title 5, section 53320 (Register 90, No. 37), was repealed in 1994 (Register 94, No. 38).

[166] *Ibid.*

[167] Education Code section 87482.6, subdivision (b)(3). (Italics added.)

[168] The reimbursement period for this test claim began on July 1, 2001.

(a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notification by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Employment Opportunity Fund pursuant to Section 87107.

The plain language of section 87482.7, quoted above, directs the Board of Governors to engage in specified activities; however, it does not impose any activities on community college districts. Thus, staff finds that Education Code section 87482.7 does not impose any state-mandated activities on community college districts.

As discussed above, title 5, sections 53300-53314, were initially adopted by the Board of Governors as directed by Education Code section 87482.6. Sections 53300-53314, set forth the methods of calculation used by the *Chancellor* to determine the number of full-time faculty which each district is to secure using growth and program improvement revenue pursuant to title 5, section 51025.[169] The claimants argue that "the methods of calculating the faculty ratios rely upon district information and have a direct bearing on the amount of program funding or penalty for each district."[170] However, sections 53300-53314 do not require the submission of this information. Thus, the activities contained in title 5, sections 53300-53314, do not impose any state-mandated activities on community college districts; rather, these activities are imposed on the Chancellor.

Pursuant to the above discussion, staff finds that Education Code sections 87482.6 and 87482.7, and California Code of Regulations, title 5, sections 53300-53302, 53308-53312, and 53314, do not impose any state-mandated activities subject to article XIII B, section 6 of the California Constitution.

(7) Matriculation (Ed. Code, §§ 78211.5, 78212, 78213, 78214, 78215, and 78216; and Cal. Code Regs., tit. 5, §§ 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, and 55534)

This section addresses the provision of matriculation programs by community college districts pursuant to the Seymour-Campbell Matriculation Act of 1986 (Ed. Code §§ 78210-78218) and its implementing regulations (Cal. Code Regs., tit. 5, § 55500 et seq.). As defined by the Seymour-Campbell Matriculation Act of 1986 and its implementing regulations, matriculation is "a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements."[171] For purposes of this section only, the Seymour-Campbell Matriculation Act of 1986 shall be referred to as "the Act."

In response to the draft staff analysis, the claimants cite to Education Code section 70902, subdivision (b)(2), and state that subdivision (b)(2) requires community college districts to approve courses of instruction and educational programs, and to submit those programs to the

---

[169] California Code of Regulations, title 5, section 53312, subdivision (a) (Register 2000, No. 26).

[170] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 24.

[171] California Code of Regulations, title 5, section 55502, and Education Code section 78212.

Board of Governors. Although matriculation is related to the establishment of courses of instruction and educational programs, subdivision (b)(2) does not require community college districts to participate in the Seymour-Campbell Matriculation Act, nor do the claimants analyze how Education Code section 70902, subdivision (b)(2), imposes any requirements as relevant to the this section. As a result, Education Code section 70902, subdivision (b)(2), will not be further addressed in this section of the analysis.

a. Education Code sections 78211.5, 78212, and 78213 – 78216, and California Code of Regulations, title 5, sections 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520 – 55526, 55530, 55532, and 55534 do not impose any state-mandated activities

Under *Kern High School Dist*., it is necessary to look at the underlying program, the Act (Education Code sections 78210 – 78218) and its implementing regulations (Cal. Code Regs., tit. 5, §§ 55500 – 55534), to determine if the claimants' participation is legally compelled.

Although the claimants point to various sections of the Act that allegedly mandate activities upon the claimants, these sections must be read in the context of the whole statutory scheme and not as individual parts or words standing alone.[172] Education Code section 78211.5 provides in relevant part:

> (a) The Board of Governors of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in *as many community colleges as the funds appropriated for this purpose allow*.
>
> (b) Because of the need to develop and evaluate data on a standard statewide basis concerning the implementation and effectiveness of the matriculation services described in this article [Education Code sections 78210 – 78218], *any college or district receiving funding under this article* shall *agree* to carry out its provisions as specified, *but shall be bound to that agreement only for the period during which funding is received pursuant to this article*. … . (Emphasis added.)

In addition, California Code of Regulations, title 5, section 55500, provides in relevant part:

> (a) This [subchapter (Cal. Code Regs., tit. 5, §§ 55500-55534)][173] implements and should be read in conjunction with the provisions of the [Act of 1986], c. 1467, Stats. 1986, codified as Education Code Sections 78210, et seq. … .[¶]
>
> (b) The requirements of this [subchapter] *apply only to districts receiving funds pursuant to Education Code Section 78216* for the period of time during which such funds are received. … . (Emphasis added.)

The claimants argue that when the Seymour-Campbell Matriculation Act is operative, community college districts are required to comply with the act, and that districts have no choice to decline to participate by refusing funding.[174]

---

[172] *Fontana Unified School Dist. v. Burman, supra*, 45 Cal.3d 208, 218.

[173] See "Minimum Conditions Entitling Community College Districts to State Aid" section, regarding the discussion of the Nomenclature Cross-Reference issued by the Office of Administrative Law.

[174] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 24.

However, the plain language of Education Code section 78211.5 and California Code of Regulations, title 5, section 55500, show the voluntary nature of participation in, and as a result, compliance with the provisions of the Act and its implementing regulations. Education Code section 78211.5, subdivision (a), indicates an acknowledgement of the possibility that not all community colleges will receive funds pursuant to the Act. Pursuant to Education Code section 78211.5, subdivision (b), community colleges or districts must *agree* to carry out the provisions of the Act as a condition to receive funding under the Act. Also, community colleges and districts are not bound by this *agreement* to carry out the provisions of the Act when funding is not received under the Act. Thus, compliance with the provisions of the Act and its implementing regulations are triggered by the underlying discretionary decisions made by community colleges or districts to participate in the Act in order to receive funds under the Act, and therefore, community colleges and districts are not legally compelled to comply with the provisions of the Act or its implementing regulations.

The claimants assert that the Act (Ed. Code §§ 78210-78218), and the title 5 regulations pled by the claimants regarding matriculation programs (Cal. Code Regs., tit. 5, §§ 55500-55534) are two separate sources that require community college districts to provide matriculation services.[175] The claimants argue that, "[i]ndependently of the [Act], community college districts are required to comply with the Title 5 regulations mandating matriculation services."[176] However, this is contrary to the plain language of California Code of Regulations, title 5, section 55500, which provides that California Code of Regulations, title 5, sections 55500-55534 "implement and should be read in conjunction with the provisions of the [Act]." Therefore, the requirements found in California Code of Regulations, title 5, sections 55500-55534 cannot be read independently of the Act. In addition, pursuant to the plain language of section 55500, subdivision (b), the requirements of sections 55500-55534 only apply to districts in receipt of funds under the Act. As a result, the requirements of California Code of Regulations, title 5, sections 55500-55534 are inextricably tied to the Act, participation in which is discretionary.

There is no evidence in the record of, nor have the claimants alleged, certain and severe penalties resulting from noncompliance with the Act or its implementing regulations. Outside of forgoing funds provided pursuant to the Act, claimants do not face a "substantial penalty independent of the program funds at issue."[177] As a result, the claimants do not face practical compulsion to comply with the provisions of the Act or its implementing regulations.

Thus, staff finds that Education Code sections 78211.5, 78212, and 78213 – 78216, and California Code of Regulations, title 5, sections 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520 – 55526, 55530, 55532, and 55534 do not impose any state-mandated activities upon community college districts, and therefore, do not mandate a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

(8) Transfer Centers (Ed. Code, §§ 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, and 71027)

This section addresses the transfer system between the three segments of California's higher education system and the functions of various entities involved in the transfer system. The word "matriculation" as used in this section of the analysis does not refer to the Seymour-Campbell

---

[175] Exhibit C, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, *supra*, p. 42.

[176] *Id*. at p. 46.

[177] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 731.

Matriculation Act of 1986. Instead for purposes of this section "matriculation" refers to the transfer of students between the three segments of California's higher education system.

In addition, as used in this section, "governing boards" is defined as the local boards of trustees *and* the Board of Governors of the California Community Colleges, the Trustees of the California State University, and the Regents of the University of California.[178]

a. Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 impose state-mandated activities

Transfer System: Transfer Core Curriculum, Transfer Function, and Transfer Agreement (Ed. Code, §§ 66721, 66721.5, 66722, and 66722.5)

Sections 66721, 66721.5, 66722, and 66722.5 address the development and distribution of a "transfer core curriculum" for use by students for the purpose of transferring from the California Community College system to the University of California (UC) or California State University (CSU) systems.

The plain language of section 66721 does not impose any state-mandated activities on community college districts. Rather, section 66721 sets forth the duty of the *Board of Governors*, the Regents of the UC, and the Trustees of the CSU, to jointly cause the transfer core curriculum to be published and distributed to each public school in the state that provides instruction in grades 7 to 12 and to each community college in this state. In addition, section 66721 requires the Board of Governors to distribute the transfer core curriculum to the State Board of Education.

Also, sections 66722 and 66722.5 do not impose any state-mandated activities on community college districts. Instead, sections 66722 and 66722.5 set forth statements of legislative intent. Specifically section 66722 provides:

> It is the intent of the Legislature that the transfer function shall be a central institutional priority of all segments of higher education in California, and that the segments shall have as a fundamental policy and practice the maintenance of an effective transfer system.

Section 66722.5 provides:

> It is the intent of the Legislature that the segments of higher education shall pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments.

As a result, staff finds that sections 66721, 66722, and 66722.5 do not impose any state-mandated activities on community college districts.

Education Code section 66721.5, as added by Statutes 2000, chapter 187, was enacted as part of the Access to Transfer Information for Community College Students Act. Section 66721.5 addresses the distribution of the transfer core curriculum established by the California Community Colleges, CSU, and the UC. The plain language of section 66721.5, subdivision (a)(1), requires each community college district to direct each community college in the district to provide each student with a copy of the current transfer core curriculum. As defined by subdivision (a)(2), "transfer core curriculum" means the lower-division, general

[178] Education Code section 66011, subdivision (b).

education transfer curriculum that is articulated between the California Community Colleges and the CSU and UC. Subdivision (b) provides that a copy of the current core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution. Subdivisions (c) and (d) provide:

> (c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule of each academic term. Copies of the transfer core curriculum may also be made available in other locations on each campus, including, but not, necessarily limited to, all of the following:
>
> (1) The admissions office.
>
> (2) The bookstore.
>
> (3) The career counseling center.
>
> (4) The veteran's affairs office.
>
> (d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:
>
> (1) During the registration process.
>
> (2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.
>
> (3) During the issuance of student identification cards.
>
> (4) During student orientation programs.

The claimant asserts that section 66721.5, subdivision (c), requires making the current transfer core curriculum available at, but not limited to, the following locations: (1) the admissions office, (2) the bookstore, (3) the career counseling center, and (4) the veteran's affairs office. However, the plain language of subdivision (c) provides that "[c]opies of the transfer core curriculum *may* also be made available in other locations on each campus" including but not limited to the locations stated above. Thus, making the current transfer core curriculum available at "other locations" is discretionary and not mandated by the state.

Subdivision (d) sets forth alternatives to the "methods of distribution set forth in subdivision (c)." However, it is unclear whether "methods of distribution set forth in subdivision (c)" refers to the required act of including the transfer core curriculum in the published class schedule each academic term *or* to the discretionary methods of distribution set forth in subdivision (c). If subdivision (d) intends the former, then section 66721.5 requires the current transfer core curriculum to be distributed by either including the transfer core curriculum in the published class schedule each academic term or by one of the alternatives set forth in subdivision (d). If, however, "methods of distribution set forth in subdivision (c)" refers to the discretionary methods of distribution set forth in subdivision (c), then subdivision (d) does not require any activities, because the alternatives set forth in subdivision (d) would be alternatives to a discretionary act, and thus, would also be discretionary.

Courts have held that where the provisions of a statute are ambiguous or conflict, the court may look to the legislative record and committee reports to determine the legislative intent.[179] The Senate Rules Committee issued a report explaining that section 66271.5:

> [¶] … [¶]
>
> 3. Requires [California Community College] governing boards to publish the current transfer core curriculum in the class schedule each academic term.
>
> 4. Allows, as an alternative to publishing the transfer core curriculum in the class schedule pursuant to #3 above, [California Community College] governing boards to distribute copies by any of the following means:
>
> A. During the registration process.
>
> B. By mail, as specified.
>
> C. Along with the issuance of student identification cards.
>
> D. During student orientation programs.[180]

This report indicates that the Legislature intended that "methods of distribution set forth in subdivision (c)" refers to including the transfer core curriculum in the published class schedule each academic term, rather than the discretionary methods set forth in subdivision (c). As a result, subdivisions (c) and (d) require community college districts distribute the transfer core curriculum using one of the following methods: (1) including the transfer core curriculum in the published class schedule each academic term, (2) during the registration process, (3) by mail, with the registration materials or the enrollment materials, or both, or with other items sent to students, (4) during the issuance of student identification cards, or (5) during student orientation programs.

Staff finds that Education Code section 66721.5 imposes the following state-mandated activities:

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum (Ed. Code § 66721.5, subd. (a)(1))
2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution (Ed. Code § 66721.5, subd. (b)).
3. Including the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs (Ed. Code § 66721.5, subd. (c) and (d)).

<u>Transfer Functions: Student Matriculation, Policies, Counseling Services, Outreach Programs, Articulation Agreements, Transfer Agreements, Annual Statistics, and Intersegmental Advisory Committee (Education Code section 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, and 66743</u>

---

[179] *DuBois v. Workers' Comp. Appeals Bd.*, *supra*, 5 Cal. 4th 382, 394.

[180] Senate Rules Committee, Office of Senate Floor Analysis, Third Reading Analysis of Assembly Bill 1918 (1999-2000 Reg. Sess.) as amended April 24, 2000.

Sections 66731, 66732, 66736-66738, and 66740-66743 address the functions of various entities involved in the transfer system between the three segments of California's system of higher education.

Section 66731 addresses the role of transferring from community colleges to the UC or the CSU in California's higher education system. The plain language of section 66731 mandates community college district governing boards to:

> Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731.)

Section 66732 addresses the policy of the governing boards of each segment of higher education regarding transferring and its role in achieving student diversity. Section 66732 provides:

> The governing boards of each segment shall declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. The governing boards of each segment shall design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University.

As defined by Education Code section 66011, "governing boards" means the local board of trustees and the Board of Governors of the California Community Colleges, the Trustees of the CSU, and the Regents of the UC. Pursuant to the plain language of section 66732, community college districts are mandated to engage in the following activities:

1. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732.)
2. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732.)

Section 66736 addresses the counseling, advising, and monitoring of students seeking to transfer. Section 66736 requires community college districts to engage in the following activity:

1. Ensure that its colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students. (Ed. Code, § 66736.)
2. All policies and procedures adopted for the purpose of ensuring the maintenance of student transfer counseling and student services pursuant to Education Code section 66736 must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736.)

Section 66737 addresses the expectation that the Regents of the UC, the Trustees of the CSU, and the Board of Governors develop programs to facilitate the successful transfer of students between community colleges and the universities. Specifically, section 66737 provides:

> The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are expected to develop new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education to facilitate the successful transfer of students between the community colleges and the universities. Every community college student who successfully completes the transfer agreement programs, as defined in Section 66738, in a community college shall have an appropriate place in an upper division university program.

Section 66737 does not impose any activities on community college districts. Instead, the plain language of section 66737 sets forth the expectation that the Regents of the UC, the Trustees of the CSU, and the Board of Governors engage in specific activities. As a result, staff finds that Education Code section 66737 does not impose any state-mandated activities on community college districts.

Section 66738 addresses the development and implementation of formal systemwide articulation agreements and transfer agreement programs. Specifically, section 66738 provides:

> (a) The governing board of each public postsecondary education segment shall be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function.
>
> (b) The elements in a comprehensive transfer system shall include, but not be limited to, the following:
>
> (1) Enrollment and resource planning; intersegmental faculty curricular efforts.
>
> (2) Coordinated counseling.
>
> (3) Financial aid and transfer services.
>
> (4) Transfer articulation agreements and programs.
>
> (5) Specific efforts to improve diversity.
>
> (6) Early outreach activities.
>
> (7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses.
>
> (8) Centers.
>
> (c) The governing board of each segment shall expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available; and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus.

The plain language of section 66738, subdivision (a) requires the governing board of each public postsecondary education segment, including local governing boards of community college districts,[181] to be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs. Subdivision (c) requires the governing

[181] Education Code section 66011, defining "governing board."

board of each segment, including the governing boards of community college districts, to expand existing practices related to concurrent enrollment and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus.

Subdivision (b) does not impose any state-mandated activities on community college districts. Instead, subdivision (b) sets forth the elements of a comprehensive transfer system, but makes no reference to community college districts' role in developing or implementing these elements. Thus, subdivision (b) acts as a declaration of what a comprehensive transfer system includes. The claimants argue that subdivision (b) defines the mandate in subdivision (a).[182] However, the activities required by subdivision (a) are an element of subdivision (b). Specifically, subdivision (a) requires community college districts, along with the other segments of postsecondary education, to be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs. This activity is a part of what a "comprehensive transfer system" is defined as by subdivision (b).[183] Subdivisions (a) and (b) do not require community college districts to create a comprehensive transfer system, as defined by subdivision (b).

As a result, staff finds that Education Code section 66738 imposes the following state-mandated activities on community college districts:

1. Be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a).)
2. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c).)

Section 66740 addresses the development of discipline-specific articulation agreements, transfer programs, and discipline-based agreements. The section sets forth specific roles of the three segments of higher education. Specifically, section 66740 provides:

> Each department, school, and major in the University of California and California State University shall develop, in conjunction with community college faculty in appropriate and associated departments, discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. Faculty from the community colleges and university campuses shall participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency.
>
> Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for

---

[182] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 25.

[183] See Education Code section 66738, subdivision (b)(4).

application to that major and implementation by the department responsible for teaching that major.

Community college districts, in conjunction with the California State University and the University of California, shall develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses.

The development of these agreements shall be the mutual responsibility of all three segments, and no one segment should bear the organizational or financial responsibility for accomplishing these goals.

The Chancellor of the California Community Colleges and the President of the University of California shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to the University of California. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

The Chancellor of the California Community Colleges and the Chancellor of the California State University system shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to California State Universities. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

The first paragraph of section 66740 requires community college faculty in appropriate and associated departments to act in conjunction with each department, school, and major in the UC and CSU to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. In doing so, community college faculty shall participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency.

The third paragraph of section 66740 requires community college districts, in conjunction with the CSU and the UC, to develop discipline-based agreements with as many campuses of the two university segments as feasible, but no fewer than three UC campuses and five CSU campuses.

The remaining paragraphs (paragraphs 2 and 4-6) of section 66740 do not impose any activities on community college districts. The second paragraph of section 66740 provides:

Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases

> where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major.

The claimants assert that the first sentence of the second paragraph of section 66740 requires community college districts to implement policies and procedures to ensure that, where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors are made readily available to community college counselors, faculty, and students on an annual basis.[184] In addition, the claimants assert that the second sentence of this paragraph is directed at community college districts, and therefore, requires notification of a modification of prescribed courses of study made by university departments prior to implementation by the department.[185]

The plain language of the first sentence of the second paragraph does not provide for the implementation of policies and procedures. Instead, the language of the second paragraph requires that specified information be *made readily available* to community college counselors, faculty, and students on an annual basis. The language of the second paragraph, however, is silent as to which entities are required to engage in the activities set forth in the first and second sentences of the paragraph. Because of this ambiguity, it is necessary to give a reasonable and commonsense interpretation of the statutory provisions consistent with the apparent legislative purpose and intent.[186]

A reasonable and commonsense interpretation is that the second paragraph is directed at the entities from which the information regarding impacted or over-subscribed majors or changes made to prescribed courses of study by the CSU or UC departments originates. Here, the CSU and UC are the entities which would first know whether or not majors within the CSU and UC are impacted or over-subscribed. In addition, the CSU and UC, or the departments within the CSU and UC, would be the entities which prescribe the course of study and minimum grade point average for admission to the majors within the CSU and UC. Also, when prescribed courses of study are altered by the CSU and UC departments, the CSU and UC would be the entities with the information required to be communicated to appropriate community college faculty and counselors. Thus, it is clear that the second paragraph is directed at the CSU and UC, and not community college districts.

In the claimants' response to the draft staff analysis, the claimants argue that it is reasonable and necessary for the community college districts to facilitate the distribution of the information regarding impacted or over-subscribed majors or changes made to prescribed courses of study by the CSU or UC. However, as discussed above, the language of section 66740 does not require this activity, nor is there any evidence in the record that it is necessary for community college districts to facilitate the distribution of the information regarding impacted or over-subscribed majors or changes made to prescribed courses of study by the CSU or UC. As a result, staff finds that the second paragraph of section 66740 does not impose any state-mandated activities on community college districts.

---

[184] Exhibit B, Test Claim 02-TC-31, p. 371.

[185] *Ibid.*

[186] *American Buildings Co. v. Bay Commercial Construction, Inc.*, *supra*, 99 Cal. App. 4th 1193.

The fourth paragraph of section 66740 sets forth that the development of the agreements described in the first and third paragraphs of section 66740 are the mutual responsibility of all three segments of higher education, and the legislative intent that no one segment should bear the organizational or financial responsibility for accomplishing these goals.

The fifth and sixth paragraphs provide that the Chancellor is required to begin the process of setting priorities with the CSU and UC to determine which community colleges will receive first attention for the development of agreements. As a result, the fifth and sixth paragraphs do not impose any state-mandated activities on community college districts.

Staff finds that the Education Code section 66740 mandates community college districts to engage in the following activities:

1. Act in conjunction with each department, school, and major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites.

   In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph.)

2. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph.)

Section 66741 sets forth the expected results and the rights resulting from the system wide and interinstitutional agreements developed by the CSU, UC, and community colleges pursuant to Education Code section 66740. Section 66741 provides:

> As a result of system wide and interinstitutional agreements, each community college student shall be assured of the opportunity to enter into a transfer agreement program enabling a student to receive high priority consideration, attain equivalent special treatment, or enter into a contract when applying for university admission at the advanced standing level. It is recognized that eligibility for transfer agreement programs will require completion of certain requirements as defined in interinstitutional agreements. It is also recognized that access to majors of choice will, in most cases, require completion of additional requirements, such as specialized coursework and attainment of a specialized grade point average.
>
> Transfer agreement programs also shall carry high priority access to majors of choice. The University of California and the California State University shall require that continuing undergraduate students and community college transfer students are assessed against a common set of criteria for upper division standing to a specific major. However, generally speaking, access to these programs shall require completion of specialized coursework and attainment of a grade point average above the minimums defined in general admission requirements, such as those used in supplementary admission criteria for impacted or over-subscribed programs.
>
> Alternatively, students may also, by meeting the University of California or California State University requirements for admission at the advanced standing

> level, simply wish to apply as required. All students meeting these admission requirements shall be guaranteed a place somewhere in the University of California or California State University system, as appropriate.

The claimants assert that community college districts are required to ensure that each community college student is assured of the opportunity to enter into a transfer agreement program enabling a student to (1) receive high priority consideration, (2) attain equivalent special treatment, or (3) enter into a contract when applying for university admission at the advanced standing level.[187] The plain language of section 66741, however, does not require community college districts to engage in any activity. Instead, section 66741 sets forth what will result from the agreements made by the CSU, UC, California Community Colleges, and local community college districts. As a result, staff finds that Education Code section 66741 does not impose any state-mandated activities.

Section 66742 addresses the presentation of annual statistical reports on transfer patterns to the Governor and the Legislature. Specifically, section 66742 provides:

> The governing boards of the three public segments of higher education shall present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature. The reports shall include recent statistics on student enrollments by campus, segment, gender, ethnicity, and the ratio of upper division to lower division, including information on both freshman and transfer student access to the system. These reports should include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus. For transfer students, this data shall indicate the segment of origin for all students. In addition, data shall be separately identified for transfer students from California Community Colleges, and shall identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group. The reports shall describe the number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, the number of California Community College transfer students denied either admission to the student's first choice of a particular campus of the California State University or the University of California or the student's first choice of a major field of study, and, among those students, the number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California. The reports shall also include information by sex and ethnicity on retention and degree completion for transfer students as well as for native students, and the number and percentage of baccalaureate degree recipients who transferred from a community college.

The plain language of section 66742 mandates community college districts to engage in the following activity:

> Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission.

---

[187] Exhibit B, Test Claim 02-TC-31, p. 372.

Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742.)

Section 66743 addresses the presentation of a biennial report by an intersegmental advisory committee convened by the California Postsecondary Education Commission to the Governor and the Legislature. Specifically, section 66743 provides:

> The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:
>
> (a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.
>
> (b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.
>
> (c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes.
>
> The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to implement reform, to achieve the 60/40 ratio by the designated dates, or to improve the transfer rate of historically underrepresented groups significantly, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met.

The claimants assert that section 66743 requires community college districts to compile, prepare and make available data required by the California Postsecondary Education Commission's intersegmental advisory committee on transfer access and performance so that the committee may present biennial reports to the Governor and the Legislature on the status of transfer policies and programs.[188] In addition the claimants assert, "Community college districts, as one of the 'segments,' are a reasonable and perhaps necessary source for CPEC for some of the information regarding the effectiveness of transfer agreement programs . . . ."[189] The plain language of

---

[188] Exhibit B, Test Claim 02-TC-31, p. 374.

[189] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 26.

section 66743, however, does not require community college district to engage in any activities. Rather, section 66743 requires an "intersegmental advisory committee" convened by the California Postsecondary Education Commission to engage in a specified activity. As a result, staff finds that section 66743 does not impose any state-mandated activities on community college districts.

In summary staff finds that Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742 require community college districts to engage in the following state-mandated activities:

1. Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731.)

2. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732.)

3. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732.)

4. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students.

   All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736.)

5. Be accountable for the development and implementation of formal system wide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a).)

6. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c).)

7. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites.

   In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph.)

8. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph.)

9. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission.

   Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742.)

General Common Course Numbering System (Ed. Code, § 71027)

Section 71027 addresses the Board of Governors' duty regarding a general common course numbering system. Specifically, section71027 provides:

> (a) The Board of Governors of the California Community Colleges shall develop, maintain, and disseminate a general common course numbering system for use by the community college districts.
>
> (b) The office of the Chancellor of the California Community Colleges shall absorb the costs of developing, maintaining, and disseminating a general common course numbering system pursuant to this section within the office's existing resources

The claimants assert that section 71027 requires community college districts "[t]o implement policies and procedures to comply with the statewide common course numbering system adopted and disseminated by the Board of Governors … ."[190] However, the plain language of section 71027 does not impose any activities on community college districts. Rather, section 71027 requires the Board of Governors to engage in specific activities and for the Chancellor's Office to absorb all costs of these activities within its existing resources. As a result, staff finds that Education Code section 71027 does not impose any state-mandated activities on community college districts.

(i) Summary of state-mandated activities

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum (Ed. Code § 66721.5, subd. (a)(1))
2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution (Ed. Code § 66721.5, subd. (b)).
3. Including the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs (Ed. Code § 66721.5, subd. (c) and (d)).
4. Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731.)
5. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732.)

[190] Exhibit B, Test Claim 02-TC-31, p. 366.

6. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732.)

7. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students.

   All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736.)

8. Be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a).)

9. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c).)

10. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites.

    In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph.)

11. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph.)

12. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission.

    Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742.)

    b. <u>The activities mandated by Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution</u>

As found by the court in *Long Beach Unified School Dist.*, education is a peculiarly governmental function.[191] In addition, the Legislature has found:

[191] *Long Beach Unified School Dist., supra*, 225 Cal.App.3d. at p. 172.

> Student matriculation, from community colleges through the University of California and the California State University, is recognized by the Governor, Legislature, and the governing boards of each of the segments of California's system of public postsecondary education as a central institutional priority of all segments of higher education.[192]

The requirements of Education Code section 66721.5 carry out the governmental function of education and the central institutional priority of higher education by ensuring that all students are clearly and fully informed as to which community college courses and units are transferable so as to improve the opportunity of community college students to transfer.

Citing to *County of Los Angeles v. Department of Industrial Relations* (1989) 214 Cal.App.3d 1538, the Chancellor's Office argues that although education is a "program" subject to article XIII B, and transfer principles are a part of the "program," the means by which students learn of the transfer core curriculum is not a "program."[193] As relevant to this discussion, the county in *County of Los Angeles v. Department of Industrial Relations* argued that elevator safety regulations that required specific activities in regard to elevators constituted a "program" under article XIII B because elevators in county owned and leased buildings are necessary to provide access to services to the public. However, the court held, "In determining whether these regulations are a program, the critical question is whether the *mandated program* carries out the governmental function of providing services to the public, not whether the elevators can be used to obtain these services."[194] The court concluded that providing elevators equipped with fire and earthquake safety features is not a "governmental function of providing services to the public" and therefore not a "program" under article XIII B.[195]

The Chancellor's Office asserts that the distribution of copies of the current transfer core curriculum is "more akin to the elevators [discussed in *County of Los Angeles v. Department of Industrial Relations*] that provide a means of obtaining the program services."[196] As a result, the Chancellor's Office argues that the activities required by section 66721.5 do not constitute a "program." *County of Los Angeles v. Department of Industrial Relations*, however, is factually distinguishable from this situation. In *County of Los Angeles v. Department of Industrial Relations* the regulations at issue imposed requirements on all public buildings regarding elevator safety which were completely separate and unrelated to the public services provided by the county in the buildings owned and leased by the county. Here, section 66721.5 is directly related to the governmental function of education and higher education's central institutional priority of transferring students. Thus, the requirements imposed by section 66721.5 do not merely serve as a means to access a program (i.e. education) unrelated to section 66721.5. Rather, the distribution of the current transfer core curriculum carries out the governmental function of education and higher education's central institutional priority. As a result, the activities required by section 66721.5 constitute a "program" subject to article XIII B.

---

[192] Statutes 2000, chapter 187, section 2, subdivision (a) (A.B. 1918). Restating Education Code section 66731, added by Statutes 1991, chapter 1188.

[193] Exhibit D, Chancellor's Office on 02-TC-25, *supra*, p. 5.

[194] *County of Los Angeles v. Department of Industrial Relations*, *supra*, 214 Cal.App.3d at p. 1546. Original emphasis.

[195] *Ibid*.

[196] *Ibid*.

Similarly, the state-mandated activities imposed by Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742 carry out the governmental function of education by promoting student matriculation between the three segments of public higher education, and as a result constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The claimants have pled Education Code section 66721.5, as added by Statutes 2000, chapter 187.[197] Prior to the enactment of Statutes 2000, chapter 187, Education Code section 66721.5 did not exist, nor did the section's requirements exist as a different code section. As a result, Education Code section 66721.5, as added by Statutes 2000, chapter 1867, constitutes a "new program or higher level of service."

The claimants have pled Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742, as added by Statutes 1991, chapter 1188.[198] Prior to the enactment of Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742 in 1991, community college districts were not required to engage in the activities imposed by the sections. As a result, the state-mandated activities imposed by Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742, as added by Statutes 1991, chapter 1188, constitute "new programs or higher levels of service."

(i) Summary of state-mandated new program or higher level of service

In summary, staff finds that the test claim statutes of the "Transfer Centers" section of this analysis impose the following state-mandated new programs or higher levels of service:

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum. (Ed. Code § 66721.5, subd. (a)(1) (Stats. 2000, ch. 187).)
2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution. (Ed. Code § 66721.5, subd. (b) (Stats. 2000, ch. 187).)
3. Include the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs. (Ed. Code § 66721.5, subd. (c) and (d) (Stats. 2000, ch. 187).)
4. Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731 (Stats. 1991, ch. 1188).)
5. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732 (Stats. 1991, ch. 1188).)
6. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732(Stats. 1991, ch. 1188).)

---

[197] Exhibit B, Test Claim 02-TC-31 pg. 159.

[198] *Id.* at pgs. 148-155.

7. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students. All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736 (Stats. 1991, ch. 1188).)

8. Be accountable for the development and implementation of formal system wide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a) (Stats. 1991, ch. 1188).)

9. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c) (Stats. 1991, ch. 1188).)

10. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph (Stats. 1991, ch. 1188).)

11. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph (Stats. 1991, ch. 1188).)

12. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission. Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742 (Stats. 1991, ch. 1188).)

(9) Vocational Education (Ed. Code, §§ 78015 and 78016; and Cal. Code Regs., tit. 5, §§ 55600-55603, 55605, 55607, 55620, and 55630)[199]

---

[199] In the claimants' response to the draft staff analysis (Exhibit V, p. 20) the claimants cite to Education Code section 70902, subdivision (b)(2), which addresses the establishment of policies for and approval of credit courses of instruction generally. Although Education Code section 70902, subdivision (b), is generally related to the provision of vocational education programs and all other courses and programs offered by a community college district, it does not require the provision of vocational education programs or specifically address vocational education. This analysis will address Education Code section 70902, subdivision (b), in the "Curriculum" section of the analysis, because it is a more appropriate place for the issues raised by Education Code section 70902, subdivision (b).

This section addresses the activities that must be done prior to and after the establishment of vocational or occupational training programs, and the ability of community college districts to contract with private postsecondary schools, activity centers, work activity centers, or sheltered workshops to provide vocational skill training.

a. Education Code sections 78015 and 78016, and California Code of Regulations, title 5, section 55601, impose state-mandated activities on community college districts; however, California Code of Regulations, title 5, sections 55600, 55602-55603, 55605, 55607, 55620, and 55630 do not

Establishment and Review of Vocational Education Programs (Ed. Code, §§ 78015 and 78016)

Sections 78015 and 78016 address activities that must be done prior to and after the establishment of vocational or occupational training programs. Section 78015 sets forth activities that a community college district must engage in prior to establishing a vocational or occupational training program. The plain language of section 78015 requires a community college district to engage in the following activities:

1. Conduct a job market study of the labor market area, as defined by Education Code section 52301.5, in which it proposes to establish the program prior to establishing the program.[200]

   The labor market study must use the State-Local Cooperative Labor Market Information Program established by Unemployment Insurance Code section 10533, or if this program is not available for the labor market area, the study must use other sources of labor market information.

   The study must include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction. (Ed. Code, § 78015, subd. (a)(1) (Stats. 1998, ch. 365).)

2. Make copies of each job market study available to the public. (Ed. Code, § 78015, subd. (a)(2) (Stats. 1998, ch. 365).)

3. Determine whether or not the job market study justifies the proposed vocational education program. (Ed. Code, § 78015, subd. (b) (Stats. 1998, ch. 365).)

4. Determine by resolution whether the program will be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Education Code section 8092, if the district determines that the job market study justifies the initiation of the proposed program. (Ed. Code, § 78015, subd. (c) (Stats. 1998, ch. 365).)

However, when analyzing whether section 78015 mandates any activities it is necessary to look at the underlying program to determine if the claimant's participation in the underlying program is voluntary.[201] Here, a community college district is required to engage in the activities stated

---

[200] Education Code section 52301.5 defines "Labor Market Area" as "a county or aggregation of counties designated by the Employment Development Department (EDD) that has one or more central core cities and that meets criteria of population, population density, commute patterns, and social and economic integration specified by the EDD.

[201] *Kern High School Dist., supra,* 30 Cal.4th 727, 743.

above *only* if it establishes a vocational or occupational training program. As a result, it is necessary to determine if community college districts are required to offer vocational or occupational training program.

Education Code section 66010.4 sets forth the "missions and functions" of California's institutions of higher education. Subdivision (a) of section 66010.4 delineates the primary mission of community colleges, and provides in relevant part, "The California Community Colleges shall, as a primary mission, offer academic and vocational instruction … ." Thus, community college districts are required to establish vocational programs, and as a result, are mandated to engage in the activities set forth in Education Code section 78015.

Section 78016 addresses the review of vocational or occupational training programs. Specifically, section 78016 mandates community college districts to engage in the following activities:

1. Review every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, every two years to ensure that each program: (1) meets a documented labor market demand; (2) does not represent unnecessary duplication of other manpower training programs in the area; and (3) is of demonstrated effectiveness as measured by the employment and completion success of its students.

   These three requirements are to be demonstrated by the California Occupational Information System, including State-Local Cooperative Labor Market Information Program established in Unemployment Insurance Code section 10533, or if this program is not available in the labor market area, other available sources of labor market information. (Ed. Code, § 78016, subd. (a) (Stats. 1998, ch. 365).)

2. Terminate any program that does not meet the requirements of Education Code section 78016, subdivision (a), and the standards promulgated by the governing board within one year after the review conducted pursuant to section 78016. (Ed. Code, § 78016, subd. (b) (Stats. 1998, ch. 365).)

3. Include the review and comments by the local Private Industry Council, established pursuant to Unemployment Insurance Code section 15000 et seq., in the review process of every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, the review and comments by the Private Industry Council shall occur prior to any decision by the district governing board. (Ed. Code, § 78016, subd. (c) (Stats. 1998, ch. 365).)

4. Make a written summary of the findings of each review available to the public. (Ed. Code, § 78016, subd. (e) (Stats. 1998, ch. 365).)

Appointment of Vocational Education Advisory Committee (Cal. Code Regs., tit. 5, § 55601)

Title 5, section 55601, addresses the appointment of a vocational education advisory committee by community college districts participating in a vocational education program. Title 5, section 55601, provides:

> The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.
>
> The committee shall consist of one or more representative of the general public knowledgeable about the disadvantaged, students, teachers, business, industry,

> school administration, and the field office of the Department of Employment Development.[202]

As discussed above, community college districts are required to establish vocational education programs. Thus, title 5, section 55601, mandates community college districts to engage in the following activity:

> Appoint a vocational education advisory committee, consisting of one or more members of the general public, to develop recommendations on the program and to provide a liaison between the district and potential employers. The members must be knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development. (Cal. Code Regs., tit. 5, § 55601 (Register 93, No. 25).)

Vocational Education Contracts (Cal. Code Regs., tit. 5, §§ 55600, 55602, 55603, 55605, 55607, 55620, and 55630)

Title 5, sections 55600, 55602-55607, 55620, and 55630, address the ability of community college districts to contract with private post secondary schools to provide vocational skills training, and the corresponding contracting requirements if a district chooses to contract with a private post secondary school. However, pursuant to *Kern High School Dist*. a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity.[203] Title 5, section 55602, provides, "Any community college district or districts may contract with a private post secondary school … to provide vocational skill training … ."[204] Pursuant to title 5, section 55602, community college districts have the authority to contract with a private post secondary school, but are not required to use this authority. Thus, it is a community college district's decision to utilize its authority that triggers any subsequent requirements within title 5, sections 55602-55607, 55620, and 55630, which set forth requirements regarding contracting with a private post secondary school for the provision of vocational skills training.

In response to the draft staff analysis, the claimants argue:

> [v]ocational education was determined by the DSA to be a mandate, not a precursor optional program. The use of private contractors is a method to implement the mandate, not a subsequent new program. A choice of methods or sources to implement the mandate is not a new program subsequent to a discretionary program. If regulations never had been established specifically for vocational education contracts, there would be no question that private contracting was a reimbursable method to implement the mandate.[205]

The claimants misinterpret the draft staff analysis. The claimants' argument is based on its assertion that the provision of vocational education is a reimbursable state-mandated new program or higher level of service. The *requirement* to provide vocational education stems from Education Code section 66010.4, which was not pled in this test claim. The analysis cited to this requirement as the basis for finding that new *requirements* relating to vocational education

---

[202] California Code of Regulations, title 5, section 55601 (Register 93, No. 25).

[203] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 743.

[204] California Code of Regulations, title 5, section 55602 (Register 95, No. 22).

[205] Exhibit V, Claimants' response to draft staff analysis, *supra*, pgs. 20-21.

constituted state-mandated activities. However, the analysis did not find that the *provision of vocational education* was a reimbursable state-mandated new program or higher level of service. Because Education Code section 66010.4 was not pled in this test claim and, thus the Commission does not have jurisdiction to make findings regarding its provisions.[206] Absent a finding that the provision of vocational education is a reimbursable state-mandated new program or higher level of service, community college districts would not be able to claim reimbursement for providing vocational education through the discretionary use of contractors. As a result, the requirements of title 5, sections 55600, 55602, 55603, 55605, 55607, 55620, and 55630 do not constitute state-mandated activities.

b. <u>The state-mandated activities imposed by Education Code sections 78015 and 78016 constitute a new program or higher level of service; however, the activity mandated by California Code of Regulations, title 5, section 55601 does not</u>

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[207] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[208] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[209]

The state-mandated activities imposed by Education Code sections 78015 and 78016 carry out the governmental function of providing education by setting forth the steps necessary to establish vocational education programs, the provision of which is a primary mission of the California Community Colleges. In addition, the claimants have pled Education Code sections 78015 and 78016 as added in 1979 and last amended in 1998.[210] Immediately prior to 1979, community college districts were not required to engage in the state-mandated program within Education Code sections 78015 and 78016. Thus, Education Code sections 78015 and 78016 constitute a new program or higher level of service.

California Code of Regulations, title 5, section 55601, carries out a governmental function by requiring the appointment of a vocational education advisory committee for each community college district to advise community college districts on the creation of vocational education programs, the provision of which, as noted above, are a primary mission of community colleges. The claimants have pled title 5, section 55601, as added in 1993.[211] However, the requirement to appoint a vocational education advisory committee existed in 1973 under former Education Code section 6257.[212] This requirement was renumbered to Education Code section 8070 in 1976.[213]

---

[206] Staff notes that Education Code section 66010.4 was derived from former Education Code section 22650, as added by Statutes 1961, 1st Extraordinary Session 1961, chapter 49.

[207] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

[208] *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[209] *Ibid.*

[210] Statutes 1979, chapter 977; and Statutes 1998, chapter 365.

[211] Exhibit B, Test Claim 02-TC-31, p.82. The 1993 date cited by the claimants coincides with Register 93, number 25.

[212] Statutes 1973, chapter 1207.

In 1990, the Board of Governors were directed to incorporate the text of Education Code section 8070 into the title 5 regulations governing community college districts, noting that if the Board of Governors fails to adopt and put into effect regulations containing the language of Education Code section 8070, the Education Code section shall remain operative until the Board of Governors does so.[214] Thus, even though there was a two year delay to incorporate the provisions of Education Code section 8070 into the title 5 regulations in the form of title 5, section 55601, there was never a lapse in the requirement. As a result, the requirement of California Code of Regulations, title 5, section 55601, does not constitute a state-mandated new program or higher level of service.

(i) Summary of state-mandated new program or higher level of service

1. Conduct a job market study of the labor market area, as defined by Education Code section 52301.5, in which it proposes to establish the program prior to establishing the program.[215]

   The labor market study must use the State-Local Cooperative Labor Market Information Program established by Unemployment Insurance Code section 10533, or if this program is not available for the labor market area, the study must use other sources of labor market information.

   The study must include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction. (Ed. Code, § 78015, subd. (a)(1) (Stats. 1998, ch. 365).)

2. Make copies of each job market study available to the public. (Ed. Code, § 78015, subd. (a)(2) (Stats. 1998, ch. 365).)

3. Determine whether or not the job market study justifies the proposed vocational education program. (Ed. Code, § 78015, subd. (b) (Stats. 1998, ch. 365).)

4. Determine by resolution whether the program will be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Education Code section 8092, if the district determines that the job market study justifies the initiation of the proposed program. (Ed. Code, § 78015, subd. (c) (Stats. 1998, ch. 365).)

5. Review every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, every two years to ensure that each program: (1) meets a documented labor market demand; (2) does not represent unnecessary duplication of other manpower training programs in the area; and (3) is of demonstrated effectiveness as measured by the employment and completion success of its students.

---

[213] Statutes 1976, chapter 1010.

[214] Statutes 1990, chapter 1372, section 708.

[215] Education Code section 52301.5 defines "Labor Market Area" as "a county or aggregation of counties designated by the Employment Development Department (EDD) that has one or more central core cities and that meets criteria of population, population density, commute patterns, and social and economic integration specified by the EDD.

These three requirements are to be demonstrated by the California Occupational Information System, including State-Local Cooperative Labor Market Information Program established in Unemployment Insurance Code section 10533, or if this program is not available in the labor market area, other available sources of labor market information. (Ed. Code, § 78016, subd. (a) (Stats. 1998, ch. 365).)

6. Terminate any program that does not meet the requirements of Education Code section 78016, subdivision (a), and the standards promulgated by the governing board within one year after the review conducted pursuant to section 78016. (Ed. Code, § 78016, subd. (b) (Stats. 1998, ch. 365).)

7. Include the review and comments by the local Private Industry Council, established pursuant to Unemployment Insurance Code section 15000 et seq., in the review process of every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, the review and comments by the Private Industry Council shall occur prior to any decision by the district governing board. (Ed. Code, § 78016, subd. (c) (Stats. 1998, ch. 365).)

8. Make a written summary of the findings of each review available to the public. (Ed. Code, § 78016, subd. (e) (Stats. 1998, ch. 365).)

(10) Standards of Scholarship (Ed. Code, § 70902, subd. (b)(3; Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765)

This section addresses regulations that set forth standards addressing the basic operation of community college districts regarding standards of scholarship, including but not limited to the following areas of scholarship: grading practices, credit-no credit options, advanced placement examinations, standards for probation, academic record symbols, and grade point average.

a. Education Code section 70902, subd. (b)(3), and California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 requires community college districts to engage in state-mandated activities

Regulations (Ed. Code, § 70902, subd. (b)(3); Cal. Code Regs., tit. 5, § 55750)

As relevant to this discussion, Education Code section 70902, subdivision (b)(3), requires district governing boards to establish academic standards, probation, dismissal, and readmission policies consistent with the minimum standards adopted by the Board of Governors. Title 5 sections 55750 et seq. set forth the minimum standards addressing academic standards, probation, dismissal, and readmission. As part of the minimum standards adopted by the Board of Governors, section 55750 provides:

> The governing board of a district maintaining a community college shall adopt regulations consistent with this [subchapter].[216] The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this [division].[217]

---

[216] See "Minimum Conditions Entitling Community College Districts to State Aid" section, regarding the discussion of the Nomenclature Cross-Reference issued by the Office of Administrative Law.

[217] *Ibid.*

The plain language of section 55750 requires community college districts to adopt regulations consistent with the subchapter on "Standards of Scholarship." In addition, these regulations are required to be published in the college catalog under appropriate headings. The language of section 55750 also provides that the district file the regulations with the Chancellor's office as required by section 51002.

Although the requirements of California Code of Regulations, title 5, section 51002, do not independently impose state-mandated activities, section 55750 requires community college districts to file their regulations regarding district standards of scholarship with the Chancellor's Office as required by section 51002. Section 51002, subdivision (b), requires districts to file a copy of their regulations, and any amendments, with the Chancellor's Office. As a result, community college districts are mandated to file a copy of their the regulations, and any amendments thereto, adopted pursuant to section 55750 with the Chancellor's Office. Therefore, staff finds that Education Code section 70902, subdivision (b)(3), and California Code of Regulations, title 5, section 55750 mandates community college districts to engage in the following activities:

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[218] (Ed. Code, § 70902, subd. (b)(3) and Cal. Code Regs., tit. 5, § 55750.)
2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750.)
3. File a copy of the regulations regarding standards of scholarship, and any amendments, with the Chancellor. (Cal. Code Regs., tit. 5, § 55750.)

In the claimants' response to the draft staff analysis, the claimants cite Education Code section 70902, subdivision (b)(3), in association with title 5 section 51020, which has been determined to not impose any state-mandated activities.[219] The claimants do make any argument regarding the relationship between the Education Code section or the title 5 section. Instead, the claimants suggest that Education Code section 70902, subdivision (b)(3), should be analyzed.[220] To the extent that the claimants are arguing that Education Code section 70902, subdivision (b)(3), imposes an independent requirement to comply with the provisions of title 5 section 51020, staff finds that it does not. As found above, Education Code section 70902, subdivision (b)(3), requires community college districts to establish academic standards, probation, and dismissal, and readmission policies consistent with the minimum standards adopted by the Board of Governors, which are set forth in title 5 sections 55750-55765. Section 70902, subdivision (b) does not require districts to have stated objectives for its instructional programs, as provided by title 5 section 51020.

Grading Practices (Cal. Code Regs., tit. 5, § 55751)

Section 55751 addresses the grading practices of community college districts. The plain language of section 55751 requires community college districts to determine a uniform grading

---

[218] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

[219] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 15.

[220] *Ibid.*

practice for the district based on sound academic principles. In addition, the uniform grading practices must conform to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). As a result, staff finds that California Code of Regulations, title 5, section 55751 imposes the following state-mandated activities:

1. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751.)
2. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b).)

Credit-No Credit Option (Cal. Code Regs., tit. 5, § 55752)

Section 55752 addresses the "credit-no credit" options regarding classes offered by a community college. Section 55752, subdivision (a), provides that the "governing board of a community college district may by resolution and regulation offer courses" in which all students are evaluated on a "credit- no credit" basis, or in which students may choose to be evaluated on a "credit-no credit" basis or a letter grade. In addition, subdivision (a) provides that if such a course is offered, a community college must specify in its catalog the category into which the course falls.

As a result, the plain language of section 55752 authorizes the governing boards of community college districts to offer courses on a "credit-no credit" basis, but does not require the governing boards to do so. If "credit-no credit" courses are not offered, there would be no requirement to specify the type of "credit-no credit" course in the district catalog, adopt regulations, or file the regulations with the Chancellor's Office. As a result, any requirement of section 55752 is a downstream activity resulting from a community college district's voluntary decision to offer courses wherein all students are evaluated on a "credit-no credit" basis or wherein each student may elect whether the basis of evaluation is to be "credit-no credit" or letter grade. Thus, staff finds that California Code of Regulations, title 5, section 55752, does not impose any state-mandated activities on community colleges, and therefore, is not subject to article XIII B, section 6 of the California Constitution.

Credit by Examination (Cal. Code Regs., tit. 5, § 55753)

Section 55753 addresses the option of credit by examination for a community college course. Section 55753, as added by Register 83, Number 29 (July 16, 1983) provides:

> (a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of Sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.
>
> (b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

In 2002, section 55753 was amended by Register 2002, Number 8 (Feb. 22, 2002) to provide:

(a) The governing board of each community college district shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of [the "Standards of Scholarship" subchapter].

(b) [As quoted above (Register 83, No. 29 (July 16, 1983))].

(c) The nature and content of the examination shall be determined solely by faculty in the discipline that normally teaches the course for which credit is to be granted in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002. The faculty shall determine that the examination adequately measures mastery of the course content as set forth in the outline of record. The faculty may accept an examination conducted at a location other than the community college for this purpose.

(d) A separate examination shall be conducted for each course for which credit is to be granted. Credit may be awarded for prior experience or prior learning only in terms of individually identified courses for which examinations are conducted pursuant to this section.

(e) [Identical to the above quoted subdivision (c), as added by Register 83, Number 29 (July 16, 1983)]

(f) Grading shall be according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit-no credit option if that option is ordinarily available for the course.

(g) [Identical to the above quoted subdivision (d), as added by Register 83, Number 29 (July 16, 1983)]

The plain language of subdivision (a) provides that community college districts shall adopt and publish *procedures* and *regulations* pertaining to credit by examination. However, courts have held that the intent of a regulation should be ascertained from the entire regulation and regulatory scheme rather than from isolated parts or words.[221] Additionally, under *Kern High School Dist*. a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity.

Here, subdivision (b) authorizes, but does not require, community college districts to offer credit by examination. In addition, the usual and ordinary meaning of the word "procedures" is, "a way of performing or effecting something."[222] In light of the discretionary nature of offering credit by examination, and the usual and ordinary meaning of "procedures," the activity of adopting and publishing *procedures*, or a way of performing or effecting credit by examination, would only be necessary if a community college district made the initial decision to offer credit

---

[221] *DuBois v. Workers' Comp. Appeals Bd.*, *supra*, 5 Cal. 4th 382, 388; *Cal. Drive-In Restaurant Assn. v. Clark*, *supra*, 22 Cal.2d 287, 292.

[222] Webster's 2d New College Dictionary. (1999) p.881.

by examination. Thus, the requirement of adopting and publishing *procedures* regarding credit by examination is triggered by a community college district's initial discretionary decision to offer credit by examination, and therefore under *Kern High School Dist.*, is not mandated by the state. Likewise, the subsequent activities set forth in section 55753, subdivisions (c)-(g) are downstream activities of a community college district's decision to offer credit-by examination, and therefore not state-mandated.

As distinguished from "procedures," the usual and ordinary meaning of the word "regulations" is, "A principle, rule, or law designed to control or govern behavior."[223] Adopting and publishing *regulations* regarding credit by examination, or rules to control or govern credit by examination is not dependent on actually offering credit by examination. Thus, staff finds that California Code of Regulations, title 5, section 55753, subdivision (a) imposes the following state-mandated activities:

> Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a).)

Articulation of High School Courses (Cal. Code Regs., tit. 5, § 55753.5)

Section 55753.5 addresses the use of articulated high school courses to satisfy community college course requirements. Section 55753.5 provides in relevant part:

> The governing board of a community college district may adopt policies to permit articulated high school courses to be applied to community college requirements in accordance with this Section. …

The remaining portions of section 55753.5 set forth what articulated high school courses can and cannot be used in lieu of comparable community college courses, and the requirements resulting from the application of articulated high school courses toward community college requirements. Reading section 55753.5 as a whole and "not as individual parts or words standing alone,"[224] any activities required are a result of a community college district's decision to permit articulated high school courses to be applied to community college requirements. As a result, under *Kern High School Dist*., California Code of Regulations, title 5, section 55753.5, does not impose any state-mandated activities on community college districts, and therefore, is not subject to article XIII B, section 6 of the California Constitution.

Advanced Placement Examinations (Cal. Code Regs., tit. 5, § 55753.7)

Section 55753.7 addresses the granting of credit for satisfactory completion of advanced placement examinations. Section 55753.7 provides in relevant part:

> The governing board of a community college district may adopt policies to grant credit for satisfactory completion of advanced placement examinations typically recognized by colleges and universities as measuring competencies comparable to those achieved in baccalaureate leave courses.

The remaining portions of section 55753.7 set forth activities resulting from the granting of credit for satisfactory completion of advanced placement examinations. Read as a whole, any activities required by section 55753.7 are downstream activities resulting from a community college district's decision to adopt policies to grant credit for satisfactory completion of advanced placement examinations. As a result, under *Kern High School Dist*., California Code

---

[223] American Heritage Dictionary (new college ed. 1979) p. 1096.

[224] *Fontana Unified School Dist. v. Burman, supra*, 45 Cal.3d 208, 218.

or Regulations, title 5, section 55753.7, does not impose any state-mandated activities on community college districts, and therefore, is not subject to article XIII B, section 6 of the California Constitution.

Standards for Probation (Cal. Code Regs., tit. 5, § 55754)

Section 55754 addresses the standards for academic and progress probation. Pursuant to the plain language of the section 55754, subdivision (a), community colleges are required to place student on academic probation if the student has attempted at least 12 semester or 18 quarter units and has earned a grade point average below 2.0 in all units which were graded.

The plain language of subdivision (b), similarly provides that a community college is to place a student on progress probation if the student has enrolled in a total of at least 12 semester or 18 quarter units and the percentage of all units in which the student has enrolled and for which entries of "Withdrawal," "Incomplete," and "No Credit" have been recorded reaches or exceeds 50 percent. However, subdivision (b) must be read in the context of the regulatory scheme as a whole.[225] Under the California Code of Regulations, title 5, sections 55752 and 55758, community college districts are not required to offer courses on a "credit – no credit" basis, nor are community college districts required to authorize the use of "Withdrawal" or "Incomplete" as academic record symbols.[226] As a result, the requirement to place a student on "progress probation" is a downstream activity of a community college's decision to offer courses on a "credit – no credit" basis and to authorize the use of "Withdrawal" or "Incomplete" as academic record symbols.

In response to the draft staff analysis, the claimants argue that the above analysis is incorrect because it is based on the discretionary use of "Credit" and "No Credit" grading symbols, and "grading symbols are not a new program applied to a precursor optional program, so *Kern* is inapplicable."[227] The claimants misinterpret the above analysis. Placing a student on "progress probation" is a downstream activity of *offering* classes on a "credit-no credit" basis, which is a discretionary decision pursuant to section 55752.[228] Therefore, under *Kern High School District*, subdivision (b) does not mandate any activity upon community colleges or districts.

In addition, the plain language of subdivision (c) authorizes community college districts to adopt standards for probation higher than those set forth by subdivisions (a) and (b); however, districts are not required to do so. Thus, staff finds that subdivision (a) of section 55754 of title 5 of the California Code of Regulations imposes the following state-mandated activity:

> Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal. Code Regs., tit. 5, § 55754, subd. (a).)

---

[225] *Ibid.*

[226] California Code of Regulations, title 5, section 55752 addresses the "credit – no credit" grading option. California Code of Regulations, title 5, section 55758 addresses academic record symbols, including the use of "Withdrawal" and "Incomplete." Section 55758 will be addressed in more detail below.

[227] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 8.

[228] In the claimants' response to draft staff analysis (Exhibit V) the claimants make the same argument in regard to California Code of Regulations, title 5, sections 55755, subdivision (b), and 55756, subdivision (b). Staff's response applies equally to these regulations.

Removal from Probation (Cal. Code Regs., tit. 5, § 55755)

Section 55755 addresses the removal of students from probation. Pursuant to the plain language of section 55755, subdivision (a), community colleges are required to remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher.

Subdivision (b) provides that community colleges are required to remove a student from progress probation when the percentage of units for which "Withdrawal," "Incomplete," and "No Credit" entries have been recorded drops below 50 percent. However, as discussed with section 55754, districts are not required to offer courses on a "credit-no credit" basis or to use "Withdrawal" or "Incomplete" as academic record symbols. Thus, under *Kern High School Dist*., subdivision (b) does not mandate any activities on community college districts.

Subdivision (c) requires community college districts to adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. In addition, subdivision (c) authorizes a community college district to establish standards higher than those specified in subdivisions (a) and (b), but the district is not required to do so.

For the reasons discussed above staff finds that subdivisions (a) and (c) of section 55755 of title 5 of the California Code of Regulations impose the state-mandated activities summarized below.

1. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a).)
2. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c).)

Standards for Dismissal (Cal. Code Regs., tit. 5, § 55756)

Section 55756 addresses community college district standards for dismissal. Pursuant to the plain language of section 55756, subdivision (a), community colleges are required to make a student on academic probation subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of three consecutive semesters or 5 quarters which were graded. Subdivision (b) provides that a student on progress probation is required to be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "Withdrawal," "Incomplete," and "No Credit" have been recorded for 3 consecutive semesters or 5 consecutive quarters reaches or exceeds 50 percent. However, for the same reasons discussed above, subdivision (b) of section 55756 does not impose any state-mandated activities. Subdivision (c) requires a community college district to adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Subdivision (d) requires community college districts to adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal, and to file a copy of the rules with the Chancellor. As a result, staff finds that subdivisions (a), (c) and (d) of section 55756 of title 5 of the California Code of Regulations impose the following state-mandated activities:

1. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a).)
2. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c).)
3. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)

4. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)

Remedial Coursework Limit (Cal. Code Regs., tit. 5, § 55756.5)

Section 55756.5 addresses the remedial coursework limit of community colleges which, with exceptions,[229] is set at 30 semester units or 45 quarter units. "Remedial course work" refers to precollegiate basic skills courses which are defined as those courses in reading, writing, computation, and English as a Second Language which are designated by the community college district as nondegree credit courses.[230] Subdivision (b) of section 55756.5, provides:

> A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to [subchapter] 6 (commencing with section 55500) of [chapter] 6 of this [division].

The plain language of subdivision (b) requires community college districts to use appropriate assessment instruments, methods, or procedures used pursuant to the regulations implementing the Seymour-Campbell Matriculation Act of 1986 (Cal. Code Regs., tit. 5, §§ 55500 – 55534). The "assessment instruments, methods, or procedures" used in the Seymour-Campbell Matriculation Act of 1986 include, but are not limited to: interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. As a result, pursuant to subdivision (b), community colleges are required to use these "assessment instruments, methods, or procedures" to determine a student's need for remedial coursework.

In addition, subdivisions (b) and (e) of section 55756.5 require community colleges to dismiss and refer students that have exhausted the unit limitation to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement. Also, pursuant to subdivision (g) community college districts are required to submit, through the established Management Information System, information necessary to enable the Chancellor to determine: (1) the effect of section 55765.5 on students by sex, age, and ethnicity; and (2) the success rates for students enrolled in "remedial coursework."

The claimants allege that subdivision (c) of section 55756.5 requires community college districts to track and ensure that students enrolled in English as a Second Language classes and those students identified by the districts as having a learning disability are exempted from the remedial coursework limit.[231] However, the plain language of subdivision (c) does not require community college districts to *track* or *ensure* exemption of students that fit within these categories. Rather, the plain language of subdivision (c) only provides that students that fit within these categories are exempt. As a result, tracking or ensuring that students are exempt is not required by section 55756.5.

---

[229] See California Code of Regulations, title 5, section 55756.5, subdivision (c).

[230] "Precollegiate basic skills courses" defined by California Code of Regulations, title 5, section 55502, subdivision (b).

[231] Exhibit B, Test Claim 02-TC-31, p. 174.

The claimants also allege that subdivision (d) of section 55756.5 requires:

> … the governing board [of a community college district] to review and approve any locally developed standards which provide for a waiver of the limitation on remedial coursework with respect to any student, and for the standards to include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units … .[232]

However, the plain language of subdivision (d) provides in relevant part that the "governing board of a district *may* provide a waiver of the limitation on remedial coursework … ."[233] Subdivision (d) then sets forth requirements if the district decides to provide a waiver. As a result, any activities required under subdivision (d) are downstream activities of a district's voluntary decision to provide a waiver to the remedial coursework limit, and therefore are not required by the section.

In addition, the claimants allege that subdivision (f) requires community college districts:

> [t]o allow a student who has successfully completed all appropriate "remedial coursework," or has demonstrated the level of skills which reasonably assures success in college-level courses, to request reinstatement to proceed with college-level coursework … . [234]

However, the plain language of subdivision (f) does not impose the activity of allowing a student to request reinstatement on a community college or district. Rather, subdivision (f) allows students to make a request for reinstatement to proceed with college-level courses if certain conditions are met. Subdivision (f) does not require any activities of community college districts. As a result, staff finds that subdivisions (b), (e) and (g) of section 55756.5 of title 5 of the California Code of Regulations impose the following state-mandated activities:

1. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b).)
2. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e).)
3. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5 on students by sex, age and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g).)

---

[232] *Ibid.*

[233] Emphasis added.

[234] Exhibit B, Test Claim 02-TC-31, p. 174 – 175.

Units Attempted (Cal. Code Regs., tit. 5, § 55757)

Section 55757 provides:

> For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

The first sentence of section 55757 defines "all units attempted" for purposes of sections 55754 and 55756. As discussed above, sections 55754 and 55756 address a community college district's standards for probation and dismissal of students for academic reasons. Read in this context, the second sentence of section 55757 requires the governing board of a district to adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew when determining whether a student should be placed on probation or dismissed.

Although, as discussed above, community college districts are not required to offer courses on a "credit – no credit" basis, nor are they required to authorize the use of "Withdrawal" or "Incomplete" as academic record symbols,[235] they are still required to adopt rules and regulations governing the inclusion or exclusion of units received on these bases. As a result, staff finds that California Code of Regulations, title 5, section 55757 imposes the following state-mandated activity:

> Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757.)

Academic Record Symbols and Grade Point Average (Cal. Code Regs., tit. 5, § 55758)

Section 55758 addresses the academic record symbols and grade point average used by community college districts. Subdivision (a) of section 55758 provides in relevant part:

> Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols …

Subdivision (a) than sets forth the evaluative symbols "A" through "F" with the grade point equivalencies of "4" through "0" respectively. Subdivision (d) requires the governing board of each community college district to publish in the catalogs of community colleges the point equivalencies for the grades in the grading scale used in section 55758, subdivision (a), as part of its grading practices. Subdivisions (b), (c), and (e), authorize the governing board of community college districts to use "plus," "minus," "FW" designations, and nonevaluative symbols.

The plain language of section 55758 imposes a state mandate on community college districts to determine a student's grade point average using grades from the grading scale set forth in

---

[235] California Code of Regulations, title 5, section 55752 addresses the "credit – no credit" grading option. California Code of Regulations, title 5, section 55758 addresses academic record symbols, including the use of "Withdrawal" and "Incomplete." Section 55758 will be addressed in more detail below.

subdivision (a). In addition, subdivision (d) requires community college districts to publish in the catalogs of community colleges the point equivalencies for the grades in the grading scale used in section 55758, subdivision (a). However, pursuant to the plain language of the section 55758 and interpreting the regulatory scheme as a whole, the inclusion of the academic record symbols "CR" and "NC" are not required to be published pursuant to section 55758, subdivision (d). Subdivision (d) provides that a district "shall publish the *point equivalencies* for the *grades* used in [subdivision] (a) … in the catalog."[236] As set forth in subdivision (a), the symbols "CR" and "NC" do not have corresponding point equivalencies. In fact, it is noted in subdivision (a) that units awarded a "CR" or "NC" are not to be counted in a student's grade point average. In addition, as discussed above in the section regarding section 55752, community college districts are not required to offer courses on a "credit – no credit" ("CR" – "NC") basis. As a result, the inclusion of "CR" or "NC" in the published grading scale is not required by subdivision (d) of section 55758.

In addition, section 55758 authorizes, but does not require, the governing board of a community college district to use "plus", "minuses", "FW" designations, and nonevaluative symbols. The plain language of section 55758 provides that "plus", "minus", and "FW" designations, and nonevaluative symbols need to be published *if* they are used. As a result, staff finds community college districts are not mandated by the state to publish as part of their grading practices "plus", "minuses", "FW" designations, and nonevaluative symbols in their catalogs.

Thus, staff finds that only California Code Regulations, title 5, section 55758, subdivisions (a) and (d) impose state-mandated activities, which are summarized below.

1. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a).)
2. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d).)

Grade Point Average Calculation (Cal. Cod Regs., tit. 5 § 55758.5)

Section 55758.5 addresses the calculation of a student's degree applicable grade point averages. Section 55758.5 provides in relevant part, "In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included." The claimants assert that community college districts are required "[t]o ensure that grades earned in nondegree credit courses are not included in calculating students' degree applicable grade point averages." Additionally, the claimants argue that:

> The Section 55758.5 activity in which the districts must 'engage' is the calculation of the grade point average, which must exclude noncredit courses. To implement the calculation, the noncredit grade must be affirmatively removed thus creating an activity in which the districts must 'engage.' The noncredit grading ratings have the same regulatory standing in Section 55758, subdivision (a), as A-F ratings.[237] [238]

---

[236] Emphasis added.

[237] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 8.

The claimants seek to imply an activity into section 55758.5. However, the plain language of section 55758.5 does not impose any activities on community college districts; rather it prohibits a community college district from engaging in an activity. Specifically, community college districts are prohibited from including grades earned in nondegree credit courses when calculating a student's degree applicable grade point average. The plain language of section 55758.5 does not require the calculation of the grade point average and then to affirmatively remove nondegree credit courses. Thus, staff finds that California Code of Regulations, title 5, section 55758.5 does not impose any state-mandated activities.

Notification of Probation and Dismissal (Cal. Code Regs., tit. 5, § 55759)

Section 55759 addresses the notification of students of academic probation and dismissal. Section 55759 requires each community college to make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect, but no later than the start of the fall semester or quarter. Each community college must also make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. In addition, section 55759 requires the policies and procedures regarding probation and dismissal to be published in the college catalog. In addition, each community college shall make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties.

Thus, staff finds that California Code of Regulations, title 5, section 55759 imposes the following state-mandated activities:

1. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759.)
2. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759.)
3. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs., tit. 5, § 55759.)

Grade Changes and Course Repetition (Cal. Code Regs., tit. 5, §§ 55760, 55761, and 55762)

Sections 55760, 55761, and 55762 address grade changes, the district policy for course repetition, and the requirements when adopting regulations to implement the policy.

Section 55760, subdivision (a), provides that the instructor of a course shall determine the grade to be awarded to each student in any course of instruction for which grades are awarded. In addition, subdivision (a) requires districts to include expunging incorrect grades from the record in the procedures for the correction of grades given in error. Subdivision (b) provides that the governing board of a district must adopt and publish procedures and regulations in accordance with sections 55761 and 55762, which pertain to the repetition of courses for which substandard

---

[238] It is necessary to note that there is a distinction between "credit-no credit" courses and "nondegree credit" courses. Nondegree credit courses are course for which a student receives course credit, but the credit is not applicable toward a degree. A credit-no credit course is a course in which a student either receives credit or no credit upon completion of the course. Thus, this section of the analysis does not involve "credit-no credit" courses, which community college districts are not required to offer as discussed above.

work has been recorded. In addition, subdivision (b) requires appropriate annotations to be made in a student's permanent academic record when grade changes are made in accordance to sections 55761 and 55762.

Section 55761 requires the governing board of a community college district to adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. Section 55761 also provides that the procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages.

Section 55762 sets forth rules pertaining to the adoption and publishing of policies and procedures or regulations that permit the repetition of courses. Section 55762, subdivision (a), prohibits a community college district from adopting regulations or procedures that conflict with existing law pertaining to the finality of grades assigned by instructors, and the retention and destruction of records. Subdivision (b) provides that the governing board of a community college district may permit repetition of any course which was taken at an accredited college or university and for which substandard work has been recorded. Subdivision (c) provides that when the governing board of a community college district permits course repetition, the governing board must indicate any specific courses or categories of courses which are exempt from course repetition. Subdivision (d) provides that courses that are repeated must be clearly indicated on the student's permanent academic record. Subdivision (e) provides that when course repetition is allowed, specific procedures must be published to implement section 55762. Subdivision (g) provides that the governing board must maintain a careful record of actions taken under course repetition procedures or regulations.

Although sections 55760 and 55761 require the adoption and publication of procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded, community college districts are not required to allow such repetition. Section 55761 provides in relevant part, "The procedures or regulations *may* allow [courses for which substandard work has been recorded] to be repeated and the previous grade and credit to be disregarded … ."[239] In addition, the language throughout section 55762 indicates the voluntary nature of allowing course repetition for which substandard work has been recorded.[240] Similar to the analysis in section 55753 regarding the adoption of "procedures," the activity of adopting and publishing procedures (defined as a way of performing or effecting something) for the repetition of courses for which substandard work has been recorded is unnecessary if a community college district chooses not to offer repetition of courses. As a result, pursuant to *Kern High School Dist*. the adoption and publication of *procedures* pertaining to the repetition of courses is not a state-mandated activity. In addition, the activities set forth in section 55762 are also downstream activities resulting from a community college district's decision to offer repetition of courses, and not a result of a state mandate.

As distinguished from the activity of adopting *procedures*, adopting and publishing *regulations* regarding the repetition of courses for which substandard work has been recorded is not dependent on actually offering the repetition of courses. Thus, staff finds that California Code of Regulations, title 5, sections 55760 and 55761 impose the following state-mandated activities:

1. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic

---

[239] Emphasis added.

[240] See California Code of Regulations, title 5, section 55762, subdivisions (b), (c), and (e).

Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a).)

2. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a).)

3. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b), and 55761.)

Academic Renewal without Course Repetition (Cal. Code Regs., tit. 5, §§ 55764 and 55765)

Sections 55764 and 55765 address a community college district's policy regarding academic renewal without course repetition and the requirements when adopting procedures or regulations to implement the policy.

Section 55764 requires the district of a community college to adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. The procedures or regulations must include a clear statement of the educational principles upon which they are based, and must be referred to as academic renewal regulations. When procedures or regulations permit recorded substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated so that all work remains legible.

Section 55765, subdivision (a), prohibits a community college district from adopting regulations or procedures that conflict with existing law pertaining to the finality of grades assigned by instructors, and the retention and destruction of records. Subdivision (b) provides that when adopted procedures or regulations permit the alleviation of previously recorded substandard performance that is not reflective of a student's demonstrated ability, the governing board of a community college district must state: (1) the amount of coursework that may be alleviated, (2) the amount of academic work to have been completed at a satisfactory level subsequent to the coursework to be alleviated, (3) the length of time that is to elapse since the substandard coursework was recorded, and (4) any courses exempt from academic renewal. Subdivision (c) provides that when alleviation is permitted, the governing board must publish specific procedures to be followed in implementing the procedures or regulations adopted pursuant to section 55765 and 55764 that allow alleviation. These implementing procedures must state, at a minimum, the procedures to be followed by students petitioning for alleviation, and the officers or personnel responsible for implementing the procedures or regulations.

Although section 55764 requires the adoption and publication of procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability, community college districts are not required to allow alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. For the same reasons discussed in the analysis of section 55753, the adoption and publication of *procedures* is a downstream activity triggered by a community college district's decision to offer alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. Similarly, the activities set forth in section 55765 are also downstream activities resulting from a community college district's decision to offer alleviation of previously recorded substandard academic performance, and not a result of a state mandate.

However, for the same reasons as discussed in the analysis of section 55753, adopting and publishing *regulations* regarding the alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability is not dependent on offering alleviation of previously recorded substandard academic performance. Thus, staff finds that

California Code of Regulations, title 5, section 55764, imposes the following state-mandated activity:

> Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764.)

(i) Summary of state-mandated activities

In summary, staff finds that California Code of Regulations, title 5, subchapter 9, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764, impose the following state-mandated activities:

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[241] (Ed. Code, § 70902, subd. (b)(3) and Cal. Code Regs., tit. 5, § 55750.)
2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750.)
3. File a copy of the community college district's regulations regarding standards of scholarship, and any amendments of the regulations, with the Chancellor. (Cal. Code Regs., tit. 5, § 55750.)
4. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751.)
5. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b).)
6. Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a).)
7. Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal. Code Regs., tit. 5, § 55754, subd. (a).)
8. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a).)
9. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c).)
10. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of

[241] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a).)

11. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c).)
12. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)
13. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)
14. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b).)
15. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e).)
16. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g).)
17. Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757.)
18. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a).)
19. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d).)
20. Make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter which it will take effect, but no later than the start of the fall semester or quarter. (Cal. Code Regs., tit. 5, § 55759.)
21. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759.)

22. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759.)

23. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs., tit. 5, § 55759.)

24. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a).)

25. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a).)

26. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b), and 55761.)

27. Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764.)

b. Education Code section 70902, subdivision (b)(3), and California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 constitute a new program or higher level of service

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[242] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[243] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[244]

As discussed and summarized above, the activities required by Education Code section 70902, subdivision (b)(3), and title 5 sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 include, but are not limited to, activities related to the grading practices, academic probation and dismissal, and remedial coursework. The activities required by these sections carry out the governmental function of providing education. As the court held in *Long Beach Unified School Dist*., a case involving a kindergarten through 12th grade (K-12) school district, "although numerous private schools exist, education in our society is considered to be a peculiarly governmental function."[245] Despite the distinct differences between postsecondary education and K-12 education, namely that postsecondary education is not compulsory or a fundamental right,[246] education remains a peculiarly

---

[242] *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

[243] *San Diego Unified School Dist*., *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[244] *Ibid*.

[245] *Long Beach Unified School Dist. v. State of California, supra*, 225 Cal.App.3d at 172.

[246] *Gurfinkel v. Los Angeles Community College Dist.* (1981) 121 Cal.App.3d 1, 5-7.

governmental function. The Legislature has acknowledged postsecondary education as a governmental function of providing service to the public with the enactment of the Donahoe Higher Education Act. The Donahoe Higher Education Act sets forth the system of postsecondary education including community colleges, state colleges, and the University of California. Education Code section 66002, which sets forth the legislative findings of the Donahoe Higher Education Act, provides:

> California must support an educational system which prepares all Californians for responsible citizenship and meaningful careers in a multicultural society; this requires a commitment from all to make quality education available and affordable for every Californian.[247]

The legislative findings indicate the need for state government to support a higher educational system for a public purpose. Thus, education, whether provided in K-12 or community college districts, provides a service to the public and therefore is a peculiarly governmental function. As a result, the activities mandated by Education Code section 70902, subdivision (b)(3), and title 5 sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 carry out a governmental function and constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The following discussion will address whether these sections constitute new programs or higher levels of service by looking at the legal requirements in effect immediately prior to the enactment of the sections.

Remedial Coursework Limit (Cal. Code Regs., tit. 5, § 55756.5)

Section 55756.5 mandates community college districts to engage in the following activities:

1. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b) (Register 91, No. 23).)
2. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e) (Register 91, No. 23).)
3. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g) (Register 91, No. 23).)

[247] Education Code section 66002, subdivision (e)(3).

The claimants have pled section 55756.5 of title 5 of the California Code of Regulations, as added in 1990.[248] Prior to the adoption of section 55756.5, community colleges were not required to engage in the activities required by section 55756.5, and as a result, the activities are new as compared to pre-existing legal requirements. As a result, staff finds that the above activities mandated by section 55756.5 of title 5 of the California Code of Regulations constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution. In 2007, section 55756.5 was renumbered to California Code of Regulations, title 5, section 55035; however, the state-mandated "new program or higher level of service" found above continued after the 2007 amendment.[249]

Standards of Scholarship (Ed. Code, § 70902, subd. (b)(3), and Cal. Code Regs., tit. 5, § 55750, 55751, 55753, 55754, 55755, 55756, 55757, 55758, 55759, 55760, 55761, and 55764)

The claimants have Education Code section 70902, subdivision (b)(3) as added in 1988,[250] and title 5 sections 55750, 55751, 55754, 55755, 55756, 55757, 55759, 55760, 55761, and 55764 of title 5 of the California Code of Regulations, as added in 1983 and last amended in 1991.[251] In addition, the claimants have pled title 5, section 55753, as added in 1983 and last amended in 2002, and title 5, section 55758, as added in 1983 and last amended in 2001.[252] The activities mandated by Education Code section 70902, subdivision (b)(3), and the title 5 sections are derived from former Education Code section 72285 and title 5 regulations existing prior to 1983.[253] However, former Education Code section 72285 was enacted in 1976 as part of a statutory scheme that the Legislature declared:

---

[248] Exhibit B, Test Claim 02-TC-31, p. 16 – 17. This date coincides with Register 91, number 23.

[249] California Code of Regulations, title 5, section 55035 (Register 2007, No. 35 (Aug. 16, 2007).)

[250] Exhibit B, Test Claim 02-TC-31, p. 9. The claimants cite to Statutes 1988, chapter 973.

[251] Exhibit B, Test Claim 02-TC-31, p. 13, 15-19. These dates coincide with Register 83, number 29; and Register 91, number 23.

[252] Exhibit B, Test Claim 02-TC-31, p. 14 and 17. These dates coincide with Register 83, number 29; Register 2000, number 50 (operative Jan. 1, 2001); and Register 2002, number 8;

[253] Title 5, section 55750, addressing the adoption of regulations, was derived from former title 5, section 51300, added in 1971 by Register 71, number 27. Title 5, section 55751, addressing grading practices, was derived from former title 5, section 51301, as amended in 1977 by Register 77, number 45. Title 5, section 55753, addressing credit by examination, was derived from former title 5, section 51302.5, as amended in 1980 by Register 80, number 11. Title 5, section 55754, addressing standards for probation, was derived from former title 5, section 51303, as added in 1971 by Register 71, number 27. Title 5, section 55755, addressing removal from probation, was derived from former title 5, section 51303.5, as added in 1980 by Register 80, number 19. Title 5, section 55756, addressing standards for dismissal, was derived from former title 5, section 51304, as added in 1971 by Register 71, number 27. Title 5, section 55757, addressing units attempted, was derived from former title 5, section 51305, as added in 1971 by Register 71, number 27. Title 5, section 55758, addressing academic record symbols and grade point average, was derived from former title 5, section 51306, as added in 1971 by Register 71, number 27. Title 5, section 55759, addressing notification of probation and dismissal, was derived from former title 5, sections 51503 and 51507, as 1970 and 1971 by Registers 70 and 71, numbers 16 and 27. Title 5, sections 55760 and 55761, addressing grade

> [S]hall be construed as an expression of the policy of the Legislature with regard to the functions of the above-mentioned boards [(including district governing boards)], but shall not be construed as an enactment of specific legal provisions. Nothing contained in this article shall supplant existing law.[254]

Thus, the requirement imposed by Education Code section 70902, subdivision (b)(3), is new as compared to the preexisting statutory scheme.

The former title 5 sections were all part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[255]

Thus, the former title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not impose state-mandated activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the former title 5 regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. As a result, immediately prior to the adoption of title 5, sections 55750, 55751, 55754, 55755, 55756, 55757, 55759, 55760, 55761, and 55764, community college districts were not required to engage in the activities mandated by the sections.

Pursuant to the above discussion, staff finds that Education Code section 70902, subdivision (b)(3) and the title 5 sections constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution. In 2007, the title 5 regulations pled in this section of the test claim analysis were repealed and renumbered to title 5, section 55020 et seq.; however, the state-mandated new program or higher level of service found above continued after the 2007 amendment.[256]

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that Education Code section 70902, subdivision (b)(3), and California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 mandate new programs or higher levels of service subject to article XIII B, section 6 of the California Constitution. Specifically, California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 mandate the following new program or higher level of service:

---

changes and course repetition, were derived from former title 5, sections 51308 and 51315, as amended in 1977 and 1980 by Registers 80 and 77, numbers 11 and 46. Title 5, section 55764, addressing academic renewal without course repetition, was derived from former title 5, section 51318, as amended in 1977 by Register 77, number 18.

[254] Former Education Code section 72280, as added by Statutes 1976, chapter 1010, referring to Article 3 containing former Education Code section 72285.

[255] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

[256] Register 2007, number 35, operative August 16, 2007.

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[257] (Ed. Code, § 70901, subd. (b)(3) (Stats. 1988, ch. 973); Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
3. File a copy of the community college district's regulations regarding standards of scholarship, and any amendments of the regulations, with the Chancellor. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
4. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (a) (Register 2007, No. 35).)
5. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (c) (Register 2007, No. 35).)
6. Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a) (Register 2002, No. 8); for current requirement see Cal. Code Regs., tit. 5, § 55050, subd. (a) (Register 2007, No. 35).)
7. Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal. Code Regs., tit. 5, § 55754, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55031, subd. (a) (Register 2007, No. 35).)
8. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (a) (Register 2007, No. 35).)
9. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (c) (Register 2007, No. 35).)

---

[257] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

10. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (a) (Register 2007, No. 35).)

11. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (c) (Register 2007, No. 35).)

12. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23) ending August 16, 2007.)

13. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (d) (Register 2007, No. 35).)

14. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) (Register 2007, No. 35).)

15. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) and (e) (Register 2007, No. 35).)

16. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (g) (Register 2007, No. 35).)

17. Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55030, subd. (a) (Register 2007, No. 35).)

18. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (a) (Register 2007, No. 35).)

19. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (d) (Register 2007, No. 35).)

20. Make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter which it will take effect, but no later than the start of the fall semester or quarter. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

21. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

22. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

23. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

24. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (a) (Register 2007, No. 35).)

25. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (d) (Register 2007, No. 35).)

26. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b); and 55761 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55040, subd. (a), and 55042, subd. (a) (Register 2007, No. 35).)

27. Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55046, subd. (a) (Register 2007, No. 35).)

(11) Curriculum (Ed. Code, § 70902, subd. (b)(2), and Cal. Code Regs., tit. 5, §§ 55000-55002.5, 55004-55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200-55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320-55322, 55340, and 55350; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001))

The "Curriculum" section of the staff analysis addresses Education Code section 70902, subdivision (b)(2), and 33 title 5 regulations and the 135-page "Program and Course Approval Handbook" (Handbook) addressing the requirements and procedures for securing approval of courses and programs proposed by community colleges or community college districts. The process for course approval begins with a recommendation for approval by the community college curriculum or district curriculum committee to the district governing board. The recommended course then needs approval by the district governing board, followed by the approval of the Chancellor.

As discussed throughout this analysis, community college districts have broad discretion over the governance of community colleges. This discretion extends to the courses and programs the community colleges offer. However, as provided in statute, the primary mission of community college districts is to provide academic and vocational instruction.[258] In addition, community college districts by definition are degree-granting institutions.[259] Thus, although community college districts maintain discretion in the curriculum the districts' offer, districts at a minimum must offer some courses, and as a result, districts must comply with the regulations and procedures necessary to offer courses.

a. Education Code section 70902, subdivision (b)(2), and California Code of Regulations, title 5, sections 55001, 55002, 55004, 55005, and 55006, and the "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001) impose state-mandated activities.

Definition of Terms and Content of Social Science Courses (Cal. Code Regs., tit. 5, §§ 55000, 55000.5, 55002.5, and 55004)

Title 5, section 55000, defines specified terms as used in the title 5 regulations addressing "Curriculum and Instruction."[260] Title 5, section 55000.5, imposes a requirement on the Chancellor's Office to issue and maintain a handbook containing course approval criteria and procedures for securing course and program approval.[261] Title 5, section 55002.5, defines a "credit hour," and authorizes variances from the definition in the event that a term is more or less than 16 weeks. Title 5, section 55004, describes the content that courses of instruction in social sciences are required to include.

---

[258] Education Code section 66010.4.

[259] California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25).

[260] California Code of Regulations, title 5, section 55000, defines the terms "course," "educational program," and "class."

[261] The 2001 version of the handbook issued by the Chancellor's Office, titled "Program and Course Approval Handbook," has been pled by the claimants as an executive order imposing state-mandated activities.

Title 5, sections 55000, 55000.5, and 55002.5, do not impose any activities on community college districts. Rather, these sections define terms and impose activities on the Chancellor's Office. The claimants allege that districts, "are required to use these definitions in the course adoption and implementation process."[262] Although, the terms defined in sections 55000, 55000.5, and 55002.5, may be needed to understand the scope of any mandated activities imposed by the regulations pled by the claimants, these sections do not, in and of themselves, impose any activities on the claimants. However, to the extent that any state-mandated activity contains a term defined by these sections, these definitions must be used to define those terms.

Title 5, section 55004, requires community college districts to engage in the following activity:

> Include in social science courses a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States. (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23).)

Recommendation and Approval of Proposed Courses at the Community College/Community College District Level (Cal. Code Regs., tit. 5, §§ 55001, 55002, 55005, and 55006)

Title 5, sections 55001, 55002, 55005, and 55006, address the standards and criteria for receiving district approval for proposed courses, the publication of information regarding the classes offered, and the reporting and record keeping requirements for courses offered.

Title 5, section 55002, sets forth the standards and criteria that proposed courses must meet in order to be recommended and approved as associate degree credit courses, nondegree credit courses, noncredit courses, and community service classes. In addition, section 55002 requires that a college or district curriculum committee be established by the mutual agreement of the college or district administration and the academic senate. Title 5, section 55001, outlines and describes the types of educational programs that community colleges are authorized to provide. Specifically, section 55001 describes the type of courses that fall within the realm of "instructional services" and "community services." In addition, title 5, section 55001, requires community college districts to report the classification of all courses, classes, and activities offered by the district to the Chancellor's Office. Title 5, section 55005, requires community colleges to publish the following course information for students: (1) whether the course is offered as a credit or noncredit course, or a community service class; (2) whether it is transferable to a four-year college or university; (3) whether the course fulfills a major or general education requirement; and (4) whether the course is offered on the basis of credit-no credit. Title 5, section 55006, requires community college districts to keep and submit records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

In order to determine if an activity is mandated by the state it is necessary to look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[263] For many of the activities required by the title 5 regulations at issue here the underlying program is the offering of courses as associate degree credit courses, nondegree credit courses, noncredit courses, and community service classes.

In regard to associate degree credit courses, community colleges are defined by the Board of Governors' regulations as degree-granting institutions, and thus, colleges must offer associate

---

[262] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 16.

[263] *Kern High School Dist., supra*, 30 Cal. 4th at p. 743.

degree credit courses.[264] Regarding nondegree credit courses and noncredit courses, the primary mission of community colleges has been defined to include offering instruction and courses to achieve:

> The provision of remedial instruction for those in need of it and, in conjunction with the school districts, instruction in English as a second language, adult noncredit instruction, and support services which help students succeed at the postsecondary level are reaffirmed and supported as essential and important functions of the community colleges.[265]

Nondegree credit courses are defined by title 5, section 55002, subdivision (b), to include precollegiate basic skills courses, which are courses in reading, writing, computation, and English as a second language.[266] Thus, pursuant to the primary mission of community colleges, community colleges are required to offer nondegree credit courses and noncredit courses. However, in regard to community service classes, Education Code section 66010.4, which sets forth the primary mission of community colleges, provides:

> (a)(2) In addition to the primary mission of academic and vocational instruction, the community colleges shall offer instruction and courses to achieve all of the following:
>
> (A) The provision of remedial instruction for those in need of it and, in conjunction with the school districts, instruction in English as a second language, adult noncredit instruction, and support services which help students succeed at the postsecondary level are reaffirmed and supported as essential and important functions of the community colleges.
>
> (B) The provision of adult noncredit education curricula in areas defined as being in the state's interest is an essential and important function of the community colleges.
>
> (C) The provision of community services courses and programs is an authorized function of the community colleges so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions.[267]

The claimants allege that the provision that "community colleges shall offer instruction and courses to achieve all of the following" in Education Code section 66010.4, subdivision (a)(2), requires community college districts to use the authority given in subdivision (a)(2)(C) to offer community service courses. However, read in context of the whole of subdivision (a)(2), including (a)(2)(A) and (a)(2)(B) which specifically require the provision of certain instruction, subdivision (a)(2)(C) *only* authorizes the provision of community service classes. Thus,

---

[264] Former California Code of Regulations, title 5, section 55827 (Register 83, No. 29); current California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25)

[265] Education Code section 66010.4, subdivision (a)(2)(A).

[266] California Code of Regulations, title 5, section 55002, subdivision (b), cites to title 5, section 55502, subdivision (d), which defines "precollegiate basic skills courses" as "courses in reading, writing, computation, and English as a Second Language which are designated by community college district as nondegree credit courses pursuant to section 55002, subdivision (b).

[267] Education Code section 66010.4, subdivision (a)(2).

community colleges are authorized, but not required, to offer community service classes. As a result, the activities required by title 5, sections 55001, 55002, 55005, and 55006, constitute state-mandated activities as they apply to associate degree credit courses, nondegree credit courses, and noncredit courses. However, the activities do not constitute state-mandated activities, to the extent that the required activities apply to community service classes.

Pursuant to the above discussion, staff finds that title 5, sections 55001, 55002, 55005, and 55006, impose the following state-mandated activities:

1. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:
    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38).)
    b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38).)
    c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38).)
    d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38).)
2. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)
3. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)
4. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)
5. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:
    a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the academic record symbols and associated grade points to be used by community colleges.

The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

b. Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

   The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

6. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

   a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

   b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

   c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

7. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42).)

8. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)
9. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23))
10. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, § 55006 (Register 91, No. 23).)

Approval of Courses and Programs by the Chancellor (Ed. Code, § 70902, subd. (b)(2), and Cal. Code Regs., tit. 5, §§ 55100, 55130, 55150, 55160, 55170, and 55182; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001))

Education Code section 70902, subdivision (b)(2), and title 5, sections 55100, 55130, 55160, 55170, and 55182, and the Program and Course Approval Handbook (Handbook), address the approval requirements for credit courses and programs, noncredit courses and programs, and community service classes.

Education Code section 70902, subdivision (b)(2), requires community college districts to engage in the following activities:

1. Establish policies for and approve educational programs. (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973).)
2. Submit educational programs to the Board of Governors for approval. (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973).)
3. Establish policies for, and approve, individual courses that are offered in approved educational programs, without referral to the Board of Governors. (Ed. Code, § 70902, subd. (b)(2) (Stats. 1988, ch. 973).)

In the claimants' response to the draft staff analysis, the claimants also cite to Education Code section 70902, subdivision (b)(2), in relation to title 5, section 51022. However, Education Code section 70902, subdivision (b)(2), does not require community college districts to comply with title 5, section 51022, and thus, does not impose any additional activities beyond those listed above.

Similarly, title 5 sections 55100, 55130, and 55150, requires each course or program to be offered by a community college to be approved by the Chancellor before the course is offered by the college, and specifies that approval is sought by submitting the course on forms provided by the Chancellor's Office to the Chancellor. Section 55100 also requires community college districts to establish policies for local approval of individual courses offered as part of a program previously approved by the Chancellor. In addition, section 55130 sets forth the information to be included on the forms requesting approval of credit programs, and provides that the development, establishment, and evaluation of an education program shall include representative faculty involvement. Pursuant to section 55130, districts are to include specified information including, but not limited to: (1) an explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning; (2) the need for the proposed program; and (3) the need for and present adequacy of college/district resources.[268]

Section 55160 provides that community college districts are authorized to approve and conduct community services classes without the approval of the Chancellor and requires that such classes be reported to the Chancellor in accordance with title 5, section 55001, which identifies the types of community service classes and specifies what information must be reported to the Chancellor. However, as discussed above, community college districts are not required to offer community service classes. Thus, pursuant to *Kern High School Dist*., community college districts are not mandated by the state to engage in any activity required by title 5, section 55160.

Section 55170 addresses the approval of contract classes. Contract education refers to situations in which a community college district contracts with a public or private entity for the purposes of providing instruction or services or both by the community college.[269] Section 55170, however, provides that districts must seek approval of contract classes *only* if the district claims state support for the class. In addition, community college districts are authorized, but not required, to establish contract education programs. Thus, the underlying decisions of a community college district to establish contract education programs, and subsequently seek state support for the classes in the program, which triggers the approval requirement found in section 55170, are discretionary. The claimants argue that the "use of private contractors is a method to implement the mandate, not a subsequent new program." However, the "mandate" or activity required by section 55170 is seeking approval for offering contract classes for which a community college district seeks state support. Absent the voluntary decision to offer a contract course, which is also supported by the state, community college districts would not have to comply with the provisions of section 55170. As a result, title 5 section 55170 does not impose any state-mandated activities on community college districts.

Section 55182 authorizes community college districts to reinstate courses which were deleted from the credit or noncredit curriculum during the 1982-83 fiscal year in response to a reduction in funding to community colleges in the Budget Act of 1982. Section 55182 conditions reinstatement of classes terminated in the 1982-83 fiscal year on community colleges following specified criteria and procedures set forth in section 55182. The claimants argue:

> Section 55182 states that reinstatement of the course must be in accordance with the mission of the community college, which is the Education Code 66010.4 criterion for including these courses in the scope of the mandate, not the fact that

---

[268] California Code of Regulations, title 5, section 55130, subdivisions (b)(5)-(7) (Register 91, No. 23).

[269] Education Code section 78020, subdivision (a).

> they were once deleted due to budget constraints. Further, these courses are part of the educational program subject to (Education Code Sections 70901 and 70902 and Title 5 Section 55001) Board of Governors approval. The DSA does not cite any legal basis that defines the specific courses that must be provided in furtherance of the primary mission of the community colleges. The codes and regulations only speak to types of course, therefore, the courses deleted pursuant to the 1982 Budget Act are not automatically discretionary as to this course approval mandate. Adoption of previously deleted courses is essentially the same process as adopting a new course that is within the scope of the mandate.[270]

The claimants misidentify the "mandate" or required activity addressed in title 5, section 55182. The required activity is complying with certain criteria and procedures. This is triggered *only* if a community college district chooses to reinstate a previously deleted course in response to the Budget Act of 1982. Because community college districts are authorized, and not required, to reinstate courses deleted in the 1982-83 fiscal year, districts are not mandated by the state to comply with any requirements of section 55182.

The Handbook provides explanations of the content of the forms referred to in title 5, sections 55100, 55130, and 55150. In addition, the appendix of the Handbook contains the forms that are to be submitted when requesting approval of proposed courses and programs. Although staff has found that the Handbook constitutes an executive order within the jurisdiction of the Commission, it is necessary to determine which parts of the Handbook impose mandated activities on community college districts. Of the 135 pages of the Handbook, the claimants have alleged mandated activities from pages 16-18, 24-25, and A-1 through A-54 of Appendix A of the Handbook.[271]

Pages 16-18 of the Handbook discuss the five criteria, derived from statute and the title 5 regulations, used by the Chancellor's Office to approve programs and courses, specifically: (1) appropriateness to mission; (2) need; (3) quality; (4) feasibility; and (5) compliance. However, these criteria are essentially reiterations and explanations of the requirements contained in title 5, sections 55002, 55100-55150, and 55805.5.[272] As a result, the criteria listed on pages 16-18 do not mandate any activities on community college districts. Instead the criteria provide clarification and guidelines on the content of the requirements of the regulations pled by the claimants.

Pages 24-25 of the Handbook discuss blanket approval of stand-alone courses, which exempts community college districts from seeking approval to offer a course from the Chancellor. The process laid out on pages 24-25 of the Handbook do not require community college districts to engage in any activity; rather it authorizes districts to offer courses without engaging in the approval process normally required of proposed courses. Thus, pages 24-25 of the Handbook do not impose any state-mandated activities on community college districts.

---

[270] Exhibit V, Claimants' response to draft staff analysis,

[271] Exhibit B, Test Claim 02-TC-31, pgs. 292-296.

[272] California Code of Regulations, title 5, section 55002, 55100-55150, which generally address the approval requirements for credit courses and programs, noncredit courses and programs, are discussed above within this section. Title 5, section 55805.5, which addresses the types of courses appropriate for an associate degree, is discussed below in the "Degrees and Certificates" section of the staff analysis.

Pages A-1 through A-54 contain the course and program approval forms that community colleges and community college districts must submit to the Chancellor, pursuant to title 5, sections 55100, 55130, and 55150, an explanation of the information requested in the form, and a description of the documentation required to be submitted with the form showing the proposed course or program meets criteria of appropriateness to mission, need, quality, feasibility, and compliance. The following forms are contained in pages A-1 through A-44 of the appendix of the Handbook: (1) Application for Approval-New Occupational Program (pages A-1 through A-20); (2) Application for Approval-New Transfer Program (pages A-21 through A-35); (3) Request to Add New Option or Certificate Within Existing Program to Inventory (pages A-36 through A-42); (4) Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program) (pages A-43 through A-46); and (5) Application for Approval-New or Revised Apprenticeship Program (pages A-47 through A-54).

The "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms are used to seek approval of new academic, vocational, and transfer programs. As noted above and further discussed in the "Degrees and Certificates" section of the staff analysis, community college districts are degree-granting institutions which are required to offer academic and vocational instruction. In addition, as discussed in the "Transfer Centers" section of the staff analysis, transferring from community colleges through the University of California and California State University is a central institutional priority, and community college districts are required to have a core transfer curriculum. In order to offer degree programs, vocational programs, or transfer programs, community college districts are mandated to submit the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program," and provide documentation showing that the course or program meets the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix.

However, as discussed in the "Degrees and Certificates" section of the staff analysis, districts are not required to offer certificates. Also, there is no evidence in the record that community college districts are required to add a new option, emphasis, or specialization to an existing degree program. As a result, community college districts are not mandated to submit the "Request to Add New Option or Certificate Within Existing Program to Inventory" or to provide the documentation stated on pages A-36 through A-42 of the appendix. Similarly, community college districts are not required to establish contract education programs. The "Application for Approval-New or Revised Apprenticeship Program" is the form used to request approval for contract education programs, and as a result, the submission of this form and the documentation stated on pages A-47 through A-54 of the appendix is not mandated by the state.

The "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)" form is used by community colleges that desire to have non-substantial changes to approved programs reflected immediately in the Inventory of Approved and Projected Programs maintained and updated by the Chancellor's Office. However, the Chancellor's Office conducts periodic college program inventory updates, which gives colleges the opportunity to update such information for all their programs at once. As a result, the use of this form is triggered by a college's discretionary decision to have non-substantial changes to approved programs reflected immediately in the Inventory of Approved and Projected Programs, which is not required. Thus, community colleges and districts are not mandated to submit the "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)" found at pages A-43 through A-46 of the appendix.

Pursuant to the above discussion, staff finds that Education Code section 70902, subd. (b)(2), and title 5, sections 55100, 55130, and 55150, and the Handbook require community college districts to engage in the following state-mandated activities:

1. Establish policies for and approve educational programs (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973).)
2. Seek approval of proposed courses and programs on forms provided by the Chancellor's Office. Specifically, the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms, which require the provision of the documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix of the "Program and Course Approval Handbook" (2001). (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973), and Cal. Code Regs., tit. 5, §§ 55100, subd. (a); 55130, subd. (a); and 55150, subd. (a) (Register 91, No. 23); and "Program and Course Approval Handbook" (2001) pages A-1 through A-35.)
3. Include in the application for program approval the following information:
    a. The name of the proposed program
    b. The description of the proposed program
    c. The purposes and specific objectives of the proposed program
    d. The place of the proposed program in the district master plan
    e. An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning
    f. The need for the proposed program based on the following factors: (a) other community colleges in the area currently offering the proposed program, (b) other programs closely related to the proposed program offered by the college, (c) the relation of the proposed program to job market analysis, (d) enrollment projection for the proposed program, (e) recommendations of area vocational master plan committees when applicable, and (f) the classification of the courses in the program in accordance with California Code of Regulations, title 5, section 55001 (Register 94, No. 38)
    g. The need for and present adequacy of the following resources in relation to the proposed program: (a) library and media center resources, (b) facilities and equipment required to initiate and sustain the program, (c) availability of adequate or proposed financial support, and (d) availability of faculty. (Cal. Code Regs., tit. 5, § 55130, subdivision (b) (Register 91, No. 23).)
4. Establish policies for approval of individual courses offered as part of a program that has already been approved by the Chancellor. (Ed. Code, § 70902, subd. (b)(2)(B) (Stats. 1988, ch. 973), and Cal. Code Regs., tit. 5, § 55100, subd. (b) (Register 91, No. 23).)
5. Include representative faculty involvement in the development, establishment, and evaluation of an education program. (Cal. Code Regs., tit. 5, § 55130, subd. (c) (Register 91, No. 23).)
6. Keep on file at the community college offering the course the course outlines for all noncredit courses offered. (Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)
7. Keep such current records and reports as may be required by the Chancellor. (Cal. Code Regs., tit. 5, § 55150, subd. (c) (Register 91, No. 23).)

Prerequisites, Corequisites, and Advisories on Recommended Preparation (Cal. Code Regs., tit. 5, §§ 55200, 55201, and 55202)

The regulations discussed in this section address the authority to establish prerequisites, corequisites, and advisories on recommended preparation courses, the requirements associated with establishment of these courses, and the limitation on a district's authority to establish these courses. Prerequisites and corequisites are conditions that must be met to enroll in another course or educational program.[273] Advisories on recommended preparation are suggested courses to be taken in conjunction with or before enrolling in a course or educational program.[274]

Title 5, section 55201, provides "[n]othing in this subchapter [addressing programs, courses and classes (Cal. Code Regs., tit. 5, §§55000-55202)] shall be construed to require a district to establish prerequisites, corequisites, or advisories on recommended preparation," except when the course is offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to title 5, section 55002, subdivisions (a)(2)(D) or (a)(2)(E).[275] Subdivisions (a)(2)(D) and (a)(2)(E) require the establishment of prerequisites or corequisites for an associate degree credit course whenever: (1) the college or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (2) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English or mathematics. Thus, any activities required by the title 5 regulations pled by the claimants (particularly sections 55201 and 55202) regarding the establishment of prerequisites or corequisites are only mandated by the state when applicable to prerequisites and corequisites established for the above purposes. Also, any activities required by these sections in regard to the establishment of advisories on recommended preparation are not mandated by the state, because community college districts are authorized but not required to establish advisories on recommended preparation.

Title 5, section 55201, also contains a provision referencing a title 5 regulation (Cal. Code Regs., tit. 5, § 55510) that implements the Seymour-Campbell Matriculation Act of 1986 (Ed. Code §§ 78210-78218). Specifically, section 55201, subdivision (h), requires "[d]istrict [prerequisite and corequisite policies] adopted pursuant to this section … be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510." However, as discussed in the "Matriculation" section of this analysis, the Seymour-Campbell Matriculation Act and its implementing regulations do not impose any state-mandated activities on community college districts. As a result, the requirement of subdivision (h) of section 55201 does not impose activities on community college districts.

Staff finds that title 5, sections 55201 and 55202, impose the following state-mandated activities on community college districts:

1. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate degree credit course as required by California Code of Regulations, title 5, section 55002,

---

[273] California Code of Regulations, title 5, section 55200, subdivisions (a) and (b) (Register 93, No. 42).

[274] California Code of Regulations, title 5, section 55200, subdivision (c) (Register 93, No. 42).

[275] California Code of Regulations, title 5, section 55201, subdivision (a) (Register 98, No. 7).

subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7).)

b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7).)

c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(3) (Register 98, No. 7).)

d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

   i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

   ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

   iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

   iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

   v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7).)

2. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

   This data gathering requirement does not apply when:

   a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

   b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7).)

3. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7).)
4. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42).)
5. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42).)
6. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42).)
7. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)
8. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)
9. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42).)

Distance Education and Independent Study (Cal. Code Regs., tit. 5, §§ 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, and 55350)

Distance education is instruction in which the instructor and the student are separated by distance and interact through the assistance of communication technology.[276] Independent study is a mode of instruction in which students are not required to be under the immediate supervision and

[276] California Code of Regulations, title 5, section 55205 (Register 2002, No. 26).

control of a qualified academic employee.[277] The title 5 regulations pled in this section address the requirements associated with offering courses and programs designed and conducted as distance education and independent study. The requirements address issues including, but not limited to, the following: (1) instructor contact or availability; (2) maintenance and reporting of information regarding distance education and independent study courses and programs to the Chancellor; (3) accepting courses toward the completion of a degree; (4) course quality and criteria; and (5) the establishment of procedures to evaluate student progress in independent study courses or programs.

Under *Kern High School Dist*., when analyzing state mandate claims it is necessary for the Commission to look at the underlying program to determine if a claimant's participation in the underlying program is voluntary or legally compelled.[278] Here, community college districts are authorized under the "permissive code" to offer distance education and independent study, however, districts are not required to offer instruction using distance education or independent study.[279] Thus, any activities required by title 5 regulations pled in this section of the staff analysis are downstream activities triggered by a community college district's decision to offer distance education or independent study.

The claimants argue that "[t]he mandate here pertains to approval of courses, and not to the method of course delivery."[280] However, as discussed above, the requirement is triggered by a community college district's discretionary decision to offer distance education and independent study course. Without this discretionary decision districts would not be required to engage in the requirements associated with seeking approval of these types of courses.

In addition, the claimants argue, "Inasmuch as the Legislature does not mandate a form of instructional delivery, all methods, traditional or otherwise, are alternatives, but are not discretionary programs pursuant to *Kern*."[281] However, the claimants' argument essentially provides that since community college districts are given broad authority to act in any manner not inconsistent with their purpose pursuant to the "permissive code," any discretionary activity consistent with the purpose of community college districts which triggers required activities would result in reimbursable state-mandated activities. This result is contrary to the decision in *Kern High School Dist*. As a result, staff finds that title 5, sections 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, and 55350, do not impose state-mandated activities.

(i) Summary of state-mandate activities

Because the regulations pled in this section of the analysis are interrelated, some of the activities mandated by one title 5 regulation section are also required in a different title 5 regulation, as a result, where appropriate duplicate activities will be combined. California Code of Regulations, title 5, sections 55001, 55002, 55004, 55005, 55006, 55100, 55130, 55150, 55201, and 55202;

---

[277] California Code of Regulations, title 5, section 55302, subd. (d), (Register 79, No 46); see also, Exhibit _, Test Claim 02-TC-31, "Program and Course Approval Handbook" (2002), p. 47.

[278] *Kern High School Dist., supra,* 30 Cal.4th at p. 743.

[279] Former Education Code section 78310 (Stats. 1981, ch. 470) specifically authorized districts to offer independent study courses. Currently, however, specific authorization for independent study or distance education is not required under the "permissive code."

[280] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 18.

[281] *Ibid*.

and "Program and Course Approval Handbook" (2001) pages A-1 through A-44, impose the following state-mandated activities:

1. Include in social science courses a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States. (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23).)
2. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:
    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38).)
    b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38).)
    c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38).)
    d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38).)
3. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)
4. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)
5. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)
6. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:
    a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the academic record symbols and associated grade points to be used by community colleges.

The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

b. (2) Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

   The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

7. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

   a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

   b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

   c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

8. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42); and Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)

9. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)
10. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23))
11. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)
12. Establish policies for and approve educational programs (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973).)
13. Seek approval of proposed courses and programs on forms provided by the Chancellor's Office. Specifically, the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms, which require the provision of the documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix of the "Program and Course Approval Handbook" (2001). (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973), and Cal. Code Regs., tit. 5, §§ 55100, subd. (a); 55130, subd. (a); and 55150, subd. (a) (Register 91, No. 23); and "Program and Course Approval Handbook" (2001) pages A-1 through A-35.)
14. Include in the application for program approval the following information:
    a. The name of the proposed program
    b. The description of the proposed program
    c. The purposes and specific objectives of the proposed program
    d. The place of the proposed program in the district master plan
    e. An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning

f. The need for the proposed program based on the following factors: (a) other community colleges in the area currently offering the proposed program, (b) other programs closely related to the proposed program offered by the college, (c) the relation of the proposed program to job market analysis, (d) enrollment projection for the proposed program, (e) recommendations of area vocational master plan committees when applicable, and (f) the classification of the courses in the program in accordance with California Code of Regulations, title 5, section 55001 (Register 94, No. 38)

g. The need for and present adequacy of the following resources in relation to the proposed program: (a) library and media center resources, (b) facilities and equipment required to initiate and sustain the program, (c) availability of adequate or proposed financial support, and (d) availability of faculty. (Cal. Code Regs., tit. 5, § 55130, subd. (b) (Register 91, No. 23).)

15. Establish policies for approval of individual courses offered as part of a program that has already been approved by the Chancellor. (Ed. Code, § 70902, subd. (b)(2)(B) (Stats. 1988, ch. 973), and Cal. Code Regs., tit. 5, § 55100, subd. (b) (Register 91, No. 23).)

16. Include representative faculty involvement in the development, establishment, and evaluation of an education program. (Cal. Code Regs., tit. 5, § 55130, subd. (c) (Register 91, No. 23).)

17. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate degree credit course as required by California Code of Regulations, title 5, section 55002, subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

    a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7).)

    b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7).)

    c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(3) (Register 98, No. 7).)

    d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

        i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7).)

18. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

    This data gathering requirement does not apply when:

    a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

    b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

        i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

        ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7).)

19. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7).)

20. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42).)

21. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42).)

22. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42).)

23. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)

24. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)

25. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42).)

b. Parts of California Code of Regulations, title 5, sections 55001, 55002, 55005, 55006, 55150, 55201, and 55202, constitute a new program or higher level of service.

The activities mandated by title 5, sections 55001, 55002, 55004, 55005, 55006, 55100, 55130, 55150, 55201, and 55202; and "Program and Course Approval Handbook" (2001) pages A-1 through A-44, carry out the governmental function of education, and as a result, the activities mandated by these title 5 regulations and the Handbook constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

Although the activities mandated by the title 5 regulations constitute a "program" it is necessary to determine if the mandates are new in comparison with the pre-existing scheme and provide an enhanced service to the public. To make this determination, the mandates must be compared with the legal requirements in effect immediately prior to their enactment.[282]

Content of Social Science Courses (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23))

The claimants have pled title 5, section 55004, as added in 1991.[283] As added in 1991, section 55004 mandates community college districts to engage in the following activity:

> Include in social science courses a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States. (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23).)

However, immediately prior to adoption of title 5, section 55004, in 1991, former Education Code section 78202, required the same activity. Although former Education Code section 78202 was repealed in 1990, the Legislature directed the Board of Governors to incorporate the text of former Education Code section 78202 into its regulations and until such incorporation occurs, former Education Code section 78202 shall remain operative.[284] In addition, the Legislature

---

[282] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

[283] The date coincides with Register 91, number 23.

[284] Statutes 1990, chapter 1372, section 708.

states specifically that there "be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained" in former Education Code section 78202.[285] Thus, the mandated activity imposed by title 5, section 55004, does not constitute a new program or higher level of service.[286]

Recommendation and Approval of Proposed Courses (Ed. Code, § 70902, subd. (b)(2), and Cal. Code Regs., tit. 5, §§ 55001, 55002, 55005, 55006, 55100, 55130, and 55150 (Register 81, No. 52; Register 88, No. 42; Register 91, No. 23; Register 93, No. 42; and Register 94, No. 38); and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001) pages A-1 through A-35)

The claimants have pled title 5, section 55001, as added in 1981 and last amended in 1994.[287] In addition, title 5, section 55002, was pled as added in 1988 and last amended in 1993.[288] Section 55001 mandates activities involving the identification, classification, and description of courses offered by community college districts, and transmitting such information to the Chancellor's Office. Section 55002 mandates activities involving the development and approval of proposed associate degree credit courses, nondegree credit courses, and noncredit courses. These activities include establishing a district or college curriculum committee, and maintaining a course outline of record for proposed courses. The activities mandated by title 5, sections 55001 and 55002, were not mandated prior to 1981 and 1988, respectively. As a result, the activities mandated by title 5, sections 55001 and 55002, constitute a new program or higher level of service. On April 14, 2006, title 5, section 55001 was repealed, and as a result, the state-mandated activities required by this section ends on that date.[289]

Title 5, section 55005, requires the publication of specific information for students regarding the courses offered. This information includes whether the course is offered as a credit or noncredit course, the course is transferable to four-year colleges and universities, and whether the course fulfills a major or general education requirement. The claimants have pled title 5, section 55005, as added in 1981 and last amended in 1991.[290] The activities mandated by title 5, section 55005, are derived from former title 5, sections 51102 and 51103, as added in 1971 by Register 71, number 27. However, former title 5, sections 51102 and 51103, are part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[291]

Thus, the former title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not impose state-mandated activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the former title 5

---

[285] *Ibid.*

[286] Staff notes that the activity mandated by title 5, section 55004, traces back to former Education Code section 25516.3, as added in Statutes 1971, chapter 1245.

[287] The dates coincide with Register 81, number 52; and Register 94, number 38.

[288] The dates coincide with Register 88, number 42; and Register 93, number 42.

[289] Register 2006, number 17, operative April 14, 2006.

[290] The dates coincide with Register 81, number 52; and Register 91, number 23.

[291] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. As a result, immediately prior to the adoption of title 5, section 55005, community college districts were not required to engage in the activities mandated by the section, and therefore, the activities mandated by title 5, section 55005, constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution.

Title 5, sections 55006 and 55150, subdivision (c), requires community college districts to engage in the following activity:

> Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)

The claimants have pled title 5, sections 55006 and 55150, as added in 1981 and last amended in 1991.[292] Immediately prior to the adoption of title 5, sections 55006 and 55150, in 1981 community college districts were not required to engage in the above-stated activity. As a result, the activity mandated by title5, sections 55006 and 55150, subdivision (c), constitute a new program or higher level of service.

Education Code section 70902, subdivision (b)(2)(A), requires community college districts to establish policies for and approve educational programs. The claimants have pled Education Code section 70902 as added in 1988.[293] Immediately prior to 1988, community college districts were not required to establish policies for and approve education programs. Thus, this activity constitutes a new program or higher level of service.

In addition to the above activity, Education Code section 70902, subdivision (b)(2)(A), and title 5, sections 55100, subdivision (a); 55130, subdivision (a); and 55150, subdivision (a); and the "Program and Course Approval Handbook" (Handbook) pages A-1 through A-35 (consisting of the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms), require community college districts to engage in the following activity:

> Seek approval of proposed courses and programs on forms provided by the Chancellor's Office. Specifically, the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms, which require the provision of the documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix of the "Program and Course Approval Handbook" (2001). (Ed. Code, § 70902, subd. (b)(2)(A), and Cal. Code Regs., tit. 5, §§ 55100, subd. (a); 55130, subd. (a); and 55150, subd. (a) (Register 91, No. 23); and "Program and Course Approval Handbook" (2001) pages A-1 through A-35.)

The claimants have pled title 5, sections 55100, 55130, and 55150, as added in 1981 and last amended in 1991.[294] In addition, the claimants have pled the "Program and Course Approval Handbook" (Handbook) as issued in 2001. However, since 1971 community college districts

---

[292] The dates coincide with Register 81, number 52; and Register 91, number 23.

[293] Exhibit B, Test Claim 02-TC-31, p. 9, citing to Statutes 1988, chapter 973.

[294] The dates coincide with Register 81, number 52; and Register 91, number 23.

have been required to seek approval of proposed courses and programs on forms provided by the Chancellor's Office.[295] In addition, immediately prior to 2001 the Chancellor's Office provided the form for program and course approval in the appendix of the "Curriculum Standards Handbook" issued in 1995, which required community colleges and community college districts to provide documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance.[296] As a result, the above activity mandated by California Code section 70902, subdivision (a)(2)(A), and title 5, sections 55100, subdivision (a); 55130, subdivision (a); and 55150, subdivision (a); and the "Program and Course Approval Handbook" (Handbook) pages A-1 through A-35 (consisting of the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms), does not constitute a new program or higher level of service.

Title 5, section 55130, subdivision (b), requires community colleges or districts to include specific information in the application for program approval, including the name, description, purpose, specific objectives, need, and adequacy of facilities. The claimants have pled title 5, section 55130, as added in 1981 and last amended in 1991. However, since 1971 community college districts were required to include this information in their application for program approval to the Chancellor.[297] As a result, including the information specified by title 5, section 55130, subdivision (b), in the application seeking program approval does not constitute a new program or higher level of service.

Similarly, since 1971 community college districts have been required to engage in the activities mandated by Education Code section 70902, subdivision (b)(2)(B), and title 5, sections 55100, subdivision (b); and 55130, subdivision (c).[298] These sections require districts to establish policies for approval of individual courses offered as part of a program that has already been approved by the Chancellor, and the inclusion of representative faculty involvement in the development, establishment, and evaluation of an education program. As a result, the activities mandated by Education Code section 70902, subdivision (b)(2)(B), and title 5, sections 55100, subdivision (b); and 55130, subdivision (c), do not constitute a new program or higher level of service.

Prerequisites and Corequisites (Cal. Code Regs., tit. 5, §§ 55201 and 55202 (Register 93, No. 42; and Register 98, No. 7)

Title 5, sections 55201 and 55202, mandate activities associated with the establishment of prerequisites and corequisites for associate degree programs. The claimants have pled title 5, sections 55201 and 55202, as added in 1993, and section 55201 as last amended in 1998.[299]

---

[295] California Code of Regulations, title 5, section 55100 (Register 71, No. 9 (Feb. 27, 1998).) Former California Code of Regulations, title 5, sections 55131 and 55135 (Register 71, No. 9 (Feb. 27, 1998).)

[296] "The Curriculum Standards Handbook for the California Community College" (1995) Chancellor's Office.

[297] Former California Code of Regulations, title 5, sections 55135, 55136, 55140-55143 (Register 71, No. 9 (Feb. 27, 1971).)

[298] Former California Code of Regulations, title 5, sections 55132 and 55144 (Register 71, No. 9 (Feb. 27, 1971).)

[299] The dates coincide with Register 93, number 42; and Register 98, number 7. Staff notes that the claimants have pled title 5, section 55201, as added in 1983. However, in 1983 title 5, section 55201, did not exist, instead it was added in 1993. From the claimants' narrative, it is

Immediately prior to 1993, community college districts were not required to engage in the activities mandated by title 5, sections 55201 and 55202, and as a result, the activities mandated by title 5, sections 55201 and 55202, constitute a new program or higher level of service.

In 2007, sections 55201 and 55202 were combined and renumbered to title 5, section 55003, without any substantive changes to the new program or higher level of service found above.[300]

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that the following state-mandated activities constitute a new program or higher level of service subject to article XII B, section 6 of the California Constitution:

1. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:
    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38) ending April 14, 2006.)
    b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38) ending April 14, 2006.)
    c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38) ending April 14, 2006.)
    d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38) ending April 14, 2006.)
2. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)
3. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)
4. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)

---

clear that the claimants intended to plead title 5, section 55201, as added in 1993. Thus, staff will treat section 55201 as pled as added in 1993.

[300] California Code of Regulations, title 5, section 55003 (Register 2007, No. 35 (Aug. 16, 2007).)

5. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:

    a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the academic record symbols and associated grade points to be used by community colleges.

       The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

    b. Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

       The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

    c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

6. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

    a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

7. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

   For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

   For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42); and Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)

8. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)

9. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23).)

10. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)

11. Establish policies for and approve educational programs (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973).)

12. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate degree credit course as required by California Code of Regulations, title 5, section 55002, subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

    a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type

of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(1) (Register 2007, No. 35).)

b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) (Register 2007, No. 35).)

c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(3) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(3) (Register 2007, No. 35).)

d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) and (m)(1)-(5) (Register 2007, No. 35).)

13. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

This data gathering requirement does not apply when:

a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (e) (Register 2007, No. 35).)

14. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (n) (Register 2007, No. 35).)

15. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (f) (Register 2007, No. 35).)

16. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (h) (Register 2007, No. 35).)

17. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (i) (Register 2007, No. 35).)

18. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)

19. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)

20. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (l) (Register 2007, No. 35).)

(12) Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809)

This section addresses regulations pertaining to the award of degrees, certificates, and diplomas by community college districts upon the completion of standards specified by the Board of Governors and the governing board of the community college district.

Prior to analyzing title 5, sections 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809, it is necessary to review the authority, missions, and functions of California Community Colleges. As noted above, since 1976 community college districts have been given broad authority in the governance of community colleges. This authority known as the "permissive code" allows community college districts to initiate and carry on any program, activity, or to otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.[301] Although local districts have been granted broad authority to govern community colleges, the Legislature has maintained general supervision of the governance of community colleges.[302] As part of this supervision the Legislature has defined the missions and functions of community colleges in Education Code section 66010.4, which provides in relevant part:

> The California Community Colleges shall, as a primary mission, offer academic and vocational instruction at the lower division level for both younger and older students, including those persons returning to school. Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree.[303]

Taking this grant of authority to offer associate degrees further, the Board of Governors defined "'college' [to mean] a degree-granting institution intended to provide instruction through the fourteenth grade."[304] Thus, although the Education Code authorizes, but does not require,

---

[301] Former Education Code section 72233, as added by Statutes 1976, chapter 1010. See also, *Barnhart v. Cabrillo Community College, supra*, 76 Cal.App.4th 818, 824-825.

[302] *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1579. See footnote 5, providing:

> While the Legislature has chosen to encourage local responsibility for control of public education through local school districts, that is a matter of legislative choice rather than constitutional compulsion and the authority that the Legislature has given to local districts remains subject to the ultimate and nondelegable responsibility of the Legislature.

[303] Education Code section 66010.4, subdivision (a)(1), as amended by Statutes 1996, chapter 1057; and derived from former Education Code Section 22651, as added by Statutes 1960, chapter 49, 1st extraordinary session.

[304] Former California Code of Regulations, title 5, section 51802 (Register 75, no.26); renumbered to former California Code of Regulations, title 5, section 55827 (Register 83, No. 29); current California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25).

community college districts to grant associate degrees, as defined by the Board of Governors' regulations community colleges are required to grant degrees.[305]

a. California Code of Regulations, title 5, sections 55800, 55800.5, 55805, 55805.5, 55806, 55808, and 55809 impose state-mandated activities[306]

Policy Regarding Degrees and Certificates (Cal. Code Regs., tit. 5, § 55800):

Section 55800 addresses the adoption of policy regarding the degrees and certificates awarded by the community college district. Section 55800 provides:

> The governing board of community college districts shall adopt policy consistent with the provisions of this [subchapter].[307] The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this [division].[308]

The plain language of section 55800 requires community college districts to adopt policy consistent with the subchapter on "Degrees and Certificates" (Cal. Code Regs., tit. 5, §§ 55800-55810). In addition, the policy is required to be published in the college catalog under appropriate headings.

Although the requirements of California Code of Regulations, title 5, section 51004, do not independently impose state-mandated activities, section 55800 requires community college districts to file their district policies on degrees and certificates with the Chancellor's Office as required by section 51004. Section 51004, subdivision (b), requires districts to file a copy of their regulations, and any amendments, to the Chancellor's Office. As a result, community college districts are mandated to file a copy of their regulations, and any amendments thereto, adopted pursuant to section 55800 with the Chancellor's Office. Therefore, staff finds that California Code of Regulations, title 5, section 55800 mandates community college districts to engage in the following activities:

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810.[309] (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)

---

[305] In 2010, the Legislature added Education Code 66746 (Stats. 2010, ch. 428 (S.B. 1440)), which conditions receipt of state apportionment funding upon the development and granting of associate degrees for transfer to the California State University.

[306] Exhibit B, Test Claim 02-TC-31, p. 24. The claimants have pled the title 5 regulations in the "Degrees and Certificates" section of the test claim analysis as last amended in 1991, which coincides with Register 91, number 23. As a result, the language analyzed in this section will address the Register 91, number 23, version of the regulations.

[307] See "Minimum Conditions Entitling Community College Districts to State Aid" section, regarding the discussion of the Nomenclature Cross-Reference issued by the Office of Administrative Law.

[308] *Ibid.*

[309] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)

3. File a copy of the policy regarding degrees and certificates, and any amendments, with the Chancellor. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)

Philosophy and Criteria for Associate Degree and General Education (Cal. Code Regs., tit. 5, §§ 55805 and 55805.5):

Sections 55805 and 55805.5 address the philosophies and criteria for associate degrees and general education of community college districts.

Section 55805, subdivision (a), provides, "[t]he governing board of a community college district shall adopt a policy which states its specific philosophy on General Education." When developing this policy the governing board is to consider the policy of the Board of Governors specified in subdivision (a) of section 55805 which generally states that an associate degree is more than just an accumulation of units, and that general education is central to an associate degree.[310] Subdivision (b) of section 55805 provides that the governing board of a community college district shall establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education. Subdivision (c) of section 55805 provides that the governing board of a community college district shall, on a regular basis, review the policy and criteria.

Section 55805.5 defines the scope of the type of courses that may be permitted by the criteria established by the governing board of a community college district pursuant to section 55805, subdivision (b). Section 55805.5 provides:

> The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in [California Code of Regulations, title 5,] section 55002 (a) and that fall into the following categories to be offered for associate degree credit:
>
> (a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.
>
> (b) Courses that apply to the major in non-baccalaureate occupational fields.
>
> (c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.
>
> (d) All mathematics courses above and including Elementary Algebra.
>
> (e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the courses specified in subsections (c) and (d) above.

As a result, staff finds that California Code of Regulations, title 5, sections 55805 and 55805.5 mandate community college districts to engage in the following activities:

---

[310] For the text of the Board of Governors' policy see California Code of Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23).

1. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
2. Consider the General Education policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
3. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23).)
4. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23).)

Duty to Grant a Degree or Certificate of Achievement and the Minimum Requirements for the Associate Degree (Cal. Code Regs., tit. 5, §§ 55800.5, 55806, 55808, and 55809):

Title 5, sections 55800.5 and 55806, address the duty of community college districts to award an associate degree to students upon the successful completion of the course of study required by the students' majors and the criteria and minimum requirements that a student must satisfy as a condition to trigger the duty of community college districts. Section 55808 addresses the duty to issue a certificate of achievement when a student successfully completes a course of study for which a certificate of achievement is offered. Section 55809 clarifies that the duty to grant a diploma, degree, or certificate exists whenever a student has completed all requirements for the degree, diploma, or certificate without regard to length of time actually taken by the student to complete such requirements. Similarly, section 55809 clarifies that students who have satisfactorily completed the requirements of any course of study in less than the prescribed time are to receive credit for the full number of semester hours scheduled for such course.

When analyzing state mandate claims it is necessary for the Commission to look at the underlying program to determine if a claimant's participation in the underlying program is voluntary or legally compelled.[311] As discussed above, community colleges by definition are degree granting institutions. Thus, the requirements of title 5, sections 55800.5, 55806, and 55809, as they address and apply to associate degree standards or granting associate degrees constitute state-mandated activities.

However, absent from the regulatory definition of "colleges" and from the governing statutes and regulations, is a legal requirement to offer courses of study or curricula for which a certificate of achievement or diploma is offered. The duty to issue a certificate of achievement or diploma is triggered by the discretionary decision to offer a certificate of achievement or diploma. Thus, the requirements of title 5, sections 55808 and 55809, as they address and apply to certificates of achievement and diplomas, do not constitute state-mandated activities.

The claimants argue:

> The community college course offerings are mandated by law to the extent that they comply with the primary mission (Education Code Section 66010.4). The DSA has not stated a basis to distinguish courses that can lead to a certificate or diploma from those which lead to a degree. Sections 55800.5, 55805, and 55809

[311] *Kern High School Dist., supra,* 30 Cal.4th at p. 743.

establish independent legal compulsion to award either a degree, certificate, or a diploma when a student completes the designated curriculum. The compulsion derives from the student's completion of course work that is part of an educational plan that complies with the primary mission of the community college.

Although, the discretionary decision of a community college district to offer a certificate of achievement or diploma is consistent with the primary mission of community colleges, the plain language of Education Code section 66010.4 does not require community colleges to offer courses that lead to a certificate or diploma, nor does any other code section or regulation. In contrast, as noted above, community colleges are defined as degree granting institutions. Degrees are distinguished from certificates and diplomas. In addition, under the claimants' argument any activity that is consistent or complies with the primary mission of community colleges would constitute a reimbursable activity under article XIII B, section 6 of the California Constitution, regardless of whether the activity was done at the discretion of a community college district. Finding in this manner would be inconsistent with article XIII B and the case law interpreting article XIII B.[312]

Pursuant to the above discussion, staff finds that California Code of Regulations, title 5, sections 55800.5, 55806, and 55809, mandate community college districts to engage in the following activities:

1. Confer a degree of associate in arts or associate in science upon a student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average; demonstrated competence in reading, in written expression, and in mathematics. The degree shall be conferred to a student without regard to how long it takes for the student to complete the requirements. Credit for the full number of semester hours scheduled for a course shall be granted, even when the student has satisfactorily completed the requirements of any course of study in less than the prescribed time. (Cal. Code Regs., tit. 5, §§ 55800.5, 55806, and 55809 (Register 91, No. 23).)

2. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

   The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

   The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

---

[312] *Long Beach Unified School Dist. v. State of California, supra*, 225 Cal.App.3d at p. 174; *Kern High School Dist., supra*, 30 Cal.4th at p. 743;

The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23).)

3. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) ((Register 91, No. 23).)
4. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23).)
5. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23).)
6. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23).)
7. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23).)
8. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23).)

Conversion of Noncredit Courses to Credit Counted Toward an Associate Degree (Cal. Code Regs., tit. 5, § 55807):

Title 5, section 55807, addresses the conversion of noncredit courses to credit courses counted toward an associate degree. Section 55807 provides:

> Upon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

The claimants assert that section 55807 requires community colleges to establish and implement a process to respond to a student petition requesting that non credit courses be counted toward associate degrees.[313] However, the plain language of section 55807 does not require community colleges to engage in any activities, including those asserted by the claimants. Rather, the plain language of section 55807 provides community colleges the authority to count noncredit courses

[313] Test Claim 02-TC-31, p. 192.

toward associate degrees upon the occurrence of specified actions by a student and the governing board of a community college. The language of section 55807 does not require a community college to allow the conversion of noncredit courses to credit courses counted toward an associate degree. As a result, staff finds that California Code of Regulations, title 5, section 55807, does not impose any state-mandated activities upon community colleges.

(i) Summary of state-mandated activities

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)
2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)
3. File a copy of the policy regarding degrees and certificates, and any amendments, with the Chancellor. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)
4. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
5. Consider the policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
6. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23).)
7. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23).)
8. Confer a degree of associate in arts or associate in science upon a student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average; demonstrated competence in reading, in written expression, and in mathematics. The degree shall be conferred to a student without regard to how long it takes for the student to complete the requirements. Credit for the full number of semester hours scheduled for a course shall be granted, even when the student has satisfactorily completed the requirements of any course of study in less than the prescribed time. (Cal. Code Regs., tit. 5, §§ 55800.5, 55806, and 55809 (Register 91, No. 23).)
9. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

   The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23).)

10. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) ((Register 91, No. 23).)
11. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23).)
12. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23).)
13. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23).)
14. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23).)
15. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23).)

b. <u>The state-mandated activities imposed by California Code of Regulations, title 5, sections 55800, 55805, 55805.5, and 55806 (Register 83, No. 29; Register 88, No. 42; Register 91, No. 43) constitute a new program or higher level of service</u>

The activities mandated by title 5, sections 55800, 55800.5, 55805, 55806, and 55809, carry out the governmental function of education, and as a result, the activities mandated by sections 55800, 55800.5, 55805, 55806, and 55809, constitute a “program” within the meaning of article XIII B, section 6 of the California Constitution.

The claimants have pled title 5, sections 55800, 55805, 55806, and 55809, as added in 1983 and last amended in 1991; section 55800.5, as added in 1991; and section 55805.5, as added in

1988.[314] Many of the activities mandated by these title 5 sections are derived from former title 5 regulations existing prior to 1983.[315] However, the former title 5 regulations were all part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[316]

Thus, the pre-1983 title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not legally require community college districts to engage in activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the pre-1983 title 5 regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. In addition, with one exception, community college districts were not practically compelled to engage in the activities contained in the pre-1983 regulations, and thus constitute a new program or higher level of service.[317] In 2007, the title 5 regulations pled in this section of the analysis were repealed and renumbered to title 5, section 55060 et seq., without any substantive changes to the new program or higher level of service found above.[318]

The exception to the above finding of a new program or higher level of service is the requirement for community college districts to confer an associate degree. The court in *Kern High School Dist*. left open the possibility that a state mandate might be found in circumstances of practical compulsion, where a local entity faced certain and severe penalties such as double taxation or other draconian consequences as a result of noncompliance with a program that is not legally compelled.[319] In 1975, former title 5, section 51802, defined "colleges" as degree-

---

[314] Exhibit B, Test Claim 02-TC-31, pgs. 20-24. The dates coincide with Register 83, number 29, Register 88, number 42, and Register 91, number 43. Staff notes that the claimants have pled title 5, sections 55806 and 55808, as added in 1988, and title 5, section 55805.5, as added in 1983. However, in 1983 title 5, section 55805.5 did not exist, instead it was added in 1988. In addition, both title 5, sections 55806 and 55808, were added in 1983. From the claimants' narrative, it is clear that the claimants have transposed the adoption dates for title 5, sections 55806 and 55808, with the adoption date of title 5, section 55805.5. Thus, staff will treat sections 55806 and 55808 as pled as added in 1983, and section 55805.5 as pled as added in 1988.

[315] California Code of Regulations, title 5, section 55800, addressing a district's policy regarding degrees and certificates, was derived from former title 5, section 51621, as added in 1971 by Register 71, number 40. Title 5, sections 55800.5 and 55809, which addresses a district's duty to award an associate degree, was derived from former title 5, section 51626, as added in 1977 by Register 77, number 45. Title 5, section 55806, was derived from former title 5, section 55626, as amended in 1982 by Register 82, number 24. Title 5, section 55808, was derived from former title 5, section 51625, as added in 1971 by Register 71, number 40.

[316] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

[317] *POBRA*, *supra*, 170 Cal.App.4th at pgs. 1366-1369, in which the court explained that a finding of "practical compulsion" requires a concrete showing in the record that a failure to engage in the activity/activities at issue will result in certain and severe penalties.

[318] Register 2007, number 35, operative August 16, 2007.

[319] *Kern High School Dist., supra*, 30 Cal.4th 727, 751.

granting institutions.[320] In other words, to *exist* community colleges were required to grant degrees. Thus, community colleges districts were practically compelled to grant degrees, rather than face the draconian consequence of not existing, *before and after 1983*. As a result, the mandate to confer a degree does not constitute a *new program or higher level* of service subject to article XIII B, section 6 of the California Constitution.

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that the following state-mandated activities constitute a new program or higher level of service subject to article XII B, section 6 of the California Constitution:

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)
2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)
3. File a copy of the policy regarding degrees and certificates, and any amendments, with the Chancellor. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)
4. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)
5. Consider the policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)
6. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55061, subd. (b), and 55062 (Register 2007, No. 35).)
7. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (c) (Register 2007, No. 35).)
8. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education

[320] Former California Code of Regulations, title 5, section 51802 (Register 75, no.26).

and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (a) and (b) (Register 2007, No. 35).)

9. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(2) (Register 2007, No. 35).)
10. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(A) (Register 2007, No. 35).)
11. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(B) (Register 2007, No. 35).)
12. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(C) (Register 2007, No. 35).)
13. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(1) (Register 2007, No. 35).)

14. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(2) (Register 2007, No. 35).)

(13) Open Courses (Cal. Code Regs., tit. 5, §§ 58102, 58104, 58106, 58107, and 58108)

This section addresses regulations that set forth standards regarding the provision of courses open to enrollment by any student admitted to the community college.

a. California Code of Regulations, title 5, sections 58102 and 58104, impose state-mandated activities

Course Description and Dissemination of Information (Cal. Code Regs., tit. 5, §§ 58102 and 58104)

Section 58102 addresses the description of each course offered by a community college. Section 58102 provides:

> The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.
>
> A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

Section 58104 addresses the dissemination of the course descriptions. Specifically, section 58104 provides:

> All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.
>
> Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.
>
> Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

Read together, the first paragraph of section 58102 and the first and second paragraphs of section 58104 require community college districts to publish each course to be conducted in the official catalogs, schedules of classes, and the addenda. In addition, the description is required to be clear and understandable to the prospective student.

The claimants assert that section 58102 also mandates community college districts to establish and implement procedures to ensure, if a course description indicates a course is designed to meet certain specialized needs, that the district affirms the availability of the course to all qualified students, pursuant to the second paragraph of section 58102.[321]

The plain language of the second paragraph of section 58102 does not mandate any activities on community college districts as alleged by the claimants. As quoted above, section 58102 provides that a "course description *may* indicate that the course is designed to meet specialized

[321] Exhibit B, Test Claim 02-TC-31, p. 194. Exhibit V, Claimant response to draft staff analysis, *supra*, p. 9-11.

needs;" however, districts are not required to make this indication. Only when districts decide to indicate that a course meets specialized needs are the districts then required to affirm the availability of the course. Under *Kern High School Dist*., a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity. As a result, staff finds that the second paragraph of section 58102 does not mandate any activity on community college districts.

Thus, staff finds that California Code of Regulations, title 5, section 58102 imposes the following state-mandated activity:

> Publish a description of each course that is clear and understandable to the prospective student in the official catalog, schedule of classes, and addenda. (Cal. Code Regs., tit. 5, §§ 58102 and 58104.)

Limitations on Enrollment (Cal. Code Regs., tit. 5, § 58106)

Section 58106 addresses the ability of community college districts to limit enrollment in courses offered by the district. Section 58106 provides:

> In order to be claimed for purposes of state apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, provided that enrollment in specific courses or programs may be limited as follows:
>
> (a) Enrollment may be limited to students meeting prerequisites and corequisites established pursuant to Sections 55200-55202 of this Division,
>
> (b) Enrollment may be limited due to health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning or legal requirements imposed by statutes, regulations, or contracts. The governing board shall adopt policies identifying any such limitations and requiring fair and equitable procedures for determining who may enroll in affected courses or programs. Such procedures shall be consistent with one or more of the following approaches:
>
> (1) limiting enrollment to a "first-come, first-served" basis or using other nonevaluative selection techniques to determine who may enroll; or
>
> (2) limiting enrollment using a registration procedure authorized by Section 58108; or
>
> (3) in the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students judged most qualified; or
>
> (4) limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions; or
>
> (5) with respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Sections 55754-55755 of this Part, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan.
>
> (c) A student may challenge an enrollment limitation established pursuant to Subsection (b) of this Section on any of the following grounds:
>
> (1) the enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(2) the district is not following its policy on enrollment limitations;

(3) the basis upon which the district has established an enrollment limitation does not in fact exist; or

(4) any other criteria established by the district.

(d) The student shall bear the burden of showing that grounds exists for the challenge. Challenges shall be handled in a timely manner, and if the challenge is upheld, the district shall waive the enrollment limitation with respect to that student.

(e) In the case of a challenge under Subsection (c)(1) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

The language of section 58106 requires all courses to be open for enrollment to any student admitted by the community college, except in specified situations in which enrollment may be limited. If a district limits enrollment, students have the ability to challenge the enrollment limitation on specific grounds. Community college districts are then required to handle the challenges in a timely manner, and waive the limitation if the challenge is upheld.

The claimants allege that section 58106, requires community college districts "to permit enrollment to be limited."[322] However, the language of section 58106 does not require districts to permit enrollment to be limited, because the section 58106, itself, permits enrollment to be limited.

Staff finds that title 5, section 58106, requires community college districts to engage in the following activities:

1. Make all courses open to enrollment to any student that has been admitted to the college, except in the specified situations listed in title 5, section 58106, subdivisions (a) and (b), in which enrollment may be limited. (Cal. Code Regs., tit. 5, § 58106.)
2. Handle challenges to enrollment limitations made by students pursuant to title 5, section 58106, subdivision (c), in a timely manner. (Cal. Code Regs., tit. 5, § 58106.)
3. Waive the enrollment limitation with respect to a student that challenged an enrollment limitation, if the challenge is upheld. (Cal. Code Regs., tit. 5, § 58106.)
4. Advise a student that he or she may file a formal complaint of unlawful discrimination pursuant to title 5, section 59300 et seq., upon completion of handling a challenge to an enrollment limitation made by a student alleging that an enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 58106, subd. (c)(1) (Register 93, No. 42)). (Cal. Code Regs., tit. 5, § 58106.)

Although title 5, section 58106, requires the activities listed above, Article XIII B places spending limits on both the state and local governments; however, costs mandated by courts or federal law are expressly excluded from these spending limits. Article XIII B, section 9,

[322] Exhibit B, Test Claim 02-TC-31, pgs. 195-199.

subdivision (b), of the California Constitution excludes from either the state or local spending limit any "[a]ppropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the providing of existing services more costly."

When analyzing federal law in the context of a test claim under article XIII B, section 6, the court in *Hayes v. Commission on State Mandates* held that "[w]hen the federal government imposes costs on local agencies those costs are not mandated by the state and thus would not require a state subvention. Instead, such costs are exempt from local agencies' taxing and spending limitations" under article XIII B.[323] Also, the court in *San Diego Unified School Dist*. found that "for purposes of ruling upon a request for reimbursement, challenged state rules or procedures that are intended to implement an applicable federal law—and whose costs are, in context, de minimis—should be treated as part and parcel of the underlying federal mandate."[324] However, the court in *Hayes* also found when federal law imposes a mandate on the state, and the state "freely [chooses] to impose the costs upon the local agency as a means of implementing a federal program, then the costs are the result of a reimbursable state mandate regardless whether the costs were imposed upon the state by the federal government."[325]

Under the Equal Protection clause of the Fourteenth Amendment to the United States Constitution, "States [are denied] the power to legislate that different treatment be accorded to persons placed by a statute into different classes on the basis of criteria wholly unrelated to the objective of that statute."[326] In addition, a classification that does not involve fundamental rights or proceed along suspect lines is accorded a strong presumption of validity, such that it will not run afoul of the Equal Protection Clause "if there is a rational relationship between the disparity of treatment and some legitimate governmental purpose.[327]

As applicable here, the Equal Protection clause requires community college districts to provide enrollment in their courses on an equal basis, absent a rational relationship to a legitimate district interest.[328] Thus, under the Equal Protection clause districts are mandated to have courses open to enrollment to any student admitted to a college, except where a community college district has a legitimate interest to limit enrollment that is rationally related to the limitation.

As a result, the following activity imposed by title 5, section 58106, constitutes a federal mandate:

> Make all courses open to enrollment to any student that has been admitted to the college, except in the specified situations listed in title 5, section 58106, subdivisions (a) and (b), in which enrollment may be limited. (Cal. Code Regs., tit. 5, § 58106)

---

[323] *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1593 citing *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 76; see also, Government Code section 17513.

[324] *San Diego Unified School Dist*., *supra*, 33 Cal.4th 859, 890.

[325] *Hayes*, *supra*, 11 Cal.App.4th at p. 1594.

[326] *Reed v. Reed* (1971) 404 U.S. 71, 75-76.

[327] *Heller v. Doe by Doe* (1993) 509 U.S. 312, 319-320.

[328] Because postsecondary education is not a fundamental right (*Gurfinkel v. Los Angeles Community College Dist*., *supra*, 121 Cal.App.3d 1, 5-7) the "rational basis" test applies.

However, under the Equal Protection Clause, community college districts are not required to have a complaint process for students to challenge limitations on enrollment. As a result, the following activities imposed by title 5, section 58106, constitute state-mandated activities:

1. Handle challenges to enrollment limitations made by students pursuant to title 5, section 58106, subdivision (c), in a timely manner. (Cal. Code Regs., tit. 5, § 58106.)
2. Waive the enrollment limitation with respect to a student that challenged an enrollment limitation, if the challenge is upheld. (Cal. Code Regs., tit. 5, § 58106.)
3. Advise a student that he or she may file a formal complaint of unlawful discrimination pursuant to title 5, section 59300 et seq., upon completion of handling a challenge to an enrollment limitation made by a student alleging that an enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 58106, subd. (c)(1) (Register 93, No. 42)). (Cal. Code Regs., tit. 5, § 58106.)

Facilities and Opportunities for Participation (Cal. Code Regs., tit. 5, § 58107)

Section 58107 addresses the use of public funds for athletic programs and the provision of facilities and opportunities for participation in the programs. In relevant part, section 58107 provides:

> Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. … .

The claimants argue that the "language of the section is replete with words and phrases that require further description in order to determine compliance. It would seem reasonable and necessary for the district to adopt policies and implement procedures to avoid the prohibited use of funding."[329] However, the claimants are reading activities into section 58107 that are not present in the section. The plain language of section 58107 sets forth a prohibited activity, specifically the use of public funds in connection with athletic programs that do not provide facilities and opportunities to participate in the programs by both sexes on an equitable basis. As a result, section 58107 does not require any activities of community college districts. Rather, section 58107 prohibits community college districts from engaging in a specified activity. Thus, staff finds that California Code of Regulations, title 5, section 58107, does not impose any state-mandated activities.

Registration and Standards for Enrollment (Cal. Code Regs., tit. 5, § 58108)

Section 58108 addresses the procedures for registration and standards for enrollment in courses offered by community colleges. Section 58108 provides:

> Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.
>
> Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

---

[329] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 11.

> Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.
>
> No registration procedures shall be used that result in restricting enrollment to a specialized clientele.
>
> The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.
>
> With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

The claimants argue that the above language requires districts to take some affirmative action to avoid the prohibited activity.[330] However, the Commission cannot read a mandated activity into the section that is not present in the section. The plain language of section 58108 does not impose any state-mandated activities on community college districts. The first paragraph prohibits community college district procedures for registration and standards for enrollment from being in noncompliance with the Board of Governor's regulations, and from being inconsistently administered by unauthorized employees. The prohibitive nature of the first paragraph is indicated by the usage of the language "shall be only those" with reference to district procedures for registration and standards for enrollment. This language indicates intent to limit a district's authority in regard to establishing procedures for registration and standards for enrollment. Similarly, the remaining language of section 58108 prohibits community college districts from engaging in specified activities. As a result, staff finds that California Code of Regulations, title 5, section 58108 does not impose any state-mandated activities.

(i) Summary of state-mandated activity:

Pursuant to the above discussion, staff finds that California Code of Regulations, title 5, sections 58102 and 58104, impose the following state-mandated activity:

1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, schedule of classes, and addenda. (Cal. Code Regs., tit. 5, §§ 58102 and 58104.)
2. Handle challenges to enrollment limitations made by students pursuant to title 5, section 58106, subdivision (c), in a timely manner. (Cal. Code Regs., tit. 5, § 58106.)
3. Waive the enrollment limitation with respect to a student that challenged an enrollment limitation, if the challenge is upheld. (Cal. Code Regs., tit. 5, § 58106.)
4. Advise a student that he or she may file a formal complaint of unlawful discrimination pursuant to title 5, section 59300 et seq., upon completion of handling a challenge to an enrollment limitation made by a student alleging that an enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner

[330] *Ibid.*

(pursuant to Cal. Code Regs., tit. 5, § 58106, subd. (c)(1) (Register 93, No. 42)). (Cal. Code Regs., tit. 5, § 58106.)

b. California Code of Regulations, title 5, sections 58102 and 58104, constitute a new program or higher level of service

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[331] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[332] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[333]

The activities mandated by sections 58102, 58104, and 58106, carry out the governmental function of education by assisting students in enrollment and registration. As a result, the activities mandated by sections 58102 and 58104 constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The claimants have pled sections 58102 and 58104 of title 5 of the California Code of Regulations, as added in 1982 and last amended in 1993.[334] Sections 58102 and 58104 mandate community college districts to engage in the following activities:

> Publish a description of each course that is clear and understandable to the prospective student in the official catalog, schedule of classes, and addenda. (Cal. Code Regs., tit. 5, §§ 58102 and 58104 (Register 93, No. 25).)

The activities mandated by title 5, sections 58102 and 58104, are derived from former title 5, sections 51822 and 51824, as added in 1976 by Register 76, number 51. However, former title 5, sections 51822 and 51824, are part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[335]

Thus, the former title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not impose state-mandated activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the former title 5 regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. As a result, immediately prior to the adoption of title 5, sections 51822 and 51824, community college districts were not required to engage in the activities mandated by the

---

[331] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

[332] *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[333] *Ibid*.

[334] Exhibit B, Test Claim 02-TC-31, p. 25. These dates coincide with Register 82, number 31; and Register 93, number 25.

[335] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

sections, and therefore, title 5, sections 58102 and 58104, constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution.

The claimants have pled section 58106 as added in 1993.[336] Immediately prior to the adoption of section 58106, community colleges were not required to engage in the activities mandated by section 58106. As a result, the activities mandated by title 5, section 58106, constitutes a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution.

(i) Summary of state-mandated new program or higher level of service

1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, schedule of classes, and addenda. (Cal. Code Regs., tit. 5, §§ 58102 and 58104 (Register 93, No. 25).)
2. Handle challenges to enrollment limitations made by students pursuant to title 5, section 58106, subdivision (c), in a timely manner. (Cal. Code Regs., tit. 5, § 58106 (Register 93, No. 42).)
3. Waive the enrollment limitation with respect to a student that challenged an enrollment limitation, if the challenge is upheld. (Cal. Code Regs., tit. 5, § 58106 (Register 93, No. 42).)
4. Advise a student that he or she may file a formal complaint of unlawful discrimination pursuant to title 5, section 59300 et seq., upon completion of handling a challenge to an enrollment limitation made by a student alleging that an enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 58106, subd. (c)(1) (Register 93, No. 42)). (Cal. Code Regs., tit. 5, § 58106 (Register 93, No. 42).)

(14) Student Fees (Ed. Code, § 70902, subd. (b)(9))

This section addresses Education Code section 70902, subdivision (b)(9), which addresses the establishment of student fees.

a. Education Code section 70902, subdivision (b)(9), does not impose any state-mandated activities

Education Code section 70902, subdivision (b)(9), provides that community college districts are to:

> Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

The language of Education Code section 70902, subdivision (b)(9), on its own does not require community college districts to engage in any activities. Instead, it provides that districts are required to establish fees as required by law. However, the claimants have not pled any statutes or regulations that require the establishment of any student fees. As a result, staff finds that Education Code section 70902, subdivision (b)(9), does not impose any state-mandated activities.

[336] Exhibit B, Test Claim 02-TC-31, p. 26. This date coincides with Register 93, No. 42.

(15) Notice to Students (Cal. Code Regs., tit. 5, §§ 54626, 54805, 59404, and 59410)

This section addresses California Code of Regulations, title 5, sections 54626, 54805, 59404, and 59410. These regulations address the adoption of policies or the provision of information or notices to students regarding various issues related to the operation and governing of community colleges and community college districts, including: (1) student directory information (Cal. Code Regs., tit. 5, § 54626); (2) student representation fees (Cal. Code Regs., tit. 5, § 54805); (3) the provision of instructional or other materials (Cal. Code Regs., tit. 5, § 59404); and (4) the possible consequences of failing to pay a proper financial obligation due to the district or college (Cal. Code Regs., tit. 5, § 59410).

a. Student Directory Information (Cal. Code Regs., tit. 5, § 54626 (Register 83, No. 18))

Title 5, section 54626, addresses the ability of community college districts to release student directory information and the steps that a community college district must take in order to so.

(i) California Code of Regulations, Title 5, Section 54626, imposes a requirement on community college districts

Section 54626 addresses the release of student directory information. Section 54626, subdivision (a), requires a community college district engage in the one-time activity of adopting a policy identifying, from a specified list provided in subdivision (a) of section 54626, categories of student directory information that the district's local governing board decides may be released.

Subdivision (b) provides in part:

> Directory information, as established by the local governing board, *may be* released as to any student or former student currently attending the community college, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. (Emphasis added.)

Subdivision (b) further provides that the notice must specify the period of time within which a student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student. The plain language of subdivision (b) does not require community college districts to engage in any activity. Instead, the language of subdivision (b) authorizes community college districts to release directory information on the condition that it provides public notice. The language does not, however, require districts to use this authority, and thus, staff finds that subdivision (b) does not impose any requirements on community college districts.

Similarly, the plain language of subdivision (c) does not require community college districts to engage in any activities. Subdivision (c) provides that "[o]ther information may be added to the categories set forth in [Cal. Code Regs., tit. 5, § 54626, subd. (a),] provided that release of such information shall be authorized in writing by the student." Thus, as indicated by the word "may" districts are authorized to add other information if the district receives authorization from the student. Districts, however, are not required to utilize this authority.

Subdivision (d) provides that the district has the discretion to limit or deny the release of specific information to specific organizations based on the best interest of students. In addition, the names and addresses of students may be provided to certain private schools or colleges. Thus, the plain language of subdivision (d) does not require community college districts to engage in any activities.

In summary, staff finds that California Code of Regulations, title 5, section 54626, requires community college districts to do the following:

> Adopt a policy identifying, from a specified list provided in California Code of Regulations, title 5, subdivision (a) (Register 83,subdivision (a), categories of student directory information that the district's local governing board decides may be released. (Cal. Code Regs., title 5, § 54626, subd. (a) (One-time activity.)
>
> (ii) <u>The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute a federal mandate</u>

The Chancellor's Office asserts that the activities contained in section 54626 are federally mandated activities, and thus, not reimbursable pursuant to Government Code section 17556, subdivision (c). The Chancellor's Office argues that the claimant "undoubtedly receives federal funds and is therefore bound by [Family Educational Rights and Privacy Act (FERPA) and its implementing regulations."[337]

FERPA (20 U.S.C., § 1232g) and its implementing regulations (34 C.F.R. § 99.1 et seq.), as with many other federal laws, condition federal funding to educational agencies and institutions on compliance with the provisions of FERPA and its implementing regulations. Because the California Legislature adopted section 54626 with the intent that it conform to FERPA and its implementing regulations, the requirements of section 54626 generally contain the same requirements as FERPA and its implementing regulations.[338] The exception is that FERPA and its implementing regulations do not require educational agencies to specifically adopt a policy identifying what directory information it decides to release.

Government Code section 17556, subdivision (c), provides that the Commission shall not find costs mandated by the state if the test claim statute imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, *unless* the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. In addition, in *Hayes v. Commission on State Mandates*, the court, while discussing the Education of the Handicapped Act, found:

> While the act includes certain substantive and procedural requirements which must be included in the state's plan for implementation of the act, it leaves primary responsibility for implementation to the state … In short, even though the state had no real choice in deciding whether to comply with the federal act, the act did not necessarily require the state to impose all of the costs of implementation upon local school districts. To the extent the state implemented the act by freely choosing to impose new programs or higher levels of service upon local school districts, the costs of such programs or higher levels of services are state mandated and subject to subvention."[339] (Citations omitted.)

Here, the state has chosen to require community college districts to specifically adopt a policy identifying what information it decides to release. Thus, the requirements of section 54626 exceed those of FERPA and its implementing regulations. As a result, the requirement of

---

[337] Exhibit D, Chancellor's Office Comments on Test Claim 02-TC-25, *supra*, p. 13.

[338] See Education Code section 76200 et seq. See also, 20 United States Code section 1232g (a)(5) and (6), and 34 Code of Federal Regulations part 99.37.

[339] *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1594.

California Code of Regulations, title 5, section 54626 is not federally mandated pursuant to Government Code section 17556, subdivision (c).

(iii) The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), constitutes a state mandate

Pursuant to the language of section 54626, community college districts are required to adopt a policy identifying student directory information that the district decides to release, if any. As a result, staff finds that California Code of Regulations, title 5, section 54626 imposes the following state-mandated activity on community college districts:

> Adopt a policy identifying, from a specified list provided in California Code of Regulations, title 5, subdivision (a) (Register 83,subdivision (a), categories of student directory information that the district's local governing board decides may be released (Cal. Code Regs., title 5, § 54626, subd. (a) (One-time activity).)

(iv) The mandate of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute new program or higher level of service

The claimant has pled section 54626, as added in 1976 and last amended in 1983.[340] Section 54626 was filed on March 5, 1976 and effective on the 30th day thereafter (April 4, 1976).[341] Section 54626 was adopted to implement Education Code section 76240, which was originally enacted as former Education Code section 25430.12 in 1975.[342] Former Education Code section 25430.12, which was not pled by the claimants, required a community college district to adopt a policy identifying, from a specified list identical to section 54626, subdivision (a),[343] categories of student directory information that the district's local governing board decides may be released. The effective date of former Education Code section 25430.12 was January 1, 1976.[344] As a result, as compared to the statutes and regulations pled, pre-existing law already required community college districts to adopt a policy identifying categories of student directory information that the district's local governing board decides may be released. Therefore, the requirement of California Code of Regulations, title 5, section 54626 does not constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution.[345]

In addition, any costs associated with the alleged state-mandated program incurred before July 1, 2001 are not reimbursable, as the reimbursement period begins with the 2001-2002 fiscal year. As a result, costs associated with one-time activities occurring before July 1, 2001, are not reimbursable. As noted above, the activity mandated by California Code of Regulations, title 5, section 54626, subdivision (a), is a one-time activity. As such, any policy adopted by a

---

[340] Exhibit A, Test Claim 02-TC-25, pg. 5. These dates coincide with Register 76, Number 10 (March 6, 1976), and Register 83, Number 18 (April 30, 1983).

[341] See History for California Code of Regulations, title 5, section 54600 (Register 76, No. 10 (March 6, 1976)).

[342] Former Education Code section 25430.12 (Stats. 1975, ch. 816).

[343] Former Education Code section 25430.1, subdivision (c) (Stats. 1975, ch. 816).

[344] See Government Code section 9600.

[345] The claimants raise the "new program standard of review" argument that is addressed at the beginning of the test claim analysis. For claimants' argument see Exhibit V, Claimant response to draft staff analysis, *supra*, pgs. 2 and 28.

community college district, pursuant to California Code of Regulations, title 5, section 54626, subdivision (a), prior to July 1, 2001 would not be reimbursable.

b. Student Representation Fee (Cal. Code Regs., tit. 5, § 54805)

(i) California Code of Regulations, title 5, section 54805, does not impose state-mandated activities

Section 54805 addresses the "student representation fee" that is used to provide support for student organizations. Section 54805 provides:

> District governing boards shall include in the materials given to each student at registration, information pertaining to the representation fee. The form used by a college for the purpose of collecting the fee shall contain, at minimum, the following:
>
> (a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;
>
> (b) the amount of the fee;
>
> (c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral, or financial reasons.

The claimants assert that section 54805 requires community college districts to include in the materials given to each student at registration, information pertaining to the student representation fee which shall include the information set forth in subdivisions (a)-(c) of section 54805.[346] The claimants argue that a student representation fee is created by an independent action of a third party (the student body), which triggers the requirement of districts to give students information regarding the fee.[347]

The language of section 54805, however, must be read in context with the whole statutory and regulatory scheme surrounding section 54805.[348] In addition, pursuant to *Kern High School Dist*. a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity.[349] Section 54805 was adopted as part of "Article 1. Student Representation Fee" of title 5 of the California Code of Regulations, which consists of regulation sections 54801, 54803, and 54805. Section 54801 et seq., was adopted to implement Education Code sections 76060 and 76060.5. Education Code section 76060 provides, "the governing board of a community college district *may* authorize the students of a college to organize a student body association."[350] Education Code section 76060.5 provides, "*If* a student body association has been established at a community college as authorized by Section 76060, the governing body of the association may order that an election be held for the purpose of establishing a student representation fee of one dollar ($1) per semester."[351] California Code of Regulations, title 5,

---

[346] Exhibit A, Test Claim 02-TC-25, p. 15

[347] Exhibit V, Claimants' response to draft staff analysis, *supra*, p. 28.

[348] *Fontana Unified School Dist. v. Burman*, *supra*, 45 Cal.3d 208, 218.

[349] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 743.

[350] Education Code section 76060. (Emphasis added.)

[351] Education Code section 76060.5. (Emphasis added.)

sections 54801 and 54803 set forth the election procedures with which student body associations may establish and terminate a student representation fee. Thus, a student body association may establish a student representation fee *only if* a community college district decides to authorize students of a college to organize a student body association.

It is in the context of the community college district's discretion to authorize the formation of a student body association and subsequently the possible imposition of a student representation fee that California Code of Regulations, title 5, sections 54801 and 54803, set forth procedures to hold an election to vote on the establishment and termination of a representation fee. It is also in this context that California Code of Regulations, title 5, section 54805, provides that district governing boards are to include in the materials given to each student at registration, "information pertaining to the representation fee." In addition, it is in this context that the form used by a college for the purpose of collecting the fee is required to include specific information.[352] Without a community college district's authorization to organize a student body association, the subsequent activities of calling an election for the creation or termination of a student representation fee, the provision of information regarding the representation fee, and collection of the representation fee are not required. Thus, the activities required by section 54805 is triggered by a community college district's underlying decision to authorize the organization of a student body association, and therefore under *Kern High School Dist*., is not mandated by the state.

As a result, staff finds that California Code of Regulations, title 5, section 54805, does not impose any state-mandated new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

c. District Policies and Regulations for Instructional and Other Materials (Cal. Code Regs., tit. 5, § 59404)

(i) California Code of Regulations, title 5, section 59404, does not impose state-mandated activities

Section 59404 addresses a district's policies or regulations regarding instructional and other materials that the district requires a student to provide. Subdivision (a) provides that when a student is required by the district to provide instructional and other materials, the district must adopt policies or regulations which specify the conditions under which such materials will be required. Subdivision (b) requires the policies or regulations to be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and published in each college catalog developed after the date of adoption.

The plain language of section 59404 indicates that the requirements of section 59404 are only applicable to a "community college district which requires that students provide instructional or other materials… ." Education Code section 76365, which is implemented by section 59404, provides that "[t]hese regulations shall specify the conditions under which districts *may* require students to provide those materials…"[353] Thus, the requirements of section 59404 are downstream activities resulting from a community college district's decision to require students provide instructional and other materials.

Staff finds that California Code of Regulations, title 5, section 59404 does not impose any state-mandated new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

---

[352] California Code of Regulations, title 5, section 54805, subds. (a)-(c).

[353] Education Code section 76365. (Emphasis added.)

d. Withholding Grades, Transcripts, Diplomas, and Registration Privileges (Cal. Code Regs., tit. 5, § 59410)

(i) California Code of Regulations, title 5, section 59410, does not impose state-mandated activities

Section 59410 provides that a community college district may withhold the grades, transcripts, diplomas, and registration privileges of a student who has been provided with written notice of his or her failure to pay a financial obligation due to the district or college.

The plain language of section 59410 does not require community college districts to issue written notices to students regarding a failure to pay a financial obligation. Rather, the language of section 59410 authorizes, but does not require, community college districts to withhold grades, transcripts, diplomas, and registration privileges on the condition of providing a notice to students regarding their failure to pay a financial obligation. Thus, the provision of a notice is a downstream activity of a community college district's decision to seek to withhold the grades, transcripts, diplomas, and registration privileges from a student owing a financial obligation to the district or college.

As a result, staff finds that California Code Regulations, title 5, section 59410, does not impose any state-mandated new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

C. The state-mandated new program or higher level of service impose costs mandated by the state on community college districts within the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556.

In order for the test claim statutes to impose a reimbursable state-mandated program under the California Constitution, the test claim statutes must impose costs mandated by the state.[354] Government Code section 17514 defines "cost mandated by the state" as follows:

> [A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The claimants estimate that more than $1,000 in staffing and other costs in excess of any funding provided to districts was incurred between July 1, 2001 through June 30, 2002 to implement all the duties alleged by the claimants to be mandated by the state.[355] Thus, the claimants have met the minimum burden of showing costs necessary to file a test claim pursuant to Government Code section 17564.

However, the Chancellor's Office and Finance assert that the claimants are not entitled to reimbursement for the state-mandated new programs or higher levels of service found in this analysis. The Chancellor's Office and Finance argue that community college districts receive general apportionments found in Schedule (1) of line item 6870-101-0001 of the annual Budget Act and nothing prevents the districts from using these general purpose funds from satisfying the

---

[354] *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

[355] Exhibit A, "Test Claim Filing and Attachments for 02-TC-25," Exhibit 1, Declaration of Vicky Fong, Associate Vice President of Instruction, Los Rios Community College District. Exhibit B, "Test Claim Filing and Attachments for 02-TC-31," Exhibit 1, Declaration of Piedad F. Robertson, President of Santa Monica Community College District.

costs of the state-mandated new programs or higher levels of service found in this test claim analysis.[356] [357]

Each annual Budget Act provides for state aid to community college districts from the state General Fund in line item 6870-101-0001. This line item includes Schedule (1) "Apportionments" (general purpose funds) and categorical funding that must be spent for a variety of specific purposes and programs that are outside of the scope of the state-mandated new programs or higher levels of service found in this analysis. The general purpose funds are unrestricted and can be used for any purpose, unless otherwise provided by law.[358] One of the limitations for the state aid provided by line item 6870-101-0001, including general purpose funds, is provided in Education Code section 84362, which is better known as the "Fifty Percent Law." The Fifty Percent Law, which was not pled in this test claim, requires community college districts to spend at least 50 percent of their current expense of education on salaries and benefits of faculty and instructional aids engaged in direct classroom instruction.

As described above, community college districts are not required to use general purpose funds to fund the costs of the state-mandated new programs or higher levels of service found in this analysis, nor is there evidence that the general purpose funds were specifically intended to fund the costs. Moreover, the full amount of the general purpose funds is not available to fund the costs imposed by the state-mandated new programs or higher levels of service found in this test claim, because the general purpose funds are restricted by state law not pled in this test claim. As a result, staff finds that the new programs or higher levels of service imposed by the test claim statutes and regulations addressing "faculty participation in district and college governance," "transfer centers," "vocational education," "standards of scholarship," "curriculum," "degrees and certificates," and "open courses,"[359] impose costs mandated by the state the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556.

---

[356] Exhibit C, Chancellor's Office Comments on 02-TC-31, dated March 11, 2004, p. 2. Exhibit D, Chancellor's Office Comments on 02-TC-25, dated March 16, 2004, p. 11. Exhibit J, Department of Finance Comments on 02-TC-25, dated November 6, 2007, p. 3.

[357] In the Budget Acts of 2001 and 2002 (Stats. 2001, ch. 106 (SB 739); and Stats. 2002, ch. 379 (AB 425)) for the 2001-2002 and 2002-2003 fiscal years about $1.7 billion was scheduled for general purpose funding (See line item 6870-101-0001, schedule 1). In the Budget Act of 2003 (Stats. 2003, ch. 157 (AB 1765)) this amount was decreased to about $1.4 billion. In the Budget Act of 2004 (Stats. 2004, ch. 208 (SB 1113)) the amount was increased to about $1.9 billion. In the Budget Act of 2005 (Stats. 2005, ch. 38 (SB 77)) the amount was increased again to about $2.4 billion.

[358] California Code of Regulations, title 5, section 58140 (Register 95, No. 23). See also, Education Code sections 84001 and 85230 recognizing the policy of local responsibility for governance including the "grant of substantial fiscal autonomy to community college districts."

[359] Specifically, portions of the following test claim regulations regarding "faculty participation in district and college governance" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 53203 and 53207. Portions of the following test claim statutes regarding "transfer centers" constitute a state-mandated new program or higher level of service: Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742. Portions of the following test claim statutes regarding "vocational education" constitute a state-mandated new program or higher level of service: Education Code sections 78015 and 78016. Portions of the following test claim regulations regarding "standards of scholarship" constitute a state-mandated new program or higher level of service: California

III. Conclusion

For the reasons discussed above, staff finds that the following activities constitute a reimbursable state-mandated new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. Staff notes that some of the activities found to be reimbursable are broad and could be interpreted as including a wide range of activities in order to be implemented. However, these broad activities do not include activities that have been specifically denied in this analysis. Where necessary, the scope of the approved activities will be limited in the parameters and guidelines.

Faculty Participation in District and College Governance (Ed. Code, § 70902, subds. (b)(7) and (b)(14), and Cal. Code Regs., tit. 5, §§ 53203 and 53207)

1. Establish procedures to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, and to ensure that these opinions are given every reasonable consideration, and to ensure the right of the academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

   The procedures established shall be consistent with the minimum standards set forth in California Code of Regulations, title 5, sections 53200-53207 (for faculty), 51023.5 (for staff), and 51023.7 (for students). (Ed. Code, § 70902, subds. (b)(7) (Stats. 1988, ch. 973).)

2. Participate in the consultation process established by the Board of Governors for the development and review of policy proposals pursuant to Education Code section 70901, subdivision (e). (Ed. Code, § 70902, subd. (b)(14) (Stats. 1988. Ch. 973).)

3. Adopt policies for appropriate delegation of authority and responsibility to its college or district academic senate.

   Policies must provide, at a minimum, that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. (Cal. Code Regs., tit. 5, § 53203, subd. (a) (Register 94, No. 38).)

4. Consult collegially with representatives of the academic senate when adopting the policies for appropriate delegation of authority and responsibility to its college or district academic senate pursuant to California Code of Regulations, title 5, section 53202, subd. (a). (Cal. Code Regs., tit. 5, § 53203, subd. (b) (Register 94, No. 38).)

5. Adopt procedures for responding to recommendations of the academic senate that incorporate the following:

Code of Regulations, title 5, sections 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765. Portions of the following test claim regulations regarding "curriculum" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 55001, 55002, 55005, 55006, 55130, 55150, 55200, 55201, and 55202. Portions of the following test claim regulations regarding "degrees and certificates" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 55800, 55805, and 55806. Finally, portions of the test claim regulations regarding "open courses" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 58102 and 58104.

a. In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendation not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(1) (Register 94, No. 38).)

b. In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(2) (Register 94, No. 38).)

6. Grant faculty members elected to serve as president and vice president of the Academic Senate of the California Community Colleges release or reassigned time from their terms of office. This activity is subject to offsetting revenue from reimbursement of release or reassigned time and administrative costs for hiring faculty to replace the faculty serving as president or vice president pursuant to title 5 section 53207, subdivision (b) (Register 2003, No. 18). (Cal. Code Regs., tit. 5, § 53207, subd. (a) (Register 2003, No. 18).)

7. Identify release or reassigned time prior to September of each year for employees elected to serve as president and vice president of the Academic Senate of the California Community Colleges for reimbursement at the part-time replacement cost. (Cal. Code Regs., tit. 5, § 53207, subd. (c) (Register 2003, No. 18).)

8. If the release or reassigned time need identified by the district is 100 percent and the position is in a hard to replace discipline area, certify this to the Chancellor by August 1 for reimbursement at the full-time temporary replacement cost of the employee released. (Cal. Code Regs., tit. 5, § 53207, subd. (c) (Register 2003, No. 18).)

Transfer Centers (Ed. Code, §§ 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742)

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum (Ed. Code § 66721.5, subd. (a)(1) (Stats. 2000, ch. 187).)

2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution (Ed. Code § 66721.5, subd. (b) (Stats. 2000, ch. 187).)

3. Including the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs (Ed. Code § 66721.5, subd. (c) and (d) (Stats. 2000, ch. 187).)

4. Recognize student matriculation from community colleges through the University and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731 (Stats. 1991, ch. 1188).)

5. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732 (Stats. 1991, ch. 1188).)
6. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732(Stats. 1991, ch. 1188).)
7. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students. All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736 (Stats. 1991, ch. 1188).)
8. Be accountable for the development and implementation of formal system wide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a) (Stats. 1991, ch. 1188).)
9. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c) (Stats. 1991, ch. 1188).)
10. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph (Stats. 1991, ch. 1188).)
11. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph (Stats. 1991, ch. 1188).)
12. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission. Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742 (Stats. 1991, ch. 1188).)

Vocational Education (Ed. Code, §§ 78015 and 78016)

1. Conduct a job market study of the labor market area, as defined by Education Code section 52301.5, in which it proposes to establish the program prior to establishing the program.[360]

   The labor market study must use the State-Local Cooperative Labor Market Information Program established by Unemployment Insurance Code section 10533, or if this program is not available for the labor market area, the study must use other sources of labor market information.

   The study must include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction. (Ed. Code, § 78015, subd. (a)(1) (Stats. 1998, ch. 365).)

2. Make copies of each job market study available to the public. (Ed. Code, § 78015, subd. (a)(2) (Stats. 1998, ch. 365).)

3. Determine whether or not the job market study justifies the proposed vocational education program. (Ed. Code, § 78015, subd. (b) (Stats. 1998, ch. 365).)

4. Determine by resolution whether the program will be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Education Code section 8092, if the district determines that the job market study justifies the initiation of the proposed program. (Ed. Code, § 78015, subd. (c) (Stats. 1998, ch. 365).)

5. Review every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, every two years to ensure that each program: (1) meets a documented labor market demand; (2) does not represent unnecessary duplication of other manpower training programs in the area; and (3) is of demonstrated effectiveness as measured by the employment and completion success of its students.

   These three requirements are to be demonstrated by the California Occupational Information System, including State-Local Cooperative Labor Market Information Program established in Unemployment Insurance Code section 10533, or if this program is not available in the labor market area, other available sources of labor market information. (Ed. Code, § 78016, subd. (a) (Stats. 1998, ch. 365).)

6. Terminate any program that does not meet the requirements of Education Code section 78016, subdivision (a), and the standards promulgated by the governing board within one year. (Ed. Code, § 78016, subd. (b) (Stats. 1998, ch. 365).)

7. Include the review and comments by the local Private Industry Council, established pursuant to Unemployment Insurance Code section 15000 et seq., in the review process of every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, the review and comments by the Private

[360] Education Code section 52301.5 defines "Labor Market Area" as "a county or aggregation of counties designated by the Employment Development Department (EDD) that has one or more central core cities and that meets criteria of population, population density, commute patterns, and social and economic integration specified by the EDD.

Industry Council shall occur prior to any decision by the district governing board. (Ed. Code, § 78016, subd. (c) (Stats. 1998, ch. 365).)

8. Make a written summary of the findings of each review available to the public. (Ed. Code, § 78016, subd. (e) (Stats. 1998, ch. 365).)

Standards of Scholarship (Ed. Code, § 70902, subd. (b)(3), and Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765)

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[361] (Ed. Code, § 70902, subd. (b)(3), and Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
3. File a copy of the community college district's regulations regarding standards of scholarship, and any amendments of the regulations, with the Chancellor. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
4. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (a) (Register 2007, No. 35).)
5. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (c) (Register 2007, No. 35).)
6. Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a) (Register 2002, No. 8); for current requirement see Cal. Code Regs., tit. 5, § 55050, subd. (a) (Register 2007, No. 35).)
7. Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal. Code Regs., tit. 5, § 55754, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55031, subd. (a) (Register 2007, No. 35).)
8. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a) (Register 91,

[361] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (a) (Register 2007, No. 35).)

9. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (c) (Register 2007, No. 35).)

10. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (a) (Register 2007, No. 35).)

11. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (c) (Register 2007, No. 35).)

12. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23) ending August 16, 2007.)

13. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (d) (Register 2007, No. 35).)

14. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) (Register 2007, No. 35).)

15. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) and (e) (Register 2007, No. 35).)

16. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (g) (Register 2007, No. 35).)

17. Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55030, subd. (a) (Register 2007, No. 35).)

18. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (a) (Register 2007, No. 35).)

19. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (d) (Register 2007, No. 35).)

20. Make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter which it will take effect, but no later than the start of the fall semester or quarter. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

21. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

22. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

23. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

24. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (a) (Register 2007, No. 35).)

25. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (d) (Register 2007, No. 35).)

26. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b); and 55761 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55040, subd. (a), and 55042, subd. (a) (Register 2007, No. 35).)

27. Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55046, subd. (a) (Register 2007, No. 35).)

Curriculum (Ed. Code, § 70902, subd. (b)(2)(A), and Cal. Code Regs., tit. 5, §§ 55001, 55002, 55005, 55006, 55130, 55150, 55200, 55201, and 55202)

1. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:
    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38) ending April 14, 2006.)
    b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38) ending April 14, 2006.)
    c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38) ending April 14, 2006.)
    d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38) ending April 14, 2006.)
2. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)
3. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)
4. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)
5. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:
    a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the

academic record symbols and associated grade points to be used by community colleges.

The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

b. Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

6. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

   a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

   b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

   c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

7. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

   For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

   For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42); and Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)

8. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)

9. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23).)

10. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)

11. Establish policies for and approve educational programs (Ed. Code, § 70902, subd. (b)(2)(A) (Stats. 1988, ch. 973).)

12. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate degree credit course as required by California Code of Regulations, title 5, section 55002, subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

    a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(1) (Register 2007, No. 35).)

    b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs.,

tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) (Register 2007, No. 35).)

c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(3) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(3) (Register 2007, No. 35).)

d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) and (m)(1)-(5) (Register 2007, No. 35).)

13. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

This data gathering requirement does not apply when:

a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the

Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (e) (Register 2007, No. 35).)

14. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (n) (Register 2007, No. 35).)
15. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (f) (Register 2007, No. 35).)
16. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (h) (Register 2007, No. 35).)
17. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (i) (Register 2007, No. 35).)
18. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)
19. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)
20. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (l) (Register 2007, No. 35).)

Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55805, and 55806)

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)

2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)

3. File a copy of the policy regarding degrees and certificates, and any amendments, with the Chancellor. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)

4. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)

5. Consider the policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)

6. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55061, subd. (b), and 55062 (Register 2007, No. 35).)

7. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (c) (Register 2007, No. 35).)

8. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

   The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

   The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

   The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (a) and (b) (Register 2007, No. 35).)

9. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and

Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(2) (Register 2007, No. 35).)

10. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(A) (Register 2007, No. 35).)
11. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(B) (Register 2007, No. 35).)
12. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(C) (Register 2007, No. 35).)
13. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(1) (Register 2007, No. 35).)
14. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(2) (Register 2007, No. 35).)

Open Courses (Cal. Code Regs., tit. 5, §§ 58102, 58104, and 58106)

1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, schedule of classes, and addenda. (Cal. Code Regs., tit. 5, §§ 58102 and 58104 (Register 93, No. 25).)
2. Handle challenges to enrollment limitations made by students pursuant to title 5, section 58106, subdivision (c), in a timely manner. (Cal. Code Regs., tit. 5, § 58106 (Register 93, No. 42).)
3. Waive the enrollment limitation with respect to a student that challenged an enrollment limitation, if the challenge is upheld. (Cal. Code Regs., tit. 5, § 58106 (Register 93, No. 42).)
4. Advise a student that he or she may file a formal complaint of unlawful discrimination pursuant to title 5, section 59300 et seq., upon completion of handling a challenge to an enrollment limitation made by a student alleging that an enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 58106, subd. (c)(1) (Register 93, No. 42)). (Cal. Code Regs., tit. 5, § 58106 (Register 93, No. 42).)

In addition, staff finds that all other test claim statutes, regulations, and alleged executive orders do not constitute a reimbursable state-mandated program because they either do not require any activities on community college districts, are voluntary or are downstream of a voluntary activity, or are not new as compared to the legal requirements in effect immediately prior to their enactment.

IV. Recommendation

Staff recommends that the Commission adopt this analysis to partially approve this test claim.

ITEM 3

TEST CLAIM

FINAL STAFF ANALYSIS

Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7

Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169

California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410

Register 71, number 27; Register 76, number 10; Register 77, number 45; Register 78, number 51; Register 81, number 52; Register 82, number 31; Register 83, number 18; Register 83, number 29; Register 83, number 53; Register 84, number 26; Register 85, number 20; Register 88, number 20; Register 88, number 42; Register 90, number 37; Register 90, number 49; Register 91, number 23; Register 91, number 45; Register 91, number 46; Register 92, number 4; Register 92, number 7; Register 92, number 15; Register 92, number 17; Register 92, number 34; Register 93, number 25; Register 93, number 42; Register 94, number 18; Register 94, number 38; Register 98, number 7; Register 98, number 14; Register 2000, number 26; Register 2000, number 50; Register 2001, number 43; Register 2002, number 8; Register 2002, number 26; and Register 2003, number 18.

Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); "Program and Course Approval Handbook" Chancellor's Office California Community Colleges (September 2001)

Minimum Conditions for State Aid

02-TC-25 and 02-TC-31

Los Rios Community College District
Santa Monica Community College District, and
West Kern Community College District, Co-Claimant

TABLE OF CONTENTS

Exhibit A

Test Claim Filing and Attachments for 02-TC-25 submitted June 5, 2003.....6

Exhibit B

Test Claim Filing and Attachments for 02-TC-31 submitted June 13, 2003.....70

Exhibit C

California Community Colleges, Chancellor's Office (Chancellor's Office)
Comments on Test Claim 02-TC-31, dated March 11, 2004.....1493

Exhibit D

Chancellor's Office Comments on Test claim 02-TC-25, dated March 16, 2004.....1569

Exhibit E

Claimant Response to Chancellor's Office Comments on Test Claim 02-TC-25,
dated April 19, 2004 1595

Exhibit F

Claimant Response to Chancellor's Office Comments on Test Claim 02-TC-31,
dated May 5, 2004.....1802

Exhibit G

Claimant Additional Response to Chancellor's Office Comments on Test Claim,
02-TC-31, dated September 21, 2004.....2000

Exhibit H

Claimant Submission of Additional Information for Test Claim 02-TC-25,
dated October 22, 2007 2005

Exhibit I

Chancellor's Office Submission of Additional Information for Test Claim 02-TC-25,
dated November 2, 2007.....2127

Exhibit J

Department of Finance Comments on Test Claim 02-TC-25,
dated November 9, 2007 2133

Exhibit K

Commission Notice of Consolidation and Hearing Date, dated January 9, 2008.....2141

Exhibit L

Claimant Submission of Additional Information for Test Claim 02-TC-31,
March 14, 2008 2147

Exhibit M

Commission Notice of Severance and Consolidation, dated April 2, 2008.....2923

Exhibit N

Commission Request for Comments from the Chancellor's Office,
dated April 21, 2008 2928

Exhibit O

Commission Request for Comments from the Department of Finance,
dated April 23, 2008 2956

Exhibit P

Department of Finance Response to Request for Comments,
dated May 6, 2008.....2962

Exhibit Q

Commission Request for Comments from the Chancellor's Office,
dated June 23, 2008.....2972

Exhibit R

Chancellor's Office Response to Request for Comments,
dated July 7, 2008 2975

Exhibit S

Notice of Severance from Minimum Conditions for State Aid
(02-TC-25 and 02-TC-31) Test Claim and Consolidation with Discrimination
Complaint Procedures (02-TC-46) Test Claim, dated June 22, 2010.....3063

Exhibit T

Commission staff issues Notice of Severance and Consolidation of statutes
from consolidated test claim Minimum Conditions for State Aid
(02-TC-25 and 02-TC-31) to Community College Construction (02-TC-47),
dated January 19, 2011 3070

Exhibit U

Draft Staff Analysis 3078

Exhibit V

Claimants' Response to Draft Staff Analysis, dated April 21, 2011 3239

Exhibit W

Commission staff issues Notice of Severance and Consolidation of Education Code section 70901, subdivision (b)(1), as applicable to facility plans, from Minimum Conditions for State Aid (02-TC-25 and 02-TC-31) to Community College Construction (02-TC-47), dated May 6, 2011 3268

Exhibit X

Supporting Documentation 3270

Cases:

- *American Buildings Co. v. Bay Commercial Construction, Inc.* (2002) 99 Cal. App. 4th 1193
- *Barnhart v. Cabrillo Community College* (1999) 76 Cal.App.4th 818
- *Cal. Drive-In Restaurant Assn. v. Clark* (1943) 22 Cal.2d 287
- *Campbell v. Zolin* (1995) 33 Cal.App.4th 489
- *Dawson v. East Side Union High School Dist.* (1994) 28 Cal.App.4th 998
- *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.* (2002) 100 Cal.App.4th 1066
- *DuBois v. Workers' Comp. Appeals Bd.*, *supra*, 5 Cal. 4th 382
- *Estate of Griswold*, (2001) 25 Cal.4th 904
- *Fontana Unified School Dist. v. Burman* (1988) 45 Cal.3d 208
- *Gonzales v. Oregon* (2006) 546 U.S. 243
- *Gurfinkel v. Los Angeles Community College Dist.* (1981) 121 Cal.App.3d 1
- *Heller v. Doe by Doe* (1993) 509 U.S. 312
- *In re Dapper* (1969) 71 Cal.2d 184
- *Reed v. Reed* (1971) 404 U.S. 71
- *Riebe v. Budget Financial Corp.* (1968) 264 Cal.App.2d 576
- *U.S. v Larionoff* (1977) 431 U.S. 864

State Statutes:

- Former Education Code sections 22500-22705, as added by Statutes 1960, chapter 49

- Former Education Code section 72233, as added by Statutes 1976, chapter 1010
- Former Political Code section 1681, as added by Statutes 1907, chapter 69
- Former Political Code section 1720, as added by Statutes 1917, chapter 304
- Former Political Code section 1750b, as added by Statutes 1917, chapter 304

Other:

- American Heritage Dictionary (new college ed. 1979), defining "condition," p. 277
- American Heritage Dictionary (new college ed. 1979), defining "regulation," p. 1096
- American Heritage Dictionary (new college ed. 1979), defining "standard," p. 1256-1257
- Assembly Concurrent Resolution No. 88, Statutes 1959 (1959-1960 Reg. Sess.) resolution chapter 200, pp. 5769-5770
- "Curriculum Standards Handbook" issued in 1995
- Office of Administrative Law, *Nomenclature Cross Reference*, effective April 1, 1990
- Senate Rules Committee, Office of Senate Floor Analysis, Third Reading Analysis of Assembly Bill 1918 (1999-2000 Reg. Sess.) as amended April 24, 2000
- Webster's 2d New College Dictionary. (1999), defining "procedure," p.881

Exhibit A

SixTen and Associates
Mandate Reimbursement Services

KEITH B. PETERSEN, MPA, JD, President
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

June 3, 2003

RECEIVED
JUN 05 2003
COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: TEST CLAIM OF Los Rios Community College District
Statutes of 2000 / Chapter 187
Notice to Students

Dear Ms. Higashi:

Enclosed are the original and seven copies of the Los Rios Community College District test claim for the above referenced mandate.

I have been appointed by the District as its representative for the test claim. The District requests that all correspondence originating from your office and documents subject to service by other parties be directed to me, with copies to:

Jon Sharpe
Vice Chancellor, Finance and Administration
Los Rios Community College District
1919 Spanos Court
Sacramento, California 95825

The Commission regulations provide for an informal conference of the interested parties

within thirty days. If this meeting is deemed necessary, I request that it be conducted in conjunction with a regularly scheduled Commission hearing.

Sincerely,

Keith B. Petersen

C: Jon Sharpe, Vice Chancellor, Finance & Administration
Los Rios Community College District

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only

RECEIVED
JUN 05 2003
COMMISSION ON STATE MANDATES

TEST CLAIM FORM

Claim No. 02-TC-25

Local Agency or School District Submitting Claim

LOS RIOS COMMUNITY COLLEGE DISTRICT

Contact Person	Telephone Number
Keith B. Petersen, President SixTen and Associates	Voice: 858-514-8605 Fax: 858-514-8645

Claimant Address

Los Rios Community College District
1919 Spanos Court
Sacramento, California 95825

Representative Organization to be Notified

Dr. Carol Berg, Consultant, Education Mandated Cost Network c/o School Services of California 1121 L Street, Suite 1060 Sacramento, CA 95814	Voice: 916-446-7517 Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable.

NOTICE TO STUDENTS

Chapter 187, Statutes of 2000 — Education Code Section 66281.5
Chapter 914, Statutes of 1998 — Education Code Section 66721.5

Title 5,California Code of Regulations

Section 51006	Section 55202	Section 55752	Section 55760	Section 55800
Section 54262	Section 55530	Section 55753	Section 55761	Section 58102
Section 54805	Section 55534	Section 55758	Section 55762	Section 58104
Section 55005	Section 55750	Section 55759	Section 55764	Section 59404
			Section 55765	Section 59410

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative	Telephone No.
Jon Sharpe Vice Chancellor, Finance & Administration	(916) 568-3069

Signature of Authorized Representative	Date
X	5/9/03

Claim Prepared By:
Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117
Voice: (858) 514-8605

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

Test Claim of:	No. CSM 02-TC-25
Los Rios Community College District	Chapter 187, Statutes of 2000 Chapter 914, Statutes of 1998
	Education Code Section 66281.5, 66721.5
Test Claimant	Title 5, Code of Regulations Section 51006, 54626, 54805, 55005, 55202 55530, 55534, 55750, 55752, 55753, 55758, 55759, 55760, 55761, 55762, 55764, 55765, 55800, 58102, 58104 59404, 59410
	Notice to Students
	TEST CLAIM FILING

PART 1. AUTHORITY FOR THE CLAIM

The Commission on State Mandates has the authority pursuant to Government Code section 17551(a) to "...hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." Los Rios Community College District is a "school district" as defined in

Government Code section 17519.[1]

PART II. LEGISLATIVE HISTORY OF THE CLAIM

This test claim alleges mandated costs reimbursable by the state for community college districts to prepare, publish, and implement various policies, procedures and notices to students.

SECTION 1. LEGISLATIVE HISTORY PRIOR JANUARY 1, 1975

Prior to January 1, 1975, there were no statutes, codes or regulations which required the specific notices to students set forth in this test claim.

SECTION 2. LEGISLATIVE HISTORY AFTER JANUARY 1, 1975

Chapter 914, Statutes of 1998, Section 49, added Education Code Section 66281.5[2]. Subdivision (b) requires community colleges to have and implement a written

---

[1] Government Code Section 17519, as added by Chapter 1459/84:

"School District" means any school district, community college district, or county superintendent of schools."

[2] Education Code Section 66281.5, added by Chapter 914, Statutes of 1998, Section 49:

"(a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each postsecondary educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The postsecondary educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and

policy on sexual harassment which shall be included in its regular policy statement. Subdivision (c) requires the written policy to include information on where to obtain the rules and procedures for reporting sexual harassment charges and the available remedies. Subdivision (d), requires the written policy to be displayed in a prominent location in the main administrative building or other area of the campus. Subdivision (e) requires the written policy to be provided to new students as a part of any orientation program at the beginning of each quarter, semester or summer session. Subdivision (f) requires a copy of the written policy to be provided annually to each faculty member, all members of the administrative staff, all members of the support staff, and any newly hired employee. Subdivision (g), requires the written policy to be in any publication that

---

procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the postsecondary educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the postsecondary educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the postsecondary educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the postsecondary educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution."

sets forth the rules, regulations, procedures, and standards of conduct for the institution.

Chapter 187, Statutes of 2000, Section 3, added Education Code Section 66721.5[3]. Subdivision (a) requires the governing board of each community college district to provide each student with a copy of the current transfer core curriculum.

---

[3]Education Code Section 66721.5, added by Chapter 187, Statutes of 2000, Section 3:

"(a) (1) The governing board of each community college district shall direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum.

(2) As used in this section, "transfer core curriculum" means the lower-division, general education transfer curriculum that, pursuant to Section 66720, is fully articulated between the California Community Colleges and the California State University and University of California.

(b) A copy of the current transfer core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution.

(c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule for each academic term. Copies of the transfer core curriculum may also be made available in other locations on each campus, including, but not necessarily limited to, all of the following:

(1) The admissions office.
(2) The bookstore.
(3) The career counseling center.
(4) The veteran's affairs office.

(d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:

(1) During the registration process.
(2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.
(3) During the issuance of student identification cards.
(4) During student orientation programs.

(e) Nothing in this section shall be construed to limit the distribution of the transfer core curriculum to community college students."

Subdivision (b) requires the distribution of a current copy of the transfer core curriculum to every newly admitted and attending community college student enrolled in a degree or certification program. Subdivision (c) requires the text of the current transfer core curriculum be included in the published class schedule each term, and made available at various locations around campus. Subdivision (d), allows alternative distribution methods either during the registration process, by mail, while issuing student identification cards, or during student orientation programs.

SECTION 3. TITLE 5 CALIFORNIA CODE OF REGULATIONS[4]:

Section 51006 (added in 1983 and last amended in 1994), subdivision (a), requires community college districts to adopt a policy which provides that every course, course section or class, wherever offered and maintained, shall be fully open to enrollment and participation by any person who has been admitted to the college. Subdivision (b) requires the statement of policy to be published in the official catalog, schedule of classes, and addenda to the schedule of classes.

Section 54626 (added in 1976 and last amended in 1983), subdivision (a), requires community college districts to adopt a policy which identifies the categories of directory information which may be released. Subdivision (b) allows directory information to be released provided that annual public notice is given of the categories of information the district plans on releasing and of the recipients. The notice shall also

[4] Copies of all Title 5 California Code of Regulations cited in this section are attached hereto as Exhibit 4 and are incorporated herein by reference.

specify the period of time within which students are given to inform the district, in writing, of those categories of information they wish not to be released.

Section 54805 (added in 1988 and last amended in 1991), requires district governing boards to include in the materials given to each student at registration, information pertaining to the student representation fee, including, a statement indicating that the money collected will be used to provide support for students or representatives who may be stating their positions and view points before city, county and district government, and agencies of the state and federal government, the amount of the fee, and a statement informing students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

Section 55005 (added in 1981 and last amended in 1991) requires community colleges to make college publications available to students which informs them, before they enroll in a course, whether a course is offered as a credit or noncredit course or a community services class; is transferable to four-year colleges and universities; or fulfills a major or general education requirement.

Section 55202 (added in 1993), subdivision (a), requires rules concerning prerequisites, corequisites, and advisories on recommended preparation to be identified in college publications available to students as well as the outlines of any course for which they are established.

Section 55530 (added in 1990 and last amended in 1993), subdivision (b), requires community college districts to ensure that information be made available to

students, during or prior to enrollment, in written form, such as class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under the chapter on curriculum and instruction.

Section 55534 (added in 1990 and last amended in 1994), subdivision (a), requires districts to investigate and attempt to resolve any alleged violations of the subchapter (matriculation programs) in a timely manner. Records of all such complaints are required to be retained for at least three years after resolution. When a challenge contains an allegation that a community college district has used any matriculation practice in a manner which has the purpose or effect of subjecting any person to unlawful discrimination, subdivision (b) requires community college districts, upon completion of the challenge procedure, to advise the student that he or she may file a formal complaint of unlawful discrimination.

Section 55750 (added in 1983 and last amended in 1991) requires community college districts to adopt and implement regulations consistent with this chapter, relating to curriculum and instruction, which shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office.

Section 55752 (added in 1983 and last amended in 1991), subdivision (a), requires the governing board of each district to specify in its catalog the category into which each course falls, either, (1) in a course where all students are evaluated on a "credit - no credit" basis, or (2) courses wherein each student may elect on registration whether the basis for evaluation is to be "credit - no credit", or a letter grade.

Section 55753 (added in 1983 and last amended in 2002), subdivision (a), requires the governing board of community college districts to adopt and publish procedures and regulations, in its catalog, relating to credit by examination in accordance with the provisions of the subchapter, standards of scholarship.

Section 55758 (added in 1983 and last amended in 2000), subdivision (d), requires the governing board of community college districts to publish the point equivalencies for letter grades, including pluses and minuses if necessary, in the catalog. If the governing board decides to use the "FW" equivalencies, it shall also be published in the catalog.

Section 55759 (added in 1983 and last amended in 1991) requires community colleges to make reasonable efforts to notify students who are subject to academic probation or dismissal at or near the beginning of the semester or quarter that is affected, or no later than the start of Fall semester/quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to students on probation. Community colleges are also required to notify a student upon being removed from probation or reinstatement after dismissal. These policies and procedures are required to be published in the college catalog.

Section 55760 (added in 1983 and last amended in 1991), subdivision (b), requires the governing board of a district to adopt and publish procedures and regulations for repeating courses for which substandard work has been recorded in accordance with sections 55761 and 55762.

Section 55761 (added in 1983 and last amended in 1991) requires community colleges to adopt and publish procedures or regulations pertaining to repeating of courses for which substandard work has been recorded.

Section 55762 (added in 1983 and last amended in 1991) , subdivision (c), requires community colleges to indicate any specific courses or categories of courses which are exempt from consideration for repetition after substandard academic performance. Subdivision (d) requires community colleges to indicate any courses repeated on the student's permanent record with an appropriate symbol. Subdivision (e) requires community colleges to publish specific procedures to implement this section. Subdivision (g) requires community colleges to maintain a record of actions taken under course repetition procedures or regulations.

Section 55764 (added in 1983 and last amended in 1991) requires community colleges to adopt and publish procedures or regulations pertaining to alleviating previously recorded substandard academic performance which is not reflective of a student's demonstrated ability.

Section 55765 (added in 1983 and last amended in 1991), subdivision (c), requires that, when adopted procedures permit alleviation of previously recorded substandard academic performance, community college districts shall publish specific procedures to be followed in implementing procedures or regulations adopted, stating; (1) the procedures to be followed by students petitioning for alleviation, and (2) the officers and/or personnel responsible for implementing the procedures or regulations.

Section 55800 (added in 1983 and last amended in 1991) requires community college districts to adopt a policy consistent with the chapter on degrees and certificates which shall be published in the college catalog under appropriate headings.

Section 58102 (added in 1982 and last amended in 1993) requires the description of each course to be clear and understandable to prospective students and be published in the official catalog, and/or schedule of classes, and/or addenda.

Section 58104 (added in 1982 and last amended in 1993) requires all courses offered to be described in the official catalog and/or addenda and listed in the schedule of classes. Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Section 59404 (added in 1985 and last amended in 1994) requires the governing board of a community college, which requires that students provide instructional or other materials for a course, to adopt policies or regulations which specify the conditions under which such materials will be required. These policies and regulations are required to be published in each college catalog.

Section 59410 (added in 1991 and last amended in 1994) provides that the governing board of a community college district may provide, by appropriate rules and regulations, that grades, transcripts, diplomas, and registration privileges shall be withheld from any student who has been provided with written notice and who has failed to pay a proper financial obligation due to the district or to a college.

PART III. STATEMENT OF THE CLAIM

SECTION 1. COSTS MANDATED BY THE STATE

The Statutes, Education Code Sections, and California Code of Regulation sections referenced in this test claim result in school districts incurring costs mandated by the state, as defined in Government Code section 17514[5], by creating new state-mandated duties related to the uniquely governmental function of providing public service and education to students and these statutes apply to school districts and do not apply generally to all residents and entities in the state.[6]

The new duties mandated by the state upon community colleges require state reimbursement of the direct and indirect costs of labor, materials and supplies, data processing services and software, contracted services and consultants, equipment and

---

[5] Government Code section 17514, as added by Chapter 1459/84:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIIIB of the California Constitution.

[6] Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 225 Cal.App.3d 155; 275 Cal.Rptr. 449:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. V. State of California (1987) 190 Cal.App.3d at p.537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

capital assets, staff and student training and travel to implement the following activities:

A) Establishing and implementing policies and procedures, and periodically updating those policies and procedures, for the notification of students pursuant to the following sections of the Education Code and Title 5 Regulation sections.

B) Pursuant to Education Code Section 66281.5, subdivision (b), adopting and implementing a written policy on sexual harassment, and including the policy in its regular policy statement. Pursuant to subdivision (c), including information in the written policy on where to obtain the rules and procedures for reporting sexual harassment charges and the available remedies. Pursuant to subdivision (d), displaying the written policy in a prominent location in the main administrative building or other area of the campus. Pursuant to subdivision (e), providing the written policy to new students as a part of any orientation program. Pursuant to subdivision (f), providing a copy of the written policy annually to each faculty member, administrative staff, all members of support staff, and to any newly hired employee. Pursuant to subdivision (g), publishing the written policy in any publication that sets forth the rules, regulations, procedures, and standards of conduct for the institution.

C) Pursuant to Education Code Section 66721.5, subdivision (a), providing each student with a copy of the current transfer core curriculum. Pursuant to subdivision (b), distributing a copy of current transfer core curriculum to each newly admitted and attending community college student enrolled in a degree or

certification program. Pursuant to subdivision (c), publishing the text of the current transfer core curriculum in the class schedule each term and making it available at, but not limited to the following locations:

(1) The admissions office,

(2) The bookstore,

(3) The career counseling center and,

(4) The veteran's affairs office.

Pursuant to subdivision (d), as an alternative to the methods of distribution set forth in subdivision (c), distributing copies of the current transfer core curriculum by any of the following means:

(1) During the registration process,

(2) By mail with other items sent to the student,

(3) While issuing student identification cards,

(4) During student orientation programs.

D) Pursuant to Title 5, California Code of Regulations, Section 51006, subdivision (a), adopting and implementing a policy which provides that every course, course section or class, reported for state aid, wherever offered and maintained, shall be fully open to enrollment and participation by any person who has been admitted to the college. Pursuant to subdivision (b), publishing the statement of policy adopted by the board pursuant to subdivision (a), in the official catalog, schedule of classes, and addenda to the schedule of classes.

E) Pursuant to Title 5, California Code of Regulations, Section 54626, subdivision (a), adopting and implementing a policy identifying any of the following categories of directory information may which be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

(1) Pursuant to subdivision (b), giving public notice at least annually of the categories of directory information which the district plans to release and of the recipients. Such notice shall also specify the period of time within which the student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student.

(2) Pursuant to subdivision (c), other information may be added to the categories set forth above, provided that release of such information shall be authorized in writing by the student.

F) Pursuant to Title 5, California Code of Regulations, Section 54805, including in the materials given to each student at registration, information pertaining to the student representation fee which shall include the following:

(1) Pursuant to subdivision (a), a statement which indicates that the money collected as a representation fee shall be expended to provide support for

students or representatives who may be stating their positions and viewpoints before city, county, and district government, and agencies of the state and federal government.

(2) Pursuant to subdivision (b), the amount of the fee.

(3) Pursuant to subdivision (c), a statement which informs students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

G) Pursuant to Title 5, California Code of Regulations, Section 55005, making available to students, for each course offered, through college publications all of the following facts before they enroll in the course:

(1) Whether the course is offered as a credit or noncredit course, or a community service class.

(2) Whether the course is transferable to four-year colleges and universities.

(3) Whether the course fulfills a major or general education requirement.

H) Pursuant to Title 5, California Code of Regulations, Section 55202, requiring identification in college publications and course outlines the establishment of prerequisites, corequisites, and advisories.

I) Pursuant to Title 5, California Code of Regulations, Section 55530, subdivision (b), ensuring that information be made available to students, during or prior to enrollment, in written form, such as class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under the

chapter pertaining to curriculum and instruction.

J) Pursuant to Title 5, California Code of Regulations, Section 55534, subdivision (a), investigating and attempting to resolve any alleged violations of the subchapter on curriculum and instruction. Pursuant to subdivision (b), advising students that they may file a formal complaint of unlawful discrimination upon completion of the challenge procedure established by subdivision (a).

K) Pursuant to Title 5, California Code of Regulations, Section 55750, adopting and implementing regulations consistent with the chapter on standards of scholarship and publishing those regulations in the college catalog under appropriate headings.

L) Pursuant to Title 5, California Code of Regulations, Section 55752, subdivision (a), specifying in its college catalog the category into which each course falls, as either,

(1) in a course where all students are evaluated on a "credit - no credit" basis, or

(2) courses wherein each student may elect on registration whether the basis for evaluation is to be "credit - no credit:, or a letter grade.

M) Pursuant to Title 5, California Code of Regulations, Section 55753, subdivision (a), adopting and publishing procedures and regulations, in its catalog, relating to credit by examination in accordance with the provisions of the subchapter, standards of scholarship.

N) Pursuant to Title 5, California Code of Regulations, Section 55758, subdivision (d), publishing the point equivalencies for letter grades, including pluses and minuses if necessary, and if the governing board chooses, "FW" equivalencies, in the catalog.

O) Pursuant to Title 5, California Code of Regulations, Section 55759, notifying students who are subject to academic probation or dismissal at or near the beginning of the semester or quarter that is affected, or no later than the start of Fall semester/quarter and notifying a student upon being removed from probation or reinstatement after dismissal. Publishing these policies and procedures in the college catalog.

P) Pursuant to Title 5, California Code of Regulations, Section 55760, subdivision (b), adopting and publishing procedures and regulations for repeating courses in which substandard work has been performed.

Q) Pursuant to Title 5, California Code of Regulations, Section 55761, adopting and publishing procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded.

R) Pursuant to Title 5, California Code of Regulations, Section 55762, subdivision (c), specifying courses, or categories of courses, which are exempt from consideration for repetition after substandard academic performance. Pursuant to subdivision (d), indicating any courses repeated on the student's permanent record with an appropriate symbol. Pursuant to subdivision (e) publishing specific

procedures to implement this section. Pursuant to subdivision (g), maintaining a record of actions taken under course repetition procedures or regulations.

S) Pursuant to Title 5, California Code of Regulations, Section 55764, adopting and publishing procedures or regulations pertaining to alleviating previously recorded substandard academic performance which is not reflective of a student's demonstrated ability which includes a clear statement of the educational principles upon which they are based.

T) Pursuant to Title 5, California Code of Regulations, Section 55765, subdivision (c), publishing the specific procedures to be followed in implementing procedures or regulations which permit alleviation of previously recorded substandard academic performance, which state: (1) the procedures to be followed by students petitioning for alleviation, and (2) the officers and/or personnel responsible for implementation.

U) Pursuant to Title 5, California Code of Regulations, Section 55800, adopting a policy consistent with the chapter on degrees and certificates and publishing that policy in the college catalog under appropriate headings.

V) Pursuant to Title 5, California Code of Regulations, Section 58102, clearly and understandably describing each course to prospective students which shall be published in the official catalog, and/or schedule of classes, and/or addenda.

W) Pursuant to Title 5, California Code of Regulations, Section 58104, describing all courses in the official catalog and/or addenda and listing them in the schedule of

classes. To reasonably well publicize courses which are established or conducted after the publication of the general catalog or regular schedule of classes.

X) Pursuant to Title 5, California Code of Regulations, Section 59404, subdivision (a), whenever community colleges require students to provide instructional or other materials for a course, adopting policies or regulations which specify the conditions under which such materials will be required and pursuant to subdivision (b), publishing those policies or regulations in each college catalog.

Y) Pursuant to Title 5, California Code of Regulations, Section 59410, providing written notice to any student who has failed to pay a proper financial obligation due to the district or college that grades, transcripts, diplomas and registration privileges shall be withheld.

PART IV. ADDITIONAL CLAIM REQUIREMENTS

The following elements of this claim are provided pursuant to Section 1183, Title 2, California Code of Regulations:

Exhibit 1: The Declaration of Vicky Fong
Los Rios Community College District

Exhibit 2: Statutes cited: Chapter 187, Statutes of 2000
Chapter 914, Statutes of 1998

Exhibit 3: Education Code Sections cited:
Section 66281.5
Section 66721.5

Exhibit 4: Title 5, Code of Regulations cited:

Section 51006
Section 54626
Section 54805
Section 55005
Section 55202
Section 55530
Section 55534
Section 55750
Section 55752
Section 55753
Section 55758
Section 55759
Section 55760
Section 55761
Section 55762
Section 55764
Section 55765
Section 55800
Section 58102
Section 58104
Section 59404
Section 59410

/

/

/

/

/

/

/

/

/

/

PART V. CERTIFICATION

I certify by my signature below, under penalty of perjury, that the statements made in this document are true and complete of my own knowledge or information and belief.

Executed on May 9, 2003, at Sacramento, California by:

Jon Sharpe
Vice Chancellor, Finance and Administration

Voice: (916) 568-3058
Fax: (916) 568-3078

PART VI. APPOINTMENT OF REPRESENTATIVE

Los Rios School District appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.

Jon Sharpe
Vice Chancellor, Finance and Administration

5/9/03
Date

Exhibit 1
Declaration of Vicky Fong

DECLARATION OF VICKY FONG

Los Rios Community College District

Test Claim Los Rios Community College District

COSM_____

Statutes:

Chapter 187, Statutes of 2000
Chapter 914, Statutes of 1998

Code Sections:

Education Code Section 66281.5
Education Code Section 66721.5

Title 5, Code of Regulations

Section 51006
Section 54626
Section 54805
Section 55005
Section 55202
Section 55530
Section 55534
Section 55750
Section 55752
Section 55753
Section 55758
Section 55759
Section 55760
Section 55761
Section 55762
Section 55764
Section 55765
Section 55800
Section 58102
Section 58104
Section 59404
Section 59410

Notice to Students

I, Vicky Fong, Associate Vice President of Instruction, Los Rios Community College District, make the following declaration and statement:

In my capacity as Associate Vice President of Instruction, I am responsible for implementing the requirements of notices to students, including the required publication of notices. I am familiar with the requirements of the Statutes, Education Code Sections, and Title 5, Code of Regulations Sections listed above.

These Education Code sections require the district to implement the following activities:

A) Establishing and implementing policies and procedures, and periodically updating those policies and procedures, for the notification of students pursuant to the following sections of the Education Code and Title 5 Regulation sections.

B) Pursuant to Education Code Section 66281.5, subdivision (b), adopting and implementing a written policy on sexual harassment, and including the policy in its regular policy statement. Pursuant to subdivision (c), including information in the written policy on where to obtain the rules and procedures for reporting sexual harassment charges and the available remedies. Pursuant to subdivision (d), displaying the written policy in a prominent location in the main administrative building or other area of the campus. Pursuant to subdivision (e), providing the written policy to new students as a part of any orientation program. Pursuant to subdivision (f), providing a copy of the written policy annually to each faculty member, administrative staff, all members of support staff, and to any newly hired employee. Pursuant to subdivision (g), publishing the written policy in any publication that sets forth the rules, regulations, procedures, and standards of conduct for the institution.

C) Pursuant to Education Code Section 66721.5, subdivision (a), providing each student with a copy of the current transfer core curriculum. Pursuant to subdivision (b), distributing a copy of current transfer core curriculum to each newly admitted and attending community college student enrolled in a degree or certification program. Pursuant to subdivision (c), publishing the text of the current transfer core curriculum in the class schedule each term and making it available at, but not limited to the following locations:

(1) The admissions office,

(2) The bookstore,

(3) The career counseling center and,

(4) The veteran's affairs office.

Pursuant to subdivision (d), as an alternative to the methods of distribution set forth in subdivision (c), distributing copies of the current transfer core curriculum by any of the following means:

(1) During the registration process,

(2) By mail with other items sent to the student,

(3) While issuing student identification cards,

(4) During student orientation programs.

D) Pursuant to Title 5, California Code of Regulations, Section 51006, subdivision (a), adopting and implementing a policy which provides that every course, course section or class, reported for state aid, wherever offered and maintained, shall be fully open to enrollment and participation by any person who has been admitted to the college. Pursuant to subdivision (b), publishing the statement of policy adopted by the board pursuant to subdivision (a), in the official catalog, schedule of classes, and addenda to the schedule of classes.

E) Pursuant to Title 5, California Code of Regulations, Section 54626, subdivision (a), adopting and implementing a policy identifying any of the following categories of directory information which may be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule,

participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

(1) Pursuant to subdivision (b), giving public notice at least annually of the categories of directory information which the district plans to release and of the recipients. Such notice shall also specify the period of time within which the student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student.

(2) Pursuant to subdivision (c), other information may be added to the categories set forth above, provided that release of such information shall be authorized in writing by the student.

F) Pursuant to Title 5, California Code of Regulations, Section 54805, including in the materials given to each student at registration, information pertaining to the student representation fee which shall include the following:

(1) Pursuant to subdivision (a), a statement which indicates that the money collected as a representation fee shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and agencies of the state and federal government.

(2) Pursuant to subdivision (b), the amount of the fee.

(3) Pursuant to subdivision (c), a statement which informs students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

G) Pursuant to Title 5, California Code of Regulations, Section 55005, making available to students, for each course offered, through college publications all of the following facts before they enroll in the course:

(1) Whether the course is offered as a credit or noncredit course, or a community service class.

(2) Whether the course is transferable to four-year colleges and universities.

(3) Whether the course fulfills a major or general education requirement.

H) Pursuant to Title 5, California Code of Regulations, Section 55202, requiring identification in college publications and course outlines the establishment of prerequisites, corequisites, and advisories.

I) Pursuant to Title 5, California Code of Regulations, Section 55530, subdivision (b), ensuring that information be made available to students, during or prior to enrollment, in written form, such as class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under the chapter pertaining to curriculum and instruction.

J) Pursuant to Title 5, California Code of Regulations, Section 55534, subdivision (a), investigating and attempting to resolve any alleged violations of the subchapter on curriculum and instruction. Pursuant to subdivision (b), advising

students that they may file a formal complaint of unlawful discrimination upon completion of the challenge procedure established by subdivision (a).

K) Pursuant to Title 5, California Code of Regulations, Section 55750, adopting and implementing regulations consistent with the chapter on standards of scholarship and publishing those regulations in the college catalog under appropriate headings.

L) Pursuant to Title 5, California Code of Regulations, Section 55752, subdivision (a), specifying in its college catalog the category into which each course falls, as either,

(1) in a course where all students are evaluated on a "credit - no credit" basis, or

(2) courses wherein each student may elect on registration whether the basis for evaluation is to be "credit - no credit:, or a letter grade.

M) Pursuant to Title 5, California Code of Regulations, Section 55753, subdivision (a), adopting and publishing procedures and regulations, in its catalog, relating to credit by examination in accordance with the provisions of the subchapter, standards of scholarship.

N) Pursuant to Title 5, California Code of Regulations, Section 55758, subdivision (d), publishing the point equivalencies for letter grades, including pluses and minuses if necessary, and if the governing board chooses, "FW" equivalencies, in the catalog.

O) Pursuant to Title 5, California Code of Regulations, Section 55759, notifying students who are subject to academic probation or dismissal at or near the beginning of the semester or quarter that is affected, or no later than the start of Fall semester/quarter and notifying a student upon being removed from probation or reinstatement after dismissal. Publishing these policies and procedures in the college catalog.

P) Pursuant to Title 5, California Code of Regulations, Section 55760, subdivision (b), adopting and publishing procedures and regulations for repeating courses in which substandard work has been performed.

Q) Pursuant to Title 5, California Code of Regulations, Section 55761, adopting and publishing procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded.

R) Pursuant to Title 5, California Code of Regulations, Section 55762, subdivision (c), specifying courses, or categories of courses, which are exempt from consideration for repetition after substandard academic performance. Pursuant to subdivision (d), indicating any courses repeated on the student's permanent record with an appropriate symbol. Pursuant to subdivision (e) publishing specific procedures to implement this section. Pursuant to subdivision (g), maintaining a record of actions taken under course repetition procedures or regulations.

S) Pursuant to Title 5, California Code of Regulations, Section 55764, adopting and publishing procedures or regulations pertaining to alleviating previously recorded

substandard academic performance which is not reflective of a student's demonstrated ability which includes a clear statement of the educational principles upon which they are based.

T) Pursuant to Title 5, California Code of Regulations, Section 55765, subdivision (c), publishing the specific procedures to be followed in implementing procedures or regulations which permit alleviation of previously recorded substandard academic performance, which state: (1) the procedures to be followed by students petitioning for alleviation, and (2) the officers and/or personnel responsible for implementation.

U) Pursuant to Title 5, California Code of Regulations, Section 55800, adopting a policy consistent with the chapter on degrees and certificates and publishing that policy in the college catalog under appropriate headings.

V) Pursuant to Title 5, California Code of Regulations, Section 58102, clearly and understandably describing each course to prospective students which shall be published in the official catalog, and/or schedule of classes, and/or addenda.

W) Pursuant to Title 5, California Code of Regulations, Section 58104, describing all courses in the official catalog and/or addenda and listing them in the schedule of classes. To reasonably well publicize courses which are established or conducted after the publication of the general catalog or regular schedule of classes.

X) Pursuant to Title 5, California Code of Regulations, Section 59404, subdivision

(a), whenever community colleges require students to provide instructional or other materials for a course, adopting policies or regulations which specify the conditions under which such materials will be required and pursuant to subdivision (b), publishing those policies or regulations in each college catalog.

Y) Pursuant to Title 5, California Code of Regulations, Section 59410, providing written notice to any student who has failed to pay a proper financial obligation due to the district or college that grades, transcripts, diplomas and registration privileges shall be withheld:

It is estimated that the District incurred more than $1,000 for the fiscal year of 2001-2002 to implement these new duties mandated by the state for the purpose of implementing this mandate, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

EXECUTED this 30th day of May, 2003 in the City of Sacramento, California.

Vicky J. Fong

Vicky Fong
Associate Vice President of Instruction

Exhibit 2
Copies of Statutes Cited

POSTSECONDARY EDUCATION—COMMUNITY COLLEGE STUDENTS —ACCESS TO TRANSFER INFORMATION

CHAPTER 187

A.B. No. 1918

AN ACT to add Section 66721.5 to the Education Code, relating to public postsecondary education.

[Filed with Secretary of State July 24, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1918, Romero. Public postsecondary education: Access to Transfer Information for Community College Students Act.

(1) Existing law establishes the various segments of the higher education system in the state. These segments include the University of California, which is administered by the Regents of the University of California, the California State University, which is administered

by the Trustees of the California State University, the California Community Colleges, which are administered by the Board of Governors of the California Community Colleges, and various private institutions of higher learning.

This bill would enact the Access to Transfer Information for Community College Students Act. The bill would impose a state-mandated local program by requiring the governing board of each community college district to direct the appropriate officials at their respective campuses to provide students with copies of the transfer core curriculum, as defined to mean the lower-division, general education transfer curriculum that is fully articulated between the California Community Colleges and the California State University and the University of California. The bill would require that a copy of the current transfer core curriculum be distributed to each newly admitted community college student, as prescribed, and that the text of the current transfer core curriculum be included in the published class schedule. The bill would authorize copies of the curriculum to be available at prescribed locations on community college campuses.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited as, the "Access to Transfer Information for Community College Students Act."

SEC. 2. The Legislature finds and declares all of the following:

(a) Student matriculation, from community colleges through the University of California and the California State University, is recognized by the Governor, Legislature, and the governing boards of each of the segments of California's system of public postsecondary education as a central institutional priority of all segments of higher education.

(b) The Board of Governors of the California Community Colleges, with the cooperation of the Regents of the University of California and Trustees of the California State University, should ensure that all students are clearly and fully informed as to which community college courses and units are transferable.

(c) Knowledge of transfer agreements will improve a community college student's opportunity to transfer.

(d) The Master Plan for Higher Education establishes transfers as a priority. The California Community Colleges and the University of California established the goal of a 33 percent increase in transfers between the 1995–96 and the 2004–05 academic years.

(e) According to recent reports by the California Postsecondary Education Commission, the transfer rate to the University of California system has decreased every year since 1995. Given the decreased transfer rates, there is no possibility of achieving the goal of 33 percent.

SEC. 3. Section 66721.5 is added to the Education Code, to read:

66721.5. (a)(1) The governing board of each community college district shall direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum.

(2) As used in this section, "transfer core curriculum" means the lower-division, general education transfer curriculum that, pursuant to Section 66720, is fully articulated between the California Community Colleges and the California State University and University of California.

(b) A copy of the current transfer core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution.

(c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule for each academic term. Copies of the transfer core curriculum may also be made available in other locations on each campus, including, but not necessarily limited to, all of the following:

(1) The admissions office.

(2) The bookstore.

(3) The career counseling center.

(4) The veteran's affairs office.

(d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:

(1) During the registration process.

(2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.

(3) During the issuance of student identification cards.

(4) During student orientation programs.

(e) Nothing in this section shall be construed to limit the distribution of the transfer core curriculum to community college students.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SCHOOLS AND SCHOOL DISTRICTS—DISCRIMINATION—RELATED PROVISIONS

CHAPTER 914

A.B. No. 499

AN ACT to amend Sections 200, 211, 212, 212.5, 213, 214, 220, 223, 224, 250, 251, 253, 262.3, and 72012 of, to amend the headings of Chapter 2 (commencing with Section 200) of, and Article 3 (commencing with Section 220) of, Chapter 2 of Part 1 of, to amend and renumber Sections 40, 41, 45, 210, 212.6, 222, 226, 227, 228, 232, 262, 262.1, 262.2, 263, 33032.5, 44806, 52905, 52906, 52907, 52908, 58508, and 72015 of, to amend and renumber the headings of Article 4 (commencing with Section 240) of, Article 5 (commencing with Section 250) of, and Article 6 (commencing with Section 260) of, Chapter 2 of Part 1 of, to add Sections 210, 262.4, and 264 to, to add the headings of Article 4 (commencing with Section 221.5) of, Article 5 (commencing with Section 233) of, Article 6 (commencing with Section 235) of, and Article 11 (commencing with Section 280) of, Chapter 2 of Part 1 of, and to add Chapter 4.5 (commencing with Section 66250) to Part 40 of, and to repeal the headings of Article 4 (commencing with Section 40) of, and Article 4.5 (commencing with Section 45) of, Chapter 1 of Part 1 of, and Article 8 (commencing with Section 52905) of Chapter 12 of Part 28 of, the Education Code, relating to education.

[Approved by Governor September 28, 1998.]

[Filed with Secretary of State September 28, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 499, Kuehl. Education: diversity in education: Sex Equity in Education Act.

Under existing law, numerous provisions of the Education Code relate to the prohibition of discrimination in the provision of educational services by elementary, secondary, and postsecondary institutions.

Under existing law, the governing board of a school district has primary responsibility for ensuring that school district programs and activities are free from discrimination based on

282. The human relations course developed pursuant to this article shall encompass the following goals:

(a) Fostering cooperation and promoting positive interaction among pupils of different racial and ethnic groups.

(b) Developing an understanding of ethnic diversity within California, throughout the nation, and in the world.

(c) Understanding the dangers of stereotyping and discrimination that have existed throughout history and recognizing the protections offered to all by a democratic society.

(d) Appreciating the contributions of minority groups to the development of the United States.

SEC. 47. Section 52908 of the Education Code is amended and renumbered to read:

283. The human relations course developed pursuant to this article shall be designed and be ready for implementation by the 1990–91 school year.

SEC. 48. Section 58508 of the Education Code is amended and renumbered to read:

235. There shall be no racial, sex, or ethnic discrimination in any aspect of the operation of alternative schools, charter schools, or the Demonstration Scholarship Program.

SEC. 49. Chapter 4.5 (commencing with Section 66250) is added to Part 40 of the Education Code, to read:

CHAPTER 4.5. SEX EQUITY IN EDUCATION ACT

Article 1. Title and Declaration of Purpose

66250. This chapter shall be known, and may be cited, as the Sex Equity in Education Act.

66251. It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

66252. (a) All students have the right to participate fully in the educational process, free from discrimination and harassment.

(b) California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

(c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.

(d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.

(e) There is an urgent need to teach and inform students in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase students' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in postsecondary educational institutions and in society as a means of responding to potential harassment and hate violence.

(f) It is the intent of the Legislature that each postsecondary educational institution undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of students to equal educational opportunity.

(g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), the federal

Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

Article 2. Definitions

66260. The definitions in this article shall govern the use of the terms defined for purposes of this chapter.

66261. "Governing board" means the governing board of a community college.

66261.5. "Postsecondary educational institution" means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University.

66262. "Sex" has the same meaning as defined in Section 212.

66262.5. "Sexual harassment" has the same meaning as defined in Section 212.5.

66263. "State financial assistance" has the same meaning as defined in Section 213.

66264. "State student financial aid" has the same meaning as defined in Section 214.

Article 3. Prohibition of Discrimination

66270. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

66271. This chapter shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

66271.1. The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, and the Regents of the University of California may, adopt regulations as required by law to implement this chapter.

Article 4. Sex Equity in Education

66271.5. The provisions of this article are supplemental to any provision in the Constitution or laws of the United States or laws of the State of California, relating to discrimination.

66273. This article shall not apply to the membership practices of a social fraternity or social sorority, exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose active membership consists primarily of students in attendance at a postsecondary educational institution.

66281.5. (a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each postsecondary educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The postsecondary educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the postsecondary educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the postsecondary educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the postsecondary educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the postsecondary educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

Article 5. Compliance and Enforcement

66290. Prior to receipt of any state financial assistance or state student financial aid, a postsecondary educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the postsecondary educational institution will be conducted in compliance with this chapter and all other applicable provisions of state law prohibiting discrimination on the basis of sex. A single assurance, not more than one page in length and signed by an appropriate responsible official of the postsecondary educational institution, may be provided for all the programs and activities conducted by a postsecondary educational institution.

66291. (a) A community college district shall submit timely, complete, and accurate compliance reports to the chancellor's office, as that entity may require.

(b) All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours.

66292.3. (a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a community college district or the president of a campus of the California State University, pursuant to this article, to the Board of Governors of the California Community Colleges or the Chancellor of the California State University, as applicable.

(b) Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders, may also be available to complainants. The educational institution shall make this information available by publication in appropriate informational materials.

(c) Nothing in this chapter shall be construed to require an exhaustion of the appeal to the Board of Governors of the California Community Colleges or to the Chancellor of the California State University pursuant to subdivision (a), before civil law remedies may be purchased.

(d) Notwithstanding any other provision of law, a person who alleges that he or she is a victim of discrimination may not seek civil remedies pursuant to this section until at least 90 days have elapsed from the filing of a discrimination complaint with the local educational agency. The 90-day moratorium imposed by this subdivision does not apply to injunctive relief and is applicable only if the local educational agency has appropriately, and in a timely manner, apprised the complainant of his or her right to file a complaint.

66292.4. This chapter may be enforced through a civil action.

SEC. 50. Section 72012 of the Education Code is amended to read:

72012. Every community college shall comply with * * * Sections 221.5, 221.7, and 66016, relating to sex discrimination.

SEC. 51. Section 72015 of the Education Code is amended and renumbered to read:

66271.7. (a) It is the policy of the state that community college classes and courses, including nonacademic and elective classes and courses, shall be conducted without regard to the sex of the student enrolled in these classes and courses.

(b) No community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student.

(c) No community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

(f) The Legislature finds and declares that female students are not accorded opportunities for participation in community college athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in community college athletics be provided equally to male and female students and on an equitable basis to all students.

(g) Insofar as practicable, in apportioning public funds, community college district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs. Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of the governing board of a community college district, or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and opportunities for participation shall include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(h) It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports. Nothing in this section shall be construed to require a community college to require competition between male and female students in school-sponsored athletic programs.

Exhibit 3
Education Code Sections

§ 66281.5. State policy; institution's written policy

(a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each postsecondary educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The postsecondary educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the postsecondary educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the postsecondary educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the postsecondary educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the postsecondary educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66721.5. Current transfer core curriculum; copies provided to students; availability

(a)(1) The governing board of each community college district shall direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum.

(2) As used in this section, "transfer core curriculum" means the lower-division, general education transfer curriculum that, pursuant to Section 66720, is fully articulated between the California Community Colleges and the California State University and University of California.

(b) A copy of the current transfer core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution.

(c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule for each academic term. Copies of the transfer core curriculum may also be made available in other locations on each campus, including, but not necessarily limited to, all of the following:

(1) The admissions office.

(2) The bookstore.

(3) The career counseling center.

(4) The veteran's affairs office.

(d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:

(1) During the registration process.

(2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.

(3) During the issuance of student identification cards.

(4) During student orientation programs.

(e) Nothing in this section shall be construed to limit the distribution of the transfer core curriculum to community college students.

(Added by Stats.2000, c. 187 (A.B.1918), § 3.)

Exhibit 4
Title 5, Code of Regulations Cited

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Equal Employment Opportunity.

The governing board of a community college district shall:

(a) adopt a district policy which describes its equal employment opportunity program and meets the requirements of section 53002;

(b) develop and adopt a district equal employment opportunity plan which meets the requirements of section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by section 53004;

(d) ensure that a program of recruitment is carried out as required by section 53021;

(e) ensure that screening and selection procedures are developed and used in accordance with section 53024;

(f) ensure that, where necessary, additional steps are taken consiste with the requirements of section 53006;

(g) ensure that the pattern of hiring and retention, when viewed over time, is consistent with the objectives established in the district's equal employment opportunity plan; and

(h) substantially comply with the other provisions of subchapter 1 (commencing with section 53000) of chapter 4.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; ar Sections 11135–111139.5, Government Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).
5. New subsection (f), subsection relettering and amendment of newly desigr subsection (g) and NOTE filed 5–31–96; operative 6–30–96. Submitted to O for printing only (Register 96, No. 23).
6. Amendment of section heading, section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning formation of a new college or educational center shall obtain approval such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

public or private school attended by the student, and any other information authorized in writing by the student.

(e) "Financial Aid" means a payment of funds provided to an individual or a payment in kind of tangible or intangible property to the individual which is conditioned on the individual's attendance at a community college.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76210, Education Code; 20 USC 1232(g); and 45 CFR 99.3.

HISTORY

1. Amendment filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment of subsection (c) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. New subsection (c)(7) filed 8–4–78; effective thirtieth day thereafter (Register 78, No. 31).
4. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54608. Retention and Destruction of Student Records.

The retention and destruction of student records, where not otherwise specifically provided for in this Subchapter, shall be in accordance with regulations adopted by the Board for the retention and destruction of records generally. Such regulations, adopted pursuant to Education Code Sections 70901 and 76220 appear in Division 6, Chapter 10, Subchapter 0.5 (commencing with Section 59020).

NOTE: Authority cited: Sections 70901, 76220 and 76246, Education Code. Reference: Section 72603, Education Code; 20 USC 1232(g); and 45 CFR 99.3.

HISTORY

1. New section filed 10–8–76; effective thirtieth day thereafter (Register 76, No. 41).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 54610. Student Access.

Community college districts shall provide access to student records pursuant to Education Code Section 76230, provided that if any material or document in the student record includes information on more than one student, the rights provided in Section 76230 shall only extend to such information as pertains to the student.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Sections 76230, Education Code; and 20 USC 1232(g).

HISTORY

1. Amendment filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer of Article 2 heading and Section 54610 and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54612. Waiver.

A student may waive his or her right to access to student records as provided in Education Code Section 76231. Such waivers shall be in writing and signed by the student.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76231, Education Code; 20 USC 1232(g); and 45 CFR 99.6.

HISTORY

1. Amendment filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 8–4–78; effective thirtieth day thereafter (Register 78, No. 31).
3. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54614. Confidential Maintenance of Records.

HISTORY

1. Repealer of Article 3 heading and Section 54614 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54616. Consent.

A community college district may, when the student has provided consent, permit access to the student's records pursuant to Education Code Section 76242. Such consent must be signed and dated by the student.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Sections 76230 and 76242, Education Code; 20 USC 1232(g); and 45 CFR 99.30–99.40.

HISTORY

1. Amendment filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54618. Mandatory Access.

HISTORY

1. Repealer filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).

§ 54620. Court Orders.

HISTORY

1. Amendment filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54622. Access.

HISTORY

1. Repealer and new section filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 8–4–78; effective thirtieth day thereafter (Register 78, No. 31).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54624. Access to Statistical Data.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54626. Directory Information.

(a) Community college districts shall adopt a policy identifying any of the following categories of directory information which may be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

(b) Directory information, as established by the local governing board, may be released as to any student or former student currently attending the community college, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. Such notice shall also specify the period of time within which the student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student. No directory information shall be released regarding any student or former student when the student or former student has notified the school in writing pursuant to procedures established by the district that such information shall not be released.

(c) Other information may be added to the categories set forth in subsection (a) of this section, provided that release of such information shall be authorized in writing by the student.

(d) Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students. The names and addresses of students may be provided to a private school or college operating under the provisions of Division 10 of the Education Code, or its authorized representative, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Sections 76240 and 76242, Education Code; 20 USC 1232(g); and 45 CFR 99.40.

HISTORY

1. Amendment filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment of subsection (d) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of subsections (b) and (d) filed 8–4–78; effective thirtieth day thereafter (Register 78, No. 31).

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54803. Termination of Fee.

(a) Any student representation fee that has been instituted pursuant to the procedures enumerated in section 54801 may be terminated by a majority of the students voting in an election called in one of the following two manners:

(1) By placing the issue on the ballot for the next regular associated student body election. The issue shall be placed on the ballot upon receipt of a petition indicating an interest in the termination of the representation fee signed by a majority of the number of students who voted in the election establishing the fee.

(2) Pursuant to procedures pre–established by the student body association for calling such an election. Such procedures shall be available for public inspection during regular business hours.

(b) The elections shall be conducted in accordance with the procedures established pursuant to section 54801.

NOTE: Authority cited: Section 66700, 70901 and 76060.5, Education Code. Reference: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54805. Collection of the Fee.

District governing boards shall include in the materials given to each student at registration, information pertaining to the representation fee. The form used by a college for the purpose of collecting the fee shall contain, at a minimum, the following:

(a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;

(b) the amount of the fee;

(c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

NOTE: Authority cited: Sections 66700, 70901 and 76060.5, Education Code. References: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54912. Residence Questionnaires.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Chapter 6. Curriculum and Instruction

Subchapter 1. Programs, Courses and Classes

Article 1. Program, Course and Class Classification and Standards

§ 55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer of chapter 1 (subchapters 1–3, sections 55000–55144, not consecutive) and new chapter 1 (articles 1–2, sections 55000–55180, not consecutive) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55000.5. Handbook; Monitoring and Review of Approved Courses and Programs.

(a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) liberal arts and sciences education:

(A) baccalaureate oriented/transfer programs and courses

(B) associate degree programs and courses

(C) developmental programs and courses

1. compensatory programs and courses
2. adult elementary and secondary basic skills programs and courses

(D) community education programs and courses

1. personal development and survival courses
2. parenting and family support courses
3. community and civic development courses
4. general and cultural courses

(2) occupational education:

(A) vocational/technical transfer programs and courses

(B) vocational/technical associate degree and certificate programs and courses

dards of attendance and achievement that the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in ...cation Code Section 84711 and must be approved by the Chancellor's ...ice as noted in Title 5, Section 55150.

(2) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class that meets the following minimum requirements:

(1) is approved by the local district governing board;

(2) is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein;

(3) provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students;

(4) is conducted in accordance with a predetermined strategy or plan;

(5) is open to all members of the community; and

(6) may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5–18–84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
6. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
7. Editorial correction of HISTORY 4 (Register 95, No. 20).

§5002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four–year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit–no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in second paragraph (Register 91, No. 43).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Editorial correction of HISTORY 1 (Register 95, No. 20).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

(1) it was established prior to July 6, 1990, and is part of a sequence of degree–applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of this regulation, in accordance with regulations in effect during this period of time; or

(3) it is required by statute or regulation; or

(4) it is part of a closely–related lecture–laboratory course pairing within a discipline; or

(5) it is required by four–year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 55002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then, despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or corequisite have been met. The requirements of this subdivision related to collection of data shall not apply when:

(1) four–year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

(2) the prerequisite or corequisite is required for enrollment in a program, that program is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

(A) colleges in at least six different districts have previously satisfied the data collection requirements of this subdivision with respect to the same prerequisite or corequisite for the same program; and

(B) the district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall be resolved in a timely manner and, if the challenge is upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

NOTE: Authority cited: Section 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
2. Amendment of subsection (e), new subsections (e)(1)–(e)(2)(B) and amendment of NOTE filed 2–9–98; operative 3–11–98. Submitted to OAL for printing only (Register 98, No. 7).

§ 55202. Additional Rules.

The following additional rules apply to the establishment of prerequisites and corequisites:

(a) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established.

(b) Prerequisites establishing communication or computational skill requirements may not be established across the entire curriculum unless established on a course–by–course basis.

(c) The determination of whether a student meets a prerequisite shall be based on successful completion of an appropriate course or on an assessment using multiple measures. Any assessment instrument used shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

(d) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district shall ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course.

(e) Whenever a corequisite course is established, sufficient sections shall be offered to reasonably accommodate all students who are required to take the corequisite. A Corequisite shall be waived as to any student for whom space in the corequisite course is not available.

(f) No exit test may be required to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring the prerequisite, provided, however, that enrollment may be permitted pending verification that the student has met the prerequisite or corequisite. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or to the student code of conduct.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Article 3. Distance Education

§ 55205. Definition and Application.

Distance education means instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology. All distance education is subject to the general requirements of this chapter as well as the specific requirements of this article. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the Americans with Disabili-

tended Opportunity Programs and Services (EOPS) and Disabled Students Programs and Services (DSPS) are authorized, consistent with the provisions of chapter 1 (commencing with section 56000) and chapter 2.5 ...mmencing with section 56200) of division 7 of this part, to provide ...cialized matriculation services and modified or alternative matriculation services to their respective student populations. Notwithstanding this authorization, participation in the EOPS and DSPS programs is voluntary and no student may be denied necessary accommodations in the assessment process because he or she chooses not to use specialized matriculation services provided by these programs. Modified or alternative matriculation services for limited or non–English–speaking students may be provided in English as a Second Language programs.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55523. Counseling and Advisement.

(a) If not already required to do so by the minimum standards for counseling services set forth in section 51018 of division 1 of this Part, each community college district shall do all of the following:

(1) make reasonable efforts to ensure that all nonexempt students who ... on probation participate in counseling as provided in section 55759 of this Part;

(2) make reasonable efforts to ensure that all nonexempt students who have not declared a specific educational goal participate in counseling to assist them in the process of selecting a specified educational goal pursuant to section 55525;

(3) make reasonable efforts to ensure that all nonexempt students who are enrolled in pre–collegiate basic skills courses participate in counseling or advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational ...lan as required by section 55525.

...OTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by Section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by Section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to Subsection (b) shall be recorded in written or electronic form. The plan and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this Section, the student may file a complaint pursuant to Section 55534 (a).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).
2. Amendment of subsections (a), (c) and (d) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55526. Student Follow–up.

Each community college district shall establish a student follow–up process to assist the student in achieving his/her educational goal. The follow–up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre–collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this Subchapter shall be construed to interfere with the right of a student admitted to a community college in accord with district admission policies adopted pursuant to Education Code Section 76000, et seq. to enroll in any course for which he or she can meet necessary and appropriate prerequisites, if any, which have been established pursuant to the requirements of Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division.

(b) Community college districts shall take steps to ensure that information is available in written form to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under this Chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Section 55521(a)(6), the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation

§ 55728. Flexible Calendar Attendance Reporting.

(a) On forms provided by the Chancellor, districts with approved flexible calendar operations shall report at least the following:

(1) the total hours of classroom assignments (teaching time) which instructors specified in the district's approved plan were required to teach;

(2) of the total in Subsection (a)(1), the total faculty contact hours of instruction for which staff, student, and instructional improvement activities are being substituted. This total of faculty contact hours shall further be reported in terms of credit and noncredit faculty contact hours of instruction; and

(3) the number of faculty contact hours of instruction for which instruction during the designated days is being substituted. Such instruction during the designated days meeting the attendance accounting standards may be claimed for apportionment; and the faculty contact hours shall not be eligible for adjustment pursuant to Section 55729.

(b) Districts with approved flexible calendar operations shall also report such additional data as deemed necessary by the Chancellor including any data necessary to compute the FTES adjustment specified in Section 55729.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. New section filed 11–10–82; effective thirtieth day thereafter (Register 82, No. 46).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
3. Amendment of subsections (a)(1), (a)(3), (b) and NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Amendment of subsections (a)(2)–(b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55729. Full–time Equivalent Student (FTES) Units; Adjustments to Reflect Activities; Computation by Multiplier Factor.

(a) The Chancellor's Office shall adjust the actual units of full–time equivalent student of a district operating under a plan approved in accordance with Sections 55720–32 to reflect the conduct of staff, student, and instructional improvement activities in lieu of scheduled instruction during flexible time. The adjusted units of full–time equivalent student shall be computed by multiplying the actual units of full–time equivalent student in the academic year, exclusive of any intersessions, computed pursuant to Section 58003.1, by a factor which does not change the full–time equivalent student which would have otherwise been generated if the time for the improvement activities had not been permitted and scheduled instruction had instead taken place.

(b) For courses other than those described in Subsection (b) of Section 58003.1, the multiplier factor shall equal the sum of the following:

(1) 1.0; and

(2) the total of all the actual hours of flexible time of all instructors pursuant to Section 55720 in the fiscal year, divided by the total of all the actual hours of classroom instruction of all instructors in the academic year, exclusive of any intersessions.

(c) For those courses described in Subsection (b) of Section 58003.1, this multiplier factor shall equal the maximum term length multiplier set forth in that Subsection.

(d) The Chancellor shall also withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
2. Amendment of section heading and text filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55730. Ongoing Responsibilities of Districts.

A district conducting an approved flexible calendar shall do all of the following to ensure effective use of resources during flex days:

(a) conduct and annually update a survey of the most critical staff, student, and instructional improvement needs in the district;

(b) develop and carry out a plan of activities to address the critical needs;

(c) maintain records on the description, type and number of activities scheduled and the number of district employees and students participating in these activities;

(d) evaluate annually the effectiveness of conducted activities and update the plan to reflect needed changes;

(e) appoint and hold regular meetings of an advisory committee composed of faculty, students, administrators and other interested persons to make recommendations on staff, student, and instructional improvement activities; and

(f) provide, upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of section 55729 of this Part;

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond; and

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) failed to conduct its flexible calendar operation in a manner consistent with its approved request;

(2) failed to carry out the responsibilities specified in section 55726; or

(3) failed to meet its ongoing responsibilities as specified in section 55730.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
2. Amendment filed 5–15–93; operative 6–14–93 (Register 93, No. 25).

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board of each community college district shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this Subchapter.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The nature and content of the examination shall be determined solely by faculty in the discipline that normally teaches the course for which credit is to be granted in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002. The faculty shall determine that the examination adequately measures mastery of the course content as set forth in the outline of record. The faculty may accept an examination conducted at a location other than the community college for this purpose.

(d) A separate examination shall be conducted for each course for which credit is to be granted. Credit may be awarded for prior experience or prior learning only in terms of individually identified courses for which examinations are conducted pursuant to this section.

(e) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(f) Grading shall be according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit–no credit option if that option is ordinarily available for the course.

(g) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.5. Articulation of High School Courses.

(a) For purposes of this section, the term "articulated high school course" means a high school course or courses that the faculty in the appropriate discipline, using policies and procedures approved by the curriculum committee established pursuant to Section 55002, have determined to be comparable to a specific community college course.

(b) The governing board of a community college district may adopt policies to permit articulated high school courses to be applied to community college requirements in accordance with this Section. Articulated high school courses may be accepted in lieu of comparable community college courses to partially satisfy:

(1) requirements for a certificate program, including the total number of units required for the certificate; or,

(2) the major requirements in a degree program.

(c) Articulated high school courses used to partially satisfy certificate or major requirements shall be clearly noted as such on the student's academic record. Notations of community college course credit shall be made only if community college courses are successfully completed or if credit is earned via credit by examination.

(d) Except through credit by examination, as defined in Section 55753, high school courses may not be used to satisfy:

(1) the requirement of Section 55806 that students complete at least 60 semester or 90 quarter units in order to receive an associate degree; or,

(2) any general education requirement for the associate degree established by the district.

(e) All community college district–high school articulation agreements shall be subject to the provisions of this Section. However, any student who, prior to the date this Section takes effect, has successfully completed a high school course articulated under the terms of a previo agreement shall be permitted to apply the credit so earned according the terms of the previous agreement.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

HISTORY

1. New section filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.7. Advanced Placement Examinations.

The governing board of a community college district may adopt policies to grant credit for satisfactory completion of advanced placement examinations typically recognized by colleges and universities as measuring competencies comparable to those achieved in baccalaureate level courses.

The faculty in the appropriate discipline must approve advanced placement examinations, scores deemed to constitute satisfactory performance, courses offered by the college for which credit will be granted, and requirements that may be met by such examinations in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002.

The student's academic record shall be clearly annotated to reflect t credit was earned through an advanced placement examination.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols, except as provided in subsections (b) and (c):

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board of a community college district may use "plus" and "minus" designations in combination with letter grades, except that the grade of C minus shall not be used. If pluses and minuses are used, the grade point value of a plus shall be computed by adding 0.3 to the value assigned to the letter grade with which it is combined, and the grade point value of a minus shall be computed by subtracting 0.3 from the value assigned to the letter grade with which it is combined, except that no grade point value shall be less than 0 or greater than 4.0.

(c) Regardless of whether the governing board elects to use plus and minus grading, it may provide for the use of the "FW" grade symbol to indicate that a student has both ceased participating in a course some time after the last day to officially withdraw from the course without having achieved a final passing grade, and that the student has not received district authorization to withdraw from the course under extenuating circumstances. The "FW" symbol may not be used if a student has qualified for and been granted military withdrawal. If "FW" is used, its grade point value shall be zero (0).

(d) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) or subsections (a) and (b) (if pluses and minuses are used) in the catalog or catalogs of that community college district as a part of its grading practices. In the event the governing board chooses to use the "FW" described in subsection (c), it shall be included in the grading scale and point equivalencies published in the catalog.

(e) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in this Section other than a "W."

Symbol	*Definition*
	The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in Sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.
MW	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military Withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s. In no case would a military withdrawal result in a student being assigned an "FW" grade.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of subsection (c) filed 5–20–91 and submitted to OAL on 5–24–91 for printing only pursuant to Education Code section 10901.5; operative 6–19–91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).
6. Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE filed 1–12–98; operative 2–11–98. Submitted to OAL for printing only (Register 98, No. 3).
7. Amendment of subsection (a), new subsection (c), subsection relettering, and amendment of newly designated subsections (d) and (e) filed 12–8–2000; operative 1–7–2001. Submitted to OAL for printing only (Register 2000, No. 50).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(e) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(f) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(g) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Repealer of subsection (d), subsection relettering, and amendment of NOTE filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded.

(b) Except as provided in Subsection (c), repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition. Grades awarded for courses repeated under the provisions of this subsection shall not be counted in calculating a student's grade point average.

(c) If a district permits repetition of courses where substandard work has not been recorded, repetition shall be permitted, without petition, in instances when such repetition is necessary for a student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment. Such courses must conform to all attendance accounting, course approval, and other requirements imposed by applicable provisions of law. Such courses may be repeated for credit any number of times, regardless of whether or not substandard work was previously recorded, and the grade received each time shall be included for purposes of calculating the student's grade point average. The governing board of a district may establish policies and procedures requiring students to certify or document that course repetition is necessary to complete legally mandated training pursuant to this subsection.

(d) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment of section and NOTE filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of

[The next page is 360.4(c).]

grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

58056. Immediate Supervision and Control.

(a) Subdivision (a)(1) of section 58051 requires, as a condition for claiming attendance for apportionment purposes, the immediate supervision and control of an academic employee authorized to render service in a capacity and during the period in which he or she served. Immediate supervision and control requires the presence of the authorized employee. More specifically, immediate supervision or presence is characterized by all of the following:

(1) The authorized employee is able, in terms of physical proximity and range of communication, to provide immediate instructional supervision and control; and

(2) The authorized employee is in a position to provide the supervision and control necessary for the protection of the health and safety of students; and

(3) The authorized employee is not to have any other assigned duty during the instructional activity for which attendance is being claimed. The criteria specified above are to be applied in recognition of the fact that the need for immediate supervision will vary according to the course being offered, as well as with the design or mode of instruction of such course or program.

(b) Under the following limited circumstances, attendance of students enrolled in a course or program which does not meet the requirements of subdivision (a) shall qualify for apportionment purposes if:

(1) The course or program is approved and being conducted as distance education in accordance with article 3 (commencing with section 55205) of subchapter 1 of chapter 6; or

(2) The course or program is approved and being conducted as independent study in accordance with subchapter 4 (commencing with section 55300) of chapter 6; or

(3) The course or program is approved and being conducted as work experience education in accordance with subchapter 3 (commencing with section 55250) of chapter 6 of this part; or

(4) The course or program is approved and is being conducted as health sciences education in accordance with section 58055(a).

(c) Attendance generated solely under an instructional assistant or aide does not qualify for apportionment. In addition, instructional aides shall not be used to increase the number of students in relation to the number of classroom instructors in the district. However, attendance may qualify for apportionment under the following limited circumstances:

(1) The assistant or aide functions under the exclusive direction of the authorized employee assigned to that educational activity, and not independently; and

(2) The assistant or aide performs only those duties specifically authorized by law, including, but not limited to, sections 88240–88249 of the Education Code; and,

(3) The authorized employee is able, in terms of physical proximity and range of communication, to provide necessary supervision and control of students, so that by working in conjunction with the assistant or aide, the requirements of subsection (a) of this section are met.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58058. Employee of the District.

(a) A person is an "employee of the district" within the meaning of subdivision (a)(1) of Section 58051 if:

(1) The district has the primary right to control and direct the person's activities during the time such person is serving the district; and

(2) A contract exists between the person and the district, indicia of which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87801), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 87801, Education Code.

HISTORY

1. Amendment of subsections (a) and (a)(3) and NOTE filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58060. Valid Employment Qualifications.

For the purposes of Sections 58051 and 58056, the employee is deemed authorized to perform the services because he or she is employed pursuant to a valid, unrevoked credential issued by the Board of Governors or pursuant to minimum qualifications adopted by the Board of Governors or equivalencies pursuant to Section 53430.

(a) If the person serves pursuant to a credential,

(1) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(2) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

(b) If the person serves pursuant to minimum qualifications adopted by the Board of Governors or equivalencies, the qualifications or equivalencies must be related to the assignment and effective during the period of instruction for which attendance is being claimed.

(c) For purposes of this section, an employee is deemed authorized to perform the services if he or she is employed as a faculty intern.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 84500 and 87487, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
2. Editorial correction of subsection (b) (Register 95, No. 47).

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Section 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58106. Limitations on Enrollment.

In order to be claimed for purposes of state apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, provided that enrollment in specific courses or programs may be limited as follows:

(a) Enrollment may be limited to students meeting prerequisites and corequisites established pursuant to Sections 55200–55202 of this Division,

(b) Enrollment may be limited due to health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning or legal requirements imposed by statutes, regulations, or contracts. The governing board shall adopt policies identifying any such limitations and requiring fair and equitable procedures for determining who may enroll in affected courses or programs. Such procedures shall be consistent with one or more of the following approaches:

(1) limiting enrollment to a "first–come, first–served" basis or using other nonevaluative selection techniques to determine who may enroll; or

(2) limiting enrollment using a registration procedure authorized by Section 58108; or

(3) in the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students judged most qualified; or

(4) limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions; or

(5) with respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Sections 55754–55755 of this Part, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan.

(c) A student may challenge an enrollment limitation established pursuant to Subsection (b) of this Section on any of the following grounds:

(1) the enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(2) the district is not following its policy on enrollment limitations;

(3) the basis upon which the district has established an enrollment limitation does not in fact exist; or

(4) any other criteria established by the district.

(d) The student shall bear the burden of showing that grounds exists for the challenge. Challenges shall be handled in a timely manner, and if the challenge is upheld, the district shall waive the enrollment limitation with respect to that student.

(e) In the case of a challenge under Subsection (c)(1) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer and new section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42). For prior history, see Register 92, No. 15.

§ 58107. Facilities and Opportunities for Participation.

Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off–campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58110. Enrollment Limitations.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

Article 2. 175–Day Rule

§ 58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of section 58142, courses of instruction must be offered for a minimum of three hours during the period of 7 a.m. and 11 p.m.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of section 58142, provided that:

Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no probable cause to believe the district has violated the provisions of this subchapter.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2–7–2001; operative 3–9–2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3–20–2002; operative 4–19–2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59358. Hearing.

If the Chancellor finds the district has violated the provisions of this subchapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to chapter 5 (commencing with section 11500) of part I, division 3, title 2 of the Government Code, to determine whether the violation did occur.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 2–7–2001; operative 3–9–2001. Submitted to OAL for printing only (Register 2001, No. 6).

   Amendment filed 3–20–2002; operative 4–19–2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59360. Enforcement.

(a) Upon a determination that a district has violated the provisions of this subchapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

(1) Withhold all or part of the district's state support;

(2) Make probationary eligibility for future state support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district pursuant to this section shall be made until the Chancellor has determined that compliance cannot be secured by voluntary means.

NOTE: Authority cited: Section 11138, Government Code; and Section 70901, Education Code. Reference: Sections 11135, 11136 and 11138, Government Code.

HISTORY

1. Amendment of subsections (a), (a)(2) and (b) and amendment of NOTE filed 2–7–2001; operative 3–9–2001. Submitted to OAL for printing only (Register 2001, No. 6).
2. Amendment filed 3–20–2002; operative 4–19–2002. Submitted to OAL for printing only (Register 2002, No. 13).

§ 59362. Judicial Review.

A decision by the Chancellor pursuant to section 59360 is subject to judicial review by the district, as provided by section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 11138, Government Code; and Section 71020, Education Code. Reference: Sections 11135 and 11138, Government Code.

HISTORY

1. Amendment of section and NOTE filed 3–20–2002; operative 4–19–2002. Submitted to OAL for printing only (Register 2002, No. 13).

Subchapter 6. Waiver of Part–Time Instructor Limit

NOTE: Authority cited: Sections 71020 and 87613, Education Code. Reference: Section 87613, Education Code.

HISTORY

1. New Chapter 6 (Sections 59380–59388, not consecutive) filed 6–1–82; effective thirtieth day thereafter (Register 82, No. 23).
2. Repealer of Chapter 6 (Sections 59380–59388, not consecutive) filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

Subchapter 7. Instructional and Other Materials

§ 59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this Subchapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. New chapter 7 (sections 59400–59408, not consecutive) filed 5–16–85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 29).

§ 59402. Definitions.

For the purposes of this Subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost and:

(1) the material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) the material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of opening statement, subsections (a) and (c)–(c)(2) and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course

shall adopt policies or regulations, consistent with the provisions of this Subchapter, which specify the conditions under which such materials will be required.

(b) The policies or regulations specified in Subsection (a) shall be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and thereafter published in each college catalog developed after the date of adoption.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of section and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59406. Report to Chancellor.

The governing board of a community college district which prescribes required instructional and other materials for its courses shall respond to periodic surveys or inquiries of the Chancellor on the subject.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59406.5. Reports Re Instructional Materials Used.

Each district board shall make reports, whenever required, directly to the Board of Governors or Chancellor's Office, concerning the instructional materials used in its colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59408. Operative Date and Violations of Subchapter.

(a) The regulations in this Subchapter shall become operative on August 15, 1985, provided that a district governing board which wishes to implement these regulations earlier may do so.

(b) The governing board of a district which prescribes required instructional and other materials in violation of this Subchapter shall be deemed to have established a student fee not expressly established by law.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of section heading, text and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

Subchapter 7.5. Student Financial Obligations

§ 59410. Withholding Grades, Transcripts, etc., for Nonrepayment of Financial Obligations.

The governing board of a community college district may provide by appropriate rules and regulations that grades, transcripts, diplomas and registration privileges, or any combination thereof, shall be withheld from any student or former student who has been provided with written notice that he or she has failed to pay a proper financial obligation due to the district or a college. Any item or items withheld shall be released when the student satisfactorily meets the financial obligation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. New subchapter 7.5 heading filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

Subchapter 8. District Reorganization

§ 59420. Newly Formed District.

A community college district is a newly formed district up to the close of the fiscal year in which its formation became effective for all purposes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New subchapter 8 and section filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 59422. Use of Bond Proceeds.

When the territory of a district is reorganized, any funds derived from the sale of the bonds issued by the former district shall be used for the acquisition, construction, or improvement of college property only in the territory which comprised the former district or to discharge the bonded indebtedness of the former district, except that if the bonded indebtedness is assumed by the new district, the funds may be used in any area of the new district for the purposes for which the bonds were originally voted.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Renumbering and amendment of former section 53530 to section 59422 filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 59424. Territory of District Becoming Part of Two or More Districts; Disposition of Records.

If all the territory of any reorganized district becomes part of two or more districts, and the inclusion in the two or more districts of the several portions of territory comprising the whole of the original district is effective for all purposes on the same date, the records of the original district shall be disposed of as follows:

(a) All records of the original district which are required by law to be kept on file shall be deposited with the governing board of the district which, after the reorganization has become effective for all purposes, has located within its boundaries the former office of the superintendent of the original district.

(b) Records of employees shall be transferred to the district thereafter employing the personnel or thereafter maintaining the last place of employment.

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only

RECEIVED

JUN 13 2003

COMMISSION ON STATE MANDATES

Exhibit B

TEST CLAIM FORM

Claim No. 02-TC-31

Local Agency or School District Submitting Claim

SANTA MONICA COMMUNITY COLLEGE DISTRICT

Contact Person

Keith B. Petersen, President
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, California 92117

Telephone Number

Voice: 858-514-8605
Fax: 858-514-8645

Claimants Addresses

Thomas J. Donner, Executive Vice President, Business/Administration
Santa Monica Community College District
1900 Pico Blvd.
Santa Monica, California 90405-1628

Representative Organization to be Notified

Dr. Carol Berg, Consultant, Education Mandated Cost Network
c/o School Services of California
1121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable.

(1169/02) Minimum Conditions for State Aid
See Attached

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

Thomas J. Donner
Executive Vice President, Business/Administration

Telephone No.

VOICE: (310) 434-4201
FAX: (310) 434-8200

Signature of Authorized Representative

X Thomas J. Donner

Date

June 13, 2003

Attached Exhibit to Form CSM 2
Test Claim of Santa Monica Community College District
Minimum Conditions for State Aid (1169/02)

Chaptered Bills:

Chapter 1169, Statutes of 2002
Chapter 187, Statutes of 2000
Chapter 587, Statutes of 1999
Chapter 1023, Statutes of 1998
Chapter 914, Statutes of 1998
Chapter 365, Statutes of 1998
Chapter 758, Statutes of 1995
Chapter 493, Statutes of 1995
Chapter 1198, Statutes of 1991
Chapter 1188, Statutes of 1991
Chapter 1038, Statutes of 1991
Chapter 1667, Statutes of 1990
Chapter 1372, Statutes of 1990
Chapter 1514, Statutes of 1988
Chapter 973, Statutes of 1988
Chapter 1467, Statutes of 1986
Chapter 1371, Statutes of 1984
Chapter 537, Statutes of 1983
Chapter 143, Statutes of 1983
Chapter 1329, Statutes of 1982
Chapter 1117, Statutes of 1982
Chapter 891, Statutes of 1981
Chapter 470, Statutes of 1981
Chapter 910, Statutes of 1980
Chapter 977, Statutes of 1979
Chapter 797, Statutes of 1979
Chapter 967, Statutes of 1977
Chapter 36, Statutes of 1977
Chapter 1176, Statutes of 1976
Chapter 1010, Statutes of 1976
Chapter 783, Statutes of 1976
Chapter 275, Statutes of 1976
Chapter 802, Statutes of 1975

Education Code Sections:

212
212.5
213
214
221.5
221.7
66010.2
66010.7
66016
66030
66251
66252
66261
66261.5
66262
66262.5
66263
66264
66270
66271.7
66281.5
66290
66291
66292
66292.3
66721
66721.5
66722
66722.5
66731
66732
66736
66737
66738
66740
66741
66742
66743
70901
70901.5
70902
71027
72011
72012
72013
72014
78015
78016
78211.5
78212
78213
78214
78215
78216
81820
81821
81823
87101
87102
87482.6
87482.7

California Code of Regulations:

51000
51002
51004
51006
51008
51010
51012
51014
51016
51018
51020
51021
51022
51023
51023.5
51023.7
51024
51025
51026
51027
51100
51102
53001
53002
53003
53004
53005
53006
53020
53021
53022
53023
53024
53025
53026
53033
53034
53200
53202
53203
53204
53207
53300
53301
53302
53308
53309
53310
53311
53312
53314
54220
55000
55000.5
55001
55002
55002.5
55004
55005
55006
55100
55130
55150
55160
55170
55182
55200
55201
55202
55205
55207
55209
55211
55213
55215
55217
55219
55300
55316
55316.5
55320
55321
55322
55340
55350
55401
55402
55403
55404
55500
55502
55510
55512
55514
55516
55518
55520
55521
55522
55523
55524
55525
55526
55530
55532
55534
55600
55601
55602
55602.5
55603
55605
55607
55620
55630
55750
55751
55752
55753
55753.5
55753.7
55754
55755
55756
55756.5
55757
55758
55758.5
55759
55760
55761
55762
55763
55764
55765
55800
55800.5
55801
55805
55805.5
55806
55807
55808
55809
55825
55827
55828
55829
55830
55831
58102
58104
58106
58107
58108

Attached Exhibit to Form CSM 2
Test Claim of Santa Monica Community College District
Minimum Conditions for State Aid (1169/02)

Implementing Guidelines Handbooks:

Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002)

"Program and Course Approval Handbook" Chancellor's Office California Community Colleges (September 2001)

"Student Equity Guidelines for Developing a Plan" Fall 2002, The Academic Senate for California Community Colleges
(Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions")
(Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14,1997, adopted by the Academic Senate Fall 2002)

Informational Exibits:

Component 5: Equal Employment Opportunity
Memo issued by the Board of Governors, "Title 5 Regulations: Equal Employment Opportunity, Action Scheduled" (July 8-9, 2002)

Component 7: Approval of New Colleges and Educational Centers
Memo issued by the Board of Governors, "Approval of College Status for Folsom Lake Center, Los Rios Community College District, Action Scheduled" (November 12-13, 2002)

Component 16: Matriculation
Report issued by the Chancellor's Office, "Matriculation Standards"

Memo issued by the Board of Governors, "Study Session on Basic Skills, Information" (July 8-9, 2002)

Component 18: Student Equity
Report issued by the Board of Governor's Committee on Equity, Diversity and Human Resources, "Report from the Equity and Diversity Task Force" (November 12-13, 2002)

Component 20: Compliance Enforcement
Report issued by the Board of Governors, "Minutes of the Meeting" (November 12, 2002)

General Information
Report issued by the Chancellor's Office, "Description of Grant Programs Administered by the Chancellor's Office" (last revised October 9, 2002)

Report issued by the Chancellor's Office, "AB 1725: A Comprehensive Analysis" (January 1989)

Memo issued by the Chancellor's Office, "AB 1725: First Major Update" (August 1989)

Memo issued by the Chancellor's Office, "AB 1725: Second Major Update" (October 1990)

Claim Prepared By:
Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117
Voice: (619) 514-8605
Fax: (619) 514-8645

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

Test Claim of:	)	No. CSM. _____
	)	
	)	
Santa Monica Community	)	
	)	Chapter 1169, Statutes of 2002
College District	)	Chapter 187, Statutes of 2000
	)	Chapter 587, Statutes of 1999
	)	Chapter 1023, Statutes of 1998
	)	Chapter 914, Statutes of 1998
	)	Chapter 365, Statutes of 1998
	)	Chapter 758, Statutes of 1995
	)	Chapter 493, Statutes of 1995
	)	Chapter 1198, Statutes of 1991
	)	Chapter 1188, Statutes of 1991
	)	Chapter 1038, Statutes of 1991
	)	Chapter 1667, Statutes of 1990
	)	Chapter 1372, Statutes of 1990
	)	Chapter 1514, Statutes of 1988
	)	Chapter 973, Statutes of 1988
	)	Chapter 1467, Statutes of 1986
	)	Chapter 1371, Statutes of 1984
	)	Chapter 537, Statutes of 1983
	)	Chapter 143, Statutes of 1983
	)	Chapter 1329, Statutes of 1982
	)	Chapter 1117, Statutes of 1982
	)	Chapter 891, Statutes of 1981
	)	Chapter 470, Statutes of 1981
	)	Chapter 910, Statutes of 1980
	)	Chapter 977, Statutes of 1979

)	Chapter 797, Statutes of 1979
)	Chapter 967, Statutes of 1977
)	Chapter 36, Statutes of 1977
)	Chapter 1176, Statutes of 1976
)	Chapter 783, Statutes of 1976
)	Chapter 275, Statutes of 1976
)	Chapter 802, Statutes of 1975
)	
)	
)	
)	Education Code Sections 70901, 70901.5 and 70902
)	
)	
)	
)	
)	Minimum Conditions for State Aid

COMPONENT 1: STANDARDS OF SCHOLARSHIP:
T5, CCR, Sections 51002, 55750-55765

COMPONENT 2: DEGREES AND CERTIFICATES:
T5, CCR, Sections 51004, 55800-55809

COMPONENT 3: OPEN COURSES:
T5, CCR, Sections 51006, 58102-58108

COMPONENT 4: COMPREHENSIVE PLAN:
Education Code Sections 81820-81823 T5, CCR, Sections 51008, 55401-55405

COMPONENT 5: EQUAL EMPLOYMENT OPPORTUNITY:
Education Code Sections 87100-87108 T5, CCR, Sections 51010, 53000-53034

COMPONENT 6: STUDENT FEES:
T5, CCR, Section 51012

COMPONENT 7: APPROVAL OF NEW COLLEGES AND EDUCATIONAL CENTERS:
T5, CCR, Sections 51014, 55825-55831

COMPONENT 8: ACCREDITATION:
T5, CCR, Section 51016

Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002)

COMPONENT 9: COUNSELING PROGRAMS:
T5, CCR, Section 51018

COMPONENT 10: INSTRUCTIONAL OBJECTIVES:
T5, CCR, Section 51020

COMPONENT 11: CURRICULUM:
T5, CCR, Sections 51021, 55000-55350

"Program and Course Approval Handbook" Chancellor's Office California Community Colleges (September 2001)

COMPONENT 12: VOCATIONAL EDUCATION PROGRAMS:
Education Code Sections 78015-78016 T5, CCR, Sections 51022, 55600-55630

COMPONENT 13: COURSE ARTICULATION-LOCAL:
T5, CCR, Section 51022

COMPONENT 14: ACADEMIC FREEDOM:
T5, CCR, Section 51023

COMPONENT 15: SHARED GOVERNANCE (Faculty, Staff, Students):
T5, CCR, Sections 51023-51023.7, 53200-53207

COMPONENT 16: MATRICULATION:
Education Code Sections 78210-78218 T5, CCR, Sections 51024, 55500-55534

COMPONENT 17: FULL-TIME / PART-TIME FACULTY:
Education Code Sections 87482.6-87482.7 T5, CCR, Sections 51025, 53300-53314

COMPONENT 18: STUDENT EQUITY:
Education Code Sections 212, 212.5, 213, 214, 221.5, 221.7, 66010.2, 66010.7, 66016, 66030, 66251-66292.3, 72011-72014

T5, CCR, Sections 51026, 54220

Chancellor's Office "Student Equity Plan Review Procedures and Instructions" (Appendix 1 of "Student Equity: Guidelines for Developing a Plan," 2002)

Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, adopted by the Academic Senate Fall 2002 (Appendix 3 of "Student Equity Guidelines for Developing a Plan, 2002)

COMPONENT 19: TRANSFER CENTERS: Education Code Sections 66720-66745, 71027	T5, CCR, Section 51027
COMPONENT 20: ENFORCEMENT Education Code Section 70901(b)	T5, CCR, Sections 51000, 51100-51102

TEST CLAIM FILING

PART I. AUTHORITY FOR THE CLAIM

The Commission on State Mandates has the authority pursuant to Government Code section 17551 (a) to ". . . hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." The Santa Monica Community College District is a "school district" as defined in Government Code section 17519.[1]

PART II. LEGISLATIVE HISTORY OF THE CLAIM

This test claim alleges mandated costs subject to reimbursement by the state for community colleges to comply with a variety of state code and regulatory requirements (minimum requirements) the satisfaction of which entitles a college district to receive state

[1]Government Code section 17519, as last amended by Chapter 1459/84:

"School district" means any school district, community college district, or county superintendent of schools.

aid and for which noncompliance results in fiscal and other penalties.

California Community Colleges Board of Governors' Duties

Education Code section 70901[2], subdivision (b) added by Statutes of 1988,

[2]Education Code section 70901, as added by Statutes of 1988, Chapter 973, section 8, as amended by Statutes of 1998, Chapter 1023, section 1:

(a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements,

Chapter 973 (AB 1725), section 8, requires the state Board of Governors of the California

and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Contract for the procurement of goods and services, as necessary.

(16) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

Community Colleges to provide leadership and development of the community college system, the implementation of which is listed in subordinate paragraphs. Pursuant to paragraph (1), establish minimum standards as required by law, including, but not limited to, the following: (A) student academic standards relating to graduation requirements and probation, dismissal, and readmission policies; (B) for the employment of academic and administrative staff in community colleges; (C) for the formation of community colleges and districts; (D) standards for credit and noncredit classes; and, (E) to ensure faculty, staff, and students the right to participate effectively in district and college governance (a.k.a. shared governance). Pursuant to paragraph (6), establish minimum conditions entitling districts to receive state aid for support of community colleges, and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors. Pursuant to paragraph (8), facilitate articulation with other segments of higher education with secondary education. Pursuant to paragraph (9), review and approve comprehensive plans for each community college district. Pursuant to paragraph (10), review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors. Pursuant to paragraph (11), exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor. Pursuant to paragraph (12), notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary,

the uniform budgeting and accounting structures and procedures for the California Community Colleges.

Pursuant to subdivision (c), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

Pursuant to subdivision (e), in performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals.

Education Code section 70901.5[3] added by Statutes of 1988, Chapter 973 (AB

[3]Education Code section 70901.5, as added by Statutes of 1988, Chapter 973, section 8:

(a) The board of governors shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

(1) Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(3) The board of governors shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.

(4) Prior to the adoption of regulations, the board of governors shall consider and respond to all written and oral comments received during the comment period.

(5) The effective date for a regulation shall be suspended if, within 30 days after adoption

1725), section 8, required the state Board of Governors of the California Community Colleges to establish and utilize a method of rulemaking for the adoption of rules and regulations (Title 5, California Administrative Code) governing the California Community Colleges.

Community College District Governing Board Duties

Education Code section 70902[4], added by Statutes of 1988, Chapter 973 (AB 1725),

---

by the board of governors, at least two-thirds of all governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the board of governors shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

(B) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly adopted regulation, and shall go into effect in accordance with those procedures.

(C) Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed necessary to clarify the intent of the original regulation. If the board of governors decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any further appeal within the California Community Colleges.

(6) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the board of governors shall not adopt the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.

(7) Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the board of governors, the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the board of governors.

[4] Education Code section 70902, as added by Statutes of 1988, Chapter 973, section 8:

(a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any

section 8, requires local community college governing boards to:

Pursuant to subdivision (a) establish, maintain, operate, and govern their community

---

manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of the provisions of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right to participate effectively in district and college governance, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

colleges in accordance with law, and to shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of their community colleges.

Pursuant to subdivision (b), paragraph (1), establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for review and approval. Pursuant to paragraph (2), establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Pursuant to paragraph (3), establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors. Pursuant to paragraph (4), employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state. Pursuant to paragraph (7), establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to participate effectively in district and college governance. Pursuant to paragraph (8), establish rules and regulations governing student conduct. Pursuant to paragraph (9), establish student fees as it is required to establish by law, and,

in its discretion, fees as it is authorized to establish by law. Pursuant to paragraph (12), within the framework provided by law, determine the district's academic calendar, including the holidays it will observe. Pursuant to paragraph (14), participate in the consultation process established by the board of governors for the development and review of policy proposals.

Title 5 Enforcement of Minimum Conditions for State Aid

In furtherance of the Education Code sections 70901 and 70902 requirements to establish minimum conditions for the receipt of state aid, the State Board of Governors adopted Title 5, California Code of Regulations, sections 51000 through 51027, and for the enforcement of these regulations, sections 51100 and 51102.

For purposes of this test claim, the program costs subject to state reimbursement for community college districts to comply with the minimum conditions are presented in nineteen separate subject matter conditions, with the compliance duty presented as condition 20.

PART II. LEGISLATIVE HISTORY OF THE CLAIM

CONDITION 1 STANDARDS OF SCHOLARSHIP

This condition alleges mandated costs reimbursable by the state for community college districts to adopt and comply with regulations pertaining to the standards of scholarship required of students in each district.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Title 5, Section 51002 (added in 1983 and last amended in 1994) requires the

governing board of a community college district to: (a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6; (b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and (c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Section 55750 (added in 1983 and last amended in 1991), requires the district to adopt "regulations" for standards of scholarship and publish those policies and procedures in the college catalog and file them with the Chancellor's Office.

Section 55751 (added in 1983 and last amended in 1991), requires each district to establish a uniform grading practice that is based on sound academic principles and includes a grading scale for degree, certificate, and licenses and credit-no credit options for other courses.

Section 55752 (added in 1983 and last amended in 1991), permits a district to offer specified courses on a credit-no credit basis. Subdivision (a) requires that if such credit-no credit courses are offered, the community college must specify so in its catalog. Units earned on this basis must be counted in satisfaction of curriculum requirements and considered in probation and dismissal procedures, but must not be used to calculate grade point averages, pursuant to subdivisions (b) and (c). The credit-no credit basis may be used for independent study courses and must be used for courses in which there is a single standard of performance for which unit credit is assigned, pursuant to subdivisions (d) and (e).

Section 55753 (added in 1983 and last amended in 2002) requires the governing board of each community college district to adopt and publish procedures and regulations pertaining to credit by examination. Subdivision (b) permits the governing board to grant credit to any student who passes an examination for a course listed in the school catalog, so long as that student is registered and in good standing with the college. Subdivision (c) requires the nature and content of an examination to be determined solely by faculty in the discipline that normally teaches in that subject, to be in accordance with the curriculum committee's established policies and procedures, and to adequately measure mastery of the course content. Subdivision (d) requires a separate examination to be conducted for each course for which credit is to be granted. Subdivision (e) requires a student's academic record to be clearly annotated to reflect that credit was earned by examination. Subdivision (f) requires grading to be in according to the regular, approved grading scale unless a credit-no credit option is ordinarily available for a certain course. Subdivision (g) prohibits counting the units for which credit is given under this section toward the determination of residence credit hours.

Section 55753.5 (added in 2002), subdivision (b), permits the governing board of each community college district to adopt and publish procedures and regulations to permit articulated high school courses to be accepted in lieu of comparable community college courses to partially satisfy requirements for certificate programs or the major requirements of a degree program. Subdivision (c) requires that any credits earned in

this manner be clearly noted on the student's academic record as such. Subdivision (d) prohibits these type of credits from being used to bypass any general education requirements or minimum credit units required to earn an associates degree. Subdivision (e) requires all community college district-high school articulation agreements to be subject to this section unless a student has successfully completed a similar course under a previous agreement prior to the date this Section takes effect.

Section 55753.7 (added in 2002) permits the governing board of each community college district to adopt and publish procedures and regulations which grant credit for satisfactory completion of advanced placement examinations as approved by relevant faculty. Any credit earned through an advanced placement examination must be clearly annotated on a student's academic record as such.

Section 55754 (added in 1983 and last amended in 1991) requires the governing board of each community college district to adopt statewide standards for academic probation or adopt local standards which exceed the statewide standard. The statewide standards require a student to be placed on "academic probation" if the student has attempted at least 12 semester units and has earned a grade point average of below 2.0 for units graded based on the regular grading scale. A student must be placed on "progress probation" if the number of classes for which a student has earned a "withdraw", "incomplete" or "no credit" on his or her record, reaches or exceeds fifty percent in relation to all units in which a student has enrolled.

Section 55755 (added in 1983 and last amended in 1991) requires the governing

board of each community college district to adopt statewide standards for removal from academic probation or adopt local standards which exceed the statewide standard. The statewide standard requires a student on academic probation to be removed from probation when his or her grade point average is 2.0 or higher. A student on progress probation must be removed when the percentage of units for which a "withdraw", "incomplete" or "no credit" has been recorded, drops below 50 percent.

Section 55756 (added in 1983 and last amended in 1991) requires the governing board of each community college district to adopt statewide standards for dismissal or to adopt local standards which exceed the statewide standard. The statewide standard requires a student who is on academic probation to be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters. A student on progress probation will be subject to dismissal if the percentage of units for which a "withdraw", "incomplete" or "no credit" has been recorded in at least 3 consecutive semesters, reaches or exceeds 50 percent. Section 55756 also requires the district board to adopt rules outlining exceptions to the standards for dismissal and to file those rules with the Chancellor.

Section 55756.5 (added in 1990) provides the limits of remedial coursework a student may take; requires that the need for remedial coursework be determined using appropriate assessment instruments, methods, or procedures provided by matriculation procedures; allows dismissed students to reapply for reinstatement; and requires remedial education statistics regarding success rates of the program and the effect on

students by sex, age, and ethnicity, to be reported as part of the Management Information System. Students enrolled in at least one course of English as a Second Language or who have been identified as having a learning disability, will be exempted form the limitation on remedial coursework.

Section 55757 (added in 1983 and last amended in 1991) requires the governing board of each community college district to adopt rules governing the inclusion in or exclusion of the number of "units attempted" in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

Section 55758 (added in 1983 and last amended in 2001), subdivision (a), requires the governing board to utilize a statewide grading scale established on the basis of point equivalencies and to notify students of these standards by publication. Subdivision (b) permits a community college district governing board to use "plus" and "minus" designations in combination with letter grades, with some limitations. Subdivision (e) authorizes the use of the following non-symbols and provides guidelines for the use of each: "I": Incomplete, "IP": In Progress, "RD": Report Delayed: "W": Withdrawal, and "MW": Military Withdrawal.

Section 55758.5 (added in 1991) requires that when calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

Section 55759 (added in 1983 and last amended in 1991) requires the district to

publish probation and dismissal policies and procedures in the college catalog; to make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect; make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties; and make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district.

Section 55760 (added in 1983 and last amended in 1991) provides that grades shall be determined by the instructor and shall be final in the absence of mistake and requires that the governing board adopt policies and publish the procedures for the repetition of courses.

Section 55761 (added in 1983 and last amended in 1991) requires the district governing board to adopt and publish procedures or regulations pertaining to course repetition for those courses in which a student has earned a grade of "D", "F", and/or "NC".

Section 55762 (added in 1983 and last amended in 1998) provides guidelines for the implementation of any procedures or regulations adopted by the community college governing board pertaining to course repetition. Such policies must comply with existing law, indicate any courses which are exempt, provide for indication on a student's permanent record of any courses repeated, be published, and provide for maintenance of a record of any actions taken under such course repetition procedures that have

been adopted.

Section 55763 (added in 1983 and last amended in 1998) establishes special circumstances for course repetition. A district governing board is permitted to adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded upon a petition of the student and with the written permission of the governing board based on just cause. If such policies are adopted, subdivision (c) requires course repetition to be granted, without petition, if necessary for a student to meet a legally mandated training requirement as a condition of continued employment. Subdivision (d) requires that when course repetition under this section occurs, the student's permanent academic record must be annotated as such.

Section 55764 (added in 1983 and last amended in 1991) requires that the governing board to adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance which is not reflective of a student's demonstrated ability. Any changes made to a student's grade pursuant to such "academic renewal regulations" must be annotated on the student's permanent record as such.

Section 55765 (added in 1983 and last amended in 1991) provides the statewide criteria for implementing academic renewal without course repetition.

CONDITION 2 DEGREES AND CERTIFICATES

This condition alleges mandated costs reimbursable by the state for community college districts to adopt and comply with regulations for awarding degrees and

certificates.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Section 51004 (added in 1983 and last amended in 1994), requires the governing board of a community college district to: (a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6, regarding degrees and certificates; (b) file a copy of its regulations and any amendments thereto with the Chancellor; and (c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Section 55800 (added in 1983 and last amended in 1991), requires the governing board of a community college district to adopt policies and procedures for awarding degrees and certificates, to publish the policy and to provide a copy to the Chancellor's Office.

Section 55800.5 (added in 1991), requires the governing board of a community college district to award an associate degree to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

Section 55801 (added in 1983 and last amended in 1991), defines the term "satisfactorily completed" as "either credit earned on a "credit-no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum

upon which the degree is based. The term "satisfactorily completed" is used in Section 55806, pertaining to the minimum requirements for an Associate Degree, and in Section 55809, pertaining to the district governing board's duty to grant a diploma.

Sections 55802 and 55803 (both added in 1983 and last amended in 1991) provide the associate degree requirements that were in effect until July 1, 1983.

Section 55805 (added in 1983 and last amended in 1991), requires the governing board of a community college district to adopt and review on a regular basis policies and implementation criteria for its specific philosophy on General Education. The district's adopted philosophy is required to be consistent with the stated philosophy of the State Board of Governors. Some of the goals stated in the Board of Governors' philosophy include: encouraging students' abilities to think and communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self-understanding.

Section 55805.5 (added in 1983 and last amended in 1991), provides that the criteria established by the district governing board to implement its philosophy on the associate degree must permit only courses that conform to the standards specified in section 55002(a) (which outlines the curriculum standards and criteria for associate degree courses) and that fall into the following four categories to be offered for associate degree credit: (a) all lower division courses accepted toward the

baccalaureate degree by the California State University or University of California or designed to be offered for transfer; (b) courses that apply to the major in non-baccalaureate occupational fields; (c) English courses not more than one level below the first transfer level composition course, typically known as English 1A; (d) all mathematics courses above and including Elementary Algebra; and (e) credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the courses specified in subdivisions.

Section 55806 (added in 1988 and last amended 1991) provides the associate degree requirements, effective from July 1, 1983 to the present. A district governing board is required to confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, written expression, and mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work in a curriculum accepted toward the degree by a college within the district. Such course work must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a recognized major. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Subdivision (a) requires that, for a student to fulfill the requirements for his or her Major, the student must take at least 18 semester or 27 quarter units of study in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs". Subdivision (b) outlines the

General Education requirements for an Associate Degree. Subdivision (b)(1) provides that, to earn an Associate Degree, students are required to complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the following five areas: natural sciences; social and behavioral sciences; humanities; English composition; communication and analytical thinking. Courses that fulfill the Natural Sciences requirement must be designed in a manner that helps the student develop an appreciation and understanding of the scientific method, and encourages an understanding of the relationships between science and other human activities. Courses that fulfill the Social and Behavioral Sciences requirement must be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences and also to stimulate critical thinking about the ways people act and have acted in response to their societies. Courses that fulfill the Humanities requirement must be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Qualifying English Composition courses must be designed to include both expository and argumentative writing. Finally, courses that fulfill the Communication and Analytical Thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines. Subdivision (b)(2) prohibits courses from being counted more than once to

satisfy a general education requirement. Subdivision (b)(3) requires districts to offer Ethnic Studies in at least one of the required areas.

Section 55807 (added in 1983 and last amended 1991), provides for the conversion of noncredit courses to academic credit. Such conversion may be permitted only upon student petition and subsequent certification by a governing board, based upon evidence of prescribed credit-level competence as approved by the faculty.

Section 55808 (added in 1988 and last amended 1991), requires the governing board of a community college district to issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

Section 55809 (added in 1983 and last amended 1991) requires the governing board of a community college district to award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements.

Section 55810 (added in 1983, last amended 1991) requires the governing board of a community college district to adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 and requirements applicable on or after July 1, 1983.

CONDITION 3 OPEN COURSES

This condition alleges mandated costs reimbursable by the state for community

college districts to adopt and comply with policies and procedures ensuring open enrollment to all students as a minimum condition of receipt of state aid.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Section 51006 (added in 1983 and last amended in 1994) requires the governing board of a community college district to adopt by resolution and publish in the college catalog and schedule of classes the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

Section 58100, pertaining to open enrollment, was repealed in 1992.

Section 58102 (added in 1982 and last amended in 1993) requires the description of each course to be clear and understandable to the prospective student and to be published in the official catalog, and/or schedule of classes, and/or addenda.

Section 58104 (added in 1982 and last amended in 1993) requires community colleges to describe all prospective course offerings in the official general catalog and/or addenda and to list such courses in the schedules of classes. Courses which are established or conducted after publication of the general catalog or regular schedule of

classes are required to be reasonably well publicized. Districts are prohibited from issuing any course offering announcements to only a limited, specialized clientele, or from giving notice of course offerings to any group or individual prior to issuing the notice to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

Section 58106 (added in 1993) requires that, in order to be claimed by a community college for purposes of state apportionment, all courses must be open to enrollment by any student who has been admitted to the college, unless a limitation applies. Subdivision (a) permits enrollment to be limited by use of properly established prerequisites and corequisites and subdivision (b) outlines other acceptable limitations a community college may use to restrict course enrollment. Such acceptable limitations include those based on: prerequisite requirements, health and safety considerations, faculty limitations, faculty workload, the availability of qualified instructors, funding issues, or constraints of legal requirements. Any limitations must be identified in advance by governing board policy and may be challenged by any student. In the case of a student challenge to an enrollment limitation due to discriminatory basis, the district must, upon completion of the established challenge procedure, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Sections 59300-59362 of Title 5 of the California Code of Regulations.

Section 58107 (added in 1991 and last amended in 1991) requires that any public funds used in connection with athletic programs conducted under the auspices of

a community college district governing board or any student organization within the district, must only be used for programs which provide facilities and opportunities for participation by both sexes on an equitable basis.

Section 58108 (added in 1982 and last amended in 1993) requires all procedures for registration and standards for enrollment in any course to be consistent with law and to be uniformly administered by authorized district employees. Districts are prohibited from doing any of the following to restrict student access to classes: requiring preregistration activities that are not uniformly required; enforcing nonacademic requisites as barriers to enrollment in or completion of a class; or restricting enrollment to a specialized clientele. Finally, districts are prohibited from requiring any student to make any special effort not required of all students to register in a class or course selection. Once enrolled in a class, all students must have equal access to all off-campus sites and facilities.

Section 58110, regarding enrollment limitations, was repealed in 1992.

CONDITION 4 COMPREHENSIVE (MASTER) PLANS

This condition alleges mandated costs reimbursable by the state for community college districts to annually prepare and submit to the Chancellor both educational and capital construction master plans that cover current and long-range plans.

SECTION 1. LEGISLATIVE HISTORY PRIOR TO JANUARY 1, 1975

Capital Construction Master Plans

Education Code Section 20065[5] required the governing board of each community college district to prepare and submit to the Chancellor, a ten-year plan for capital construction. In addition, it required that after January 1, 1975, the capital construction plan instead reflect a five-year time period and that an annual report detailing any modifications made to the plan be prepared and submitted to the Chancellor.

Education Code Section 20066[6] required the contents of the capital construction

---

[5]Education Code Section 20065, added by Chapter 1550, Statutes of 1967, Section 2, as amended by Chapter 280, Statutes of 1974, Section 1:

"On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of November in each succeeding year, a report outlining the required modifications or changes, if any, in the plan."

[6]Education Code Section 20066, added by Chapter 1550, Statutes of 1967, Section 2, as amended by Chapter 1525, Statutes of 1971, Section 13:

"The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:
(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.
(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the community college district.
(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.
(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors.
(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors."

plan to include: (a) the district's plans concerning future academic and student programs and the effect of such programs on any estimated future construction needs; (b) the student enrollment projections expressed in terms of weekly student contact hours; (c) the current student enrollment capacity based on the space standards for classrooms adopted by the Board of Governors; (d) the capacities of the district office, library and supporting facility in accordance with the physical plant standards adopted by the Board of Governors; and (e) an annual inventory of all facilities of the district.

Education Code Section 20067[7] required the Chancellor to review and evaluate the plan for capital construction submitted by the governing board of each community college district, to make revisions and changes as appropriate and to notify the governing board of each district of the approved form and content of the revised plan. This review was required to be made on or before March 1, 1968 and also annually thereafter.

SECTION 2. LEGISLATIVE HISTORY AFTER DECEMBER 31, 1974

Capital Construction Master Plans

[7]Education Code Section 20067, added by Chapter 1550, Statutes of 1967, Section 2, as amended by Chapter 280, Statutes of 1974, Section 2:

"The chancellor shall, on or before March 1, 1968, review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction."

Chapter 783, Statutes of 1976, Section 1, amended Education Code Section 20065[8] to change the deadline for the district to submit its annual capital construction plan to the Chancellor from November to February. In addition, the section was amended to require, for the first time, that the report submitted to the Chancellor include both the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. The amendment required that a copy of the project planning guides from the report also be transmitted, on or before the first day of February each year, to the Department of Finance and the Joint Legislative Audit Committee.

Chapter 783, Statutes of 1976, Section 2, amended Education Code Section 20067[9] to delete the language requiring the Chancellor's evaluation of a district's capital

---

[8]Education Code Section 20065, as amended by Chapter 783, Statutes of 1976, Section 1:

"On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of ~~November~~ February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes."

[9]Education Code Section 20067, as amended by Chapter 783, Statutes of 1976, Section 2:

"The chancellor shall~~, on or before March 1, 1968,~~ review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing

construction plan to be completed "on or before March 1, 1968" and also changed the deadline for the annual review from December to May.

Chapter 1010, Statutes of 1976, Section 2 (operative April 30, 1977) recodified and renumbered the Education Code. Relevant code sections before and after the recodification and renumbering are as follows:

Former Code Section	New Code Section
20065	81820
20066	81821
20067	81822

Chapter 36, Statutes of 1977, Sections 328 and 329 amended Education Code Sections 81820 and 81822 respectively to make technical "clean-up" changes in response to the recodification of 1010/76/2.

Chapter 967, Statutes of 1977, Section 1 added Education Code Section 81823[10] to allow a community college district that maintains at least one college and

---

board of each district maintaining a community college shall be made on or before each succeeding first day of ~~December~~ May. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction."

[10]Education Code Section 81823, as added by Chapter 967, Statutes of 1977, Section 1:

"(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in

one or more educational center, to submit in addition to the district-wide capital construction plan required by Section 81820, a capital construction plan based on each college or educational centers maintained by that district if students would be better served by such an evaluation due to either the rural nature of the district or the unique cultural needs of a significant number of students. Section 81823, for the first time, required the Board of Governors to adopt rules and regulations to implement the above provisions.

Chapter 797, Statutes of 1979, Section 113 amended Education Code Section 81820[11] to require that the plan for capital construction submitted to the Chancellor

---

the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers; and

(2) The plan as thus submitted.

(d) The board of governors shall adopt rules and regulations to implement the provisions of subdivision (a) of this section."

[11]Education Code Section 81820, as amended by Chapter 797, Statutes of 1979, Section 113:

"~~On or before November 1, 1967, t~~The governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the ~~10-year~~ five-year period commencing with ~~that date~~ the next proposed year of funding. ~~After January 1, 1975, The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding.~~ The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes."

consist of a five-year plan as opposed to the earlier ten-year plan requirement. This amendment was made in response to the earlier language of this code section which stated that after January 1, 1975 a five-year plan would replace the ten-year plan requirement.

Chapter 910, Statutes of 1980, Section 1, repealed Education Code Sections 81820-81823 respectively and Chapter 910, Statutes of 1980, Section 2, replaced the same code sections, making the following various changes:

Education Code Section 81820[12] was amended to require that the capital construction report submitted to the Chancellor be submitted on or before February 1, 1981, and to delete the requirement that a copy of the proposed project planning guides from the report be transmitted to the Department of Finance and the Joint Legislative Audit Committee.

---

[12]Education Code Section 81820, repealed by Chapter 910, Statutes of 1980, Section 1, as replaced by Chapter 910, Statutes of 1980, Section 2:

"On or before February 1, 1981, ~~T~~the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and ~~each year~~ annually shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

~~The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes.~~"

Education Code Section 81821[13] was amended to clarify that the plan was to be a five-year plan. In addition, for the first time, the following information was required to be included in the capital construction plan: subdivision (b) required the enrollment figures of educational centers to be included when reporting enrollment projections; subdivision (d) required the district to comply with the standards of the California Postsecondary Education Commission when reporting district office, library, and supporting facility capacities; subdivision (e) required all land of the district to be included in the annual inventory submitted by the district; and subdivision (f) required the district to include an estimate of district funds to be made available for capital outlay matching purposes pursuant to Section 81838.

---

[13]Education Code Section 81821, repealed by Chapter 910, Statutes of 1980, Section 1, as added by Chapter 910, Statutes of 1980, Section 2:

"The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations pursuant to Section 81838."

Education Code Section 81822[14] was amended to change the annual deadline month for the district governing boards to submit their evaluation report of the capital construction plan to the Chancellor from May to April. In addition, the amendment clarified that the Chancellor may disapprove any plans submitted by the districts.

Education Code Section 81823[15] was amended to delete the requirement that

---

[14]Education Code Section 81822, repealed by Chapter 910, Statutes of 1980, Section 1, as replaced by Chapter 910, Statutes of 1980, Section 2:

"The chancellor shall review~~,~~ and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve ~~the same~~ or disprove the plan. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district ~~maintaining a community college~~ shall be made on or before each succeeding first day of ~~May~~ April. The chancellor shall, promptly after such approval or disapproval, notify the governing board of each community college district of the ~~approved form and~~ content of the district's plan for capital construction."

[15]Education Code Section 81823, repealed by Chapter 910, Statutes of 1980, Section 1, as replaced by Chapter 910, Statutes of 1980, Section 2:

"(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers. ~~;and~~

(2) The plan as thus submitted.

~~(d) The board of governors shall adopt rules and regulations to implement the provisions of subdivision (a) of this section.~~"

the Board of Governors adopt rules and regulations to implement the provisions of subdivision (a) of that section.

Chapter 470, Statutes of 1981, Section 256 amended subdivision (c) of Education Code Section 81821[16] to require the district to comply with the standards of the California Postsecondary Education Commission when reporting the current enrollment capacity of the district.

Chapter 891, Statutes of 1981, Sections 2 and 3 amended Education Code Sections 81821 and 81822 respectively to make technical changes.

Chapter 1372, Statutes of 1990, Section 571 amended Education Code Section 81820[17] to require the community college districts to submit their capital construction plans to the Board of Governors, rather than the Chancellor, and to delete language that stated the report must be submitted "on or before February 1, 1981".

Chapter 1372, Statutes of 1990, Section 573 amended Education Code Section

---

[16]Education Code Section 81821, as amended by Chapter 470, Statutes of 1981, Section 256:

"...(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards."...

[17]Education Code Section 81820, as amended by Chapter 1372, Statutes of 1990, Section 571:

"~~On or before February 1, 1981, t~~The governing board of each community college district shall prepare and submit to the ~~chancellor~~ Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the ~~chancellor~~ board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan."

81822[18] to require the Board of Governors, as opposed to the Chancellor, to review and evaluate the plan for capital construction and to notify the governing boards of each community college district of any revisions.

Chapter 758, Statutes of 1995, Section 212 amended subdivision (f) of Education Code Section 81821[19] to require, for the first time, the Board of Governors to adopt regulations concerning the district funds required to be made available for capital outlay matching purposes.

SECTION 3. TITLE 5, CALIFORNIA CODE OF REGULATIONS

Comprehensive (Master) Plan

Section 51008 (added in 1983 and last amended in 1994) in subdivision (a) requires the governing board of a community college district to establish policies for, and to approve, comprehensive or master plans for the district which include both (1)

---

[18]Education Code Section 81822, as amended by Chapter 1372, Statutes of 1990, Section 573:

"The ~~chancellor~~ board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of ~~such~~ the review and evaluation, make ~~such~~ the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made ~~on or before each succeeding first day of April~~. The ~~chancellor~~ board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction."

[19]Education Code Section 81821, as amended by Chapter 758, Statutes of 1995, Section 121:

"The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:
...(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations ~~pursuant to Section 81838~~ adopted by the board of governors."...

academic master plans and (2) long range master plans for facilities. Local rules will determine the content of the master plans; however, districts must ensure that the plans also address the planning requirements that are specified by the Board of Governors. Subdivision (b) requires the plans, as well as any annual updates or changes to such plans, to be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code ("the [comprehensive] plans shall be submitted to the Board of Governors by the governing board of each community college") and with regulations of the Board of Governors pertaining to such plans.

Educational Master Plans

Title 5 Section 55401 (added in 1971 and last amended in 1991) requires the governing board of each Community College district to establish policies for, and to approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

Section 55402 (added in 1971 and last amended in 1991) requires the governing board of each Community College district to annually, on or before November 1 each year, submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole.

Section 55403 (added in 1971 and last amended in 1991) requires each plan to be submitted on a form provided by the Chancellor and to contain such information as the Chancellor requires.

Section 55404, (added in 1971 and last amended in 1991) specifies that each

plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, remedial and developmental programs and ancillary services.

Section 55405 (added in 1971 and last amended in 1991) requires the Chancellor to review each master plan.

CONDITION 5 EQUAL EMPLOYMENT OPPORTUNITY

This condition alleges mandated costs reimbursable by the state for community college districts to implement and comply with policies and procedures pertaining to equal employment opportunity as a minimum condition for receipt of state aid.

SECTION 1. LEGISLATIVE HISTORY PRIOR TO JANUARY 1, 1975

Mandated duties regarding equal employment opportunity as a minimum condition for receipt of state aid did not exist prior to January 1, 1975.

SECTION 2. LEGISLATIVE HISTORY AFTER DECEMBER 31, 1974

Chapter 766, Statutes of 1978, Section 1 added Education Code Sections 87100-87107, entitled "Affirmative Action Hiring"

2001 Repealer of Affirmative Action Code and Regulations

On September 4, 2001, the California Court of Appeal, in *Connerly v. State Personnel Board* (2001) 92 Cal.App.4th 16, invalidated Education Code sections 87100 - 87107, which were the basis of the Community College affirmative action program. In addition, these Education Code Sections served as the substantive basis for the affirmative action program regulations contained in Title 5, California Code of

Regulations, Sections 53000-53012, which were a minimum condition for state aid, pursuant to Section 51010.

In response to the holding in *Connerly*, Chapter 1169, Statutes of 2002, Section 1 repealed Education Code Sections 87100 - 87107. Chapter 1169, Statutes of 2002, Section 2 then replaced the repealed sections with new Education Code Sections 87100 - 87107, and entitled the article "Equal Employment Opportunity Hiring".

Education Code Section 87100[20] outlines the intent of the Legislature in enacting Education Code Sections 87100 - 87107, specifically, that community college districts adopt and implement programs and plans for ensuring equal employment opportunity in their employment practices so that a community of nondiscrimination and equal

[20]Education Code Section 87100, as added by Chapter 1109, Statutes of 2002, Section 2:

"The Legislature finds and declares all of the following:
(a) In fulfilling its mission within California's system of public higher education, the California Community Colleges are committed to academic excellence and to providing all students with the opportunity to succeed in their chosen educational pursuits.
(b) Academic excellence can best be sustained in a climate of acceptance and with the inclusion of persons from a wide variety of backgrounds and preparations to provide service to an increasingly diverse student population.
(c) A workforce that is continually responsive to the needs of a diverse student population may be achieved by ensuring that all persons receive an equal opportunity to compete for employment and promotion within the community college districts and by eliminating barriers to equal employment opportunity.
(d) It is the intent of the Legislature to establish and maintain, within the California Community College districts, a policy of equal opportunity in employment for all persons, and to prohibit discrimination or preferential treatment based on ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry, or sexual orientation. Every aspect of personnel policy and practice in the community college districts should advance the realization of inclusion through a continuing program of equal employment opportunity.
(e) The Legislature recognizes that it is not enough to proclaim that community college districts must not discriminate and must not grant preferential treatment on impermissible bases. The Legislature declares that efforts must also be made to build a community in which nondiscrimination and equal opportunity are realized. It is the intent of the Legislature to require community college districts to adopt and implement programs and plans for ensuring equal employment opportunity in their employment practices."

opportunity may be attained in community college districts.

Education Code Section 87101[21] provides definitions for terms pertaining to equal employment opportunity. Subdivision (a) states that "Equal Employment Opportunity" means that "all qualified individuals have a full and fair opportunity to compete for hiring and promotion and fully enjoy the benefits of employment by a community college district". Subdivision (b) defines an "Equal employment opportunity plan" as "a document that includes specific procedures for achieving equal employment opportunity". Finally, subdivision (c) states that an "Equal employment opportunity program" means "all the various methods by which equal employment opportunity is ensured". District employers are required to continually work to devise recruiting, training, and advancement opportunities that will result in equal employment opportunities for all qualified applicants and employees.

---

[21]Education Code Section 87101, as added by Chapter 1109, Statutes of 2002, Section 2:

"For the purposes of this article:
(a) "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and fully enjoy the benefits of employment by a community college district. Ensuring equal employment opportunity is advanced in an inclusive environment that fosters cooperation, acceptance, democracy, and the free expression of ideas. An inclusive environment is welcoming to men and women, persons with disabilities, individuals from all ethnic groups, and individuals from all other groups protected from discrimination by this article.
(b) "Equal employment opportunity plan" means a document that includes specific procedures for achieving equal employment opportunity.
(c) "Equal employment opportunity program" means all the various methods by which equal employment opportunity is ensured. These methods include, but are not necessarily limited to, actively recruiting, using nondiscriminatory employment practices, and monitoring employment practices to ensure equality of opportunity. Each district employer shall commit to sustained action to devise recruiting, training, and advancement opportunities that will result in equal employment opportunities for all qualified applicants and employees."

Education Code Section 87102[22] requires community college districts to prepare and submit to the board of governors an affirmation of compliance with the equal employment opportunity article as a condition for receipt of state aid. Each district's equal opportunity program must include the following: an assurance of district commitment to the program; a list of steps the district will take to eliminate improper discrimination; and the district's plan for achieving the 75% ratio of full-time to part-time faculty hiring, as indicated in Section 87482.6, while still ensuring equal employment opportunity.

Education Code Section 87103[23] requires the board of governors to assist the community colleges in developing and implementing equal employment opportunity programs.

---

[22]Education Code Section 87102, as added by Chapter 1109, Statutes of 2002, Section 2:

"(a) As a condition for the receipt of funds pursuant to Section 87107, the governing board of community college district that opts to participate under the article shall periodically submit to the board of governors an affirmation of compliance with this article. Each participating district's equal employment opportunity program shall ensure participation in, and commitment to, the program by district personnel. Each participating district's equal employment opportunity plan shall include steps that the district will take in eliminating improper discrimination or preferences in its hiring and employment practices. Each plan shall address how the district will make progress in achieving the ratio of full-time to part-time faculty hiring, as indicated in Section 87482.6, while still ensuring equal employment opportunity.

(b) Each participating district's equal employment opportunity plan is a public record within the meaning of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code)."

[23]Education Code Section 87103, as added by Chapter 1109, Statutes of 2002, Section 2:

"The board of governors shall render assistance in developing and implementing equal employment opportunity programs in the community college districts."

Education Code Section 87105[24] requires the board of governors to adopt and implement all regulations necessary to accomplish equal employment opportunity in community college districts and to ensure that each participating community college district implements processes for ensuring equal employment opportunities.

Education Code Section 87106[25], subdivision (a), requires that the board of governors develop and implement systemwide strategies for encouraging community college students to become qualified for, and seek, employment as community college faculty or administrators. Subdivision (b) requires the board of governors to develop, implement and disseminate to community college districts a model equal employment opportunity plan that accomplishes at least all of the following: compliance with the

[24]Education Code Section 87105, as added by Chapter 1109, Statutes of 2002, Section 2:

"The board of governors shall adopt all necessary regulations to carry out the intent of this article and to ensure that each participating community college district implements processes for ensuring equal employment opportunities. Nothing in this act shall be construed to require any community college to incur any costs in excess of the funds allocated by the state for the purposes of this act."

[25]Education Code Section 87106, as added by Chapter 1109, Statutes of 2002, Section 2:

"(a) The board of governors shall develop systemwide strategies for encouraging community college students to become qualified for, and seek, employment as community college faculty or administrators.

(b) The board of governors shall develop and disseminate to community college districts a model equal employment opportunity plan that accomplishes at least all of the following:

(1) Compliance with the regulations adopted by the board of governors to implement this article.

(2) Compliance with the other applicable state and federal nondiscrimination statutes.

(3) Implementation of the best practices for improving the equality of opportunity.

(4) Encouragement of districts to take steps reasonably calculated to inform their students about the opportunity to participate in the Graduate Assumption Program of Loans for Education authorized by Article 5.5 (commencing with Section 69618) of Chapter 2 of Part 42 and to participate in other programs developed by the board of governors pursuant to subdivision (a)."

adopted equal employment opportunity regulations; compliance with applicable state and federal nondiscrimination statutes; implementation of the best practices for improving the equality of opportunity; encouragement of districts to take steps to inform their students about the opportunity to participate in the Graduate Assumption Program of Loans for Education and in programs pertaining to encouraging students to seek employment as faculty or administrators in the community college districts.

Education Code Section 87107[26] created Employment Opportunity Fund to support the activities authorized by the article. The board of governors is to administer the fund to promote equal employment opportunity in community college districts.

Education Code Section 87108[27] requires the board of governors to adopt and

---

[26]Education Code Section 87107, as added by Chapter 1109, Statutes of 2002, Section 2:

"In order to support the activities required and authorized by this article, the Employment Opportunity Fund is hereby established. The fund shall include moneys appropriated in the annual Budget Act or provided, pursuant to Section 87482.7, through transfer. The moneys in the fund shall be administered by the board of governors for the purpose of promoting equal employment opportunities in hiring and promotion at community college districts."

[27]Education Code Section 87108, as added by Chapter 1109, Statutes of 2002, Section 2:

"(a) The board of governors shall adopt regulations for the use of the fund. Those uses may include, but need not be limited to, all of the following:
(1) Activities designed to encourage community college students to become qualified for, and seek, employment as community college faculty or administrators.
(2) Outreach and recruitment.
(3) In-service training on equal employment opportunities.
(4) Accommodations for applicants and employees with disabilities.
(5) Activities to promote equal employment opportunities and implement the requirements of this article.
(b) The Board of Governors of the California Community Colleges may use not more than 25 percent of the revenues in the fund to provide technical assistance, service, monitoring, and compliance functions. Service functions under this subdivision may include, but are not necessarily limited to, the provision of a clearinghouse for advertising community college district job opportunities and for allowing persons seeking jobs to make known their interest in community college employment. This clearinghouse shall include a special emphasis on faculty internship employment opportunities and on reaching students who are qualified for faculty internship programs. The remaining balance in the fund may be allocated to

implement regulations for the use of the Employment Opportunity Fund and lists the types of services such regulations may include, such as outreach and recruitment and in-service training on equal employment opportunities. Subdivision (b) prohibits the Board of Governors from using more than 25 percent of the revenues in the fund to provide technical assistance, service, monitoring, and compliance functions. The section states that providing a community college job opportunity clearinghouse qualifies a "service function" that comes within the 25% restriction. Any such clearinghouse must include a special emphasis on internship opportunities.

SECTION 3. TITLE 5, CALIFORNIA CODE OF REGULATIONS

In response to the holding of the 2001 Connerly case, the repealer of Education Code Sections 87100 - 87107 and replacement with new Education Code sections 87100 - 87107 in 2002, new regulations were adopted effective August 11, 2002. These new regulations updated, amended, or repealed the previous program regulations (which are provided in an endnote[1]), relying upon several other Government Code and Education Code sections as authority for the amended regulations.

Effective August 11, 2002, Title 5, Section 51010 requires as a minimum condition for state aid that community college districts adopt a policy which describes its equal opportunity employment program (subdivision a); develop and adopt an equal employment opportunity plan (subdivision b); ensure that the district employment patterns are annually surveyed (subdivision c); ensure that recruitment (subdivision d),

---

the individual community college districts as prescribed by the board of governors."

screening and selection (subdivision e), additional steps (subdivision f) are taken, and that hiring and retention over time (subdivision g) are consistent with the plan; and, to comply with the provisions of Sections 53300 - 53063 (thus making all of the subchapter minimum conditions).

Scope of District Plan

Section 53000 (added in 1992 and last amended in 2002), in subdivision (a), requires the subchapter (Sections 53000-53064) "to be read in conjunction with" specified Government Code and Education Code sections, specified federal laws, and states that it is not intended to conflict with the California Constitution. Subdivision (b) states that the subchapter is intended to promote equal employment opportunities which are in addition to and consistent with state or federal law, and that compliance with the subchapter should not be construed to mean compliance with all other applicable laws, thus indicating that the requirements of the subchapter exceed other applicable laws.

Section 53001 (added in 1992 and last amended in 2002), provides the definitions applicable to the implementation of the subchapter. The following terms are defined in this section: "adverse impact"; "business necessity"; "equal employment opportunity"; "equal employment opportunity plan"; "equal employment opportunity programs"; "ethnic minorities"; "ethnic group identification"; "goals for persons with disabilities"; "in-house of promotional only hiring"; "monitored group"; "person with a disability"; "projected representation"; "reasonable accommodation"; "screening or

selection procedure"; "significantly underrepresented group"; "target date" and "timetable".

Section 53002 (added in 1992 and last amended in 2002) requires the governing board to adopt a policy statement regarding its commitment to equal employment opportunities.

Section 53003 (added in 1992 and last amended in 2002) describes the requirements for the district's equal employment opportunity plan. Subdivision (b) requires the plan to be reviewed every three years and to be submitted to the Chancellor. Subdivision (c) requires the plan to include the following: a designation of the district employees who will implement the plan and assure compliance; the procedure for filing complaints; the process for notifying employees of the provisions of the plan; a training program; the process for providing notice to the community concerning the district's plan; an analysis of the number of persons from monitored groups who are employed by the district; an analysis of the degree of underrepresentation of persons from monitored groups; methods for addressing underrepresentation; additional steps to be taken to remedy underrepresentation; and other measures to further equal employment opportunity. Subdivision (d) requires the plan to include goals for hiring persons with disabilities. Subdivision (e) states that the plans shall be public records. Subdivision (f) requires the district to make a good faith effort to comply with the requirements of this Section. Subdivision (g) requires that the criteria for the determination of underrepresentation shall be established by the

statewide Consultation Process.

Section 53004 (added in 1992 and last amended in 2002) requires, at subdivision (a), that the district annually survey its employees and monitor applicants for employment to evaluate the implementation of its equal employment opportunity plan and to provide the source of data needed for specified reports, and to annually provide this information to the Chancellor. Subdivision (b) requires districts to permit each employee to self-identify his or her gender, ethnicity and/or disability, if applicable.

Section 53005 (added in 1992 and last amended in 2002) requires the district to establish an Equal Employment Opportunity Advisory Committee, comprising a diverse membership if possible, to assist the district in implementing the district plan.

Section 53006 (added in 1996 and last amended in 2002), at subdivision (a), requires any district which determines that a particular monitored group is underrepresented to take additional steps to try to rectify the situation. At a minimum, these additional steps are to include the following: a review of the district's recruitment procedures; consideration and implementation of other means of reducing underrepresentation, without taking the status of the monitored group into account; a determination of the effectiveness of other additional remedies; and, where significant underrepresentation persists, monitoring the staffing rate for specific job categories until underrepresentation has been reduced. Subdivision (b) requires that if chronic underrepresentation persists for a particular group or job category, the district shall: review the qualifications for the job category; discontinue the use of locally established

qualifications that are inconsistent with state or federal law; and utilize qualification standards that have less exclusionary effect. Subdivision (c) establishes three years as a reasonable period to measure the success of the plan. Subdivision (d) allows districts to take other steps to mitigate and ensure equal employment opportunities.

Sections 53010, 53011, and 53012 were repealed in 1992.

Recruitment and Screening

Section 53020 (added in 1992 and last amended in 2002), at subdivision (a), states that the governing board is responsible for the implementation of the equal employment opportunity program and shall designate an equal employment opportunity officer to operate the program. Subdivision (b) states that the designated officer must be included in the plan and that complaints must be properly investigated. Subdivision (c) extends liability for the program to any person, whether or not an employee, who acts on behalf of the governing board with regard to recruitment and screening.

Section 53021 (added in 1992 and last amended in 2002), at subdivision (a), requires districts to actively recruit from within and outside the district workforce for all job openings, some of which require statewide recruitment. Subdivisions (b), (c), and (d) prevent "in-house only" recruitment except for interim positions of less than one-year, with some exceptions. Subdivision (e) provides a list of five types of personnel actions which do not constitute a new "job opening."

Section 53022 (added in 1992 and last amended in 2002), specifies the content requirements for job announcements. Such announcements must state clearly job

specifications setting forth the knowledge, skills, and abilities necessary to job performance. Any job specifications required for the open position that exceed the state minimum requirements must be reviewed for conformity with the equal employment opportunity regulations and state and federal nondiscrimination laws, prior to announcement of the position.

Section 53023 (added in 1992 and last amended in 2002) subdivision (a), requires that the application process allow applicants to voluntarily self-identify their demographic and other personal data. Such data, once revealed, must be kept confidential and be used only for data analysis type reasons. Subdivision (b) requires the applications to be evaluated to ensure that potential applicants from monitored groups have not been excluded due to discriminatory recruitment procedures. Subdivision (c) lists the remedial steps to be taken when a monitored group has been adversely impacted. The listed steps include a deadline extension coupled with outreach efforts targeted toward members of any adversely impacted group, and a reevaluation of all applicants on a basis that does not include any non-job related qualifications more stringent than the state and federal minimum qualifications for the particular job.

Section 53024 (added in 1992 and last amended in 2002) provides for a screening process which does not adversely impact monitored groups, and provides mitigation procedures for underrepresentation. Subdivision (c) prohibits districts from designating any positions to be filled by members of any particular group or from

engaging in any practice which would result in unlawful discriminatory or preferential treatment. Subdivision (d) requires that seniority may only be taken into consideration if for job related reasons, if not used as the sole hiring criterion, and if included in the job announcement. Subdivision (e) states that any required applicant selection testing must be in compliance with the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures". Subdivision (g) vests the governing board with the authority to make all final hiring decisions, which includes the power to amend the screening process so that equal employment opportunity is accomplished.

Section 53025 (added in 1992 and last amended in 2002) requires districts to ensure that applicants and employees with disabilities receive reasonable accommodations in order foster success in the workplace. Districts must establish reasonable goals for hiring applicants with disabilities and establish and implement methods to mitigate underrepresentation.

Section 53026 (added in 1992 and last amended in 2002) requires the district to establish a procedure to respond to complaints alleging that the equal employment opportunity plan has been violated. A copy of any filed complaints must be forwarded to the Chancellor, and the district must prepare and submit an investigative report of the incident within 90 days, if the Chancellor so requests.

Section 53027 (added in 1992 and last amended in 2002) states that the plan is not intended to conflict with any provisions of the Education Code pertaining to merit system districts.

Sections 53028 and 53029 were repealed in 1992.

Faculty and Staff Diversity Fund

Section 53030 (added in 1992 and last amended in 2002) describes how state funds provided for the purpose of promoting equal employment opportunities are to be utilized, including amounts allocated to districts to implement the recruitment plan. Such resources are to be placed in an Equal Employment Opportunity Fund. A portion of this fund, not to exceed twenty-five percent, must be set aside for technical assistance and compliance type functions, and the balance may be allocated to the districts for activities intended to promote equal employment opportunity.

Section 53031 and 59032 were repealed in 1996.

Section 53033 (added in 1992 and last amended in 2002) states that districts which fail to report the district's compliance to the Chancellor will have their funds withheld, unless the district supplies the required data by March 31st of the preceding fiscal year or the district receives an extension from the Chancellor.

Section 53034 (added in 1992 and last amended in 2002) requires districts to prepare and submit a report to the Chancellor, by September 30th of each year, regarding the district's use of Equal Employment Opportunity funds.

Sections 53040 through 53064 were repealed in 1992.

CONDITION 6 STUDENT FEES

This condition alleges mandated costs reimbursable by the state for community college districts to establish and implement policies and procedures to ensure that the

collection of student fees complies with the law (generally, Education Code sections 76300 through 76395).

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Title 5, Section 51012 (added in 1983 and last amended in 1991) states that the governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

CONDITION 7 APPROVAL OF NEW COLLEGES & EDUCATIONAL CENTERS

This condition alleges mandated costs reimbursable by the state for community college districts to establish and comply with policies and procedures for approval of new colleges and educational centers, as a minimum condition for receipt of state aid.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Title 5, Section 51014, (added in 1983 and last amended in 1994), requires the governing board of a community college district planning the formation of a new college or educational center to obtain approval for such college or educational center from the Board of Governors prior to the commencement of classes.

Section 55825 (added in 1983 and last amended in 1991) requires the governing board of a community college district planning the formation of a new college or educational center to comply with the standards contained in sections 55829 (Assessment of Needs and Preferences), 55830 (Identification of Objectives) and 55831(Analysis of Alternative Delivery System).

Section 55827 (added in 1983 and last amended in 1994) provides the

definitions relative to the approval process. A "college" is defined as a degree-granting institution intended to provide instruction through the second year of college. At least one of the following types of courses are to be offered at such institutions: standard courses suitable for transfer to higher institutions, vocational courses leading to employment, and general liberal arts courses intended for district accreditation. An "educational center" is defined as a postsecondary operation, intended to last at least three years and to enroll at least 500 students, that is established and administered by an existing college or district at a location away from the parent institution's campus.

Section 55828 (added in 1983 and last amended in 1991) subdivisions (a) and (b), describe the review and approval function of the Chancellor's Office to include an inventory of all off-campus programs and facilities in the community college, to be updated annually and distributed to each community college district, and development of procedures to identify and review plans for new colleges and new educational centers within the district's Five-Year Academic and Capital Outlay Master Plans. Subdivision (c) specifies the content of proposals by community college districts for new colleges and new educational centers. All such proposals must be submitted to the Chancellor and should contain an assessment of needs and preferences, an identification of objectives, and an analysis of alternative delivery systems, as outlined in Sections 55829 - 55831 of Title 5, respectively. Subdivision (d) requires the Chancellor's Office to review each proposed new college or educational center, prepare an analysis of each proposal and recommend approval or disapproval to the Board of

Governors. Subdivision (e) requires the Board of Governors to approve or disapprove each new college or educational center and transmit its findings to the community college district initiating the proposal and to the California Postsecondary Education Commission.

Section 55829 (added in 1983 and last amended in 1991) specifies the following types of data as those to be included in the assessment of needs and preferences section of the district's proposal: (a) the community area and characteristics of individuals to be served; (b) projections of potential enrollment demand in the service area; (c) significant community support or opposition; (d) the preferences for community college programs and services of individuals in the service; (e) present and future labor market requirements; and, (f) projected labor market requirements and community program preferences.

Section 55830 (added in 1983 and last amended in 1991) requires the proposed college or educational center programs and services to be directed to the identified educational needs and preferences of the community to be served and to the specific objectives which fulfill the needs and preferences.

Section 55831 (added in 1983 and last amended in 1991) requires the district to ensure that the proposed new college or education center is the most effective and equitable of the feasible delivery system alternatives for providing intended programs and services. In selecting the proposed system, the district must consider the accessibility, content, quality and cost of programs and services in the area. In addition,

districts must identify any feasible alternatives and both short and long term sources of prospective funding for the proposed program.

CONDITION 8 ACCREDITATION

This condition alleges mandated costs reimbursable by the state for community college districts to establish and implement policies and procedures to ensure compliance with the accreditation standards and requirements established by the Accrediting Commission for Community and Junior Colleges (ACCJAC) and to pay the actual costs of the accreditation process.

The mandate for community college districts to establish and implement policies to ensure compliance with the standards set forth by the ACCJAC was first established in 1983 by Title 5, California Code of Regulations, Section 51016. Previous Education Code sections 78050 and 78051, repealed by Statutes of 1990, Chapter 1372, Section 458, authorized but did not require the district to pay the cost of accreditation by the regional authority serving California.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Title 5, Section 51016 (added in 1983 and last amended in 1994) requires each community college within a district to be accredited by the ACCJAC. Therefore, by reference, the costs incurred by districts to implement procedures to comply with the accreditation standards and requirements established by the ACCJAC are mandated costs subject to reimbursement. The ACCJAC has published and promulgated a document entitled, the "Handbook of Accreditation and Policy Manual" (Revised,

Summer 2002, hereinafter "Handbook"), which contains sections setting forth the organization's Eligibility Requirements for Accreditation (hereinafter "Eligibility Requirements") and Standards of Accreditation (hereinafter "Standards"), a copy of which is attached hereto as an Exhibit. The Handbook, as well as any succeeding accreditation standards adopted by the ACCJAC or any board succeeding the ACCJAC, are incorporated herein by reference.

CONDITION 9 COUNSELING PROGRAMS

This condition alleges mandated costs reimbursable by the state for community college districts to adopt regulations and procedures regarding the implementation of counseling programs for students, to provide these counseling programs for students, including those with special needs, and to publicize the counseling programs.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Title 5, Section 51018 (added in 1983 and last amended in 1994) requires the governing board of a community college to adopt regulations and implement procedures to provide counseling programs for students and to file a copy with the Chancellor's Office. The district must provide and publicize an organized and functioning counseling program in each college within the district which includes academic counseling, career counseling, personal counseling, and other services for students with special needs, skills testing programs, financial assistance programs, and job placement services.

CONDITION 10 INSTRUCTIONAL OBJECTIVES

This condition alleges mandated costs reimbursable by the state for community college districts to establish and implement objectives for its instructional programs and all other district functions.

The Education Code provides a mission statement for higher education institutes beginning at Section 66010 which is the Legislative basis for the district statement of objectives.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Title 5, Section 51020 (added in 1983 and last amended in 1991) requires the governing board to adopt stated objectives for its instructional program and all other district functions.

CONDITION 11 CURRICULUM

This condition alleges mandated costs reimbursable by the state for community college districts to establish and implement educational programs and courses that will further the objectives and functions of the community college and meet the approval of the Chancellor.

Previous Education Code Sections (78200 through 78208) discussed the requirements of the community college as it relates to implementing their programs and courses but these sections were repealed by various statutes up to and including Statutes of 1990, Chapter 1372, at Section 459.5.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Section 51021 (added in 1983, last amended in 1994) requires each community college to establish educational programs and courses that will further the objectives and functions of the community college and provides that all such courses must be approved by the Chancellor. The Chancellor's Office has issued a comprehensive Manual, entitled "Program and Course Approval Handbook" (hereinafter "Handbook"), that details its course approval requirements. The most recent issue of the Handbook was last published in 2001, a copy of which is attached hereto as an Exhibit and is incorporated herein by reference. The introduction of the Handbook contains the following statement: "...colleges are expected to follow the procedures and instruction in this handbook and to have curriculum approved by the Chancellor's Office." Therefore, the Handbook is incorporated in total into this test claim as an Executive Order, and by reference, the costs of district compliance with the standards and requirements set forth in the Handbook are mandated costs subject to reimbursement.

Program Classification and Standards

Section 55000 (added in 1981, last amended in 1991) provides the following definitions for terms pertinent to the course approval process: (a) "course" means an organized pattern of instruction on a specified subject offered by community colleges; (b) "educational program" means an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education; and (c) "class" means a community services offering.

Section 55000.5 (added in 1991) requires the Chancellor to prepare, distribute and maintain a detailed handbook ("Handbook") specifying course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals, for use by local educational agencies in complying with curriculum requirements.

Section 55001 (added in 1981, last amended in 1994) outlines and defines the types of educational programs that community colleges are authorized to provide. Subdivision (a) states that the instructional services of a community college include both liberal arts and sciences education and also occupational education. Subdivision (b) states that the community services (non FTES generating) of a community college include both classes (avocational, recreational, seminar-type, and professional in-service classes) and also activities (Civic Center Act, cultural, community development and recreational activities). Subdivisions (c) and (d) require districts to report the classification of all courses, classes and activities offered in accordance with the course classification system detailed in subdivisions (a) and (b) and the standards for district courses contained in Section 55002. When reporting such course classification, districts are required to transmit all of the following information to the Chancellor's Office: (1) the unique static course identifier and the course title for all courses regardless of whether they are for credit or noncredit; (2) the classification of each credit and noncredit course in accordance with its primary objective; (3) whether the course is credit or noncredit; (4) whether the course transfers to the California State

University or the University of California or both; and (5) the number of community service classes and activities in each category and its participants.

Section 55002, (added in 1988, last amended in 1993) sets forth the standards and criteria for all district courses and classes. Different course standards are detailed for each of the following four main categories of courses offered by community college districts: (a) associate degree credit courses; (b) nondegree credit courses; (c) noncredit courses; and (d) community services courses. Subdivision (a)(1) requires the establishment, by each college and/or district, of a curriculum committee to evaluate and recommend all associate degree credit, nondegree credit and noncredit courses.

Subdivision (a)(2) sets forth the following standards that associate degree courses must meet to gain approval by the curriculum committee: (A) the grading policy must measure the student's proficiency in the subject matter by administering grades based upon uniform standards; (B) the units designated to a course must be based upon the number of hours a student spends in lecture or lab which must be at least three hours of work per week; (C) the course treats the subject matter with an intensity that requires independent study outside of the classroom; (D) prerequisites or corequisites must be required if the curriculum committee determines that students would be unable to obtain a satisfactory grade in the course without certain knowledge or skills not taught in the course; (E) if students need specific communication or computation skills to succeed in the course, the course must require the student to enroll in English or mathematics as a prerequisite; (F) the course work must command

critical thinking and the understanding and application of concepts determined to be at college level; and (G) the course must require college level learning skills and vocabulary. Subdivision (a)(3) requires associate degree credit courses to be described in a detailed course outline that is maintained in the official college files and made available to each instructor. Subdivision (a)(4) requires each section of an associate degree credit course to be taught by a qualified instructor, and Subdivision (a)(5) sets forth the criteria for course repetition.

Subdivision (b) pertains to nondegree credit courses (courses that are not applicable to the associate degree). Pursuant to subdivision (b)(1), such courses include precollegiate basic skills courses, courses designed to enable students to succeed in college-level work, precollegiate occupational preparation courses designed to provide foundation skills, and essential occupational instruction. Subdivision (b)(2) sets forth the standards for which the curriculum committee must recommend approval of nondegree credit courses. Nondegree credit courses must meet the same grading policy, unit and intensity standards required of associate degree credit courses. Subdivisions (b)(3), (b)(4), and (b)(5) require the same policies regarding course outlines, course instructors, and course repetition that are required of associate degree credit classes. Subdivision (b)(2)(D) provides that prerequisites and corequisites may be required whenever the college deems them to be appropriate.

Subdivision (c) pertains to noncredit courses (courses recommended by the college and/or curriculum committee and approved by the district governing board as a

course meeting the needs of enrolled students). Subdivision (c)(1) requires the college and/or district curriculum committee to recommend approval of such courses if the course treats subject matter and follows procedures that the committee deems to be appropriate for the enrolled students. Subdivision (c)(2) and (c)(3) require the same policies regarding course outlines and course instructors that are required of associate degree credit courses.

Subdivision (d) pertains to community services classes. Such classes must meet the following minimum requirements: the class must be approved by the local district governing board; the class must be designed for the physical, mental, moral, economic, or civic development of the people enrolled; the class must provide teaching methods deemed appropriate by the district governing board; the class must be conducted in accordance with a predetermined plan; the class must be open to all members of the community; and the class must not be claimed for apportionment purposes.

Section 55002.5 (added in 1991) establishes one credit hour of community college work to be approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks.

Section 55004 (added in 1991) specifies the scope of study for social sciences instruction. Such courses must include a study of the role, participation and contribution of both men and women, black Americans, Mexicans, American Indians, Asians, Pacific Island people, and other ethic groups of the economic, political and the social development of California and the United States of America.

Section 55005 (added in 1981, last amended in 1991) requires community colleges to determine and publish the following information for each course offered, prior to the student course enrollment period: (a) whether the course is for credit or noncredit or a community service class, (b) whether the course is transferrable to four year colleges or universities, (c) whether the course meets a major or general education requirement, and (d) whether the course is offered for credit or no credit and which provision of section 51302(a) is applicable.

Section 55006 (added in 1981, last amended in 1991) requires community college "authorities" to maintain and submit to the Chancellor any records and reports on district credit and non-credit courses and community service classes that the Chancellor may require to fulfill statutory responsibilities.

Section 55008, regarding the appointment of a vocational education advisory committee by school districts participating in vocational education programs, was repealed in 1993.

Approval of Courses

Section 55100 (added in 1981, last amended in 1991) requires the Chancellor to approve all courses offered by a community college before the course can be offered by the college. The course must be submitted to the Chancellor for approval on forms provided by the Chancellor's Office. Subdivision (b) provides that once an educational program has been approved by the Chancellor, the governing board of a district must establish policies for, and may approve individual courses which are offered as part of

an approved program. Subdivision (c) requires the district to classify all courses or activities in accordance with section 55001, regardless of whether or not approval by the Chancellor is required.

Section 55101, regarding the Chancellor's Report, was repealed in 1985.

Section 55130 (added in 1981, last amended in 1991) provides that, prior to offering any course as part of an educational program at a college, district governing boards must obtain approval of the educational program from the Chancellor. Subdivision (b) requires the application for approval to include the following information: (1) the name of the program; (2) a description of the program; (3) the purposes and objectives of the program; (4) the location of the program in the district master plan; (5) an explanation of whether the program is appropriate to the objectives of higher education; (6) the need for the proposed program in relation to area, job market and enrollment projections, and (7) the need for and present adequacy of library and media center resources, facilities and equipment, financial support and available faculty. Subdivision (c) requires the faculty to be involved in the development, establishment and evaluation of all educational programs. Subdivision (d) provides that an approved program will remain effective unless it has been substantially modified by the district or terminated by the Chancellor, and subdivision (e) pertains to program approval in multicollege districts.

Section 55150 (added in 1981, last amended in 1991) requires all noncredit courses or programs offered by a district to be approved by the Chancellor. Subdivision

(b) requires outlines describing the course to be kept on file and Subdivision (c) requires authorities of each community college to keep all such current records and reports of the noncredit courses and that the Chancellor may require.

Section 55160 (added in 1981, last amended in 1991) authorizes districts to approve and conduct community service classes without the approval of the Chancellor. Subdivision (b) prohibits community services classes from being classified as noncredit classes.

Section 55170 (added in 1981, last amended in 1991) authorizes districts to approve and conduct "contract classes" without the Chancellor's approval if the district does not claim state support for the class. Subdivision (a) defines "contract classes" as those classes offered by a community college district which fulfill a contract with a public or private agency, corporation, association or other body or person.

Section 55180, regarding a Chancellor's Report, was repealed in 1991.

Section 55182 (added in 1983 and last amended in 1991) authorizes the governing board to reinstate any course which was removed from the credit or noncredit curriculum during the 1982-83 fiscal year, in response to provision Number 11 of Item 6870-101-001 of the Budget Act of 1982. The following procedures must be followed to reinstate such courses: (a) the governing board must only reinstate courses in a manner that is consistent with the Board of Governors policy that courses which are primarily avocational, or recreational must be offered as community services classes and not as credit or noncredit courses; (b) the governing board must determine that the

course meets the criteria and standards for courses specified in section 55002; (c) a course may be reinstated only after it has been reviewed by the district board through the district's established procedures for approving new courses; (d) the course must be submitted to the Chancellor for approval; (e) the governing board must determine that the course, if reinstated, will be congruent with the mission of the community college and local needs; and (f) any course reinstated to the curriculum pursuant to a separate authorization of the Board of Governors shall be exempt from the requirements of this section.

Prerequisites and Corequisites

Section 55200 (added in 1993) provides the following terms and definitions pertinent to the prerequisite and corequisite approval process: (a)"prerequisite" means a requirement students must meet in order to determine their readiness to enroll in a course; (b) "corequiste" means a condition of enrollment consisting of a course a student is required to simultaneously take in order to enroll in another course; (c) "advisory on recommended preparation" means a condition of enrollment that a student is advised, but not required, to meet before or in conjunction with enrollment in a course or educational program; (d) "satisfactory grade" means that, for a specific course, the student's academic record contains the symbols A, B, C or "CR" as they are defined in Section 55758 of Title 5 of the California Code of Regulations; (e) "necessary and appropriate" means a strong rational basis exists for concluding that a prerequisite or corequisite is reasonably needed to achieve the purpose that it purports to serve; and

(f) "content review" means a rigorous, systematic process conducted by faculty to identify the necessary and appropriate body of knowledge or skills students need to possess prior to enrolling in a course, or which students need to acquire through concurrent enrollment in a corequisite course.

Section 55201 (added in 1983, last amended in 1998), in subdivision (a), authorizes the governing board to establish prerequisites, corequisites, and advisories on recommended preparation and requires prerequisites or corequisites if a course is to be offered for associate degree credit and the curriculum committee finds that either are necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E).

Pursuant to subdivision (a), all prerequisites, corequisites, or advisories on recommended preparation must be established in accordance with the provisions of this Article and, pursuant to Subdivision (b), the district must adopt policies for all of the following: (1) the process for establishing such courses, in accordance with various specified guidelines; (2) procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline; (3) the process, including levels of scrutiny, for review to assure that such preparatory courses remain necessary and appropriate; and (4) the bases and process for student challenge to a prerequisite or corequisite.

Subdivision (c) provides that prerequisites or corequisites may only be established for the following four purposes: (1) if expressly required or expressly authorized by statute or regulation; (2) if the prerequisite course will assure that a

student has the skills, concepts, and/or information necessary to achieve a satisfactory grade in the course or program for which it is being established; (3) if the corequisite course will assure that a student acquires the necessary skills, concepts, and/or information, such that a student who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established; or (4) if necessary to protect the health and safety of a student or others.

Subdivision (d) provides the following five exceptions to the requirement that a prerequisite or corequisite be scrutinized to determine if it is necessary and appropriate to achieve the purpose for which is has been established: (1) if established prior to July 6, 1990, and as part of a sequence of degree-applicable courses within a given discipline; (2) if established between July 6, 1990, and November 4, 1993, in accordance with regulations in effect during this period of time; (3) if required by statute or regulation; (4) if part of a closely-related lecture-laboratory course pairing within a discipline; or (5) if required by four-year institutions.

Subdivision (e) imposes an additional duty on districts seeking to require a communication or computation skills course as a prerequisite or corequisite for non-communication/computation classes. In such cases, a district must gather data to show that a student is highly unlikely to succeed in the course without the proposed prerequisite or corequisite. The Subdivision provides an exception to this data gathering requirement in either of the following two situations: (1) if the particular communication

or computation skill prerequisite is required by four-year institutions in order to receive credit for the particular course; (2) if the prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office, colleges in at least six different districts have previously satisfied the data collection requirements for the same prerequisite or corequisite pertaining to the same program, and the district establishing the prerequisite or corequisite conducts an evaluation to determine whether it has a disproportionate impact on particular groups of students.

Subdivision (f) permits students to challenge any prerequisite or corequisite on any of the following six grounds: (1) if not properly established in accordance with district procedure; (2) if in violation of this Article; (3) if unlawfully discriminatory on its face or in its application; (4) if the student has the knowledge or ability to succeed in the course or program without the prerequisite or corequisite; (5) if the student will be subject to undue delay in attaining his or her educational goal because the prerequisite or corequisite course has not been made reasonably available; and (6) if any other grounds for challenge may be established by the district governing board.

Subdivision (g) requires districts to advise any student issuing a challenge to a prerequisite or corequisite that he or she may also file a formal complaint of unlawful discrimination.

Subdivision (h) requires that any district policies adopted pursuant to this section must be submitted to the Chancellor as part of the district's matriculation plan.

Section 55202 (added in 1993) outlines additional rules that apply to the establishment of prerequisites and corequisites. Subdivision (a) requires any such courses to be identified in college publications that are available to students as well as in the course outline of any course for which they are established. Subdivision (b) requires that prerequisites establishing communication or computational skill requirements be established on a course-by-course basis rather than across the entire curriculum. Subdivision (c) provides that the determination of whether a student meets a prerequisite shall be based either on successful completion of an appropriate course or on an assessment using multiple measures. Subdivision (d) provides that if a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district must ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and number. Subdivision (e) requires sufficient sections of any established corequisite to be offered to reasonably accommodate all students who are required to take the corequisite. If the sections are insufficient, the corequisite it is to be waived. Subdivision (f) prohibits districts from requiring an exit test to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course. Subdivision (g) requires the district to determine whether a student has met a prerequisite prior to that student's enrollment in the course requiring the prerequisite.

Distance Education Courses

Course approval standards are similarly applicable to distance education

courses. The Title 5 regulations for distance education, previously numbered at Sections 55370 et seq., are now contained in Sections 55205 through 55219.

Section 55205 (added in 2002, former section 55370 repealed) defines "distance education" as instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology. All distance education is subject to the general course approval requirements and the requirements that may be imposed by the Americans with Disabilities Act (42 U.S.C. Sec. 12100 et seq.).

Section 55207 (added in 2002, former section 55372 repealed) requires the same standards of course quality to be applied to distance education as are applied to traditional classroom courses, in regard to the course quality judgments and any local course quality determination or review process.

Section 55209 (added in 2002, former section 55374 repealed) requires determinations and judgments about the quality of distance education to be made with the full involvement of faculty in accordance with the provisions commencing with Section 53200 of Title 5 of the California Code of Regulations.

Section 55211 (added in 2002, former section 55376 repealed) requires district governing boards to ensure that all approved courses offered as distance education include regular effective contact between instructors and students and that all distance education courses are delivered consistently with guidelines issued by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of

Governors (pertaining to a report from a committee on distance learning).

Section 55213 (added in 2002, former section 55378 repealed) requires each distance learning course to be separately reviewed and approved, according to the district's certified course approval procedures.

Section 55215 (added in 2002, former section 55380 repealed) requires that instructors of sections delivered via distance education technology must be selected by the same procedures used to determine all instructional assignments.

Section 55217 (added in 2002) requires the determination of the number of students assigned to any one course offered by distance learning to be consistent with other district procedures related to faculty assignments, including curriculum committee review and collective bargaining methods.

Section 55219 (added in 2002) requires the district to comply with certain recordkeeping and reporting requirements for noncredit and nontransferable distance learning courses, including an annual report to the district governing board, and compliance with Section 409 of the Procedures and Standing Orders of the Board of Governors (pertaining to a report from a committee on distance learning).

Independent Study Courses

Sections 55300 (added in 1978, last amended 1992) and 55310 (added in 1978, last amended 1991) require the college district to report approved independent study courses to the Chancellor in the manner specified by the Chancellor.

Section 55316 (added in 1978, last amended in 1994) requires independent

study courses to be accepted for the purpose of awarding associate degrees and to be recognized by the California State College and University systems.

Section 55316.5 (added in 1994, last amended June 19, 2002) allows independent study courses to include nontransferable courses and non credit courses if offered as distance learning.

Section 55320 (added in 1978, last amended in 1991) states that the academic standards for independent study courses will be the same as those applied to credit courses.

Section 55321 (added in 1978, last amended in 1991) requires the district to establish student progress evaluation procedures and requires instructors of Independent Study courses to prepare a report which certifies the satisfactory progress of each student toward course objectives, for state apportionment purposes.

Section 55322 (added in 1978, last amended in 1991) requires the college to provide independent study students the same access to their course instructor as that available for other courses.

Section 55340 (added in 1978, last amended in 1994) requires independent study courses to meet all the requirements of curriculum approval and standards in order to be eligible for state funds.

Section 55350 (added in 1978, last amended in 1991) requires instructors of independent study courses to be qualified for the services provided; be responsible for the supervision and control of the course and enrolled students; provide orientation and

guidance to each student; and provide a schedule of office hours.

CONDITION 12 VOCATIONAL EDUCATION PROGRAMS

This condition alleges mandated costs reimbursable by the state for community college districts to develop and implement policies and procedures for the establishment, modification or discontinuance of programs and courses.

Chapter 977, Statutes of 1979, Section 7 added Education Code Section 78015,[28] effective September 22, 1979, to require at subdivision (a), that the governing board of a community college district, prior to establishing a vocational or occupational training program, shall conduct a job market study of the standard metropolitan statistical area, to insure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction. The study must be conducted by the district's advisory committee on vocational

[28]Education Code Section 78015, as added by Chapter 977, Statutes of 1979, Section 7:

"(a) The governing board of a community college district, shall prior to establishing a vocational or occupational training program, conduct a job market study of the of the standard metropolitan statistical area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. To the extent possible, the study shall use the California Occupational Information System, as defined in Section 52301.5, and other available sources of labor market information. The study shall be conducted in cooperation with the Employment Development Department, prospective employers, and the district's advisory committee on vocational education. The Employment Development Department may cooperate in the study, to the extent possible, within existing resources. The study shall include an analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to insure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to the provisions of Section 8092."

education as well as the Employment Development Department and prospective employers. Subdivision (b) requires that after completing the study the district shall determine whether or not the study justifies the proposed vocational education program. If so, pursuant to subdivision (c), the governing board of the community college district shall determine by resolution whether the program shall be offered through the district's own facilities or through a contract with an approved private post secondary school pursuant to Section 8092.

Chapter 977, Statutes of 1979, Section 8, effective September 22, 1979, added Education Code Section 78016[29] to require at subdivision (a) that beginning in 1979, every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to ensure it meets a documented labor market demand, does not unnecessarily duplicate other manpower training programs in the area and it is effective in obtaining employment for students and ensuring they complete the program.

Chapter 1329, Statutes of 1982, Section 5 amended Education Code Section

[29]Education Code Section 78916, as added by Chapter 977, Statutes of 1979, Section 8:

"(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section."

78016[30] to add a new subdivision (c), which states that the County Private Industry Council, established pursuant to Division 8 of the Unemployment Insurance Code, must participate in the review process concerning all of the vocational and occupational training programs offered by the community college district.

Chapter 537, Statutes of 1983, Section 4, effective July 28, 1983, amended Education Code Section 78016[31] to require the local Private Industry Counsel instead of

---

[30]Education Code Section 78016, as added by Chapter 1329, Statutes of 1982, Section 5:

"(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the County Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) ~~(c)~~ The provisions of this section shall apply to each program commenced subsequent to the effective date of this section."

[31]Education Code Section 78016, as added by Chapter 537, Statutes of 1983, Section 4:

"(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the

the County's Private Industry Counsel to include its comments in the review process of the community college district's programs.

Chapter 1667, Statutes of 1990, Section 4 amended Education Code Section 78105[32] to require the governing board of a community college district to conduct a job market study of the labor market area by referencing the State-Local Cooperative Labor Market Information Program established in Section 10533, or any other available sources of labor market information if that program is unavailable. Prior to this amendment, the district was required to base the job market study on the standard

---

local ~~County~~ Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section."

[32]Education Code Section 78015, as amended by Chapter 1667, Statutes of 1990, Section 4:

"(a) The governing board of a community college district, shall prior to establishing a vocational or occupational training program, conduct a job market study of the ~~of the standard metropolitan statistical area,~~ labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State-Local Cooperative Labor Market Information Program established in Section 10533, or if this program is not available in the labor market area, other available sources of labor market information. ~~To the extent possible, t~~The study shall ~~use the~~ include a California Occupational Information System~~, as defined in Section 52301.5, and other available sources of labor market information. The study shall be conducted in cooperation with the Employment Development Department, prospective employers, and the district's advisory committee on vocational education. The Employment Development Department may cooperate in the study, to the extent possible, within existing resources. The study shall include an~~ supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ~~insure~~ ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092."

metropolitan statistical area. In addition, this amendment deleted the district's responsibility for conducting the study in cooperation with the Employment Development Department and prospective employers.

Chapter 1667, Statutes of 1990, Section 4.5 amended Education Code Section 78016[33] to require in subdivision (a) that the governing board reference the California Occupational Information System, including the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, to determine the effectiveness and necessity of the community colleges training programs. This amendment also states that this section applies to programs created in 1983 instead of 1979.

Chapter 758, Statutes of 1995, Section 104, amended Education Code Section

---

[33]Education Code Section 78016, as amended by Chapter 1667, Statutes of 1990, Section 4.5:

"(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each ~~such~~ program, as demonstrated by the California Occupational Information System, including the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) ~~The provisions of t~~This section shall apply to each program commenced subsequent to ~~the effective date of this section~~ July 28, 1983."

78015[34] to clarify that the State-Local Cooperative Labor Market Information Program, which the governing board of a community college district must use in completing the job market study, is found in Section 10533 of the Unemployment Insurance Code.

Chapter 365, Statutes of 1998, Section 1 amended Education Code Section 78105[35] to require, for the first time, that the governing board of a community college

---

[34]Education Code Section 78015, as amended by Chapter 758, Statutes of 1995, Section 104:

"(a) The governing board of a community college district, ~~shall~~ prior to establishing a vocational or occupational training program, shall conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall determine, by resolution, ~~determine~~ whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092."

[35]Education Code Section 78015, as amended by Chapter 365, Statutes of 1998, Section 1:

"(a)(1) The governing board of a community college district, prior to establishing a vocational or occupational training program, shall conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(2) The governing board of the community college district shall make copies of each job market study available to the public.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study

district must make copies of each job market study available to the public.

Chapter 365, Statutes of 1998, Section 2 amended Education Code Section 78016[36] to require, for the first time, that a written summary of the findings of each review must be made available to the public.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Section 51022, subdivision (a) (added in 1984 and last amended in 1991) requires the governing board of each community college district to, by July 1, 1984, develop and implement policies for the establishment, modification, or discontinuance of courses or programs, including responsibilities regarding vocational training programs pursuant to Education Code Section 78016.

---

justifies the initiation of the proposed program, it shall determine, by resolution, whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092."

[36]Education Code Section 78016, as amended by Chapter 365, Statutes of 1998, Section 2:

"(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to ~~assure~~ ensure that each program, as demonstrated by the California Occupational Information System, including the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) This section shall apply to each program commenced subsequent to July 28, 1983.

(e) A written summary of the findings of each review shall be made available to the public."

Contracts

Section 55600 (added in 1983 and last amended in 1993), in subdivision (a), defines "vocational education contracts" as agreements between any community college district and a contractor that meet the standards prescribed herein to provide vocational instruction for community college students. Subdivision (b) defines "The California State Plan for Vocational Education" as an agreement between the California State Board of Education and the United States Commissioner of Education that provides policies, procedures and standards that must apply to the operation of various phases of vocational education to qualify for financial support. Subdivision (c) defines a "contractor" as any private post secondary school authorized or approved pursuant to provisions of chapter 3 which has been in operation not less than 2 full calendar years prior to the effective date of the contract. Subdivision (d) defines "eligible costs" as all direct and indirect related instructional costs excluding capital outlay.

Section 55601 (added in 1993) requires the governing board of each community college district participating in a vocational education program to appoint a vocational education advisory committee to develop recommendations on the program and to provide a liaison between the district and potential employers.

Section 55602 (added in 1991) states that any community college district or districts may contract with approved private post secondary schools or with an activity center, work activity center, or sheltered work shop to provide vocational skill training provided that the amount contracted for per student does not exceed the total cost it

would to provide the same training in the community college or the tuition the private post secondary school charges its students. In addition, the community college student receiving training pursuant to the contract must not be charged additional tuition and all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education. All such contracts must be approved by the Chancellor who may audit the accounts of both the district and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

Section 55602.5 (added in 1991 and last amended in 1994) authorizes the governing board of a community college district to enter into a contract with a public or private entity for the education of students who are impaired by a physical deficiency or injury in vocational education classes to be conducted for such students by the contract agency. All classes shall be approved and supervised by the governing board of the community college and shall be taught by academic employees.

Section 55603 (added in 1983 and last amended in 1991) requires contractors to provide technical, vocational or occupational instruction that will prepare students for gainful employment, occupational upgrading, or enrollment in more advanced training programs.

Section 55604, regarding the application for approval, was repealed in 1983.

Section 55605 (added in 1977 and last amended in 1991) provides that vocational education contracts shall not exceed one year, be approved by the

Chancellor, and include such details to explain and justify intended offerings. The contracts are to be "maintained in conformity" with applicable provisions of the Education Code, Title 5 of the California Code of Regulations, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education, and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

Section 55606, regarding administration, was repealed in 1983.

Section 55607 (added in 1977 and last amended in 1991) requires each district that has entered into a contract with a contractor to submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract are to be made available for an audit by the state or federal government for five (5) years or one year after audited, whichever comes first.

Section 55608, regarding accounting procedures, was repealed in 1983.

Contracting Standards

Section 55620 (added in 1977 and last amended in 1991) provides that the following conditions must be used to determine the appropriateness of vocational education contracts with contractors: (a) manpower needs and job opportunities are identified for the instruction program; (b) the program or courses are not already available in the region served; (c) the program or courses provide vocational education

opportunities that are not already available; (d) the program or courses shall not reduce or supplant the vocational education efforts of any district; (e) eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private citizens; (f) the community college student may not be charged additional tuition for any training included in the contract; (g) students are eligible to enroll under a contract if they are sixteen years of age and are enrolled in a community college; and (h) the contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

Contract Provisions

Section 55630 (added in 1983 and last amended in 1991) requires contracts to include the following provisions: (a) that the governing board of the community college district has determined by resolution the appropriateness of offering the program; (b) methods for identifying eligible costs and payment procedures; (c) procedures and conditions relating to enrollment period, student transfer, class hours required to meet performance objectives, supervision of staff and withdrawal of students prior to completion of a course or program; (d) that the contractor and community college district will insure students receive additional support services; (e) qualified faculty will provide instruction; (f) performance objectives for each class and a report regarding accomplishments of the objectives at the end of each contract period; (g) the contractor

will maintain records of student attendance and achievement; (h) terms and condition relating to termination of the contract; (i) the contractor is in compliance with Civil Rights Act of 1964; (j) the contractor provides workers' compensation insurance coverage for any student; and (k) the contractor provides indemnity and defense for the state and community college district against any and all claims and liability.

CONDITION 13 COURSE ARTICULATION-LOCAL

This condition alleges mandated costs reimbursable by the state for community college districts to develop and implement policies and procedures to provide that district courses and programs are articulated with proximate four-year colleges and high schools.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Section 51022, Subdivision (b) (added in 1984 and last amended in 1991) requires the governing board of each community college district to by July 1, 1984 to develop, file with the Chancellor, and carry out its policies and procedures to ensure that its courses and programs are articulated with proximate four-year colleges and high schools. It is reasonable to conclude that the articulation agreements would need to be updated on an ongoing basis to remain useful. The scope of this articulation mandate appears to separate and distinct of the transfer center requirements, discussed below.

CONDITION 14 ACADEMIC FREEDOM

This condition alleges mandated costs reimbursable by the state for community

college districts to adopt, implement and comply with policies and procedures pertaining to faculty academic freedom as a minimum condition for receipt of state aid.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

Section 51023 (added in 1984 and last amended in 1994), at subdivision (a), requires the governing board of a community college district to adopt and implement a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor. Subdivision (c) requires the district to substantially comply with the policy and procedures adopted pursuant to subdivision (a).

CONDITION 15 SHARED GOVERNANCE

This condition alleges mandated costs reimbursable by the state for community college districts to adopt, implement and comply with policies and procedures pertaining to a system of shared governance with faculty, staff and students, as a minimum condition for receipt of state aid.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

The regulations implementing the shared governance minimum conditions for state aid are found in three Title 5 sections, 51023, 51023.5, and 51023.7.

Faculty Shared Governance: Academic Senates

Section 51023 (added in 1984 and last amended in 1994), in subdivision (b), requires the governing board of a community college district to adopt procedures which

are consistent with the provisions of Sections 53000-53206[37], regarding the role of academic senates and faculty councils and to file such procedures with the Chancellor. Subdivision (c) requires the district to substantially comply with the policies and procedures adopted pursuant to subdivision (b).

Section 53200 (last amended in 1994) establishes definitions for the establishment and operation of the district academic senate. Subdivision (a) defines the term "faculty" as those employees who are employed in non-supervisory or management positions and for which minimum qualifications for hire is specified by the Board of Governors. Subdivision (b) defines an "academic senate" as an organization whose purpose is to make recommendations to the college and district administration with respect to academic and professional matters. Subdivision (c) defines the phrase "academic and professional matters" as any of the following policy development and implementation matters: curriculum; degree and certificate requirements; grading policies; educational program development; standards or policies regarding student preparation and success; district and college governance structures; involvement in accreditation processes; policies for faculty professional development activities; processes for program review; processes for institutional planning and budget

[37] Sections 53000 through 53064 were the subject of affirmative action and equal employment requirements until 2002, at which time the sections were completely replaced by new "post-*Connerly*" regulations, which are the subject of another part of this test claim. Sections 53100-53102 were repealed in May 1993. Section 53125 pertains to the transfer of accumulated sick leave, which is not the subject of this test claim.

Section 53130 (new section filed) requires the governing board to publish and make available to each academic employee reasonable rules and regulations pertaining to performance evaluations.

development; and any other academic and professional matters mutually agreed upon between the governing board and the academic senate. Finally, subdivision (d) defines the phrase "consult collegially" as the requirement that districts develop and implement policies on academic and professional matters providing for a collegial consultation process with the academic senate. Such policies may allow the district to rely primarily upon the advice and judgment of the academic senate, require mutual agreement by the district and academic senate, or provide for the use of both methods.

Section 53201 (last amended in 1990) provides that academic senates may be established at the college and/or district level so that the faculty may participate in the formation and implementation of district policies on academic and professional matters.

Section 53202 (last amended in 1990) establishes the procedures for the establishment and operation of an academic senate. Subdivision (a) requires that the full-time faculty of a community college must vote by secret ballot to form an academic senate. Subdivision (c) requires the district governing board to authorize the faculty to fix the composition, structure and procedures of the academic senates and provide for the selection of members by democratic election procedures.

Section 53203 (added in 1990 and last amended in 1994) delineates the powers of the governing board and academic senate within the context of the consultation process. Subdivision (a) requires the district governing board to adopt policies for delegation of authority to its academic senate and procedures for responding to recommendations of the academic senate. Subdivision (b) requires the governing board

to consult collegially with representatives of the academic senate when adopting such policies and procedures. Subdivision (f) requires an academic senate to consult with the chief executive officer prior to the appointment of faculty members to serve on any district groups dealing with academic and professional matters.

Section 53204 (added in 1990 and last amended in 1994) states that the academic senate consultation process is not intended to modify the scope nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards.

Section 53206 (added in 1978 and last amended in 1994) establishes the Academic Senate for California Community Colleges, which is the subject of another test claim.

Section 53207 (added in 2003) requires community college districts to grant release or reassigned time to the faculty members who have been elected to serve as president and vice president of the Academic Senate of the California Community Colleges (ASCCC). Subdivision (b) provides that the ASCCC will determine and report to the district employing such faculty members the amount of release or reassigned time which will be required. Subdivision (c) provides for district reimbursement by the ASCCC for the reasonable and documented administrative costs associated with hiring faculty to replace the faculty serving as president and vice president of the ASCCC. Subdivision (d) permits a district to refuse to grant such release or reassigned time in cases where the faculty member is in a position for which a qualified temporary

replacement cannot be found to meet the needs of the students. Subdivision (e) provides that no district shall be required to grant release or reassigned time for an individual serving as president or vice president of the ASCCC for a period exceeding four years.

Staff Shared Governance

Section 51023.5 (added in 1991 and last amended in 1994) requires community college districts to provide a process whereby non-academic district staff members are given an opportunity to participate in college governance. The governing board must, pursuant to subdivision (a), adopt and pursuant to subdivision (d), substantially comply with polices and procedures to provide a shared governance process for its district and college non-academic staff. Such policies and procedures must provide district staff with the opportunity to participate in the formulation of all district polices and procedures which have significant effect on staff. District staff must also be permitted to select members of the boards and organizations established for the consultation process. In addition, the policies and procedures are required to include the following: definitions of non-faculty staff positions that the governing board is required to recognize; participation structures and procedures; a mandate for the governing board to consult with the representatives of existing staff organizations when developing the above-mentioned staff definitions and participation structures; opportunities for staff to participate in the development of district policies and procedures; an opportunity for staff to participate in the development of any matter having a "significant affect" on staff, prior to any action

being taken on such matters; an assurance that staff opinions will be given every reasonable consideration; and a provision that the selection of any staff representatives are to be made from the category that they represent and by those organizations that the governing board has officially recognized, when required by law. Districts are prohibited from allowing the consultation process to encroach upon either the collective bargaining process, pursuant to subdivision (b), or the academic faculty process, pursuant to subdivision (c).

Student Shared Governance

Section 51023.7 (added in 1991 and last amended in 1994), requires community college districts to provide a process whereby its students are given an opportunity to participate in college governance. The governing board must, pursuant to subdivision (a), adopt and pursuant to subdivision (e), substantially comply with polices and procedures to provide a shared governance process for the student body and its student organizations. Such policies and procedures must provide students with the opportunity to participate in the formulation of any district polices and procedures that have significant effect on students, as defined in subdivisions (b) and (c), and for students to participate in the selection of representatives of the bodies that participate in the process. The district is to give reasonable consideration to the student's recommendations and positions relating to college governance. As outlined in subdivision (b), the district policies and procedures that are considered to have a "significant effect on students" include the following: grading policies; codes of student

conduct; academic disciplinary policies; curriculum development; courses or programs which should be initiated or discontinued; processes for institutional planning and budget development; standards and policies regarding student preparation and success; student services planning and development; student fees within the authority of the district to adopt; and any other district and college matter that the district governing board determines will have a significant effect on students. Subdivision (d) prohibits the student consultation process from encroaching upon the shared governance, due process, or collective bargaining rights granted to the district faculty or staff.

CONDITION 16 MATRICULATION SERVICES

This condition alleges mandated costs reimbursable by the state for community college districts to develop and implement policies and procedures to comply with the Seymour-Campbell Matriculation Act of 1986, as contained in Education Code Sections 78210 -78218.

Seymour-Campbell Matriculation Act of 1986

Chapter 1467, Statutes of 1986, Section 1, added Education Code sections 78210 -78218, and thereby established the community college matriculation program entitled the "Seymour-Campbell Matriculation Act of 1986".

Chapter 1467, Statutes of 1986, Section 1, added Section 78211[38], to state that

[38]Education Code Section 78211, as added by Chapter 1467, Statutes of 1986, Section 1:
"It is the intent of the Legislature to do all of the following:
(a) Ensure equal education opportunity for all Californians.
(b) Ensure that students receive the educational services necessary to optimize their opportunities for success.
(c) Provide students with the information to establish realistic educational goals, and ensure that

the intent of the Legislature in enacting the Seymour-Campbell Matriculation Act was to accomplish the following goals: to ensure equal education opportunity for all Californians; to ensure that students receive the educational services necessary to optimize their opportunities for success; to provide students with the information to establish realistic educational goals; and to ensure that the matriculation process does not exclude students from receiving appropriate educational services at community colleges.

Chapter 1467, Statutes of 1986, Section 1, added Section 78211.5[39] to require the Chancellor to provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for the purpose allow. In addition, the section required that any college or district receiving funding must agree to carry out the provisions of the article, as specified, for the period during which funding is received pursuant to the article. The college or district was

---

the matriculation process does not exclude students from receiving appropriate educational services at community colleges."

[39]Education Code Section 78211.5, as added by Chapter 1467, Statutes of 1986, Section 1:
"(a) The Chancellor of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for this purpose allow.
(b) Because of the need to develop and evaluate data on a standard statewide basis concerning the implementation and effectiveness of the matriculation services described in this article, any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article. The obligations of the college or district under the agreement shall include, but not be limited to, the expenditure of funds received pursuant to this article for only those matriculation services approved by the chancellor and the contribution toward the purposes of this article of such matching funds as the chancellor may require pursuant to Section 78216."

required to expend the funds received pursuant to the article only for those matriculation services approved by the Chancellor or for the contribution of matching funds toward the purposes of the article as may be required by the Chancellor pursuant to Section 78216.

Chapter 1467, Statutes of 1986, Section 1, added Section 78212[40] to provide definitions applicable to the matriculation program and the duties of the district and

---

[40]Education Code Section 78212, as added by Chapter 1467, Statutes of 1986, Section 1:

"(a) For purposes of this article, "matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational objectives. The agreement involves the responsibilities of both parties to attain those objectives through the college's established programs, policies, and requirements.

The student's responsibilities under the agreement include the expression of at least a broad educational intent upon enrollment, the declaration of a specific educational objective within a reasonable period after enrollment, diligence in class attendance and completion of assigned coursework, and the completion of courses and maintenance of progress toward an educational goal according to standards established by the college, the district, and the state.

(b) Matriculation services to be made available by the colleges shall include, but are not limited to, all of the following:

(1) Processing of the application for admission.

(2) Orientation and preorientation services designed to provide to students, on a timely basis, information concerning campus procedures, academic expectations, financial assistance, and any other matters the college or district finds appropriate.

(3) Assessment and counseling upon enrollment, which shall include, but not be limited to, all of the following:

(A) Administration of assessment instruments to determine student competency in computational and language skills.

(B) Assistance to students in the identification of aptitudes,

interests and educational objectives, including, but not limited to, associate of arts degrees, transfer for baccalaureate degrees, and vocational certificates and licenses.

(C) Evaluation of student study and learning skills.

(D) Referral to specialized support services as needed, including, but not limited to, federal, state, and local financial assistance; health services; campus employment placement services; extended opportunity programs and services provided pursuant to Article 8 (commencing with Section 69640) of Chapter 2 of Part 42; campus child care services provided pursuant to Article 4 (commencing with Section 8225) of Chapter 2 of Part 6; programs that teach English as a second language; anddisabled student services provided pursuant to Chapter 14 (commencing with Section 67300) of Part 40.

(E) Advisement concerning course selection.

(4) Postenrollment evaluation of each student's progress, and required advisement or counseling for students who are enrolled in remedial courses, who have not declared an educational objective as required, or who are on academic probation, as defined by standards adopted by the Board of Governors of the California Community Colleges and community college districts."

student. "Matriculation" was defined as a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational objectives. As outlined in this section, the student's responsibilities under the agreement included the expression of at least a broad educational intent upon enrollment, the declaration of a specific educational objective within a reasonable period after enrollment, diligence in class attendance and completion of assigned coursework, and the completion of courses and maintenance of progress toward an educational goal according to standards established by the college, the district, and the state. The matriculation services to be made available by the colleges was required to include: (1) processing of the application for admission; (2) student orientation; (3) assessment and counseling upon enrollment, including assessment of math and language skills, aptitude, study and learning skills, and referral to specialized support services; (4) course selection; and (5) postenrollment evaluation of each student's progress and remedial counseling.

Chapter 1467, Statutes of 1986, Section 1, added Section 78213[41] to require that

[41]Education Code Section 78213, as added by Chapter 1467, Statutes of 1986, Section 1:

"(a) No district or college may use any assessment instrument for the purposes of this article without the authorization of the chancellor. The chancellor may adopt a list of authorized assessment instruments pursuant to the policies and procedures developed pursuant to this section and the intent of this article. The chancellor may waive this requirement as to any assessment instrument pending evaluation.

(b) The chancellor shall review all assessment instruments to ensure that they meet all of the following requirements:

(1) Assessment instruments shall be sensitive to cultural and language differences between students.

(2) Assessment instruments shall be used as an advisory tool to assist students in the selection of an educational program.

(3) Assessment instruments shall not be used to exclude students from admission to community colleges.

a district or college use only those assessment instruments authorized by the Chancellor. The section required the Chancellor to ensure that assessment instruments: (1) are sensitive to cultural and language differences between students; (2) are used as an advisory tool to assist students in the selection of an educational program; and (3) are not used exclude students from admission to community colleges. In addition, the section required the Chancellor to establish an advisory committee to review and make recommendations concerning all assessment instruments used by districts and colleges pursuant to the article.

Chapter 1467, Statutes of 1986, Section 1, added Section 78214[42] to require that all participating districts, with the assistance of the Chancellor, establish and maintain an

---

(c) The chancellor shall establish an advisory committee to review and make recommendations concerning all assessment instruments used by districts and colleges pursuant to this article."

[42]Education Code Section 78214, as added by Chapter 1467, Statutes of 1986, Section 1:
"(a) All participating districts shall, with the assistance of the chancellor, establish and maintain institutional research to evaluate the effectiveness of the matriculation services described by this article and of programs and services designed to remedy students' skills deficiencies.
(b) The data base for this research shall include, but not be limited to:
(1) Prior educational experience, including transcripts when appropriate, as determined by the chancellor.
(2) Educational objectives.
(3) Criteria for exemption from assessment or required counseling or advisement, if applicable.
(4) Need for financial assistance.
(5) Ethnicity, sex, and age.
(6) Academic performance.
(7) Any additional information that the chancellor finds appropriate.
(c) The evaluation provided for by this section shall include an assessment of the effectiveness of the programs and services in attaining at least the following objectives:
(1) Helping students to define their educational goals.
(2) Assisting institutions in the assessment of students' educational needs.
(3) Matching institutional resources with students' educational needs.
(4) Providing students with specialized support services as referred to in subdivision (b) of Section 78212."

institutional research data base to evaluate the effectiveness of the matriculation services including: (1) prior educational experience; (2) educational objectives; (3) criteria for exemption from assessment or required counseling or advisement; (4) need for financial assistance; (5) ethnicity, sex, and age; (6) academic performance; and (7) any additional information that the Chancellor finds appropriate. The section required programs to be evaluated to determine their effectiveness in: (1) helping students to define their educational goals; (2) assisting institutions in the assessment of students' educational needs; (3) matching institutional resources with students' educational needs; and (4) providing students with specialized support services.

Chapter 1467, Statutes of 1986, Section 1, added Section 78215[43] to require the Board of Governors to establish criteria for exempting students from participation in orientation, assessment testing, or required counseling or advisement under the article.

Chapter 1467, Statutes of 1986, Section 1, added Section 78216[44] to address

---

[43]Education Code Section 78215, as added by Chapter 1467, Statutes of 1986, Section 1:
"The Board of Governors of the California Community Colleges shall establish criteria for exempting students from participation in orientation, assessment testing, or required counseling or advisement under this article."

[44]Education Code Section 78216, as added by Chapter 1467, Statutes of 1986, Section 1:
"(a) The Legislature recognizes that community college districts are currently funding various components of student matriculation through existing counseling, assessment, and other student services, but that adequate student matriculation cannot be realized without supplemental funding support.
(b) The chancellor shall develop a formula for funding student matriculation services at community colleges. The formula shall include the requirement that the districts or colleges contribute matching funds in an amount to be established by the chancellor in each case, and shall reflect, but not be limited to, all of the following considerations:
(1) The number of students to receive matriculation services at each college.
(2) The levels of support for matriculation services provided at each college prior to July 1, 1985, and the need for funding assistance in the implementation of the program set forth in this article.

the funding of the program. The Legislature officially recognized, for the first time, that although community college districts had already been funding various components of student matriculation through existing counseling, assessment, and other student services, adequate student matriculation could not be realized without supplemental funding support. Subdivision (b) required the Chancellor to develop a funding formula which included the requirement that the districts or colleges contribute matching funds in an amount to be established by the Chancellor in each case, according to: (1) the number of students to receive matriculation services at each college; (2) the levels of support for matriculation services provided at each college prior to July 1, 1985 (which is contrary to Government Code section 17565 for the reimbursement of mandates) and

---

(3) The relative needs for matriculation services, based on special student populations such as low-income students, students with language differences, students with physical and learning disabilities, and students in need of remedial instruction.

(4) The requirement that funds for matriculation services be expended only for services approved by the chancellor.

(5) The requirement that any district or college receiving funding pursuant to this section agree to implement this article during the period in which it receives that funding.

(6) The need for computer hardware and software to provide approved matriculation services, and for institutional research personnel for ongoing evaluation.

(c) The chancellor shall require participating colleges to develop a plan for student matriculation that reflects all of the following:

(1) A method for providing the services specified in Section 78212.

(2) The college budget for the matriculation services pursuant to Sections 78212 and 78214.

(3) The development and training of staff and faculty to implement the matriculation services.

(4) In multicampus districts, the coordination of the college matriculation plan with other college plans.

(5) Computerized information services and institutional research andevaluation necessary for implementation of this article.

(d) The chancellor may allocate up to 5 percent of the total funds appropriated for student matriculation for state administrative operations to carry out the intent of this article, subject to the review of the annual budget process."

the current ability to fund the program; (3) the relative need for matriculation for low-income students, students with language differences, students with physical and learning disabilities, and students in need of remedial instruction; (4) the requirement that funds for matriculation services be expended only for services approved by the board of governors; (5) the requirement that any district or college receiving funding pursuant to the section agree to implement this article during the period in which it receives that funding; and (6) the need for computer hardware and software to provide approved matriculation services, and for institutional research personnel for ongoing evaluation. Subdivision (c) required participating colleges to develop a plan for student matriculation to reflect all of the following: (1) a method for providing the services: (2) the college budget for the matriculation services; (3) the development and training of staff and faculty to implement the matriculation services; (4) in multicampus districts, the coordination of the college matriculation plan with other college plans; and (5) computerized information services and institutional research and evaluation necessary for implementation of this article.

Chapter 1467, Statutes of 1986, Section 1, added Section 78217[45] to require the

[45]Education Code Section 78217, as added by Chapter 1467, Statutes of 1986, Section 1:

"(a) By no later than January 30, 1987, and prior to the allocation of any funding for purposes of this article to local districts, the chancellor shall provide the Department of Finance, Legislative Analyst, California Postsecondary Education Commission, and the education policy committees and the fiscal committees of the Legislature with a comprehensive management plan for implementation of matriculation programs pursuant to this article.

(b) On or before March 15, 1989, the chancellor shall submit a report to the Legislature evaluating the effectiveness of those community college matriculation programs receiving funding under this article for the 1986-87 academic year. The report shall cover operation of the programs during the 1986-87 and 1987-88 fiscal years, and shall include the chancellor's recommendations regarding the improvement of student matriculation, the continued operation of student matriculation services, and the funding of those

Chancellor to a) prepare and submit to the Department of Finance, Legislative Analyst, California Postsecondary Education Commission, and the education policy committees and the fiscal committees of the Legislature, a comprehensive management plan for implementation of matriculation programs; b) prepare and submit to the Legislature an initial progress report; c) prepare and submit to Legislature annual progress reports; d) appoint an advisory committee to assist in the development of the article; and e) prepare and submit to the Legislature a report evaluating the comparative utility of matriculation services to students with differing educational objectives.

Chapter 1467, Statutes of 1986, Section 1, added Section 78218[46] to specify that beginning fiscal year 1986-87 and each fiscal year thereafter, matriculation programs shall be required only if funds are specifically appropriated.

---

services. The chancellor shall include in the report information on the success rate of students who enroll in courses contrary to the recommendations and advice of college advisement staff.

(c) On or before March 15 of each year thereafter, the chancellor shall provide a progress report to the Legislature on the implementation of this article. The chancellor may require participating districts or colleges to provide data for the completion of these reports.

(d) No later than January 1, 1986, the chancellor shall appoint an advisory committee to assist in the development of the evaluation required by this section; however, the Legislature recognized that to promote the effective implementation of this program, the chancellor may wish to appoint the advisory committee prior to that date.

(e) On or before April 1, 1988, the chancellor shall submit a report to the Legislature evaluating the comparative utility of matriculation services to students with differing educational objectives."

[46]Education Code Section 78218, as added by Chapter 1467, Statutes of 1986, Section 1:

"In the 1986-87 fiscal year and each fiscal year thereafter, this article shall be operative only if funds are specifically appropriated for the purposes of this article."

Chapter 973, Statutes of 1988, Section 18, added Section 78212.5[47] to authorize each community college district to operate: (a) career resource and placement centers; (b) programs to instruct appropriate staff and faculty members in the performance of matriculation services; (c) orientation programs; (d) a publicity program about the purposes of the mandatory matriculation process; and (e) a publicity program designed to inform high schools about student skill levels, and of available student support services.

Chapter 1372, Statutes of 1990, Sections 460-463 amended Education Code Sections 78211.5, 78213, 78216 and 78217 respectively, to require the Board of Governors, rather than the Chancellor to be vested with the responsibility implementing the program. No other substantive changes were made in any of these code sections, aside from the above mentioned language change.

Chapter 758, Statutes of 1995, Section 105, amended Education Code Section

---

[47]Education Code Section 78212.5, as added by Chapter 973, Statutes of 1988, Section 18:

"Each community college district may develop and maintain all of the following within each community college in the district:

(a) Career resource and placement centers having the purposes of maintaining information on vocational, technological and educational opportunities, and facilitating career employment.

(b) Programs to instruct appropriate staff and faculty members in the performance of matriculation services.

(c) Orientation programs designed to explain to new students academic requirements and other regulations of the community college, and the available student support services.

(d) A publicity program designed to inform the community served by the community college that the purposes of the mandatory matriculation process are intended to facilitate, rather than restrict, student access to community college instruction, and to enhance each student's awareness of his or her abilities, skills, and potential.

(e) A publicity program designed to inform high schools in the community served by the community college, through orientation programs and other means, of student skill levels, and of available student support services."

78217[48] to delete all earlier language in the code section except for the requirement that the Board of Governors provide an annual progress report to the Legislature on the implementation of the Seymour-Campbell Matriculation Act.

Chapter 745, Statutes of 2001, Section 78217[49], repealed Education Code Section 78217. Therefore, the Board of Governors no longer must provide the above mentioned progress report to the Legislature.

---

[48]Education Code Section 78217, as amended by Chapter 758, Statutes of 1995, Section 105:

"~~(a) By no later than January 30, 1987, and prior to the allocation of any funding for purposes of this article to local districts, the board of governors shall provide the Department of Finance, Legislative Analyst, California Postsecondary Education Commission, and the education policy committees and the fiscal committees of the Legislature with a comprehensive management plan for implementation of matriculation programs pursuant to this article.~~

~~(b) On or before March 15, 1989, the board of governors shall submit a report to the Legislature evaluating the effectiveness of those community college matriculation programs receiving funding under this article for the 1986-87 academic year. The report shall cover operation of the programs during the 1986-87 and 1987-88 fiscal years, and shall include the board of governors' recommendations regarding the improvement of student matriculation, the continued operation of student matriculation services, and the funding of those services. The board of governors shall include in the report information on the success rate of students who enroll in courses contrary to the recommendations and advice of college advisement staff.~~

~~(c)~~ On or before March 15 of each year ~~thereafter~~, the board of governors shall provide a progress report to the Legislature on the implementation of this article. The board of governors may require participating districts or colleges to provide data for the completion of these reports.

~~(d) No later than January 1, 1986, the board of governors shall appoint an advisory committee to assist in the development of the evaluation required by this section; however, the Legislature recognized that to promote the effective implementation of this program, the board of governors may wish to appoint the advisory committee prior to that date.~~

~~(e) On or before April 1, 1988, the board of governors shall submit a report to the Legislature evaluating the comparative utility of matriculation services to students with differing educational objectives.~~"

[49]Education Code Section 78217, as repealed by Chapter 745, Statutes of 2001, Section 38:

"~~On or before March 15 of each year, the board of governors shall provide a progress report to the Legislature on the implementation of this article. The board of governors may require participating districts or colleges to provide data for the completion of these reports.~~"

TITLE 5, CALIFORNIA CODE OF REGULATIONS

As a minimum condition for receipt of state aid, Title 5, Section 51024 (added in 1990 and last amended in 1992) requires the governing board of each community college district to: (a) adopt and submit to the Chancellor a matriculation plan; (b) evaluate its matriculation program and participate in statewide evaluation activities; (c) provide matriculation services to its students; (d) establish procedures for waivers and appeals in connection with its matriculation program; and to (e) substantially comply with all other provisions of Sections 55500 through 55534.

Scope of Matriculation Programs

Title 5, Section 55500 begins the regulatory requirements established in 1990 for the matriculation programs. This section (added in 1990 and last amended in 1992) requires that the regulations be "read in conjunction with the provisions of the Seymour-Campbell Matriculation Act of 1986." The section provides that the matriculation program requirements apply only to districts receiving funds pursuant to Education Code Section 78216 for the period of time during which such funds are received.

Section 55502 (added in 1990 and last amended in 1994) provides definitions for the implementation of the programs which supplement those in the Education Code. As detailed in this section, the following definitions apply: a) "matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established

programs, policies, and requirements; b) "assessment" means the process of gathering information about individual students to facilitate student success, including information regarding the student's study skills, English language proficiency, computational skills, aptitudes, goals, learning skills, career aspirations, academic performance, and need for special services. Only after a grade has been assigned and recorded in the student's transcript can it be used in the assessment process; c) "assessment instruments, methods, or procedures" include interviews, standardized tests, holistic scoring processes, attitude surveys, vocational or career aptitude and interest inventories, high school or college transcripts, specialized certificates or licenses, educational histories and other measures of performance; d) "pre-collegiate basic skills courses" are those courses in reading, writing, computation, and English as a Second Language which are designated by the community college district as nondegree credit courses pursuant to Section 55002(b); e) "disproportionate impact" occurs when the percentage of persons from a particular racial, ethnic, gender, age or disability group who are directed to a particular service or placement based on an assessment procedure is significantly different from the representation of that group in the population of persons being assessed, and that discrepancy is not justified by empirical evidence demonstrating that the assessment procedure is a valid and reliable predictor of performance in the relevant educational setting; f) "exemption" means waiving or deferring a student's participation in any required orientation, assessment, counseling, or advisement activities; g) "matriculation services" are those services listed in Section 55520; h) "matriculation

practices" means one or more instruments, methods, or procedures used in providing any of the matriculation services listed in Section 55520; i) "student" means a person enrolled in at least one credit course; j) "orientation" is a process which acquaints students and potential students with college programs, services, facilities and grounds, academic expectations, and institutional procedures; and k) "student follow-up" is the process of monitoring a student's progress toward his or her educational goals and providing the student with appropriate advice based on the results of such monitoring.

Planning and Administration of Matriculation Programs

Section 55510 (added in 1990 and last amended in 1994) requires each community college district adopt, as specified in subdivision (a), a matriculation plan describing the services to be provided to its students. Subdivision (b) requires that the plan be developed through consultation with representatives of the academic senate, students, and staff. Subdivision (c) requires the plans to conform to law, and to be submitted to the Chancellor for initial and periodic review and approval.

Section 55512 (added in 1990) requires each community college district to establish a program of institutional research for ongoing evaluation of its matriculation process. All assessment instruments, methods or procedures must be evaluated to determine whether any assessment instrument, method or procedure has a disproportionate impact on particular groups of students, in which case the district will, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact. The Chancellor is required to

establish a system for evaluation of the matriculation program on a statewide basis.

Section 55514 (added in 1990) requires each community college district to submit an annual report describing the district's efforts to implement its matriculation plan and expenditures made for that purpose. The report must include specified program outcome data on students from various ethnic, gender, age or disability groups.

Section 55516 (added in 1990) requires each community college district to develop and implement a program for providing all faculty and staff with training on the provision of matriculation services. The training must be appropriate to faculty needs and include the following information: the proper purpose, design, evaluation, and use of assessment instruments, methods or procedures, as well as their limitations and possible misuse.

Section 55518 (added in 1990) requires the Chancellor to adopt a funding formula for allocating matriculation funds to community college districts complying with the requirements of this chapter which requires that each dollar of state matriculation funding shall be matched by three dollars of other district resources devoted to the matriculation program.

Required Matriculation Services

Section 55520 (added in 1990) provides the list of required matriculation services, which essentially restates the statutory enumeration. The list includes the following mandated services: processing of admission applications; orientation; assessment; counseling; assistance in developing an educational plan; post enrollment evaluation;

and referral to both support services and specialized curriculum offerings.

Section 55521 (added in 1990 and last amended in 1992) provides a statement of prohibited and discriminatory matriculation assessment practices. The following practices are listed as prohibited uses of assessment instruments: any use that has not been approved by the Chancellor; use in a manner or for a purpose other than that for which it was developed or validated for; use of any single instrument by itself for student placement, evaluation or referral purposes; to exclude any person from admission; to mandatorily place a student in or exclude from any educational program, unless as an established prerequisite; to subject any person to unlawful discrimination. Pursuant to subdivision (b), assessment instruments may be used to determine "ability to benefit" in evaluating a student's eligibility for financial aid.

Section 55522 (added in 1990) requires that appropriate modifications be made in the matriculation process for ethnic and language minority students and students with disabilities so that their needs are accommodated.

Section 55523 (added in 1990) requires Community College districts to make reasonable efforts to provide counseling and advisement services for all nonexempt students who: are on probation; have not declared a specific educational goal; or are enrolled in pre-collegiate basic skills courses. Also, counseling services must be made available for all students to advise them on general academic requirements and the selection of specific courses.

Section 55524 (added in 1990) requires the Chancellor to establish and provide

to community college districts an annual list of approved assessment instruments and guidelines for their use. Such guidelines must identify any special modifications approved for compliance with section 55522 (Special Accommodations) and also describe the procedure by which districts may seek to have assessment instruments approved and added to the list.

Section 55525 (added in 1990 and last amended in 1994) requires the district to establish a process for assisting students to select a specific educational goal and for affording students with an opportunity to develop a written educational plan. Any such educational plan that has been developed must be recorded and reviewed as necessary by the district to ensure that the plan continues to accurately reflect the needs and goals of the student. The district must also afford a student the right to file a complaint pursuant to Section 55534(a) if that student believes the district has violated the requirements of this Section.

Section 55526 (added in 1990) requires the district to establish a follow-up process to assist the student in achieving his or her educational goal which includes regular monitoring to detect early signs of academic difficulty and advice or referral to specialized services where necessary. In addition, students who have not declared a specific educational goal, who are enrolled in pre-collegiate basic skills courses, or who are on probation shall be identified and referred to advisement.

Student Rights, Appeals, and Waivers

Section 55530 (added in 1990 and last amended in 1993) provides a list of

student rights and responsibilities. Districts must ensure that information is available in written form to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities. Districts must also take steps to ensure that the matriculation process is efficient and avoids additional student testing by permitting students to submit scores on recently taken tests that correlate with those used by the district. The governing board of each community college district must adopt clear written policies that are not inconsistent with law and that specifically define these student responsibilities and the consequences of failure to fulfill such responsibilities. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan.

Section 55532 (added in 1990) requires districts that elect to exempt certain students from participation in orientation, assessment, counseling or advisement to establish policies and procedures for doing so. Such policies must specify the grounds for exemption, be identified in the matriculation plan and be reported to the Chancellor. Any student exempted pursuant to this section must be notified that he or she is covered by an exemption and must be given the opportunity to choose whether or not to participate in that part of the matriculation process. The Chancellor is required to analyze and recommend necessary changes regarding the impact on the matriculation program of any exemption policies adopted by the districts.

Section 55534 (added in 1990 and last amended in 1993) requires the district to

establish written procedures by which students may challenge any alleged violation of the matriculation program. Districts are required to investigate and attempt to resolve any such complaints in a timely manner. Records of all such complaints must be retained for at least three years after the complaint has been resolved and will be subject to review by the Chancellor. When a challenge contains an allegation that a community college district has been discriminatory, the district must, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

CONDITION 17 FULL-TIME / PART-TIME FACULTY

This condition alleges mandated costs reimbursable by the state for community college districts to ensure that their faculty pool consists of 75% full-time faculty ratio.

Chapter 973, Statutes of 1988, Section 35, added Education Code Section 87482.6[50]. Subdivision (a) required Community Colleges to apply a portion of any

[50]Education Code Section 87482.6, as added by Chapter 973, Statutes of 1988, Section 35:

"(a) Until the provisions of Section 84750 regarding program-based funding are implemented by a standard adopted by the board of governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors, the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors. To this end, community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply a portion of the program improvement allocation received pursuant to Section 84755 as follows:

(1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their

"program improvement" funds received pursuant to Education Code Section 84755, according to certain guidelines to ensure that at least 75 percent of credit instruction

---

hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.

(2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation.

Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.

(b) The board of governors shall adopt regulations for the effective administration of this section. Unless and until amended by the board of governors, the regulations shall provide as follows:

(1) In computing the percentage of hours of credit instruction taught by full-time instructors, the hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(2) A full-time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

(3) The chancellor shall compute and report to each community college district the number of full-time faculty (FF.) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district. This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load). If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If this quotient, once applied, will result in the district exceeding the 75 percent standard, the chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

By March 15th of each year, the chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(4) On or before December 31, 1991, the chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to paragraph (3) for the 1989-90 and 1990-91 fiscal years. To the extent that the cumulative number of FTF have not been retained, the chancellor shall reduce the district's base budget for 1991-92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTF."

hours would be taught by full-time instructors in Community College Districts. Districts which had between 67 percent and 75 percent of credit instruction hours taught by full-time instructors in the previous fiscal year, were required to apply up to 33 percent of their program improvement allocation toward the goal of attaining the 75 percent standard. If a district in this category chose not to improve its percentage, the board of governors was required to withhold 33 percent of that district's program improvement allocation for that year. Those districts with less than 67 percent of credit instruction hours taught by full-time instructors, were required to apply up to 40 percent of their program improvement allocation to reach the 75 percent standard. If a district in this category chose not to improve its percentage, the board of governors was required to withhold 40 percent of that district's program improvement allocation for the year. Finally, districts which successfully met or surpassed the 75 percent standard in the previous year, were to be free to use their program improvement allocation for any of the purposes specified in Section 84755. Subdivision (b) required the Board of Governors to adopt regulations administering this section. Such regulations were to adhere to the following specifications unless and until amended by the Board of Governors at a later date: (1) the hours of overload teaching by full-time instructors were required to be excluded when computing the percentage of hours of credit instruction taught; (2) the definition of a full-time instructor would be "any regular and contract faculty member teaching credit instruction"; (3) the Chancellor was required to compute, according to specified computation methods, the number of full-time faculty (FTF) to be secured

through the use of the prescribed portion of program improvement revenue allocated to each district. By March 15th of each year, the Chancellor would be required to report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill; (4) On or before December 31, 1991, the Chancellor was required to determine the extent to which each district, by September 30, 1991, had hired the number of FTF (as determined pursuant to 87482.6(b)(3)) for the 1989-90 and 1990-91 fiscal years. To the extent that the cumulative number of FTF had not been retained, the Chancellor was required to reduce the district's base budget for 1991-92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTF.

Chapter 1038, Statutes of 1991, Section 12.3, added Education Code Section 87482.7[51] to require the board of governors to adopt regulations to establish minimum standards regarding the percentage of hours of credit instruction that must be taught by full-time instructors. The section also authorized the Department of Finance to transfer any funds deducted from district apportionments, pursuant to any such regulations adopted, to the Faculty and Staff Diversity Fund.

Chapter 1169, Statutes of 2002, Section 3, amended Education Code Section

[51]Education Code Section 87482.7, as added by Chapter 1038, Statutes of 1991, Section 12.3:

"(a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notice by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Faculty and Staff Diversity Fund pursuant to Section 87107."

87482.7[52] to require that any such funds deducted should be transferred to the "Employment Opportunity Fund", rather than the "Faculty and Staff Diversity Fund".

TITLE 5, CALIFORNIA CODE OF REGULATIONS

75% Standard

The regulations implementing full-time faculty requirements established by Education Code section 87482.7, as a condition for state aid are found in Title 5 of the California Code of Regulations, Section 51025, which relates to and should be read in conjunction with Sections 53300-53320.

Section 51025 (added in 1991 and last amended in 2000), subdivision (a), requires that if a district's full-time faculty percentage, as calculated pursuant to Section 53308, is less than 75 percent, the district must increase the base full-time faculty obligation whenever the Board of Governors determines, pursuant to subdivision (e), that adequate funds ("growth revenues" and "program improvement funds") have been provided. Districts that fail to meet or maintain the full-time faculty ratios shall have their revenues reduced by the amount computed by the Chancellor, and those funds shall be utilized by the district, pursuant to subdivision (d), for the purposes of faculty and staff

[52]Education Code Section 87482.7, as amended by Chapter 1169, Statutes of 2002, Section 3:

"(a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon ~~notice~~ notification by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the ~~Faculty and Staff Diversity~~ Employment Opportunity Fund pursuant to Section 87107."

diversity, pursuant to Education Code section 87107 (which has since been ruled unconstitutional by *Connerly*.)

Full-Time Equivalent Faculty

Section 53300 (added in 1990 and last amended in 1998) requires Sections 53300 - 53320 be read in conjunction with Section 51025.

Section 53301 (added in 2000) defines the term "part-time faculty" as any faculty member who is not a regular employee or contract employee of the district.

Section 53302 (added in 1990 and last amended in 2000) defines the term "full-time faculty" as any faculty member who is a regular or contract employee of the district.

Section 53308 (added in 2000), outlines the calculation method to be used when determining a district's full-time faculty percentage.

Section 53309 (added in 2000 and last amended in 2001), outlines certain rules to be followed when calculating full-time equivalent faculty attributable to full-time faculty. Different calculation methods are described for the following areas: instruction; non-instructional activities; regular assignment; overload; sabbatical; released-reassigned time; unpaid leave; teaching by others; and late retirement.

Computation of the Ratio

Section 53310 (added in 2000 and last amended in 2001), outlines rules for calculating full-time equivalent faculty attributable to part-time faculty. Different calculation methods are described for instructional and for non-instructional activities.

Subdivision (c) requires that all activities of part-time faculty be included in such calculations except those attributable to replacing full-time faculty on sabbatical leave, released or reassigned time, unpaid leave, or who resigned or retired late.

Section 53311 (added in 1990, last amended in 2000), defines "base data" as both the district's base full-time faculty percentage and its base full-time faculty obligation.

Section 53312 (added in 1990, last amended in 2000) requires the Chancellor to compute the number of full-time faculty which each district is to secure in accordance with Sections 51025 and 53308. Subdivisions (b), (c), and (d) describe the methods the Chancellor is to use in making the computations.

Section 53314 (added in 1992 and last amended in 2000), as the result of applying additional FTES growth and program improvement revenue allotments, requires the Chancellor to report to districts the estimated number of full-time faculty each district must secure by the following Fall term. The Chancellor's report must be made by the Spring term of each year.

Section 53320, regarding enforcement, was repealed in 1994.

CONDITION 18 STUDENT EQUITY

This condition alleges mandated costs reimbursable by the state for community college districts to develop policies and procedures to establish and implement a student equity plan as a minimum condition for the receipt of state aid.

SECTION 1. LEGISLATIVE HISTORY PRIOR TO JANUARY 1, 1975

Education Code Section 91[53], as added by Chapter 182, Statutes of 1974, Section 1, required all community college classes and courses, both academic and nonacademic, to be conducted without regard to the sex of the pupils enrolled. Subdivision (d) prohibited school counselors from offering vocational or career opportunity guidance to pupils on the basis of that pupil's sex. Subdivision (e) required the same physical education activities or sports to be offered to pupils of both sexes.

Education Code Section 22504.7[54], as added by Chapter 1526, Statutes of 1974, Section 1, required community college districts to provide opportunities for participation in intercollegiate athletic programs on as equal a basis as is practicable to both male and female students.

---

[53]Education Code Section 91, as added by Chapter 182, Statutes of 1974, Section 1:

"(a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the pupils enrolled in such classes and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 8506.

(c) No school district shall require pupils of one sex to enroll in a particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex which is different from that offered to pupils of the opposite sex or, in counseling students, differentiate career, vocational, or higher education opportunities on the basis of the sex of the pupil counseled.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex."

[54]Education Code Section 22504.7, as added by Chapter 1526, Statutes of 1974, Section 1:

"It is the intent of the Legislature that opportunities for participation in intercollegiate athletic programs in the community colleges, in the campuses of the California State University and Colleges, and in the campuses of the University of California be provided on as equal a basis as is practicable to male and female students. The costs of providing these equal opportunities may vary according to the type of sports contained within the respective men's and women's athletic programs. Additional sources of revenue should be determined to provide additional funds for these equal opportunity programs."

SECTION 2. LEGISLATIVE HISTORY AFTER DECEMBER 31, 1974

Chapter 802, Statutes of 1975, Section 1, added Education Code Section 92[55] to require community college districts to provide opportunities for participation in school-sponsored athletic programs equally to both male and female students. Subdivision (b) prohibited any public funds from being used in connection with any school athletic program which did not provide equal opportunity for both sexes to participate and to use school facilities for such participation.

Chapter 275, Statutes of 1976, Section 7, added Education Code Section 22502.1[56] to require community college districts to "provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex."

---

[55]Education Code Section 92, as added by Chapter 802, Statutes of 1975, Section 1:

"(a) The Legislature finds and declares that female students are not accorded opportunities for participation in school-sponsored athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in athletics be provided equally to male and female students.

(b) Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a school district governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(c) Nothing in this section shall be construed to require a school district to require competition between male and female students in school-sponsored athletic programs."

[56]Education Code Section 22502.1, as added by Chapter 275, Statutes of 1976, Section 7:

"Every community college district shall provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex."

Chapter 1176, Statutes of 1976, Section 1 amended Education Code Section 91[57] to add language to subdivision (d), to include teachers, administrators and aides among the members of school personnel prohibited from offering vocational or career opportunity guidance to pupils on the basis of that pupil's sex. In addition, the amendment imposed an affirmative duty upon any school personnel acting in a career counseling or course selection capacity to any pupil, to explore nontraditional career options for that pupil's sex.

Chapter 1010, Statutes of 1976, Section 2 (operative April 30, 1977) recodified and renumbered the Education Code. Relevant code sections before and after the recodification and renumbering are as follows:

---

[57]Education Code Section 91, as amended by Chapter 1176, Statutes of 1976, Section 1:

"(a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the pupils enrolled in such classes and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 8506.

(c) No school district shall require pupils of one sex to enroll in a particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor, teacher, administrator, or aide shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex which is different from that offered to pupils of the opposite sex or, in counseling students, differentiate career, vocational, or higher education opportunities on the basis of the sex of the pupil counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with such pupil the possibility of careers, or courses leading to such careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 10921, in advance of career counseling and course selection commencing with course selection for the seventh grade so that they may participate in such counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex."

Former Code Section	New Code Section
91	40
92	41
22504.7	66016

Chapter 36, Statutes of 1977, Section 1.5, amended Education Code Section 40[58] to specifically include community college districts within the scope of the code section. Therefore, for the first time, community college districts were required to comply with the duties contained in the section in order to ensure that all classes and courses would be conducted without regard to the sex of the students enrolled in such classes and courses.

---

[58]Education Code Section 40, as amended by Chapter 36, Statutes of 1977, Section 1.5:

"(a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the ~~pupils~~ student enrolled in such classes and courses.

(b) No school district or community college district shall prohibit any ~~pupil~~ student from enrolling in any class or course on the basis of the sex of the ~~pupil~~ student, except a class subject to Section ~~8506~~ 51550.

(c) No school district or community college district shall require ~~pupils~~ students of one sex to enroll in a particular class or course, unless the same class or course is also required of ~~pupils~~ students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a ~~pupil~~ student, offer vocational or school program guidance to ~~pupils~~ students of one sex that is different from that offered to ~~pupils~~ students of the opposite sex or, in counseling students, differentiate career, vocational, or higher education opportunities on the basis of the sex of the ~~pupil~~ student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section ~~10921~~ 48980, in advance of career counseling and course selection commencing with course selection for the seventh grade so that they may participate in the counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of ~~pupils~~ students of one sex, shall be available to ~~pupils~~ students of each sex."

Chapter 36, Statutes of 1977, Section 507, added Education Code Section 72013[59] to replace Education Code Section 25502.1. The addition only changed the section number and left the language of the section the same.

Chapter 470, Statutes of 1981, Section 46 added Education Code Sections 72010 - 72012 to include general prohibitions against discrimination. Education Code Section 72010[60] stated that the provisions of the article were supplemental to any provision in the Constitution or laws of the United States or Constitution or laws of the State of California, relating to discrimination. Education Code Section 72011 was added to replace Education Code Section 72013. The addition only changed the section number and left the language of the section the same. Education Code Section 72012[61] required community colleges to comply with Sections 40, 41, and 66016, relating to sex discrimination.

Chapter 1117, Statutes of 1982, Section 1 added Chapter 2 (commencing with

---

[59]Education Code Section 72013, as added by Chapter 36, Statutes of 1977, Section 507:

~~§25502.1~~ §72013
"Every community college district shall provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex."

[60]Education Code Section 72010, as added by Chapter 470, Statutes of 1981, Section 46:

"The provisions of this article are supplemental to any provision in the Constitution or laws of the United States or Constitution or laws of the State of California, relating to discrimination."

[61]Education Section 72012, as added by Chapter 470, Statutes of 1981, Section 46:

"Every community college shall comply with Sections 40, 41, and 66016, relating to sex discrimination."

Section) 200 to Part 1 of Division 1 of Title 1 of the Education Code. The title of this chapter was "Prohibition of Discrimination on the Basis of Sex" and the Education Code Sections that were added which are pertinent to Community Colleges today were Sections 212, 213, 214 and 262. Education Code Sections 212, 213 and 214 were contained in Article 2 (Definitions) and Education Code Section 262 was contained in Article 6 (Enforcement).

Education Code Section 212[62] defined the term "sex" as the biological condition or quality of being a male or female human being.

Education Code Section 213[63] defined the term "state financial assistance" to mean any form of financial aid administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any pupils admitted to the educational institution, which included: (a) grants of state property, or any interest therein; (b) provision of the services of state personnel; and (c) funds provided by contract, tax rebate, appropriation, allocation, or formula.

---

[62]Education Code Section 212, as added by Chapter 1117, Statutes of 1982, Section 1:

"For purposes of this chapter, "sex" means the biological condition or quality of being a male or female human being."

[63]Education Code Section 213, as added by Chapter 1117, Statutes of 1982, Section 1:

"For purposes of this chapter, "state financial assistance" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any pupils admitted to the educational institution.

State financial assistance shall include, but not be limited to, all of the following:

(a) Grants of state property, or any interest therein.

(b) Provision of the services of state personnel.

(c) Funds provided by contract, tax rebate, appropriation, allocation, or formula."

Education Code Section 214[64] defined the term "state student financial aid" to mean any form of financial aid administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution, including scholarships, loans, grants, or wages.

Education Code Section 262[65] required the governing board of a community college district to have the primary responsibility for ensuring that community college district programs and activities would be free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability. The Chancellor's office of the California Community Colleges was required to review the original complaints of unlawful discrimination, district investigation reports and district reports of

---

[64]Education Code Section 214, as added by Chapter 1117, Statutes of 1982, Section 1:

"For purposes of this chapter, "state student financial aid" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution. State student financial aid shall include, but not be limited to, scholarships, loans, grants, or wages."

[65]Education Code Section 262, as added by Chapter 1117, Statutes of 1982, Section 1:

"(a) The governing board of a community college district shall have the primary responsibility for ensuring that district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for all of the following:

(1) Reviewing original complaints of alleged unlawful discrimination filed pursuant to Section 59328 of Title 5 of the California Administrative Code.

(2) Reviewing reports of the nature and extent of the investigation of each complaint conducted by the district.

(3) Reviewing reports of any actions taken by the district to resolve each complaint.

(4) Monitoring the compliance of each district with any and all regulations promulgated pursuant to Section 11138 of the Government Code."

action taken to resolve each complaint. Also, the Chancellor was responsible for monitoring the compliance of each district with all regulations promulgated pursuant to Section 11138[66] of the Government Code.

Chapter 143, Statutes of 1983, Section 46 amended Education Code Section 66016[67] to make technical, non-substantive language changes.

Chapter 1371, Statutes of 1984, Section 1 added Education Code Section 212.5[68]

---

[66]Government Code Section 11138, as added by Chapter 972, Statutes of 1977, Section 1:

"Each state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state and that enters into contracts for the performance of services to be provided to the public in an aggregate amount in excess of one hundred thousand dollars ($100,000) per year shall, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of this part, adopt such rules and regulations as are necessary to carry out the purpose and provisions of this article."

[67]Education Code Section 66016, as amended by Chapter 143, Statutes of 1983, Section 46:

"It is the intent of the Legislature that opportunities for participation in intercollegiate athletic programs in the community colleges, in the campuses of the California State University ~~and Colleges~~, and in the campuses of the University of California be provided on as equal a basis as is practicable to male and female students.

The costs of providing these equal opportunities may vary according to the type of sports contained within the respective men's and women's athletic programs. Therefore it is also the intent of the Legislature that additional sources of revenue should be determined to provide additional funds for these equal opportunity programs."

[68]Education Code Section 212.5, as added by Chapter 1371, Statutes of 1984, Section 2:

"For purposes of this chapter, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available

to define the term "sexual harassment" as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions: (a) submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress; (b) submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual; (c) the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment; or (d) submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Chapter 1514, Statutes of 1988, Section 2 amended Education Code Section 262[69] to delete the requirements that the Chancellor review the original complaints of

---

at or through the educational institution."

[69]Education Code Section 262, as amended by Chapter 1514, Statutes of 1988, Section 2:

"(a) The governing board of a community college district shall have the primary responsibility for ensuring that community college district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for ~~all of the following:~~

~~(1) Reviewing original complaints of alleged unlawful discrimination filed pursuant to Section 59328 of Title 5 of the California Administrative Code~~

~~(2) Reviewing reports of the nature and extent of the investigation of each complaint conducted by the district.~~

~~(3) Reviewing reports of any actions taken by the district to resolve each complaint.~~

~~(4)~~ Monitoring the compliance of each district with any and all regulations promulgated

unlawful discrimination, investigation reports and reports of district action taken to resolve each complaint. Therefore, after the amendment, the Chancellor need only to continue to monitor the compliance of each district with all regulations promulgated pursuant to Section 11138 of the Government Code.

Chapter 1372, Statutes of 1990, Sections 3 and 4 amended Education Code Sections 40 and 41 respectively, but the language of Section 41 remained the same. The amendment to Education Code Section 40[70] deleted the language concerning specific application of the code section to community colleges.

Chapter 1372, Statutes of 1990, Section 288.5 added Education Code Section

---

pursuant to Section 11138 of the Government Code."

[70]Education Code Section 40, as amended by Chapter 1372, Statutes of 1990, Section 3:

"(a) It is the policy of the state that elementary and secondary school ~~and community college~~ classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the student enrolled in such classes and courses.

(b) No school district ~~or community college district~~ shall prohibit any student from enrolling in any class or course on the basis of the sex of the student, except a class subject to Section 51550.

(c) No school district ~~or community college district~~ shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex that is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational, or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 48980, in advance of career counseling and course selection commencing with course selection for the seventh grade so that they may participate in the counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex."

72013[71] to provide that the terms "handicap" and "disability" were to have the same meaning with respect to access to access to community college programs.

Chapter 1372, Statutes of 1990, Section 289 added Education Code Section 72014[72] to prohibit any community college district funds from being used for membership to or for any type of financial payment or contribution to any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin.

Chapter 1372, Statutes of 1990, Section 289.5 added Education Code Section 72015[73], stating that the policy of the state was that community college classes and

---

[71]Education Code Section 72013, as added by Chapter 1372, Statutes of 1990, Section 288.5:

"With respect to access to community college district services, classes, and programs, and with respect to all references within this division, "handicap" and "disability" shall have the same meaning."

[72]Education Code Section 72014, as added by Chapter 1372, Statutes of 1990, Section 289:

"No funds under the control of a community college district shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual officer or employee of the district as salary, or to any funds which are used directly or indirectly for the benefit of student organizations."

[73]Education Code Section 72015, as added by Chapter 1372, Statutes of 1990, Section 289.5:

"(a) It is the policy of the state that community college classes and courses, including nonacademic and elective classes and courses, shall be conducted without regard to the sex of the student enrolled in these classes and courses.

(b) No community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student.

(c) No community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that

courses, including nonacademic and elective classes and courses, were to be conducted without regard to the sex of the student enrolled in such classes and courses. Subdivision (d) required that any school personnel acting in a career counseling or course selection capacity, affirmatively explore with the pupil the possibility of careers, or courses leading to careers, nontraditional for that pupil's sex. Subdivision (e) required districts to ensure that if participation in a particular physical education activity or sport was required of students of one sex that it also be available to students of each sex. Subdivision (f) declared that opportunities for participation in community college athletics must be provided equally to male and female students and on an equitable basis to all students. Subdivision (g) required the governing boards of community college districts to

---

offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

(f) The Legislature finds and declares that female students are not accorded opportunities for participation in community college athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in community college athletics be provided equally to male and female students and on an equitable basis to all students.

(g) Insofar as practicable, in apportioning public funds, community college district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs. Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of the governing board of a community college district, or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and opportunities for participation shall include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(h) It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports. Nothing in this section shall be construed to require a community college to require competition between male and female students in school-sponsored athletic programs."

apportion any public funds available for athletics in a manner that ensured, insofar as practicable, that equitable amounts were allocated for all students.

Chapter 1198, Statutes of 1991, Sections 4.2, 4.5 and 9 added Education Code Sections 66010.2, 66010.7 and 66030 respectively.

Education Code Section 66010.2[74] required community college districts to provide (a) access to education to all qualified Californians, particularly for those who have been underrepresented in both their graduation rates from secondary institutions and in their attendance at higher educational institutions; (b) quality teaching and programs of excellence for their students; and (c) educational equity through a diverse student body and faculty, and an environment in which "each person, regardless of race, gender, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential."

---

[74]Education Code Section 66010.2, as added by Chapter 1198, Statutes of 1991, Section 4.2:

"The public elementary and secondary schools, the California Community Colleges, the California State University, the University of California, and independent institutions of higher education share goals designed to provide educational opportunity and success to the broadest possible range of our citizens, and shall provide the following:

(a) Access to education, and the opportunity for educational success, for all qualified Californians. Particular efforts should be made with regard to those who are historically and currently underrepresented in both their graduation rates from secondary institutions and in their attendance at California higher educational institutions.

(b) Quality teaching and programs of excellence for their students. This commitment to academic excellence shall provide all students the opportunity to address issues, including ethical issues, that are central to their full development as responsible citizens.

(c) Educational equity not only through a diverse and representative student body and faculty but also through educational environments in which each person, regardless of race, gender, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential."

Education Code Section 66010.7[75] declared the Legislature's commitment to encourage and support collaboration and coordination among all segments of education including, as stated in subdivision (3), facilitating achievement of the goals of educational equity.

Education Code Section 66030[76] required the governing boards of the community colleges to ensure and maintain multicultural learning environments free from all forms

---

[75]Education Code Section 66010.7, as added by Chapter 1198, Statutes of 1991, Section 4.5:

"(a) The Legislature, through the enactment of this section, expresses its commitment to encourage and support collaboration and coordination among all segments of education.

(b) Within the differentiation of segmental functions outlined in this article, the institutions of higher education shall undertake intersegmental collaboration and coordination particularly when it can do any of the following:

(1) Enhance the achievement of the institutional missions shared by the segments.

(2) Provide more effective planning of postsecondary education on a statewide basis.

(3) Facilitate achievement of the goals of educational equity.

(4) Enable public and independent higher education to meet more effectively the educational needs of a geographic region.

(5) Facilitate student progress from one segment to another, particularly with regard to preparation of students for higher education as well as the transfer from the California Community Colleges to four-year institutions.

(c) The leaders responsible for public and independent institutions of higher education and the Superintendent of Public Instruction shall work together to promote and facilitate the development of intersegmental programs and other cooperative efforts aimed at improving the progress of students through the educational systems and at strengthening the teaching profession at all levels.

(d) The California Postsecondary Education Commission shall have responsibility for reviewing and evaluating the effectiveness of intersegmental activities in accomplishing the established goals, and shall report its findings to the Governor and Legislature biennially."

[76]Education Code Section 66030, as added by Chapter 1198, Statutes of 1991, Section 9:

"(a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments which give each Californian, regardless of ethnic origin, race, gender, age, disability, or economic circumstance, a reasonable opportunity to develop fully his or her potential.

(b) It is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law."

of discrimination and harassment, in accordance with state and federal law.

Chapter 914, Statutes of 1998, Sections 2, 3, 34 and 51 amended and renumbered Education Code Sections 40, 41, 262 and 72015 respectively and made non-substantive technical changes to each. The amendment to sections 40 and 41 also replaced the term "student" whenever it appeared, with the term "pupil". The code sections before and after the renumbering are as follows:

Former Code Section	New Code Section
40	221.5
41	221.7
262	66292
72015	66271.7

Chapter 914, Statutes of 1998, Sections 11, 12, 14 and 15 amended Education Code Sections 212, 212.5, 213 and 214 respectively to delete the phrase "For purposes of this chapter . . . " from the start of each of the code sections and to make other non-substantive technical changes.

Sex Equity in Education Act:

Chapter 914, Statutes of 1998, Section 49, added Education Code Sections 66251 - 66292.4 to establish, for the first time, the Sex Equity in Education Act, a separate act that was to apply specifically to postsecondary institutions.

Education Code section 66251[77] declared the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, equal rights and opportunities in the postsecondary institutions of the state. The section stated that the purpose of the following chapter was to prohibit acts contrary to this policy and to provide remedies for any violations of the policy.

Education Code Section 66252[78] declared the Legislative findings that all

---

[77]Education Code Section 66251, as added by Chapter 914, Statutes of 1998, Section 49:

"It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor."

[78]Education Code Section 66252, as added by Chapter 914, Statutes of 1998, Section 49:

"(a) All students have the right to participate fully in the educational process, free from discrimination and harassment.
(b) California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.
(c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.
(d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.
(e) There is an urgent need to teach and inform students in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase students' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in postsecondary educational institutions and in society as a means of responding to potential harassment and hate violence.
(f) It is the intent of the Legislature that each postsecondary educational institution undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of students to equal educational opportunity.
(g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the

students have the right to participate fully in the educational process, free from discrimination and harassment, and that California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity. The section stated the Legislative intent that each postsecondary educational institution undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of students to equal educational opportunity. It was also the intent of the Legislature that this law be interpreted as consistent with various other state and federal laws that concern civil rights, unless this law granted more protections or imposed any additional obligations.

Education Code Sections 66260-66264 contained the definitions applicable to the chapter. Education Code Section 66260[79] provided that the definitions in this article would govern the use of the terms defined for purposes of the Sex Equity in Education

---

Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes."

[79]Education Code Section 66260, as added by Chapter 914, Statutes of 1998, Section 49:

"The definitions in this article shall govern the use of the terms defined for purposes of this chapter."

Act of Chapter 4.5. Education Code Section 66261[80] defined the term "governing board" to mean the governing board of a community college. Education Code Section 66261.5[81] defined the term "Postsecondary educational institution" to mean a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University. Education Code Section 66262[82] defined the term "sex" as having the same meaning as defined in Section 212. Education Code Section 66262.5[83] defined the term "sexual harassment" as having the same meaning as defined in Section 212.5. Education Code Section 66263[84] defined the term "state financial assistance" as having the same meaning as defined in Section 213. Finally,

[80]Education Code Section 66261, as added by Chapter 914, Statutes of 1998, Section 49:

""Governing board" means the governing board of a community college."

[81]Education Code Section 66261.5, as added by Chapter 914, Statutes of 1998, Section 49:

""Postsecondary educational institution" means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University."

[82]Education Code Section 66262, as added by Chapter 914, Statutes of 1998, Section 49:

" "Sex" has the same meaning as defined in Section 212."

[83]Education Code Section 66262.5, as added by Chapter 914, Statutes of 1998, Section 49:

""Sexual harassment" has the same meaning as defined in Section 212.5."

[84]Education Code Section 66263, as added by Chapter 914, Statutes of 1998, Section 49:

""State financial assistance" has the same meaning as defined in Section 213."

Education Code Section 66264[85] defined the term "state student financial aid" as having the same meaning as defined in Section 214.

Education Code Section 66270[86] prohibited discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

Section 66271.1[87] required the Board of Governors of the California Community Colleges to adopt regulations to implement this chapter.

Section 66271.5[88] stated that the provisions of sections 66271.5, 66273 and

---

[85]Education Code Section 66264, as added by Chapter 914, Statutes of 1998, Section 49:

""State student financial aid" has the same meaning as defined in Section 214."

[86]Education Code Section 66270, as added by Chapter 914, Statutes of 1998, Section 49:

"No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid."

[87]Education Code Section 66271.1, as added by Chapter 914, Statutes of 1998, Section 49:

"The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, and the Regents of the University of California may, adopt regulations as required by law to implement this chapter."

[88]Education Code Section 66271.5, as added by Chapter 914, Statutes of 1998, Section 49:

"The provisions of this article are supplemental to any provision in the Constitution or laws of the United States or laws of the State of California, relating to discrimination."

66281.5 (Article 4: Sex Equity in Education) were to be supplemental to any provision in the Constitution or laws of the United States or laws of the State of California, relating to discrimination, thus establishing additional duties mandated by the state.

Education Code Section 66281.5[89] stated that the policy of the State of California, pursuant to Section 66251, was that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. Each California Community College was required to establish a written policy on sexual harassment that was to include, pursuant to subdivision (c), information on

---

[89]Education Code Section 66281.5, as added by Chapter 914, Statutes of 1998, Section 49:

"(a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each postsecondary educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The postsecondary educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the postsecondary educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that
location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the postsecondary educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation
program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the postsecondary educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the postsecondary educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution."

where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies. A copy of the sexual harassment policy was required to be distributed in the following ways and pursuant to the following subdivisions: (d) to display it in a prominent location in the main administrative building or other area of the campus or schoolsite; (e) to provide it as part of any orientation program conducted for new students; (f) to provide it to each faculty member, all members of the administrative and support staff at the beginning of the first quarter or semester of the school year and upon the hiring of each new employee; and (g) to publish it in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

Education Code section 66290[90] required that, prior to receipt of any state financial assistance or state student financial aid, community colleges must provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the community college will be conducted in compliance with all applicable provisions of state law prohibiting discrimination on the basis of sex.

---

[90]Education Code Section 66290, as added by Chapter 914, Statutes of 1998, Section 49:

"Prior to receipt of any state financial assistance or state student financial aid, a postsecondary educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the postsecondary educational institution will be conducted in compliance with this chapter and all other applicable provisions of state law prohibiting discrimination on the basis of sex. A single assurance, not more than one page in length and signed by an appropriate responsible official of the postsecondary educational institution, may be provided for all the programs and activities conducted by a postsecondary educational institution."

Education Code Section 66291[91] required community college districts to submit timely, complete, and accurate compliance reports to the Chancellor's office, as that entity may require, and also to make such reports available for public inspection during regular business hours.

Education Code Section 66292.3[92] permitted a party to a written complaint of prohibited discrimination to appeal the action taken by the governing board of a community college district to the Board of Governors of the California Community

---

[91]Education Code Section 66291, as added by Chapter 914, Statutes of 1998, Section 49:

"(a) A community college district shall submit timely, complete, and accurate compliance reports to the chancellor's office, as that entity may require.

(b) All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours."

[92]Education Code Section 66292.3, as added by Chapter 914, Statutes of 1998, Section 49:

"(a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a community college district or the president of a campus of the California State University, pursuant to this article, to the Board of Governors of the California Community Colleges or the Chancellor of the California State University, as applicable.

(b) Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders, may also be available to complainants. The educational institution shall make this information available by publication in appropriate informational materials.

(c) Nothing in this chapter shall be construed to require an exhaustion of the appeal to the Board of Governors of the California Community Colleges or to the Chancellor of the California State University pursuant to subdivision (a), before civil law remedies may be purchased.

(d) Notwithstanding any other provision of law, a person who alleges that he or she is a victim of discrimination may not seek civil remedies pursuant to this section until at least 90 days have elapsed from the filing of a discrimination complaint with the local educational agency. The 90-day moratorium imposed by this subdivision does not apply to injunctive relief and is applicable only if the local educational agency has appropriately, and in a timely manner, apprised the complainant of his or her right to file a complaint."

Colleges. In addition, the section required community college educational institutions to advise persons who have filed a complaint of prohibited discrimination that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders, may also be available to such complainants. Finally, the educational institution was required to make this information available by publication in appropriate informational materials.

Education Code Section 66292.4[93] stated that the chapter may be enforced through action in civil law.

Chapter 914, Statutes of 1998, Section 50 amended Education Code Section 72012[94] to make non-substantive technical changes.

Chapter 587, Statutes of 1999, Section 7 and 8 amended Education Code

[93]Education Code Section 66292.4, as added by Chapter 914, Statutes of 1998, Section 49:

"This chapter may be enforced through a civil action."

[94]Education Code Section 72012, as amended by Chapter 914, Statutes of 1998, Section 50:

"Every community college shall comply with Sections ~~40~~ 221.5, ~~44~~ 221.7, and 66016, relating to sex discrimination."

Section 66251[95] and 66270[96] to include among the persons to be afforded equal rights and opportunities under 66251 and to be protected from discrimination under 66270 in the community colleges, those persons protected from hate crimes by Section 422.6(a) of the Penal Code. Penal Code Section 422.6, subdivision (a), prohibits hate crimes against another because of race, color, religion, ancestry, national origin, disability, gender or sexual orientation, or because one perceives that the other person has any of the above characteristics. Therefore, the qualities of a person's color, ancestry, sexual orientation and perception by another that a person may have any of the enumerated characteristics, were added to those people specifically to be afforded equal rights and opportunities, under Education Code Section 66251 and to be protected from discrimination, under Education Code Section 66270, in community college districts.

SECTION 3. TITLE 5, CALIFORNIA CODE OF REGULATIONS

Section 51026 (added in 1998) requires, as a condition of receipt of state aid, that

---

[95]Education Code Section 66251, as amended by Chapter 587, Statutes of 1999, Section 7:

"It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor."

[96]Education Code Section 66270, as amended by Chapter 587, Statutes of 1999, Section 8:

"No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid."

the governing board of a community college district adopt a student equity plan.

Section 54220 (added in 1993 and last amended in 1998) requires, at subdivision (a), the district to adopt, by July 1, 1993, a student equity plan which includes the following for each college in the district: (1) Campus-based research as to the extent of student equity in the five areas described in paragraph (2) and the determination of what activities are most likely to be effective; (2) Goals for access, retention, degree and certificate completion, ESL and basic skills completion, and transfer; for the overall student population and for each population group of students, as appropriate. Where significant underrepresentation is found to exist, the student equity plan must include race-neutral, or, when legally appropriate, race-conscious measures for addressing the disparity, in accordance with standards adopted by the Board of Governors; (3) Implementation activities designed to attain the goals, including a means of coordinating existing student equity related programs; (4) Sources of funds for the activities in the plan; (5) Schedule and process for evaluation; and, (6) An executive summary that includes, at a minimum, the groups for whom goals have been set, the goals, the initiatives that the college or district will undertake to achieve these goals, the resources that have been budgeted for that purpose, and the district official to contact for further information. Subdivision (b) requires that these plans be developed with the active involvement of all groups on campus as required by law, and with the involvement of appropriate people from the community. Subdivision (c) requires the Board-adopted plan to be submitted to the Office of the Chancellor, and for the Office of the Chancellor

to publish all executive summaries, and to send copies to every college and district, the chair of each consultation group that so requests, and such additional individuals and organizations as deemed appropriate.

SECTION 4. CHANCELLOR'S REVISED GUIDELINES AND INFORMATION

The Chancellor of the California Community Colleges has also promulgated Revised Guidelines and Information, 2002, entitled "Student Equity: Regulations and Guidelines", a copy of which is attached hereto as an Exhibit and is incorporated herein by reference. These guidelines impose additional duties on community colleges in implementing Sections 51026 and 54220 of Title 5 of the California Code of Regulations.

The introduction of the Chancellor's Revised Guidelines and Information, 2002, states that districts should establish a success/equity advisory committee comprised of members representative of all groups on campus and of the surrounding community to assist in development of the student equity plan when implementing Section 54220 of Title 5 of the California Code of Regulations.

The guideline for 54220(a)(1) states that when compiling data to determine the extent to which equity issues are revealed, districts should periodically review such data and make efforts to address any problems that are identified.

The guideline for 54220(a)(2) states that when goals for student equity are adopted, they should meet the following standards: be written; include specific measures for determining progress towards achieving the desired outcomes; identify the baseline data findings that forms the bases for noting an equity issue; identify the amount and

direction of change expected to reflect the desired outcome or amount of progress to be achieved; and include target dates and/or timetables to establish a time frame for assessing the effectiveness in achieving expected outcomes. If establishing goals to eliminate any noted underrepresentation, any methods used must be race/gender neutral. When evidence of significant underrepresentation is found (below the 70% level of expected representation), community colleges must go beyond complying with the nondiscrimination laws and take active steps to promote student equity. Specifically, such colleges shall: (1) review its practices and procedures and identify and implement any additional measures which might reasonably be expected to address the needs of significantly underrepresented groups in the success indicator areas in question; (2) consider various other means of reducing the underrepresentation, which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective; and (3) establish target dates for achieving expected outcomes. The Chancellor's Office recommends that race/gender neutral methods of rectifying underrepresentation be tried for at least 3 years before consideration is given to mechanisms that take race or gender into account.

The guideline for 54220(a)(5) states that the data collection component of any student equity plan should be a continuing process. Each district is expected to conduct an annual survey of its student population and gather ethnicity, gender and disability data for use in evaluating its progress in implementing the goals set forth in its plan. The

evaluation schedule that a community college adopts should contain specific information about who is doing what and when and how often the plan itself will be evaluated.

The guideline for 54220(a)(6) states that the contact person designated pursuant to this subdivision is to be responsible for the monitoring, review, and evaluation of student success for all students and for guiding the planning and development process to promote student success. In addition, this person should compile the results of the periodic review process to determine effective success strategies, report these findings to the success/equity advisory committee on an annual basis, and submit a copy of this report along with any resulting committee board action to the Chancellor's Office.

CONDITION 19 TRANSFER CENTERS

This condition alleges mandated costs reimbursable by the state for community college districts to implement and comply with policies and procedures to recognize transfer as one of its primary missions, and adopt a transfer center plan as a minimum condition for receipt of state aid.

Chapter 973, Statutes of 1988, Section 7 added Education Code Sections 66720-66723.

Education Code Section 66720[97] required the Board of Governors of the

[97]Education Code Section 66720, as added by Chapter 973, Statutes of 1988, Section 7:

"The Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University, with appropriate consultation with the Academic Senates of the respective segments, shall jointly develop, maintain, and disseminate a common core curriculum in general education courses for the purposes of transfer. Any person who has successfully completed the transfer core curriculum, shall be deemed to have thereby completed all lower division general education requirements for the University of California and the California State University."

California Community Colleges, the Regents of the University of California, and the Trustees of the California State University, with appropriate consultation with the Academic Senates of the respective segments, to jointly develop, maintain, and disseminate a common core curriculum in general education courses for the purposes of transfer.

Education Code Section 66721[98] required that, upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University jointly cause the curriculum to be published and distributed to each public school in the state that provides instruction in any of the grades 7 to 12, inclusive, and to each community college in the state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities.

[98]Education Code Section 66721, as added by Chapter 973, Statutes of 1988, Section 7:

"Upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University shall jointly cause the curriculum to be published and distributed to each public school in this state that provides instruction in any of the grades 7 to 12, inclusive, and to each community college in this state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities. In addition, the Board of Governors shall distribute that transfer core curriculum to the State Board of Education, which shall apply that information to ensure, through its curriculum development activities, that public school pupils enrolled in any of the grades 9 to 12, inclusive, are aware of the academic requirements for preparation for higher education and may receive any necessary academic remediation in a timely manner."

Education Code Section 66723[99] stated that chapter 9.2, regarding student transfer, did not apply to the University of California unless specifically provided for by appropriate resolution by the Regents of the University of California.

Chapter 1188, Statutes of 1991, Section 5 added Education Code Sections 66730-66744.

Education Code Section 66730[100] required the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of

---

[99]Education Code Section 66723, as added by Chapter 973, Statutes of 1988, Section 7:

"No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, makes that provision applicable."

[100]Education Code Section 66730, as added by Chapter 1188, Statutes of 1991, Section 5:

"(a) The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges shall have as a fundamental policy the maintenance of a healthy and expanded student transfer system. Both the University of California and the California State University shall have as a basic enrollment policy the maintenance of upper division enrollment, which are students who have attained upper division status, at 60 percent of total undergraduate enrollment. This goal shall be met through programs aimed at increasing the numbers of qualified transfer students from the community colleges without denying eligible freshmen applicants.

(1) The California State University shall maintain its upper division enrollment, which are students who have attained upper division status, at approximately 60 percent of total undergraduate enrollment. Its planning documents shall reflect this policy.

(2) Commencing in the 1991-92 academic year, the University of California shall progressively increase the percentage that upper division enrollment systemwide is of total undergraduate enrollment through the 1995-96 academic year until that percentage reaches approximately 60 percent. This shall be accomplished through increases in the numbers of community college transfer students admitted to upper division standing at the university without denying eligible freshmen applicants. Planning documents shall reflect these expected increases.

(b) The governing board of each segment shall ensure that individual university and college campus enrollment plans include adequate upper division places for community college transfer students in all undergraduate colleges or schools, and that each undergraduate college or school on each campus participates in developing articulation and transfer agreement programs with community colleges. The governing boards shall meet this goal within their respective general statewide planning framework used to attain and maintain the state's goal of a 60/40 ratio of upper to lower division students, their segmental enrollment planning processes, and campus planning regarding program balance, educational quality, and other relevant goals."

the California Community Colleges to have, as a fundamental policy, the maintenance of a healthy and expanded student transfer system. The governing board of each segment was required to ensure that individual university and college campus enrollment plans include adequate upper division places for community college transfer students in all undergraduate colleges or schools, and that each undergraduate college or school on each campus participated in developing articulation and transfer agreement programs with community colleges. In addition, the governing boards were to meet this goal within their respective general statewide planning framework used to attain and maintain the state's goal of a 60/40 ratio of upper to lower division students, their segmental enrollment planning processes, and campus planning regarding program balance, educational quality, and other relevant goals.

Education Code Section 66731[101] provided that student matriculation from community colleges through the University of California and the California State University must be recognized by the Governor, Legislature, and the governing boards of each of California's public postsecondary education segments as a central institutional priority of all segments of higher education.

[101]Education Code Section 66731, as added by Chapter 1188, Statutes of 1991, Section 5:

"Student matriculation from community colleges through the University of California and the California State University shall be recognized by the Governor, Legislature, and the governing boards of each of California's public postsecondary education segments as a central institutional priority of all segments of higher education."

Education Code Section 66732[102] required the governing boards of each segment to declare as policy that the student transfer agreement program constitute a significant role in achieving the goal of student diversity within their segments, and to ensure that all students, particularly those currently underrepresented in higher education, have access to a university education. In addition, the governing boards of each segment where required to design, adopt, and implement policies to facilitate successful movement of students from community colleges through the University of California and the California State University.

Education Code Section 66734[103] vested the Board of Governors of the California Community Colleges with the authority and responsibility to guarantee that all community college students have access to courses that meet the lower division baccalaureate degree requirements of the California public universities. The Board of

[102]Education Code Section 66732, as added by Chapter 1188, Statutes of 1991, Section 5:

"The governing boards of each segment shall declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. The governing boards of each segment shall design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University."

[103]Education Code Section 66734, as added by Chapter 1188, Statutes of 1991, Section 5:

"The Board of Governors of the California Community Colleges shall have the authority and responsibility to guarantee that all community college students have access to courses that meet the lower division baccalaureate degree requirements of the California public universities. The Board of Governors of the California Community Colleges, with the cooperation of the Regents of the University of California and the Trustees of the California State University, shall ensure that all students are clearly and fully informed as to which community college courses and units are transferable and meet the general education and lower division major requirements at the California State University and the University of California."

Governors of the California Community Colleges, with the cooperation of the Regents of the University of California and the Trustees of the California State University, were required to ensure that all students are clearly and fully informed as to which community college courses and units are transferable and meet the general education and lower division major requirements at the California State University and the University of California.

Education Code Section 66736[104] provided that the community college district governing boards were to ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students. All policies and procedures were required to give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations.

[104]Education Code Section 66736, as added by Chapter 1188, Statutes of 1991, Section 5:

"Each community college district governing board shall ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students.

All policies and procedures shall give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations."

Education Code Section 66737[105] stated that the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges were expected to develop new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education, to facilitate the successful transfer of students between the community colleges and the universities.

Education Code Section 66738[106] required the governing board of each public

[105]Education Code Section 66737, as added by Chapter 1188, Statutes of 1991, Section 5:

"The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are expected to develop new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education to facilitate the successful transfer of students between the community colleges and the universities. Every community college student who successfully completes the transfer agreement programs, as defined in Section 66738, in a community college shall have an appropriate place in an upper division university program."

[106]Education Code Section 66738, as added by Chapter 1188, Statutes of 1991, Section 5:

"(a) The governing board of each public postsecondary education segment shall be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function.

(b) The elements in a comprehensive transfer system shall include, but not be limited to, the following:

(1) Enrollment and resource planning; intersegmental faculty curricular efforts.

(2) Coordinated counseling.

(3) Financial aid and transfer services.

(4) Transfer articulation agreements and programs.

(5) Specific efforts to improve diversity.

(6) Early outreach activities.

(7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses.

(8) Centers.

(c) The governing board of each segment shall expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available; and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus."

postsecondary education segment to be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs. In addition, the governing board of each segment was required to expand existing practices related to concurrent enrollment, to provide community college students with the opportunity to take courses at the University of California and California State University campuses, as space is available; and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus.

Education Code Section 66740[107] required each department, school, and major in

[107]Education Code Section 66740, as added by Chapter 1188, Statutes of 1991, Section 5:

"Each department, school, and major in the University of California and California State University shall develop, in conjunction with community college faculty in appropriate and associated departments, discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. Faculty from the community colleges and university campuses shall participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency.

Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major.

Community college districts, in conjunction with the California State University and the University of California, shall develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses. The development of these agreements shall be the mutual responsibility of all three segments, and no one segment should bear the organizational or financial responsibility for accomplishing these goals.

The Chancellor of the California Community Colleges and the President of the University of California shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not

the University of California and California State University to develop, in conjunction with community college faculty in appropriate and associated departments, discipline-specific articulation agreements and transfer program agreements for those majors with lower division prerequisites. Faculty from the community colleges and university campuses were also required to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. Community college districts, in conjunction with the California State University and the University of California, were required to develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses.

Education Code Section 66741[108] required that each community college student

---

transferred many students to the University of California. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

The Chancellor of the California Community Colleges and the Chancellor of the California State University system shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to California State Universities. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University."

[108]Education Code Section 66741, as added by Chapter 1188, Statutes of 1991, Section 5:

"As a result of systemwide and interinstitutional agreements, each community college student shall be assured of the opportunity to enter into a transfer agreement program enabling a student to receive high priority consideration, attain equivalent special treatment, or enter into a contract when applying for university admission at the advanced standing level. It is recognized that eligibility for transfer agreement programs will require completion of certain requirements as defined in interinstitutional agreements. It is also recognized that access to majors of choice will, in most cases, require completion of additional requirements, such as specialized coursework and attainment of a specialized grade point average.

have the opportunity to enter into a transfer agreement program which would enable the student to receive high priority consideration, attain equivalent special treatment, or enter into a contract when applying for university admission at the advanced standing level. Transfer agreement programs were also required to carry high priority access to majors of choice. The University of California and the California State University were required to ensure that continuing undergraduate students and community college transfer students would be assessed against a common set of criteria for upper division standing to a specific major even though access to such programs would generally require such transfer students to meet qualifications above the minimum standard for general admission. Alternatively, students would be permitted to apply directly for admission at the advanced standing level, by meeting the University of California or California State University requirements for admission at that level. All students meeting these admission requirements were required to be guaranteed a place somewhere in the University of California or California State University system, as appropriate.

Transfer agreement programs also shall carry high priority access to majors of choice. The University of California and the California State University shall require that continuing undergraduate students and community college transfer students are assessed against a common set of criteria for upper division standing to a specific major. However, generally speaking, access to these programs shall require completion of specialized coursework and attainment of a grade point average above the minimums defined in general admission requirements, such as those used in supplementary admission criteria for impacted or over-subscribed programs.

Alternatively, students may also, by meeting the University of California or California State University requirements for admission at the advanced standing level, simply wish to apply as required. All students meeting these admission requirements shall be guaranteed a place somewhere in the University of California or California State University system, as appropriate."

Education Code Section 66742[109] required the governing boards of the three segments of public higher education to present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature.

Education Code Section 66743[110] required the California Postsecondary

[109]Education Code Section 66742, as added by Chapter 1188, Statutes of 1991, Section 5:

"The governing boards of the three public segments of higher education shall present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature. The reports shall include recent statistics on student enrollments by campus, segment, gender, ethnicity, and the ratio of upper division to lower division, including information on both freshman and transfer student access to the system. These reports should include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus. For transfer students, this data shall indicate the segment of origin for all students. In addition, data shall be separately identified for transfer students from California Community Colleges, and shall identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group. The reports shall describe the number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, the number of California Community College transfer students denied either admission to the student's first choice of a particular campus of the California State University or the University of California or the student's first choice of a major field of study, and, among those students, the number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California. The reports shall also include information by sex and ethnicity on retention and degree completion for transfer students as well as for native students, and the number and percentage of baccalaureate degree recipients who transferred from a community college."

[110]Education Code Section 66743, as added by Chapter 1188, Statutes of 1991, Section 5:

"The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the
effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:

(a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.

(b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.

Education Commission to convene an intersegmental advisory committee on transfer access and performance and to biannually prepare a report for the Governor and the Legislature on the status of transfer policies and programs based on their findings. The report was required to include information regarding the effectiveness of transfer agreement programs in enhancing the overall transfer function, the status of the implementation of the transfer core curriculum, and the progress made in achieving articulation agreements in specific majors. The California Postsecondary Education Commission was required to report to the Governor and the Legislature on the overall success of chapter 9.2, regarding student transfer, no later that April 1994. Finally, the code section required that any finding of a substantial failure in achieving improved transfer enrollment or to implement reform in the transfer system in the University of California and the California State University, would result in the commencement of

---

(c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes.

No later than April 1994, the California Postsecondary Education Commission shall report to the Governor and the Legislature on the overall success of this chapter in expediting the goals of transfer, including recommendations about a common definition of transfer rates, including the identification of campuses and positions of employment that prevent progress toward a more effective transfer program, with specific recommendations about resource, program, or other incentives to encourage an effective intersegmental transfer or other incentives to encourage an effective intersegmental transfer program. The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to implement reform, to achieve the 60/40 ratio by the designated dates, or to significantly improve the transfer rate of historically underrepresented groups, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met."

legislative hearings to determine the reasons why goals have not been met.

Education Code Section 66744[111] stated that article 9.2, regarding student transfers, did not apply to the University of California unless specifically provided for by appropriate resolution by the Regents of the University of California.

Chapter 1198, Statutes of 1991, Section 17 added Education Code Section 66722[112] to state the intent of the Legislature that the transfer function shall be a central institutional priority of all segments of higher education in California, and that the segments shall have as a fundamental policy and practice the maintenance of an effective transfer system.

Chapter 1198, Statutes of 1991, Section 18 added Education Code Section 66722.5[113] to state the intent of the Legislature that the segments of higher education pursue the development of transfer agreement programs that specify the curricular

---

[111]Education Code Section 66744, as added by Chapter 1188, Statutes of 1991, Section 5:

"No provision of this article shall apply to the University of California except to the extent that the Regents of the University of California, by resolution, make that provision applicable."

[112]Education Code Section 66722, as added by Chapter 1198, Statutes of 1991, Section 17:

"It is the intent of the Legislature that the transfer function shall be a central institutional priority of all segments of higher education in California, and that the segments shall have as a fundamental policy and practice the maintenance of an effective transfer system."

[113]Education Code Section 66722.5, as added by Chapter 1198, Statutes of 1991, Section 18:

"It is the intent of the Legislature that the segments of higher education shall pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments."

requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments.

Chapter 493, Statutes of 1995, Section 2, added Education Code Section 71027[114] to require the Board of Governors to develop, maintain, and disseminate a common course numbering system for use by the community colleges.

Chapter 758, Statutes of 1995, Section 38 amended Education Code Section 66743[115] to delete the requirement that the California Postsecondary Education

---

[114]Education Code Section 71027, as added by Chapter 493, Statutes of 1995, Section 2:

"(a) The Board of Governors of the California Community Colleges shall develop, maintain, and disseminate a general common course numbering system for use by the community college districts.
(b) The office of the Chancellor of the California Community Colleges shall absorb the costs of developing, maintaining, and disseminating a general common course numbering system pursuant to this section within the office's existing resources.
(c) The board of governors shall report to the Legislature by January 1, 1998, on its progress in implementing this common course numbering system."

[115]Education Code Section 66743, as amended by Chapter 758, Statutes of 1995, Section 38:

"The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:
(a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.
(b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.
(c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also

Commission report to the Governor and the Legislature on the overall success of chapter 9.2, regarding student transfer, no later than April 1994.

Chapter 758, Statutes of 1995, Sections 37.5 and 38.5 repealed Education Code Sections 66723[116] and 66744[117], respectively.

Chapter 187, Statutes of 2000, Section 3, added Education Code Section 66721.5[118] to require the governing board of each community college district to direct the

---

address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes. ~~No later than April 1994, the California Postsecondary Education Commission shall report to the Governor and the Legislature on the overall success of this chapter in expediting the goals of transfer, including recommendations about a common definition of transfer rates, including the identification of campuses and positions of employment that prevent progress toward a more effective transfer program, with specific recommendations about resource, program, or other incentives to encourage an effective intersegmental transfer or other incentives to encourage an effective intersegmental transfer program.~~ The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to implement reform, to achieve the 60/40 ratio by the designated dates, or to ~~significantly~~ improve the transfer rate of historically underrepresented groups significantly, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met."

[116]Education Code Section 66723, as repealed by Chapter 758, Statutes of 1995, Section 37.5:

~~"No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, makes that provision applicable."~~

[117]Education Code Section 66744, as repealed by Chapter 758, Statutes of 1995, Section 38.5:

~~"No provision of this article shall apply to the University of California except to the extent that the Regents of the University of California, by resolution, make that provision applicable."~~

[118]Education Code Section 66721.5, as added by Chapter 187, Statutes of 2000, Section 3:

"Upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University shall jointly cause the curriculum to be published and distributed to each public school in this state that provides

appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum. The governing board of a community college district was required to ensure that the text of the current transfer core curriculum would be included in the published class schedule for each academic term. In addition, copies of the transfer core curriculum were permitted to be made available in other locations on each campus and distributed at specified alternative times or by alternative methods.

TITLE 5, CALIFORNIA CODE OF REGULATIONS

In furtherance of the Education Code requirements, Title 5 Section 51027 (new section filed 1991 and last amended 1994) the governing board of each community college district is required, at subdivision (a), to recognize transfer as one of its primary missions, and to place priority emphasis on the preparation and transfer of underrepresented students, including African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepresented in the transfer process. Subdivision (b) requires each community college district governing board, in consultation with baccalaureate college and university personnel, to direct the development and adoption of a transfer center plan that

---

instruction in any of the grades 7 to 12, inclusive, and to each community college in this state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities. In addition, the Board of Governors shall distribute that transfer core curriculum to the State Board of Education, which shall apply that information to ensure, through its curriculum development activities, that public school pupils enrolled in any of the grades 9 to 12, inclusive, are aware of the academic requirements for preparation for higher education and may receive any necessary academic remediation in a timely manner."

identifies target student populations and establishes target increases in the number of applicants to baccalaureate institutions. Plan components shall: (A) identify, contact, and provide transfer support services to targeted student populations; (B) ensure the provision of academic planning for transfer, the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and the development and use of course-to-course and major articulation agreements; (C) ensure that students receive accurate and up-to-date academic and transfer information through coordinated transfer counseling services; (D) monitor the progress of transfer students to the point of transfer; (E) support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, counseling, and to other instructional and student services on campus as appropriate; (F) assist students in the transition process, including timely completion and submittal of necessary forms and applications; (G) include a schedule of services for transfer students to be provided by baccalaureate institution staff; and (H) provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to baccalaureate institutions, and related transfer information. Districts are required to provide: space and facilities adequate to support the transfer center and its activities; clerical support for the transfer center and assign college staff to coordinate the activities of the transfer center; an advisory committee to plan the development, implementation, and ongoing operations of the transfer center: a plan of institutional research for ongoing internal evaluation of the effectiveness of the

college's transfer efforts, and the achievement of its transfer center plan; and, an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center plan.

CONDITION 20 COMPLIANCE ENFORCEMENT

TITLE 5, CALIFORNIA CODE OF REGULATIONS

In furtherance of the Education Code sections 70901 and 70902 requirements to establish minimum conditions for the receipt of state aid, the State Board of Governors adopted Title 5, California Code of Regulations, sections 51000 through 51027, and for the enforcement of these regulations, sections 51100 and 51102.

Section 51000 (added in 1983 and last amended in 1984) specifically references Education Code section 70901, subdivision (b), paragraph (6) as the authority to establish the rules and regulations "affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to received state aid for the support of its community colleges."

Section 51100 (added in 1983 and last amended in 1984) requires the State Chancellor to, at least once every seven years, to review each college to determine whether it has met the minimum conditions established by Title 5 sections 51000 - 51027.

Section 51102 (added in 1983 and last amended in 1984) states that If the Chancellor's review indicates any area of noncompliance, the Chancellor is required to provide a written notice to the college, to which the college must respond. The

Chancellor then must either accept the response, require the district to adopt and follow a plan for compliance in order to continue to receive state aid, or withhold the district's state aid. If the Chancellor's review indicates any area of noncompliance, the Chancellor is required to provide a written notice to the college, to which the college must respond. The Chancellor then must either accept the response, require the district to adopt and follow a plan for compliance in order to continue to receive state aid, or withhold the district's state aid.

PART III. STATEMENT OF THE CLAIM

SECTION 1. REQUIREMENT FOR STATE REIMBURSEMENT

The statues, code sections, regulations, and executive orders described in this document result in community college districts incurring costs mandated by the state, as defined in Government Code section 17514[119], by creating new state-mandated duties related to the uniquely governmental function of providing public services and these statutes apply only to public schools and do not apply generally to all residents and entities in the state.[120]

---

[119]Government Code section 17514, as last amended by Chapter 1459/84:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

[120]Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 275 Cal.Rptr. 449, 225 Cal.App.3d 155:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. v. State of

The new duties mandated by the state upon community colleges that require state reimbursement are the direct and indirect costs of labor, materials and supplies, contracted services, equipment and capital assets, staff and student training, and travel to implement the following activities:

CONDITION 1. STANDARDS OF SCHOLARSHIP

A) For the governing board of a community college district to adopt and implement regulations consistent with the standards of scholarship contained in Title 5, California Code of Regulations, Sections 55750 - 55765, as a minimum condition for receipt of state aid, pursuant to Title 5, California Code of Regulations, Section 51002 and 55750.

1) To file a copy of its regulations, and any amendments with the Chancellor, pursuant to Section 51002(b);

2) To substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship, pursuant to Section 51002(c);

3) To publish such regulations in the college catalog under appropriate headings, pursuant to Section 55750.

B) For each governing board maintaining one or more community colleges to determine and implement a uniform grading practice for the district which is

---

California (1987) 190 Cal.App.3d at p. 537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

based on sound academic principles and conforms to the following standards, pursuant to Title 5, California Code of Regulations, Section 55751:

1) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with the governing board adopted grading scale, pursuant to Title 5, California Code of Regulations, Section 55751(a); and

2) Such work is also graded in accordance with the provisions of section 55752 (regarding credit-no credit options) or section 55753 (regarding credit by examination), pursuant to Title 5, California Code of Regulations, Section 55751(b).

C) For governing boards to implement the following, regarding courses offered on a credit-no credit basis, pursuant to Title 5, California Code of Regulations, Section 55752:

1) To make the decision to offer such courses by resolution and to issue regulations authorizing such credit-no credit courses, pursuant to Title 5, California Code of Regulations, Section 55752(a).

2) To specify in its catalog the category into which each course falls, pursuant to Title 5, California Code of Regulations, Section 55752(a):

a) Courses where all students are evaluated on a "credit-no credit" basis, pursuant to Title 5, California Code of Regulations, Section 55752(a)(1);

b) Courses where each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit-no credit" or a letter grade, pursuant to Title 5, California Code of Regulations, Section 55752(a)(2).

3) To ensure that all units earned on a "credit-no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions are counted in satisfaction of community college curriculum requirements, pursuant to Title 5, California Code of Regulations, Section 55752(b).

4) To ensure that units earned on a "credit-no credit" basis are not used to calculate grade point averages, pursuant to Title 5, California Code of Regulations, Section 55752(c).

5) To consider units attempted for which "NC" (as defined in section 55758) is recorded in probation and dismissal procedures, pursuant to Title 5, California Code of Regulations, Section 55752(c).

6) To allow independent study courses to be graded on a "credit-no credit" basis, pursuant to Title 5, California Code of Regulations, Section 55752(d).

7) To use the "CR/NC" grading system when a district offers courses in which there is a single standard of performance for which unit credit is assigned, pursuant to Title 5, California Code of Regulations, Section 55752(e).

D) For the governing board of each community college district to adopt and publish procedures and regulations pertaining to credit by examination, which implement the following requirements, pursuant to Title 5, California Code of Regulations, Section 55753:

1) To only grant credits to students who are registered at the college, in good standing and only for a course listed in the catalog of the community college, pursuant to Title 5, California Code of Regulations, Section 55753(b).

2) To ensure that the nature and content of an examination to be determined solely by faculty in the discipline that normally teaches the course for which credit is to be granted, pursuant to Title 5, California Code of Regulations, Section 55753(c).

(a) For such determination to be made in accordance with policies and procedures approved by the curriculum committee established in compliance with Section 55002, pursuant to Title 5, California Code of Regulations, Section 55753(c).

(b) For the faculty to make a determination that the examination adequately measures mastery of the course content as set forth in the outline of record, pursuant to Title 5, California Code of Regulations, Section 55753(c).

3) To ensure that a separate examination is conducted for each course for

which credit is to be granted, pursuant to Title 5, California Code of Regulations, Section 55753(d).

4) To ensure that a student's academic record is clearly annotated to reflect that credit was earned by examination, pursuant to Title 5, California Code of Regulations, Section 55753(e).

5) To ensure that grading is performed according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit-no credit option if that option is ordinarily available for the course, pursuant to Title 5, California Code of Regulations, Section 55753(f).

6) To ensure that units for which credit is given pursuant to the provisions of this section are not be counted in determining the 12 semester hours of credit in residence required for an associate degree, pursuant to Title 5, California Code of Regulations, Section 55753(g).

E) For the curriculum committee to establish and implement policies and procedures for appropriate faculty to follow in determining an "articulated high school course", deemed to be comparable to a specific community college course, pursuant to Title 5, California Code of Regulations, Section 55753.5.

1) To ensure that any articulated high school courses used to partially satisfy certificate or major requirements are clearly noted as such on the student's academic record, pursuant to Title 5, California Code of Regulations,

Section 55753.5(c).

2) To ensure that notations of community college course credit are made only if community college courses are successfully completed or if credit is earned via credit by examination, pursuant to Title 5, California Code of Regulations, Section 55753.5(c).

3) To ensure that, except through credit by examination, as defined in Section 55753, high school courses are not be used to satisfy either of the following, pursuant to Title 5, California Code of Regulations, Section 55753.5(d):

   a) The requirement of Section 55806 that students complete at least 60 semester or 90 quarter units in order to receive an associate degree, pursuant to Title 5, California Code of Regulations, Section 55753.5(d)(1); or

   b) Any general education requirement for the associate degree established by the district, pursuant to Title 5, California Code of Regulations, Section 55753.5(d)(2).

4) To ensure that all community college district-high school articulation agreements are subject to the provisions of Section 55753.5, pursuant to Title 5, California Code of Regulations, Section 55753.5(e).

5) To allow any student who, prior July 1, 2002, has successfully completed a high school course articulated under the terms of a previous agreement to

be permitted to apply the credit so earned according to the terms of the previous agreement, pursuant to Title 5, California Code of Regulations, Section 55753.5(e).

F) For the governing board of a community college district to adopt policies regarding advanced placement examinations which implement the following, pursuant to Title 5, California Code of Regulations, Section 55753.7:

1) Appropriate faculty members must review, analyze and approve all of the following, pursuant to Title 5, California Code of Regulations, Section 55753.7:

a) advanced placement examinations,

b) scores deemed to constitute satisfactory performance,

c) courses offered by the college for which credit will be granted, and

d) requirements that may be met by such examinations

2) A student's academic record must be clearly annotated to reflect any credit that was earned through an advanced placement examination, pursuant to Title 5, California Code of Regulations, Section 55753.7.

G) For community colleges to either comply with the following statewide standards for academic probation, or for governing boards to adopt higher, local standards regarding probation, pursuant to Title 5, California Code of Regulations, Section 55754.

1) To place a student on "academic probation" if he or she has attempted at least 12 semester or 18 quarter units and has earned a grade point average below 2.0 in all units based the grading scale described in section 55758, pursuant to Title 5, California Code of Regulations, Section 55754(a).

2) To place a student on "progress probation" if he or she has enrolled in a total of at least 12 semester or 18 quarter units and the percentage of all units in which the student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%), pursuant to Title 5, California Code of Regulations, Section 55754(b).

H) For the governing board of a district to adopt, publish and implement procedures and conditions for probation and appeal of probation and request for removal from probation, that are not lower than the statewide standards and that allow removal from probation in the following circumstances, pursuant to Title 5, California Code of Regulations, Section 55755:

1) A student on academic probation for a grade point deficiency must be removed from probation when the student's accumulated grade point average is 2.0 or higher, pursuant to Title 5, California Code of Regulations, Section 55755(a).

2) A student on progress probation because of an excess of units for which

entries of "W," "I," and "NC" (as defined in section 55758) are recorded must be removed from probation when the percentage of units in this category drops below fifty percent (50%), pursuant to Title 5, California Code of Regulations, Section 55755(b).

l) For the governing board of a district to adopt, publish and implement procedures and conditions for dismissal and appeal of dismissal and request for reinstatement that are not lower than the following statewide standards, pursuant to Title 5, California Code of Regulations, Section 55756 (c):

1) Semesters or quarters must be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year), pursuant to Title 5, California Code of Regulations, Section 55756.

2) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758, pursuant to Title 5, California Code of Regulations, Section 55756(a).

3) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled

for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754, pursuant to Title 5, California Code of Regulations, Section 55756(b).

4) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55756(c).

J) To implement and comply with the following standards regarding remedial coursework, pursuant to Title 5, California Code of Regulations, Section 55756.5:

1) To determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures administered in compliance with chapter 6 (commencing with section 55500) of division 6 of Title 5, California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 55756.5(b).

2) To ensure that, except as otherwise provided, no student receives more than 30 semester units (or 45 quarter units) of credit for remedial coursework, pursuant to Title 5, California Code of Regulations, Section 55756.5(b).

3) To refer students that have exhausted the unit limitation to appropriate adult noncredit education services provided by college, adult school,

community-based organization, or other appropriate local provider with which the district has an established referral agreement, pursuant to Title 5, California Code of Regulations, Section 55756.5(b).

4) To track and ensure that students enrolled in English as a Second Language (ESL) classes and those students identified by the district as having a learning disability are exempted from the limitation on remedial coursework, pursuant to Title 5, California Code of Regulations, Section 55756.5(c).

5) For the governing board to review and approve any locally developed standards which provides for a waiver of the limitation on remedial coursework with respect to any student, and for the standards to include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units, pursuant to Title 5, California Code of Regulations, Section 55756.5(d).

6) To dismiss and refer to adult noncredit education courses any student who does not attain full eligibility status for college-level work within the required time limit, unless provided with a waiver, pursuant to Title 5, California Code of Regulations, Section 55756.5(e).

7) To allow a student who has successfully completed all appropriate "remedial coursework," or has demonstrated the level of skills which reasonably assures success in college-level courses, to request

reinstatement to proceed with college-level coursework, pursuant to Title 5, California Code of Regulations, Section 55756.5(f).

8) For the governing board of each district to prepare and submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following, pursuant to Title 5, California Code of Regulations, Section 55756.5(g):

a) The effect of this section on students by sex, age, and ethnicity, pursuant to Title 5, California Code of Regulations, Section 55756.5(g)(1); and

b) Success rates for students enrolled in "remedial coursework", pursuant to Title 5, California Code of Regulations, Section 55756.5(g)(2).

K) For the governing board of each district to adopt and implement rules and regulations governing whether the units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew, will be included in or excluded from the category of "units attempted", pursuant to Title 5, California Code of Regulations, Section 55757.

L) For the governing board to utilize a statewide grading scale established on the basis of point equivalencies that comply with the following, and to notify students of these standards by publication, pursuant to Title 5, California Code of Regulations, Section 55758:

1) To use only the following evaluative symbols in issuing grades, unless issuing "plus and minus" designations or using the "FW" grade symbol, pursuant to Title 5, California Code of Regulations, Section 55758(a):

A Excellent 4

B Good 3

C Satisfactory 2

D Passing, less than satisfactory 1

F Failing 0

CR Credit (at least satisfactory–units not counted in GPA)

NC No Credit (less than satisfactory or failing--units not counted in GPA)

2) If the governing board of a community college district uses "plus" and "minus" designations in combination with letter grades, it must do so according to statewide calculation methods and must ensure that the grade of C minus is not used, pursuant to Title 5, California Code of Regulations, Section 55758(b).

3) If the governing board uses the "FW" grade symbol to indicate that a student has withdrawn from a course after the official withdrawal date without authorized extenuating circumstances, it must ensure that the grade point value recorded is zero and that the symbol is not used if a student has been granted military withdrawal, pursuant to Title 5, California

Code of Regulations, Section 55758(c).

4) For the governing board of each community college district to authorize only the following nonevaluative symbols and in the following manner, pursuant to Title 5, California Code of Regulations, Section 55758(e):

a) I Incomplete: "Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term", pursuant to Title 5, California Code of Regulations, Section 55758(e).

(i) The instructor must state in a written record the condition for the removal of the "I" and the grade assigned in lieu of its removal.

(ii) This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed.

(iii) A final grade must be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed.

(iv) The "I" may be made up no later than one year following the end of the term in which it was assigned.

(v) The "I" Symbol must not be used in calculating units attempted nor for grade points.

(vi) The governing board must provide a process whereby a

student may petition for a time extension due to unusual circumstances.

b) IP In progress: "Work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion", pursuant to Title 5, California Code of Regulations, Section 55758(e).

(i) The "IP" symbol must be used only in those courses which extend beyond the normal end of an academic term.

(ii) The "IP" symbol must remain on the student's permanent record in order to satisfy enrollment documentation.

(iii) The appropriate evaluative symbol (grade) and unit credit must be assigned and appear on the student's permanent record for the term in which the course is completed.

(iv) The "IP" must not be used in calculating grade point averages.

(v) If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty must assign an appropriate evaluative symbol to be recorded on the student's permanent record for the course.

c) RD Report Delayed: "When there is a delay in reporting the grade of

a student due to circumstances beyond the control of the student", pursuant to Title 5, California Code of Regulations, Section 55758(e).

(i) The "RD" symbol may be assigned by the registrar only.

(ii) It is a temporary notation to be replaced by a permanent symbol as soon as possible.

(iii) "RD" shall not be used in calculating grade point averages.

d) W Withdrawal: (see section "M" for duties), pursuant to Title 5, California Code of Regulations, Section 55758(e).

e) MW Military Withdrawal: "When a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses" (see section "M" for duties), pursuant to Title 5, California Code of Regulations, Section 55758(e).

M) For the governing board of a community college district to adopt and implement a withdrawal policy consistent with the following, pursuant to Title 5, California Code of Regulations, Section 55758(e):

1) Withdrawal from a class or classes must be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less), unless the governing board establishes a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the

fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less), pursuant to Title 5, California Code of Regulations, Section 55758(e).

2) The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in this Section other than a "W", pursuant to Title 5, California Code of Regulations, Section 55758(e).

3) To use excessive"W"s as factors in probation and dismissal procedures, pursuant to Title 5, California Code of Regulations, Section 55758(e).

4) For the governing boards to establish and implement criteria for withdrawal and the procedures to accomplish it and published such criteria in college catalogs, pursuant to Title 5, California Code of Regulations, Section 55758(e).

5) For the governing board of a community college district to also adopt military withdrawal procedures consistent with the following, pursuant to Title 5, California Code of Regulations, Section 55758(e):

   a) The governing board must establish and implement procedures to verify such military orders and a time period for which a withdrawal symbol may be assigned, pursuant to Title 5, California Code of Regulations, Section 55758(e).

b) Military withdrawals must not be counted in progress probation and dismissal calculations, pursuant to Title 5, California Code of Regulations, Section 55758(e).

c) "W"s incurred during the period between January 1, 1990 and January 7, 2001, which meet the definition of military withdrawal herein, must not be counted in progress probation and dismissal calculations and may be changed to "MW"s, pursuant to Title 5, California Code of Regulations, Section 55758(e).

d) In no case would a military withdrawal result in a student being assigned an "FW" grade, pursuant to Title 5, California Code of Regulations, Section 55758(e).

N) To ensure that grades earned in nondegree credit courses are not included in calculating students' degree applicable grade point averages, pursuant to Title 5, California Code of Regulations, Section 55758.5.

O) For each community college to make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter, pursuant to Title 5, California Code of Regulations, Section 55759.

1) To make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any

academic difficulties, pursuant to Title 5, California Code of Regulations, Section 55759.

2) To make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district, pursuant to Title 5, California Code of Regulations, Section 55759.

3) To publish probation and dismissal policies and procedures in the college catalog, pursuant to Title 5, California Code of Regulations, Section 55759.

P) For districts to implement policies to ensure that the instructor of any course of instruction in a community college district for which grades are awarded, determine the grade to be awarded each student in accordance with section 55758 (Academic Record Symbols and Grade Point Average), pursuant to Title 5, California Code of Regulations, Section 55760.

1) The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency, pursuant to Title 5, California Code of Regulations, Section 55760(a).

2) Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record, pursuant to Title 5, California Code of Regulations, Section 55760(a).

3) The governing board of a district shall adopt, publish and implement procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761

(District Policy for Course Repetition) and 55762 (Course Repetition: Implementation), pursuant to Title 5, California Code of Regulations, Section 55760(b).

4) When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history, pursuant to Title 5, California Code of Regulations, Section 55760(b).

Q) For the governing board of a district maintaining a community college to adopt, publish and implement procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded, pursuant to Title 5, California Code of Regulations, Section 55761.

1) To define the term "substandard" as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded, pursuant to Title 5, California Code of Regulations, Section 55761.

2) When course repetition occurs, the permanent academic record must be annotated in such a manner that all work remains legible, insuring a true and complete academic history, pursuant to Title 5, California Code of Regulations, Section 55761.

R) For the governing board of a district maintaining a community college to ensure

that any procedures or regulations adopted pertaining to the repetition of courses for which substandard academic performance has been previously recorded, implement the following requirements, pursuant to Title 5, California Code of Regulations, Section 55762:

1) For the adopted regulations to indicate any specific courses or categories of courses which are exempt from consideration, pursuant to Title 5, California Code of Regulations, Section 55762(c);

2) To clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol, pursuant to Title 5, California Code of Regulations, Section 55762(d);

3) To publish the specific procedures required for course, pursuant to Title 5, California Code of Regulations, Section 55762(e); and

4) To maintain a careful record of actions taken under any course repetition procedures or regulations, pursuant to Title 5, California Code of Regulations, Section 55762(g).

S) For the governing board of a district that chooses to adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded, to comply with the following, pursuant to Title 5, California Code of Regulations, Section 55763.

1) To ensure that repetition of courses for which substandard work has not

been recorded is permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition, pursuant to Title 5, California Code of Regulations, Section 55763(b).

2) To permit repetition, without petition, in instances when such repetition is necessary for a student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment, pursuant to Title 5, California Code of Regulations, Section 55763(c).

   a) To ensure that such courses conform to all attendance accounting, course approval, and other requirements imposed by applicable provisions of law, pursuant to Title 5, California Code of Regulations, Section 55763(c).

   b) To permit such courses to be repeated for credit any number of times, regardless of whether or not substandard work was previously recorded, and to include each grade received in the calculation of the student's grade point average, pursuant to Title 5, California Code of Regulations, Section 55763(c).

3) To annotate a student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history when course repetition under this section occurs, pursuant to Title 5, California Code of Regulations, Section 55763(d).

T) For the governing board of a district maintaining a community college to adopt, publish and implement procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance which is not reflective of a student's demonstrated ability, pursuant to Title 5, California Code of Regulations, Section 55764 and 55765

1) For such procedures or regulations to include a clear statement of the educational principles upon which they are based, pursuant to Title 5, California Code of Regulations, Section 55764.

2) To refer to such procedures as academic renewal regulations, pursuant to Title 5, California Code of Regulations, Section 55764.

3) To annotate a student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history when academic renewal procedures or regulations adopted by a district permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, pursuant to Title 5, California Code of Regulations, Section 55764.

4) To ensure that such regulations or procedures comply with Education Code section 76224, pertaining to the finality of grades assigned by instruction, and Chapter 2.5 (commencing with section 59020) of division 10 of Title 5, California Code of Regulations, pertaining to the retention, destruction and permanency of records, pursuant to Title 5, California

Code of Regulations, Section 55765(a).

5) For such regulations to state the following, pursuant to Title 5, California Code of Regulations, Section 55765(b):

a) The maximum amount of coursework that may be alleviated, pursuant to Title 5, California Code of Regulations, Section 55765(b)(1);

b) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated, pursuant to Title 5, California Code of Regulations, Section 55765(b)(2);

c) The length of time to have elapsed since the coursework to be alleviated was recorded, pursuant to Title 5, California Code of Regulations, Section 55765(b)(3); and

d) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations, pursuant to Title 5, California Code of Regulations, Section 55765(b)(4).

6) To adopt, publish and implement specific procedures to be followed in implementing any procedures or regulations adopted pursuant to this section which state at a minimum, pursuant to Title 5, California Code of Regulations, Section 55765(c):

a) The procedures to be followed by students in petitioning for alleviation, pursuant to Title 5, California Code of Regulations, Section 55765(c)(1); and

b) The officers and/or personnel responsible for implementing the procedures or regulations, pursuant to Title 5, California Code of Regulations, Section 55765(c)(2).

CONDITION 2. DEGREES AND CERTIFICATES

A) For the governing board of a community college district to adopt and implement policies, procedures and regulations for the award of degrees and certificates, which comply with Division 6, Chapter 6, Subchapter 10 of Title 5 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Sections 51004 and 55800.

1) To file a copy of its regulations and any subsequent amendments with the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51004(b) and 55800;

2) To publish the adopted policy in the college catalog, pursuant to Title 5, California Code of Regulations, Section 55800.

B) For community colleges to ensure that any student who successfully completes the prescribed course of study for an associates degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses, is awarded an associate

degree, pursuant to Title 5, California Code of Regulations, Section 55800.5.

C) To monitor credits that qualify as being "satisfactorily completed" and to define such credits as " either credit earned on a "credit-no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based", for purposes of Sections 55806 and 55809, pursuant to Title 5, California Code of Regulations, Section 55801.

D) For the governing board of a community college district to adopt and implement a policy which states its specific philosophy on General Education and is consistent with the philosophy of the Board of Governors, pursuant to Title 5, California Code of Regulations, Section 55805.

1) For the district governing board to establish and implement criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education, pursuant to Title 5, California Code of Regulations, Section 55805(b).

2) For the district governing board to review their adopted policy and criteria on a regular basis, pursuant to Title 5, California Code of Regulations, Section 55805(c).

F) For the district governing board to review and catagorize all courses, and permit only courses that conform to the standards specified in section 55002(a) and that fall into the following categories to be offered for associate degree credit, pursuant to Title 5, California Code of Regulations, Section 55805.5:

1) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer, pursuant to Title 5, California Code of Regulations, Section 55805.5(a);

2) Courses that apply to the major in non-baccalaureate occupational fields, pursuant to Title 5, California Code of Regulations, Section 55805.5(b);

3) English courses not more than one level below the first transfer level composition course, pursuant to Title 5, California Code of Regulations, Section 55805.5(c);

4) All mathematics courses above and including Elementary Algebra, pursuant to Title 5, California Code of Regulations, Section 55805.5(d); or

5) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the English and Math courses specified above, pursuant to Title 5, California Code of Regulations, Section 55805.5(e).

G) For the governing board of a community college district to offer the appropriate curriculum and to implement policies and procedures to ensure that the degree of Associate in Arts or Associate in Science is conferred upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter

units of college work, in accordance with the following criteria, pursuant to Title 5, California Code of Regulations, Section 55806, paragraph one:

1) This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district and that this information is published in the community college's catalog, pursuant to Title 5, California Code of Regulations, Section 55806.

2) The course work must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in section 55806(a), pursuant to Title 5, California Code of Regulations, Section 55806.

3) Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree, pursuant to Title 5, California Code of Regulations, Section 55806.

4) Exceptions to residence requirements for the Associate Degree may only be made by the governing board when it determines that an injustice or undue hardship would be placed on the student, pursuant to Title 5, California Code of Regulations, Section 55806.

5) To require students to complete at least 18 semester or 27 quarter units of study in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," in order to fulfill the requirements for a student's major, pursuant to Title 5, California Code of Regulations,

Section 55806(a).

6) To require students to complete the following to fulfill his or her General Education Requirements, pursuant to Title 5, California Code of Regulations, Sections 55806(b):

a) Students receiving an Associate Degree must complete a minimum of 18 semester or 27 quarter units of general education, pursuant to Title 5, California Code of Regulations, Sections 55806(b)(1);

b) A minimum of three semester or four quarter units must be completed in each of the following five areas: natural sciences; social and behavioral sciences; humanities; English composition; and communication and analytical thinking, pursuant to Title 5, California Code of Regulations, Sections 55806(b)(1); and

c) The remainder of the unit requirement must also be selected from among the four main divisions of learning (natural sciences, social and behavioral sciences, humanities and language and rationality), or as determined by local option, pursuant to Title 5, California Code of Regulations, Sections 55806(b)(1).

H) For community colleges to establish and implement a process to respond to a student petition requesting that noncredit courses be counted toward associate degrees, pursuant to Title 5, California Code of Regulations, Section 55807.

1) For a governing board to accept, disapprove, or approve and certify any

such student petitions, pursuant to Title 5, California Code of Regulations, Section 55807.

2) For the faculty to approve the types of evidence of prescribed competence indicating sufficient credit-level achievement that may be considered in such matters, pursuant to Title 5, California Code of Regulations, Section 55807.

I) For the district governing board to issue a certificate of achievement to any student whom the board determines has successfully completed any course of study or curriculum for which a certificate of achievement is offered, pursuant to Title 5, California Code of Regulations, Section 55808.

J) For the district governing board to award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements, pursuant to Title 5, California Code of Regulations, Section 55809.

CONDITION 3. OPEN COURSES

A) For the district governing board to adopt a statement pertaining to its policy on open enrollment which provides that, unless specifically exempted by statute or regulation, every course reported for state aid shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets any prerequisites that have been properly established by a district,

pursuant to Title 5, California Code of Regulations, Section 51006.

1) To publish the open enrollment policy statement in the official catalog, schedule of classes, and addenda to the schedule of classes for which full-time equivalent student (FTES) is reported for state apportionment, pursuant to Title 5, California Code of Regulations, Section 51006(b);

2) To file a copy of such policy with the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51006(b).

B) To publish a clear description of each course, which is understandable to the prospective student, in the official catalog, and/or schedule of classes, and/or addenda, pursuant to Title 5, California Code of Regulations, Section 58102.

C) To establish and implement procedures to ensure, if a course description indicates a course is designed to meet certain specialized needs, that the district affirms the availability of the course to all qualified students, pursuant to Title 5, California Code of Regulations, Section 58102.

D) To describe all courses to be conducted within the community college district in the official general catalog and/or addenda and to list such courses in the schedules of classes, pursuant to Title 5, California Code of Regulations, Section 58104.

1) To ensure that any courses which are established or conducted after publication of the general catalog or regular schedule of classes are reasonably well publicized, pursuant to Title 5, California Code of

Regulations, Section 58104.

2) To ensure that any announcements of course offerings are not limited to a specialized clientele, pursuant to Title 5, California Code of Regulations, Section 58104.

3) To ensure that no group or individual receives notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students, pursuant to Title 5, California Code of Regulations, Section 58104.

E) To establish and implement policies and procedures to ensure that, as a condition to be claimed for purposes of state apportionment, all community college courses are open to enrollment by any student who has been admitted to the college, unless the course qualifies for a limitation, pursuant to Title 5, California Code of Regulations, Section 58106.

1) To permit enrollment to be limited to students meeting prerequisites and corequisites that have been established in compliance with Sections 55200-55202 of Title 5, pursuant to Title 5, California Code of Regulations, Section 58106(a).

2) To ensure that any other limitation used by the district falls into one of the following acceptable reasons for enrollment limitations, pursuant to Title 5, California Code of Regulations, Section 58106(b):

a) health and safety considerations;

b) facility limitations;

c) faculty workload;

d) the availability of qualified instructors;

e) funding limitations;

f) the constraints of regional planning; or

g) legal requirements imposed by statutes.

3) For the governing board to adopt and implement policies identifying any enrollment limitations used, ensuring that such policies provide fair and equitable procedures for determining who may enroll in affected courses or programs, and are consistent with at least one of the following approaches, pursuant to Title 5, California Code of Regulations, Section 58106(b):

a) Limiting enrollment to a "first-come, first-served" basis or using other nonevaluative selection techniques to determine who may enroll, pursuant to Title 5, California Code of Regulations, Section 58106(b)(1); or

b) Limiting enrollment using a registration procedure authorized by Section 58108 (see section "H" of this section for procedures) of Title 5, pursuant to Title 5, California Code of Regulations, Section 58106(b)(2); or

c) In the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students

judged most qualified, pursuant to Title 5, California Code of Regulations, Section 58106(b)(3); or

d) Limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions, pursuant to Title 5, California Code of Regulations, Section 58106(b)(4); or

e) With respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Sections 55754 (regarding Standards for Probation) and 55755 (regarding Removal from Probation) of Title 5, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan, pursuant to Title 5, California Code of Regulations, Section 58106(b)(5).

F) For districts to establish and implement procedures for and to respond to a student challenge to an enrollment limitation, pursuant to Title 5, California Code of Regulations, Section 58106(c), (d), and (e).

1) To permit students to challenge an enrollment limitation on any of the following grounds, pursuant to Title 5, California Code of Regulations, Section 58106(c):

a) Unlawful discrimination on the limitation's face or in its application,

pursuant to Title 5, California Code of Regulations, Section 58106(c)(1);

b) Failure of the district to follow it's own enrollment limitation policy, pursuant to Title 5, California Code of Regulations, Section 58106(c)(2);

c) An argument that the basis upon which the district has established an enrollment limitation does not in fact exist, pursuant to Title 5, California Code of Regulations, Section 58106(c)(3); or

d) Any other criteria established by the district, pursuant to Title 5, California Code of Regulations, Section 58106(c)(4).

2) For the district to handle such enrollment limitation challenges in a timely manner, pursuant to Title 5, California Code of Regulations, Section 58106(d);

3) To waive the enrollment limitation with respect to any student whose challenge is upheld, pursuant to Title 5, California Code of Regulations, Section 58106(d);

4) To advise any student who has challenged an enrollment limitation based on the theory of unlawful discrimination that he or she may also file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of Title 5 of the California Code of Regulations, once the challenge procedure has been completed, pursuant to Title 5, California

Code of Regulations, Section 58106(e).

G) To ensure that any public funds used in connection with community college athletic programs are used only for those programs which provide facilities and opportunities for participation by both sexes on an equitable basis, including, but not limited to, equity in the following areas, pursuant to Title 5, California Code of Regulations, Section 58107:

1) equipment and supplies;

2) scheduling of games and practice time;

3) compensation for coaches;

4) travel arrangements;

5) per diem;

6) locker rooms; and

7) medical services

H) To ensure that all procedures for registration and standards for enrollment in any course are consistent with all sections of Title 5 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 58108.

1) To ensure that such procedures and standards are uniformly administered by appropriately authorized employees of the district, pursuant to Title 5, California Code of Regulations, Section 58108.

2) To ensure that, except as otherwise provided by state law, no student shall be required to do any of the following, pursuant to Title 5, California Code

of Regulations, Section 58108:

a) To confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district, pursuant to Title 5, California Code of Regulations, Section 58108;

b) To be required to participate in any preregistration activity not uniformly required, pursuant to Title 5, California Code of Regulations, Section 58108;

c) To be subjected to nonacademic requisites, imposed by anyone, as barriers to enrollment in or the successful completion of a class, pursuant to Title 5, California Code of Regulations, Section 58108;

d) To be subjected to any registration procedures that result in restricting enrollment to a specialized clientele, pursuant to Title 5, California Code of Regulations, Section 58108; or

e) To be required to make any special effort not required of all students to register in any class or course section, with respect to accessibility to off-campus sites and facilities, pursuant to Title 5, California Code of Regulations, Section 58108.

3) To ensure that, once enrolled in a class, all students have equal access to the site, pursuant to Title 5, California Code of Regulations, Section 58108.

CONDITION 4. COMPREHENSIVE PLAN

Comprehensive Master Plans: Capital Construction and Educational

A) For the governing board of each community college district to create, establish policies for, approve and implement comprehensive master plans for their facilities so that they meet the following requirements, pursuant to Title 5, California Code of Regulations, Section 51008:

1) The plan must include both academic master plans (Educational Master Plans) and long range master plans for facilities (Capital Construction Master Plans), pursuant to Title 5, California Code of Regulations, Section 51008(a);

2) The plan must address planning requirements which meet the specifications issued by the Board of Governors, as detailed in Title 5 California Code of Regulations, Sections 55401-55405, pursuant to Title 5, California Code of Regulations, Section 51008(a);

3) The plans, as well as any annual updates or changes to the plans, must be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans, as detailed in Title 5, California Code of Regulations, Sections 55401-55405, pursuant to Title 5, California Code of Regulations, Section 51008(b).

Capital Construction Master Plans:

A) For the governing board of each community college district to annually prepare,

update and submit to the Board of Governors of the California Community Colleges, a plan for capital construction covering a five-year time period, as opposed to the earlier ten-year time period required prior to 1975, pursuant to Education Code Section 81820 and Title 5, California Code of Regulations, Section 51008.

B) For community college districts to establish and implement policies and procedures and gather the appropriate data to ensure that the five-year plan for capital construction sets out the estimated capital construction needs of the district with reference to elements including at least all of the following information, pursuant to Education Code Section 81821:

1) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized, pursuant to Education Code Section 81821(a).

2) The enrollment projections for each district formulated by the Department of Finance, pursuant to Education Code Section 81821(b)

a) The enrollment projections must be expressed in terms of weekly student contact hours, pursuant to Education Code Section 81821(b).

b) The enrollment projections for each individual college and

educational center within a district must be made cooperatively by the Department of Finance and the community college district, pursuant to Education Code Section 81821(b).

3) The current enrollment capacity of the district, pursuant to Education Code Section 81821(c).

a) The enrollment capacity must be expressed in terms of weekly student contact hours, pursuant to Education Code Section 81821(c); and

b) The enrollment capacity must be based upon the space and utilization standards for community college classrooms and laboratories adopted by the Board of Governors in consultation with the California Postsecondary Education Commission and consistent with its standards, pursuant to Education Code Section 81821(c).

4) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the Board of Governors in consultation with the California Postsecondary Education Commission and consistent with its standards, pursuant to Education Code Section 81821(d).

5) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the Board of Governors, pursuant to Education Code Section 81821(e).

6) An estimate of district funds which must be made available for capital outlay matching purposes pursuant to regulations adopted by the Board of Governors, pursuant to Education Code Section 81821(f).

C) For a community college district that maintains colleges, or one college and one or more educational centers, and that submits an additional capital construction plan based on each college or educational center maintained by the district, to prepare and include documentation justifying that students will be better served by such a plan due to the existence of either of the following circumstances, pursuant to Education Code Section 81823.

1) The isolation of students within a district in terms of either of the following, pursuant to Education Code Section 81823(a)(1):

a) The distance of students from the location of an educational program, pursuant to Education Code Section 81823(a)(1); or

b) The inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program, pursuant to Education Code Section 81823(a)(1); or

2) The inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students, pursuant to Education Code Section 81823(a)(2).

Educational Master Plans:

A) For the governing board of each Community college district to establish and implement policies for, and to approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole, pursuant to Title 5, California Code of Regulations, Section 55401 and Section 51008.

B) For the governing board of each Community College district to annually, on or before November 1st of each year, submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole, pursuant to Title 5, California Code of Regulations, Section 55402.

C) For each educational master plan submitted to the Chancellor to be on a form provided by the Chancellor, and to contain all information that the Chancellor requires, pursuant to Title 5, California Code of Regulations, Section 55403.

D) For community colleges to ensure that the contents of each educational master plan contains all of the following information, pursuant to Title 5, California Code of Regulations, Section 55404:

1) The educational objectives of the Community College or district, pursuant to Title 5, California Code of Regulations, Section 55404;

2) The future plans for all of the following, pursuant to Title 5, California Code of Regulations, Section 55404:

a) transfer programs;

b) occupational programs;

c) continuing education courses; and

d) remedial and developmental programs.

3) Plans for the development and expansion of at least all of the following ancillary services, pursuant to Title 5, California Code of Regulations, Section 55404:

a) library;

b) counseling;

c) placement; and

d) financial aid.

CONDITION 5. EQUAL EMPLOYMENT OPPORTUNITY

A) For each community college district employer to commit to a sustained action to devise recruiting, training and advancement opportunities that will result in equal employment opportunities for all qualified applicants and employees, pursuant to Education Code Section 87101(c).

B) For the governing board of a community college district to periodically submit to the board of governors an affirmation of compliance with the equal employment opportunity article as a condition for the receipt of funds under Education Code Section 87107, pursuant to Education Code Section 87102.

1) For each participating district's equal employment opportunity program to ensure participation in, and commitment to, the program by district personnel, pursuant to Education Code Section 87102(a).

2) For each plan to include steps that the district will take in eliminating improper discrimination or preferences in its hiring and employment practices, pursuant to Education Code Section 87102(a).

3) For each plan to address how the district will make progress in achieving the ratio of full-time to part-time faculty hiring, as indicated in Education Code Section 87482.6, while still ensuring equal employment opportunity, pursuant to Education Code Section 87102(a).

C) For the governing board of a community college district to adopt and implement a district policy which describes its equal employment opportunity program, pursuant to Title 5, California Code of Regulations, Section 51010.

1) For the policy to meet the requirements of section 53002, pursuant to Title 5, California Code of Regulations, Section 51010(a).

2) To develop, adopt and implement a district equal employment opportunity plan which meets the requirements of section 53003, pursuant to Title 5, California Code of Regulations, Section 51010(b).

3) To ensure that the district's employment patterns are annually surveyed in the manner required by section 53004, pursuant to Title 5, California Code of Regulations, Section 51010(c).

4) To ensure that a program of recruitment is carried out as required by section 53021, pursuant to Title 5, California Code of Regulations, Section 51010(d).

5) To ensure that screening and selection procedures are developed and used in accordance with section 53024, pursuant to Title 5, California Code of Regulations, Section 51010(e).

6) To ensure that, where necessary, additional steps are taken consistent with the requirements of section 53006, pursuant to Title 5, California Code of Regulations, Section 51010(f).

7) To ensure that the pattern of hiring and retention, when viewed over time, is consistent with the objectives established in the district's equal employment opportunity plan, pursuant to Title 5, California Code of Regulations, Section 51010(g).

8) To substantially comply with the other provisions of subchapter 1 (commencing with section 53000) of chapter 4 of Title 5 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 51010(h).

D) To incorporate the definitions for the following terms within the district's policies and procedures, as outlined in and pursuant to Title 5, California Code of Regulations, Section 53001: "adverse impact"; "business necessity"; "equal employment opportunity"; "equal employment opportunity plan"; "equal employment opportunity programs", "ethnic minorities"; "ethnic group identification"; "goals for persons with disabilities"; "in-house of promotional only hiring"; "monitored group"; "person with a disability"; "projected representation";

"reasonable accommodation"; "screening or selection procedure"; "significantly underrepresented group"; "target date" and "timetable".

E) For the governing board of each community college district to adopt and implement a policy statement setting forth the district's commitment to an equal employment opportunity program, pursuant to Title 5, California Code of Regulations, Section 53002.

F) For the governing board of each community college district to develop, adopt and implement a district-wide written equal employment opportunity plan to implement its equal employment opportunity program, pursuant to Title 5, California Code of Regulations, Section 53003.

1) To submit such plans and any revisions to the Chancellor's Office for review and approval, pursuant to Title 5, California Code of Regulations, Section 53003(a).

2) To review, and if necessary, revise such plans at least every three years, pursuant to Title 5, California Code of Regulations, Section 53003(b).

3) To notify the Chancellor at least 30 days prior to adopting any other amendments to the plan, pursuant to Title 5, California Code of Regulations, Section 53003(b).

4) For the plan to include all of the following, pursuant to Title 5, California Code of Regulations, Section 53003(c):

a) The designation of the district employee or employees who have

been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this subchapter pursuant to section 53020, pursuant to Title 5, California Code of Regulations, Section 53003(c)(1);

b) The procedure for filing complaints pursuant to section 53026 and the person with whom such complaints are to be filed, pursuant to Title 5, California Code of Regulations, Section 53003(c)(2);

c) A process for notifying all district employees of the provisions of the plan and the policy statement required under section 53002, pursuant to Title 5, California Code of Regulations, Section 53003(c)(3);

d) A process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this subchapter and of state and federal nondiscrimination laws, pursuant to Title 5, California Code of Regulations, Section 53003(c)(4);

e) A process for providing annual written notice to appropriate community-based and professional organizations concerning the district's plan and the need for assistance from the community and such organizations in identifying qualified applicants, pursuant to Title 5, California Code of Regulations, Section 53003(c)(5);

f) An analysis of the number of persons from monitored groups who are employed in the district's work force and those who have applied for employment in each of the job categories listed in section 53004(a), pursuant to Title 5, California Code of Regulations, Section 53003(c)(6);

g) An analysis of the degree to which monitored groups are underrepresented in comparison to the numbers of persons from such groups whom the Chancellor determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant, pursuant to Title 5, California Code of Regulations, Section 53003(c)(7);

h) Methods for addressing any identified underrepresentation, pursuant to Title 5, California Code of Regulations, Section 53003(c)(8).

i) Additional steps consistent with section 53006 to remedy any significant underrepresentation identified in the plan, pursuant to Title 5, California Code of Regulations, Section 53003(c)(9);

j) Any other measures necessary to further equal employment opportunity throughout the district, pursuant to Title 5, California Code of Regulations, Section 53003(c)(10); and

k) Any goals for hiring persons with disabilities that are required by

section 53025, pursuant to Title 5, California Code of Regulations, Section 53003(d).

5) For community college districts to make a continuous good faith effort to comply with the requirements of the plan required under this section, pursuant to Title 5, California Code of Regulations, Section 53003(e).

G) For each district to survey its employees on an annual basis and to monitor applicants for employment on an ongoing basis in order to evaluate the implementation of its equal employment opportunity plan and to provide data needed for the analyses required by sections 53003, 53006, 53023, and 53024, pursuant to Title 5, California Code of Regulations, Section 53004.

1) Each district must annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of employees at each college in the district, pursuant to Title 5, California Code of Regulations, Section 53004(a).

2) To ensure that each employee is reported so that he or she may be identified as belonging to one of the following seven job categories, pursuant to Title 5, California Code of Regulations, Section 53004(a):

a) executive/administrative/managerial;

b) faculty and other instructional staff;

c) professional nonfaculty;

d) secretarial/clerical;

e) technical and paraprofessional;

f) skilled crafts; and

g) service and maintenance.

3) To ensure that, for purposes of the survey and report required pursuant to subdivision (a) of this section, each applicant or employee is afforded the opportunity to identify his or her gender, ethnic group identification and, if applicable, his or her disability, pursuant to Title 5, California Code of Regulations, Section 53004(b).

a) To ensure that a person is counted in only one ethnic group for reporting purposes, pursuant to Title 5, California Code of Regulations, Section 53004(b).

b) To ensure that Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are counted and reported as part of the Asian/Pacific Islander group as well as in separate subcategories, pursuant to Title 5, California Code of Regulations, Section 53004(b).

H) For each community college district to establish an Equal Employment Opportunity Advisory Committee that includes a diverse membership whenever possible, to assist the district in developing and implementing the plan required under section 53003, pursuant to Title 5, California Code of Regulations, Section 53005.

l) For a district that determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the district shall take additional steps to ensure equal employment opportunity, pursuant to Title 5, California Code of Regulations, Section 53006.

1) For the districts, in taking the required initial steps, to implement all of the following actions:

a) To review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group, pursuant to Title 5, California Code of Regulations, Section 53006(a)(1);

b) To consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account, and implement any such techniques which are determined to be feasible and potentially effective, pursuant to Title 5, California Code of Regulations, Section 53006(a)(2);

c) To determine whether the group is still significantly underrepresented in the category or categories in question after the measures described in (1) and (2) have been in place for a reasonable period of time, pursuant to Title 5, California Code of Regulations, Section 53006(a)(3);

d) If significant underrepresentation persists, to monitor the staffing rate for the significantly underrepresented group in the specified job category or categories on an ongoing basis until the projected representation has been achieved for that group in the category or categories in question, pursuant to Title 5, California Code of Regulations, Section 53006(a)(4).

2) For the district to implement all of the following actions if a reasonable period of time passes and significant underrepresentation persists for a particular group in the job category in question, pursuant to Title 5, California Code of Regulations, Section 53006(b):

a) To review each locally established "required," "desired" or "preferred" qualification being used to screen applicants for positions in the job category to determine if it is job-related and consistent with business necessity through a process meeting the requirements of federal law or is among those qualifications which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system, pursuant to Title 5, California Code of Regulations, Section 53006(b)(1);

b) To discontinue the use of any locally established qualification that has not been found to satisfy the requirements set forth in

paragraph (1) of the subdivision, pursuant to Title 5, California Code of Regulations, Section 53006(b)(2);

c) To continue using qualification standards meeting the requirements of paragraph (1) only where no alternative qualification standard is reasonably available which would accomplish all of the following, pursuant to Title 5, California Code of Regulations, Section 53006(b)(3):

(i) select for the same characteristics;

(ii) meet the requirements of paragraph (1); and

(iii) be expected to have a less exclusionary effect.

J) For the governing board of each community college district to implement policies and procedures to ensure that it is ultimately responsible for proper implementation of the subchapter pertaining to equal employment opportunity at all levels of district and college operation and for making measurable progress toward equal employment opportunity by the methods described in the district's equal employment opportunity plan, pursuant to Title 5, California Code of Regulations, Section 53020.

1) For the governing board, upon the recommendation of the chief executive officer, to ensure that an equal employment opportunity officer is designated to oversee the day-to-day implementation of the requirements set forth in the subchapter, pursuant to Title 5, California Code of

Regulations, Section 53020(a).

2) To describe the administrative structure created by any delegation of authority to the equal employment opportunity officer or others in the district's equal employment opportunity plan submitted pursuant to section 53003, pursuant to Title 5, California Code of Regulations, Section 53020(b).

a) To design such structure in such a manner so as to ensure prompt and effective implementation of the requirements of this subchapter, pursuant to Title 5, California Code of Regulations, Section 53020(b).

b) For the plan to also designate a single officer, who may be the equal employment opportunity officer, who shall be given authority and responsibility for all of the following, pursuant to Title 5, California Code of Regulations, Section 53020(b):

(i) receiving complaints filed pursuant to section 53026;

(ii) for ensuring that such complaints are promptly and impartially investigated; and

(iii) ensuring that selection procedures and the applicant pool are properly monitored as required by sections 53023 and 53024.

K) For community colleges to implement policies and procedures to actively recruit from both within and outside the district work force to attract qualified applicants

for all new openings, pursuant to Title 5, California Code of Regulations, Section 53021.

1) For such recruitment to include outreach designed to ensure that all persons, including persons from monitored groups, are provided the opportunity to seek employment with the district, pursuant to Title 5, California Code of Regulations, Section 53021(a).

2) To apply the requirement of open recruitment to all new full-time and part-time openings in all job categories and classifications, including, but not limited to the following, pursuant to Title 5, California Code of Regulations, Section 53021(a):

   a) faculty;

   b) classified employees;

   c) categorically funded positions;

   d) the chief executive officer; and

   e) all other executive/administrative/managerial positions.

3) To ensure that recruitment for full-time faculty and educational administrator positions are at least statewide and, at a minimum, include seeking qualified applicants listed in the California Community Colleges Equal Employment Opportunity Registry, pursuant to Title 5, California Code of Regulations, Section 53021(a).

4) To ensure that recruitment for part-time faculty positions is conducted by

full and open recruitment, pursuant to Title 5, California Code of Regulations, Section 53021(a).

5) To ensure that "in-house or promotional only" recruitment is not used to fill any new opening except when the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceed one year in duration, pursuant to Title 5, California Code of Regulations, Section 53021(b).

6) For a district that believes justification exists for use of the exception listed in subdivision (b), to notify the Equal Employment Opportunity Advisory Committee and the Chancellor at least ten (10) working days prior to offering the position to a candidate; pursuant to Title 5, California Code of Regulations, Section 53021(c).

7) For districts to comply with its established hiring procedures and to afford all qualified district employees the opportunity to apply for open positions even where in-house or promotional only recruitment is permitted pursuant to subdivision (b), pursuant to Title 5, California Code of Regulations, Section 53021(d).

L) To ensure that job announcements clearly state job specifications and set forth the knowledge, skills, and abilities necessary to job performance, pursuant to Title 5, California Code of Regulations, Section 53022.

1) To ensure that, for faculty and administrative positions, job requirements include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students, pursuant to Title 5, California Code of Regulations, Section 53022.

2) To ensure that job specifications, including any "required," "desired" or "preferred" qualifications beyond the state minimum qualifications which the district wishes to utilize, are reviewed before the position is announced, to ensure conformity with the requirements of this subchapter and state and federal nondiscrimination laws, pursuant to Title 5, California Code of Regulations, Section 53022.

M) To implement policies and procedures to analyze the applicant pool for open positions in the community college districts, pursuant to Title 5, California Code of Regulations, Section 53023.

1) To ensure that all employment applications afford each applicant an opportunity to voluntarily identify his or her gender, ethnic group identification and, if applicable, his or her disability, pursuant to Title 5, California Code of Regulations, Section 53023(a).

a) To take measures to ensure that this information remains confidential, pursuant to Title 5, California Code of Regulations, Section 53023(a).

b) To only use this information for research, validation, monitoring, evaluating the effectiveness of the district's equal employment opportunity program, or any other purpose specifically authorized in the subchapter, or by any applicable statute or regulation, pursuant to Title 5, California Code of Regulations, Section 53023(a).

2) To analyze the composition of the initial applicant pool after the application deadline has passed, to ensure that any failure to obtain projected representation for any monitored group is not due to discriminatory recruitment procedures, pursuant to Title 5, California Code of Regulations, Section 53023(b).

a) To extend the application deadline, if necessary, and to conduct additional recruitment that will eliminate discriminatory recruitment procedures and ensure that recruitment efforts provide a full and fair opportunity for participation to a wide diversity of potential applicants, pursuant to Title 5, California Code of Regulations, Section 53023(b).

b) To screen applications to determine which candidates satisfy job specifications set forth in the job announcement, when recruitment efforts have offered an opportunity for participation to a wide diversity of potential applicants or further recruitment efforts would be futile, pursuant to Title 5, California Code of Regulations, Section

53023(b).

3) To analyze the composition of the qualified applicant pool, before the selection process continues, to ensure that no monitored group is adversely impacted pursuant to section 53001(a), pursuant to Title 5, California Code of Regulations, Section 53023(c).

a) If adverse impact is found to exist, the chief executive officer or his or her designee must take effective steps to address the adverse impact before the selection process continues, pursuant to Title 5, California Code of Regulations, Section 53023(c).

b) For such steps to include the following:

(i) Extending the deadline and undertaking inclusive outreach efforts to ensure that members of the adversely impacted group have equal opportunity to seek employment with the district, pursuant to Title 5, California Code of Regulations, Section 53023(c)(1); and

(ii) Including all applicants who were screened out on the basis of any locally established qualifications beyond state minimum qualifications which have not been specifically demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law or which are not among those which the Board of

Governors has found to be job-related and consistent with business necessity throughout the community college system, pursuant to Title 5, California Code of Regulations, Section 53023(c)(2).

4) If adverse impact persists after taking steps required under subdivision (c), the district must ensure that the selection process proceeds only if one of the following is present, pursuant to Title 5, California Code of Regulations, Section 53023(d):

a) The job announcement does not require qualifications beyond the statewide minimum qualifications, pursuant to Title 5, California Code of Regulations, Section 53023(d)(1); or

b) Locally established qualifications beyond state minimum qualifications, if any, are demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law and suitable alternative selection procedures to reduce the adverse impact were unavailable, pursuant to Title 5, California Code of Regulations, Section 53023(d)(2); or

c) The particular qualification beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job-related and consistent with

business necessity throughout the community college system, pursuant to Title 5, California Code of Regulations, Section 53023(d)(3).

5) To ensure that the district does not advertise or utilize in future hiring processes for the same position or a substantially similar position any locally established qualifications beyond state minimum qualifications that the district was unable to verify under subdivision (b)(2) unless such qualifications are so verified in advance of commencing any such future hiring process, pursuant to Title 5, California Code of Regulations, Section 53023(e).

N) To implement policies and procedures pertaining to screening or selection procedures in the hiring process, pursuant to Title 5, California Code of Regulations, Section 53024.

1) To ensure that all screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, are all of the following, pursuant to Title 5, California Code of Regulations, Section 53024(a):

a) Provided to the Chancellor upon request, pursuant to Title 5, California Code of Regulations, Section 53024(a)(1);

b) Designed to ensure that for faculty and administrative positions, meaningful consideration is given to the extent to which applicants

demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students, pursuant to Title 5, California Code of Regulations, Section 53024(a)(2);

c) Based solely on job-related criteria, pursuant to Title 5, California Code of Regulations, Section 53024(a)(3); and

d) Designed to avoid an adverse impact, as defined in section 53001(a), and monitored by means consistent with this section to detect and address any adverse impact which does occur for any monitored group, pursuant to Title 5, California Code of Regulations, Section 53024(a)(4).

2) If monitoring pursuant to subdivision (a)(4) reveals that any selection technique or procedure has adversely impacted any such group, for the chief executive officer or his/her designee to suspend the selection process and take timely and effective steps to remedy the problem before the selection process resumes, pursuant to Title 5, California Code of Regulations, Section 53024(b).

a) To ensure that confidential information is not disclosed if the equal employment opportunity officer, or other official charged with responsibility for monitoring selection procedures, assists the screening committee by discussing the overall composition of the

applicant pool and the screening criteria or procedures which have produced an adverse impact, pursuant to Title 5, California Code of Regulations, Section 53024(b).

b) To immediately discontinue the use of any qualifications where adverse impact results from locally established qualifications beyond state minimum qualifications that have not been verified as described in section 53023(c)(2) or replaced with suitable alternatives having a lesser adverse impact, and to continue any applicant eliminated on the basis of that qualification in the hiring process, pursuant to Title 5, California Code of Regulations, Section 53024(b).

3) To implement policies and procedures to ensure that the district does not do any of the following in the employment process, pursuant to Title 5, California Code of Regulations, Section 53024(c):

a) Designate or set aside particular positions to be filled by members of any group defined in terms of ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry or sexual orientation, pursuant to Title 5, California Code of Regulations, Section 53024(c);

b) Engage in any other practice which would result in discriminatory or preferential treatment prohibited by state or federal law, pursuant to

Title 5, California Code of Regulations, Section 53024(c);

c) Apply the district's equal employment opportunity plan in a rigid manner which has the purpose or effect of so discriminating, pursuant to Title 5, California Code of Regulations, Section 53024(c).

4) To ensure that seniority or length of service is taken into consideration only to the extent of the following, pursuant to Title 5, California Code of Regulations, Section 53024(d):

a) it is job related;

b) it is not the sole criterion; and

c) it is included in the job announcement consistent with the requirements of section 53022.

5) To ensure that any selection testing for employees follows the procedures outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures", pursuant to Title 5, California Code of Regulations, Section 53024(e).

6) To ensure that, whenever possible, screening committees include a diverse membership to bring a variety of perspectives to the assessment of applicant qualifications, pursuant to Title 5, California Code of Regulations, Section 53024(f).

7) To implement policies and procedures for the governing board or its

designee to have the following authority, pursuant to Title 5, California Code of Regulations, Section 53024(g):

a) To make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee, pursuant to Title 5, California Code of Regulations, Section 53024(g);

b) To reject all candidates and to order further review by the screening committee, pursuant to Title 5, California Code of Regulations, Section 53024(g); and

c) To reopen the position where necessary to further achievement of the objectives of the equal employment opportunity plan or to ensure equal employment opportunity, pursuant to Title 5, California Code of Regulations, Section 53024(g).

O) To implement policies and procedures to afford persons with disabilities equal employment opportunity in community college districts, pursuant to Title 5, California Code of Regulations, Section 53025.

1) For districts to ensure that applicants and employees with disabilities receive reasonable accommodations consistent with the requirements of Government Code sections 11135 et seq. and 12940(m), section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, pursuant to Title 5, California Code of Regulations, Section 53025(a).

2) If a district established a goal for persons with disabilities prior to the effective date of this subdivision and if significant underrepresentation still exists, such districts must accomplish all of the following, pursuant to Title 5, California Code of Regulations, Section 53025(b):

a) update that goal;

b) set a new target date for achieving projected representation in the category or categories in question; and

c) concurrently comply with subdivisions (a)(1), (a)(2) and (b) of section 53006 with respect to persons with disabilities.

3) Where persons with disabilities are found to be significantly underrepresented, measures required under subdivisions (a)(1) and (a)(2) of section 53006 must be implemented concurrently with setting a goal with a target date for achieving projected representation for persons with a disability in each job category where the underrepresentation was found to exist, pursuant to Title 5, California Code of Regulations, Section 53025(c).

a) Goals must remain in effect only until projected representation has been achieved for that group in the category or categories in question, pursuant to Title 5, California Code of Regulations, Section 53025(c).

b) Until the Chancellor's Office provides data regarding the availability of persons with disabilities by job category, an aggregate labor force

availability rate must be utilized for setting goals for hiring persons with disabilities with respect to the total district work force, pursuant to Title 5, California Code of Regulations, Section 53025(c).

c) The district must ensure that any other measures which take disability into account, are discontinued when projected representation is achieved for persons with disabilities in the category or categories in question, pursuant to Title 5, California Code of Regulations, Section 53025(c).

P) For each community college district to establish and implement a process permitting any person to file a complaint alleging that the requirements of the subchapter have been violated, pursuant to Title 5, California Code of Regulations, Section 53026.

1) To immediately forward a copy of the complaint to the Chancellor, pursuant to Title 5, California Code of Regulations, Section 53026.

2) To prepare and submit to the Chancellor a written investigative report within ninety (90) days, if the Chancellor so requires, pursuant to Title 5, California Code of Regulations, Section 53026.

3) To process any complaints which also allege discrimination prohibited by Government Code sections 11135 et seq. according to the procedures set forth in subchapter 5 (commencing with section 59300) of chapter 10 of this division, pursuant to Title 5, California Code of Regulations, Section

53026.

Q) For districts to provide the data required under Section 53004 no later than March 31st of the preceding fiscal year or to request and receive an extension of the deadline from the Chancellor, as a condition for receipt of any funds under the Equal Employment Opportunity fund base, pursuant to Title 5, California Code of Regulations, Section 53033.

R) For districts to submit a report on the use of Equal Employment Opportunity funds to the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 53034.

1) For such report to be submitted no later than September 30th of the fiscal year following the use of the funds, pursuant to Title 5, California Code of Regulations, Section 53034.

2) Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required under section 53004, districts must report that rate by a separate survey conducted, as directed by the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 53034.

CONDITION 6. STUDENT FEES

To develop and implement policies and procedures to ensure that the collection of student fees comply with the law (generally, Education Code sections 76300-76395), pursuant to Title 5, California Code of Regulation 51012.

CONDITION 7. APPROVAL OF NEW COLLEGES EDUCATIONAL & CENTERS

A) For the governing board of a community college district planning the formation of a new college or educational center to obtain approval for such college or educational center from the Board of Governors, before classes begin at the new college or educational center, pursuant to Title 5, California Code of Regulations, Section 51014(a).

B) For the governing board of a community college to establish and implement policies and procedures to comply with the provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 of Title 5 of the California Code of Regulations when requesting the approval of new colleges and educational centers, pursuant to Title 5, California Code of Regulations, Section 51014(b).

C) For the governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 of Title 5, to employ and comply with the standards contained in sections 55829 (Assessment of Needs and Preferences), 55830 (Identification of Objectives) and 55831 (Analysis of Alternative Delivery Systems), pursuant to Title 5, California Code of Regulations, Section 55825.

D) For community college districts to ensure that college documents, policies and procedures incorporate the definitions contained in Section 55827 for the terms "College" and "Educational Center", pursuant to Title 5, California Code of Regulations, Section 55827.

E) For community colleges to provide to the Chancellor's Office all information necessary to enable the Chancellor to maintain an inventory of all off-campus programs and facilities in the community colleges, pursuant to Title 5, California Code of Regulations, Section 55828(a).

F) For community college districts to prepare and submit to the Chancellor's Office, according to the Chancellor's forms and requirements, proposals for new colleges and new educational centers that contain at least all of the following elements, pursuant to Title 5, California Code of Regulations, Section 55828(c):

(1) Assessment of Needs and Preferences (section 55829);

(2) Identification of Objectives (section 55830); and

(3) Analysis of Alternative Delivery Systems (section 55831).

G) For districts submitting a proposal for a new college or educational center, to compile and include all of the following data in such proposal as part of their "Assessment of Needs and Preferences" requirement, pursuant to Title 5, California Code of Regulations, Sections 55828(c)(1) and 55829:

1) An adequate identification of the community area and characteristics of individuals to be served, pursuant to Title 5, California Code of Regulations, Section 55829(a);

2) Projections of potential enrollment demand in the service area that demonstrate significant unmet need, and take into account plans of nearby secondary and postsecondary institutions, pursuant to Title 5, California

Code of Regulations, Section 55829(b);

3) Evidence of significant community support and identification of possible community opposition, pursuant to Title 5, California Code of Regulations, Section 55829(c);

4) Identification of preferences for community college programs and services on the part of individuals in the service area, pursuant to Title 5, California Code of Regulations, Section 55829(d);

5) Identification of present and future labor market requirements for the proposed service area, a broader adjacent region, and the state, pursuant to Title 5, California Code of Regulations, Section 55829(e);

6) Reconciliation of projected labor market requirements and community program preferences, pursuant to Title 5, California Code of Regulations, Section 55829(f).

H) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served, pursuant to Title 5, California Code of Regulations, Section 55830(a).

I) Objectives of the proposed programs and services must be sufficiently specific to enable the district board to evaluate the success with which needs and preferences are met, pursuant to Tile 5, California Code of Regulations, Section 55830(b).

J) The proposed operation must be the most effective and equitable of feasible

delivery system alternatives for providing intended programs and services, pursuant to Title 5, California Code of Regulations, Section 55831(a):

1) The criteria for selecting the proposed delivery system must include all of the following, pursuant to Title 5, California Code of Regulations, Section 55831(b):

   a) Accessibility of programs and services to individuals in the service area, pursuant to Title 5, California Code of Regulations, Section 55831(b)(1);

   b) Content and quality of programs and services, pursuant to Title 5, California Code of Regulations, Section 55831(b)(2); and

   c) Cost of programs and services, pursuant to Title 5, California Code of Regulations, Section 55831(b)(3).

2) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include at least all of the following, pursuant to Title 5, California Code of Regulations, Section 55831(c):

   a) Increased utilization of existing district resources, pursuant to Title 5, California Code of Regulations, Section 55831(c)(1);

   b) Forming a new college, educational center, and/or outreach locations, pursuant to Title 5, California Code of Regulations, Section 55831(c)(2); and

   c) Use of media such as television, computer-assisted instruction or

programmed learning packages, pursuant to Title 5, California Code of Regulations, Section 55831(c)(3).

3) Alternative delivery systems considered must be all of the following, pursuant to Title 5, California Code of Regulations, Section 55831(c):

a) adequately described;

b) generally mutually exclusive; and

c) limited to a manageable number to facilitate analysis and review.

4) Proposed sources of funding for needed resources must be identified for both short and long-term operations, pursuant to Title 5, California Code of Regulations, Section 55831(d).

CONDITION 8. ACCREDITATION

A) For community colleges to establish and implement policies and procedures to ensure district compliance with the accreditation standards and requirements promulgated by the ACCJAC, pursuant to Title 5, California Code of Regulations, Section 51016.

B) For community colleges to provide documentation to the ACCJAC ensuring that they have completed all of the following basic requirements to qualify for the status of accreditation, pursuant to the ACCJAC Handbook, page 9:

1) The community college must have completed a period of intensive and comprehensive self-study, followed by an on-site evaluation of institutional performance, demonstrating that it meets Commission standards, pursuant

to the ACCJAC Handbook, page 9.

2) The community college must have demonstrated that its educational programs operate at a satisfactory level of quality and are consistent with the college's stated purposes and with Commission standards, pursuant to the ACCJAC Handbook, page 9.

3) The community college must have demonstrated the availability of sufficient resources to support existing and planned activities at a satisfactory level of quality and must have offered reasonable grounds for the belief that there will continue to be adequate resources in the future, pursuant to the ACCJAC Handbook, page 9.

4) The community college must have committed itself to all of the following, pursuant to the ACCJAC Handbook, page 10:

a) institutional improvement,

b) periodic self-evaluation, and

c) compliance with all Commission standards, policies, procedures and decisions.

C) For community colleges to apply to become a "Candidate for Accreditation" prior to making a formal application for accreditation, by compiling, preparing and submitting to the ACCJAC appropriate documentation to show district fulfillment of the following twenty ACCJAC Eligibility Requirements for Accreditation, pursuant to the ACCJAC Handbook, Part I, pages 12-15:

1) Authority

The community college must be authorized by a governmental organization or agency as required by the jurisdiction in which it operates, to do both of the following, pursuant to the ACCJAC Handbook, page 12:

a) To operate as an educational institution.

b) To award degrees.

2) Mission

The community college's educational mission must meet all of the following criteria, pursuant to the ACCJAC Handbook, page 13:

a) The mission must be clearly defined, adopted, and published by its governing board;

b) The mission must be consistent with its legal authorization;

c) The mission must be appropriate to a degree granting institution of higher education;

d) The mission must be appropriate to the constituency it seeks to serve.

3) Governing Board

The community college must have a functioning governing board that meets the following criteria, pursuant to the ACCJAC Handbook, pages 13:

a) The board must be responsible for the quality and integrity of the

institution;

b) The board must be responsible for ensuring that the institution's mission is being carried out;

c) The board's membership must be sufficient in size and composition to fulfill all board responsibilities;

d) The board must be an independent organization;

e) The majority of the board members must not have any (1) employment, (2) family or (3) financial interest in the institution.

4) Chief Executive Officer

The community college must have an chief executive officer who is appointed by the governing board and whose primary responsibility is to the institution, pursuant to the ACCJAC Handbook, page 13.

5) Administrative Capacity

The community college must have sufficient staff that are appropriately prepared and experienced to provide the administrative services necessary to support the college's mission and purpose, pursuant to the ACCJAC Handbook, page 13.

6) Operational Status

The community college must be operational and enroll students that are actively pursuing the college's degree programs, pursuant to the ACCJAC Handbook, page 13.

7) Degrees

A substantial portion of the community college's educational offerings must lead to degrees, and a significant proportion of the college's students must be enrolled in these degree leading courses, pursuant to the ACCJAC Handbook, page 13.

8) Educational Programs

The community college's principal degree programs must meet all of the following criteria, pursuant to the ACCJAC Handbook, page 13:

a) The programs must be congruent with the college's mission;

b) The programs must be based on recognized higher education field(s) of study;

c) The programs must be of sufficient content and length;

d) The programs must be conducted at levels of quality and rigor that are appropriate to the degrees offered;

e) At least one degree program must be of two academic years in length.

9) Academic Credit

The community college must award academic credits based on generally accepted practices in degree-granting institutions of higher education and provide appropriate information regarding the award of academic credit, pursuant to the ACCJAC Handbook, page 14.

10) Educational Objectives

The community college must define and publish for its students the educational objectives of each program offered, pursuant to the ACCJAC Handbook, page 14.

11) General Education

The community college must define and incorporate into all of its degree programs a substantial component of general education that meets the following criteria, pursuant to the ACCJAC Handbook, page 14:

a) The component must be designed to ensure breadth of knowledge;

b) The component must promote intellectual inquiry;

c) The component must include demonstrated competence in writing and computational skills and an introduction to some of the major areas of knowledge;

d) Degree credit for general education programs must be consistent with levels of quality and rigor that are appropriate to higher education.

12) Faculty

The community college must have a substantial core of qualified faculty with full-time responsibility to the institution, pursuant to the ACCJAC Handbook, page 14.

a) The faculty must be sufficient in size and experience to support all

of the institution's educational programs.

b) The district must adopt a clear statement of faculty responsibilities.

13) Student Services

The community college must provide for all of its students appropriate student services and development programs that are consistent with student characteristics and the college's institutional mission, pursuant to the ACCJAC Handbook, page 14.

14) Admissions

The community college must adopt, implement and adhere to admission policies that meet the following criteria, pursuant to the ACCJAC Handbook, page 14:

a) The policies must be consistent with the college's mission;

b) The policies must specify the student qualifications that are appropriate for its programs.

15) Information and Learning Resources

The community college must own or otherwise provide specific long-term access to sufficient information and learning resources and services to support its mission and all of its educational programs, pursuant to the ACCJAC Handbook, page 14.

16) Financial Resources

The community college must document (1) a funding base, (2) financial

resources, and (3) plans for financial development that are adequate to support the college's mission and educational programs and to assure financial stability, pursuant to the ACCJAC Handbook, page 14-15.

17) Financial Accountability

The community college must regularly undergo and make available an external financial audit by a certified public accountant or an audit by an appropriate public agency, pursuant to the ACCJAC Handbook, page 15.

a) The community college must submit to the Committee a copy of the current budget.

b) The community college must submit to the Committee a copy of the current audited financial statement, as prepared by an outside CPA who has no other relationship to the institution.

c) The audit must be certified.

d) Any exceptions to the audit requirement must be explained.

18) Institutional Planning and Evaluation

The community college must provide evidence of basic planning for the development of the institution, pursuant to the ACCJAC Handbook, page 15.

a) The plan must identify and integrate plans for the following:

(i) academic personnel;

(ii) learning resources;

(iii) facilities; and

(iv) financial development.

b) The plan must identify and integrate procedures for the following:

(i) program review; and

(iv) institutional improvement.

c) The community college must engage in a systematic evaluation of how well and in what ways it is accomplishing its purposes, that includes at least the following information:

(i) an assessment of student learning; and

(ii) documentation of institutional effectiveness.

19) Public Information

The community college must publish in its catalog or other appropriate places accurate and current information that describes the following, pursuant to the ACCJAC Handbook, page 15:

a) The college's purposes and objectives;

b) Admission requirements and procedures;

c) Rules and regulations directly affecting students;

d) Programs and courses;

e) Degrees offered and the degree requirements;

f) Costs and refund policies;

g) Grievance procedures;

h) Academic credentials of faculty and administrators; and

i) Any other items relative to attending the institution withdrawing from it.

20) Relations with the Accrediting Commission

The governing board must agree to do all of the following, regarding its relations with the Accrediting Commission, pursuant to the ACCJAC Handbook, page 15:

a) Provide assurance that the institution adheres to the eligibility requirements, accreditation standards and policies of the Commission;

b) Describe itself in identical terms to all its accrediting agencies;

c) Communicate any changes in its accredited status; and

d) Agree to disclose information required by the Commission to carry out its accrediting responsibilities.

D) For community colleges to adopt and implement policies and procedures to comply with the ACCJAC's Ten "Standards For Accreditation", pursuant to the ACCJAC Handbook, Part II, pages 19-32.

Standard One: Institutional Mission

1) For the governing board of the community college district to adopt, implement and regularly review and revise a mission statement for the

institution which identifies all of the following, pursuant to Standard 1, subdivisions (1-4).

a) The district's educational purpose, pursuant to Standard 1, subdivision 1.

b) The potential students of the district, pursuant to Standard 1, subdivision 2.

c) The district's place in the higher education community, pursuant to Standard 1, subdivision 3.

Standard Two: Institutional Integrity

2) To include in the district's catalogs clear and accurate information regarding all of the following, pursuant to Standard 2, subdivision (1):

a) The district's educational purpose;

b) Degrees, curricular offerings, educational resources, and course offerings;

c) Student fees and other financial obligations, student financial aid and fee refund policies;

d) Requirements for admission and for achievement of degrees, including the academic calendar and information regarding program length;

e) The names of administrators, faculty and governing board members.

3) For the governing board of the community college district to adopt and implement policies setting forth the following:

   a) The district's commitment to the free pursuit and dissemination of knowledge, pursuant to Standard 2, subdivision (2).

   b) The district's expectations concerning the principles of academic honesty and the sanctions for violations, pursuant to Standard 2, subdivision (5).

   c) The district's understanding of and concern for issues of equity and diversity, pursuant to Standard 2, subdivision (6).

4) To give clear prior notice of any district policies that reflect any specific beliefs or world views or that require codes of conduct of faculty, administrative and support staff or students, pursuant to Standard 2, subdivision (4).

5) To establish and implement policies and procedures to ensure compliance with the Commission's standards, policies and guidelines, and public disclosure, and self-study requirements, pursuant to Standard 2, subdivision (8).

6) To regularly evaluate and revise institutional policies, practices and publications to ensure integrity in all representations about the district's mission, programs and services, pursuant to Standard 2, subdivision (9).

Standard Three: Institutional Effectiveness

7) To establish and implement a broad-based and integrated system of research, evaluation and planning to assess institutional effectiveness, pursuant to Standard 3.

a) The district must use the results of the evaluation to improve the institution, pursuant to Standard 3.

b) The district must develop and implement the means for evaluating the success of its programs, pursuant to Standard 3, subdivision (A.3).

c) The district must provide evidence that its program evaluations improve the district's programs and services, pursuant to Standard 3, subdivision (A.4).

d) The district must define and publish its planning processes and integrate it with the evaluation processes to identify priorities for improvement, pursuant to Standard 3, subdivision (B.2).

e) The district must regularly engage in (1) educational, (2) financial, (3) physical and (4) human resources planning and implement any changes to improve the programs and services, pursuant to Standard 3, subdivision (B.3).

f) The district must specify its intended institutional outcomes and clearly document the achievement of these goals, pursuant to Standard 3, subdivision (C.1).

g) The district must clearly communicate matters of quality assurance to the public, pursuant to Standard 3, subdivision (C.2).

Standard Four: Educational Programs

8) If the community college district eliminates any programs or if program requirements are significantly changed, the community college must establish and implement policies and procedures so that enrolled students will be able to complete their education in a timely manner and with a minimum amount of disruption, pursuant to Standard 4, subdivision (A.3).

9) To establish and implement procedures to ensure that the district has sufficient (1) human, (2) financial, and (3) physical resources to support its educational programs, pursuant to Standard 4, subdivision (A.4).

a) The community college district must establish and implement academic advising programs for its students, pursuant to Standard 4, subdivision (A.5).

b) The community college district must train faculty and other personnel to assist in advisory roles, pursuant to Standard 4, subdivision (A.5).

10) To establish and implement procedures in order to demonstrate that the district's degrees and programs support the mission of the institution, pursuant to Standard 4, subdivision (B.1).

a) The community college district must identify its degrees and

certificates in ways which are consistent with (1) the program content, (2) degree objectives, and (3) student mastery of knowledge and skills, pursuant to Standard 4, subdivision (B.2).

b) The community college district must (1) identify, and (2) make public expected learning outcomes for its degrees and certificate programs, pursuant to Standard 4, subdivision (B.3).

c) The community college district must document the technical and professional competence of students completing its occupational and vocational programs, pursuant to Standard 4, subdivision (B.6).

11) To establish, implement, and publish in its general catalog, a general education component for all of its degrees which is based on the humanities and fine arts, the natural sciences and the social sciences, pursuant to Standard 4, subdivisions (C.1 - C.4).

12) To clearly define the district's process for establishing and evaluating all of its educational programs and to conduct these evaluations on a regular basis, pursuant to Standard 4, subdivision (D.1).

a) The community college district must clearly state (1) how it evaluates student learning, (2) how it awards credits and (3) its transfer of credit policies, pursuant to Standard 4, subdivisions (D.3 and D.4).

b) The community college district must provide evidence that all of its

courses and programs, both credit and non-credit are (1) designed, (2) approved and (3) administered under established institutional procedures, pursuant to Standard 4, subdivision (D.6)

Standard Five: Student Support and Development

13) For the district to implement all of the following, regarding student support and development, pursuant to Standard 5:

a) To publish admissions policies which are consistent with the district's mission, pursuant to Standard 5, subdivision (1).

b) To provide to all prospective and current students information regarding all of the following, pursuant to Standard 5, subdivision (2):

(i) graduation requirements;

(ii) social and academic policies;

(iii) refund policies;

(iv) student conduct standards; and

(v) complaint and grievance procedures.

c) To identify student needs and provide students with academic support, pursuant to Standard 5, subdivision (3).

Standard Six: Information and Learning Resources

14) To make information and learning resources readily accessible to students, faculty and administrators, pursuant to Standard 6, subdivision (3).

a) The community college district must have professionally qualified staff to provide appropriate support and training to those who use the resources, pursuant to Standard 6, subdivision (4).

b) The district must provide consistent financial support to effectively maintain and improve its learning resources, pursuant to Standard 6, subdivision (5).

c) If the district contracts with another institution to support its educational programs, it must document that a formal agreement exists, pursuant to Standard 6, subdivision (6).

Standard Seven: Faculty and Staff

15) To clearly state and make public the (1) criteria, (2) qualifications and (3) procedures for selecting all faculty, pursuant to Standard 7, subdivision (A.2).

a) To list all degrees held by faculty in the college's primary catalog, pursuant to Standard 7, subdivision (A.4).

b) To evaluate each category of staff in systematic and stated intervals, pursuant to Standard 7, subdivision (B.1).

c) To adopt and implement policies ensuring fairness in all employment procedures, pursuant to Standard 7, subdivision (D.1).

d) To establish and implement provisions for the security and confidentiality of personnel records, pursuant to Standard 7,

subdivision (D.4).

Standard Eight: Physical Resources

16) To provide adequate physical resources to support the district's purposes and goals, pursuant to Standard 8, subdivision (1).

Standard Nine: Financial Resources

17) To establish and implement a financial plan that supports the district's institutional goals, pursuant to Standard 9, subdivision (A.1).

a) The community college district must clearly define and follow guidelines and processes for financial planning and budget development, pursuant to Standard 9, subdivision (A.4).

b) The community college district must ensure that all contractual agreements that it enters into are governed by institutional policies and contain appropriate provisions to maintain the integrity of the institution, pursuant to Standard 9, subdivision (B.5).

c) The community college district must (1) clearly identify its future obligations and payment plans, (2) adopt policies for appropriate risk management and (3) institute a plan for responding to financial emergencies or unforeseen circumstances, pursuant to Standard 9, subdivisions (C.1, C.2 and C.4).

Standard Ten: Governance and Administration

18) To establish a governing board that will be responsible for the quality and

integrity of the community college, pursuant to Standard 10, subdivision (A.1).

a) The governing board establishment process must include a mechanism that provides for continuity of board membership and staggered terms of office, pursuant to Standard 10, subdivision (A.1).

b) The district's governing board must establish broad institutional policies and delegate responsibility for implementing those policies, pursuant to Standard 10, subdivision (A.3).

c) The governing board must evaluate its policies on a regular basis, pursuant to Standard 10, subdivision (A.3).

d) The governing board must select and evaluate the chief executive officer and other major academic and administrative officers, pursuant to Standard 10, subdivision (A.4).

e) The governing board must develop a program for new member orientation and governing board development, pursuant to Standard 10, subdivision (A.6).

f) The community college's district chief executive officer must provide effective leadership and implement all of the following activities, pursuant to Standard 10, subdivision (B.1, B.2, C.1 and C.2):

(i) define goals;

(ii) develop plans;

(iii) establish priorities for the community college;

(iv) control the community college's budget and expenditures; and

(v) ensure the implementation of statutes, regulations and board policies.

g) The community college district must ensure that its administrative officers are qualified by training and experience to perform their responsibilities by evaluating such officers systematically and regularly, pursuant to Standard 10, subdivision (B.4).

h) The community college district must have a written policy which identifies appropriate institutional support for faculty participation in governance, pursuant to Standard 10, subdivision (B.8).

i) The community college district must clearly state and publicize the role of staff and students in institutional governance, pursuant to Standard 10, subdivisions (B.9 and B.10).

j) The community college district must adopt a statement that clearly delineates the operational responsibilities and functions of the district and those of the college, pursuant to Standard 10, subdivision (C.3).

k) The community college district must implement an effective process

for the establishment and review of district (1) policy, (2) planning and (3) financial management, pursuant to Standard 10, subdivision (C.6).

E) For community colleges in multi-college systems or districts to ensure that their applications for accreditation comply with the procedures the ACCJAC has set forth in and pursuant to the ACCJAC Handbook, pages 87-91.

CONDITION 9. COUNSELING

A) To establish and implement regulations and procedures to provide counseling programs for students in each college within the district, pursuant to Title 5, California Code of Regulations, Section 51018.

B) To file a copy of the community college district's regulations regarding counseling programs with the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 51018(a).

C) To publicize the counseling program, pursuant to Title 5, California Code of Regulations, Section 51018(b).

D) To ensure the counseling program is organized and functioning and meets the needs of average students and those with special needs, pursuant to Title 5, California Code of Regulations, Section 51018(b) and (b)(4).

E) To ensure the counseling program includes at least all of the following services, pursuant to Title 5, California Code of Regulations, Section 51018(b):

1) academic counseling;

2) career counseling;

3) personal counseling;

4) skills testing programs;

5) financial assistance programs; and

6) job placement services.

F) To ensure that academic, career and personal counseling services are provided to all of the following students, pursuant to Title 5, California Code of Regulations, Section 51018(c):

1) First-time students enrolled for more than six units,

2) Students enrolled provisionally, and

3) Students on academic or progress probation.

CONDITION 10. INSTRUCTIONAL OBJECTIVES

A) To develop and implement policies and procedures establishing stated objectives for its instructional programs, pursuant to Title 5, California Code of Regulations, Section 51020.

B) To develop and implement policies and procedures establishing stated objectives for all of its district functions, pursuant to Title 5, California Code of Regulations, Section 51020.

CONDITION 11. CURRICULUM

A) For community college districts to establish and implement educational programs and courses that will further the objectives of the community college and meet

the approval of the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51021.

B) For community college districts to incorporate in district documents and policies the definitions contained in Section 55000 and 55200 for all of the following terms, pursuant to Title 5, California Code of Regulations, Sections 55000 and 55200:

1) To incorporate the terms and definitions for "course"; "educational program"; and "class", pursuant to Title 5, California Code of Regulations, Section 55000.

2) To incorporate the terms and definitions for "prerequisite"; "corequisite"; "advisory on recommended preparation"; "satisfactory grade"; "necessary and appropriate"; and "content review", pursuant to Title 5, California Code of Regulations, Section 55200.

C) For community college districts to adopt and implement policies and procedures to comply with the Handbook issued by the Chancellor's Office pertaining to (1) course approval criteria, (2) implementation plans for administrative regulations, and (3) procedures for securing course and program approvals, and to prepare and provide to the Chancellor all documentation that the Chancellor may require to monitor and review the district's approved courses, pursuant to Title 5, California Code of Regulations, Section 55000.5.

D) For community college districts to report the classification of all courses, classes

and activities offered to the Chancellor's Office and for such information to include all of the following data, pursuant to Title 5, California Code of Regulations Section 55001 Subdivision (c):

1) The unique static course identifier and the course title for all courses regardless of whether they are for credit or noncredit, pursuant to Title 5, California Code of Regulations Section 55001(c)(1);

2) The classification of each credit and noncredit course in accordance with its primary objective, pursuant to Title 5, California Code of Regulations Section 55001(c)(2);

3) An indication of whether the course is credit or noncredit, pursuant to Title 5, California Code of Regulations Section 55001(c)(3);

4) An indication of whether the course transfers to the California State University or the University of California or both, pursuant to Title 5, California Code of Regulations Section 55001(c)(4);

5) The number of community service classes and activities in each category and its participants, pursuant to Title 5, California Code of Regulations Section 55001(c)(5) and 5001(c)(6).

E) For community college districts to establish and implement the following standards and criteria for associate degree credit courses and classes, pursuant to Title 5, California Code of Regulations, Section 55002(a):

1) For the district to ensure that all such courses have been (1) designated

as appropriate to the associate degree in accordance with the requirements of Section 55805.5, (2) recommended by the college and/or district curriculum committee and (3) approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission, pursuant to Title 5, California Code of Regulations, Section 55002(a).

2) For the college and/or district administration and the academic senate to establish and supervise a curriculum committee that must evaluate and recommend for approval or disapproval all potential associate degree courses, pursuant to Title 5, California Code of Regulations, Section 55002(a)(1).

a) To establish the curriculum committee by mutual agreement, pursuant to Title 5, California Code of Regulations, Section 55002(a)(1)

b) To ensure that the curriculum committee is established as either one of the following, pursuant to Title 5, California Code of Regulations, Section 55002(a)(1):

(i) a committee of the academic senate; or

(ii) a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

3) For the district to ensure that the curriculum committee recommends approval of an associate degree credit course if the course meets the following standards, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2):

a) The course must provide for measurement of student performance in terms of the stated course objectives and culminate in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(A).

(i) The grade must be based on proficiency in subject matter, demonstrated in part by essays or, when appropriate, by problemsolving exercises or skills demonstrations by students, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(A).

(ii) The curriculum committee must deem any such problemsolving exercises or skills demonstrations to be appropriate prior to their use as a basis for measurement of subject matter proficiency, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(A).

b) The course must grant units of credit based upon a relationship, specified by the governing board, between the number of units

assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(B).

(i) The course must require a minimum of three hours of work per week, including class time for each unit of credit, prorated for short-term, laboratory and activity courses.

c) The course must treat subject matter with a scope and intensity that requires students to study independently outside of class time, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(C).

d) When the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course, then the course must require prerequisites or corequisites that are established, reviewed, and applied in accordance with the requirements of Article 2.5 (commencing with Section 55200) of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(D).

e) If success in the course is dependent upon communication or

computation skills, then the course must require, as a prerequisite or corequisite, the student's eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(E).

f) The course work must call for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(F).

g) The course must require learning skills and a vocabulary that the curriculum committee deems appropriate for a college course, pursuant to Title 5, California Code of Regulations, Section 55002(a)(2)(G).

4) The course must be described in a course outline of record that is maintained in the official college files and made available to each instructor, pursuant to Title 5, California Code of Regulations, Section 55002(a)(3).

a) The course outline of record must specify the (1) unit value, (2) scope, (3) objectives, and (4) content of the course in terms of a specific body of knowledge, pursuant to Title 5, California Code of Regulations, Section 55002(a)(3).

b) The course outline must specify types or provide examples of the following, pursuant to Title 5, California Code of Regulations, Section 55002(a)(3):

(i) required reading and writing assignments,

(ii) other outside-of-class assignments,

(iii) instructional methodology, and

(iv) methods of evaluation for determining whether the stated objectives have been met by students.

5) Each section of the course must be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record, pursuant to Title 5, California Code of Regulations, Section 55002(a)(4).

6) Repeated course enrollment must only be allowed if in accordance with the provisions of Chapter 2 (commencing with Section 51000), Sections 55761-55763 and Section 58161 of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(a)(5).

F) For community college districts to establish and implement the following standards and criteria for nondegree credit courses and classes, pursuant to Title 5, California Code of Regulations, Section 55002(b):

1) For the district to ensure that all such courses have been (1) designated by the governing board as not applicable to the associate degree, (2)

recommended by the college and/or district curriculum committee, and (3) approved by the district governing board, pursuant to Title 5, California Code of Regulations, Section 55002(b).

2) For the district to ensure that all such courses fall within one of the following categories, pursuant to Title 5, California Code of Regulations, Section 55002(b):

a) Precollegiate basic skills courses, defined as "community services classes" in Section 55502(d), pursuant to Title 5, California Code of Regulations, Section 55002(b)(1)(A);

b) Courses that are designed to enable students to succeed in college-level work and that meet the following criteria, pursuant to Title 5, California Code of Regulations, Section 55002(b)(1)(B):

(i) The courses must include at least college orientation and guidance courses, and discipline-specific preparatory courses;

(ii) The courses must integrate basic skills instruction throughout the course; and

(iii) The courses must assign grades partly upon the demonstrated mastery of basic skills.

c) Precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college-level

occupational courses or programs, pursuant to Title 5, California Code of Regulations, Section 55002(b)(1)(C);

d) Essential occupational instruction for which meeting the standards for an Associate Degree Credit course is neither necessary nor required, pursuant to Title 5, California Code of Regulations, Section 55002(b)(1)(D).

2) The college and/or district curriculum committee must evaluate and recommend approval of the course on the basis of the following standards and submit the course for approval to the Chancellor's Office in order to be eligible for state apportionment, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2):

a) The course must provide for measurement of student performance in terms of the stated course objectives and culminate in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(A).

(i) The grade must be based on demonstrated proficiency in the subject matter; and

(ii) the grade must also be based on the ability to demonstrate subject matter proficiency, at least in part, by means of written expression.

b) The course must grant units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(B).

(i) The course must require a minimum of three hours of student work per week, per unit, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(B).

(ii) Such student work must include class time and/or demonstrated competency, for each unit of credit, prorated for short-term, laboratory, and activity courses, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(B).

c) The course must (1) provide instruction in critical thinking; (2) generally treat subject matter with a scope and intensity that prepares students to study independently outside of class time; (3) include reading and writing assignments and homework; and (4) provide assignments that are sufficiently rigorous so that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon

completion of the required sequence of such courses, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(C).

d) When the college and/or district curriculum committee deems appropriate, the course may require prerequisites or corequisites for the course that are established, reviewed, and applied in accordance with Article 2.5 (commencing with Section 55200) of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(D).

3) The course must be described in a course outline of record that is maintained in the official college files and made available to each instructor, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3).

(a) The course outline of record must specify the (1) unit value, (2) scope, (3) objectives, and (4) content of the course in terms of a specific body of knowledge, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3).

(b) The course outline must specify types or provide examples of all of the following, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3):

(i) required reading and writing assignments,

(ii) other outside-of-class assignments,

(iii) instructional methodology, and

(iv) methods of evaluation for determining whether the stated objectives have been met by students.

c) The course specifications must be such as to typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3).

4) All sections of the course must be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record, pursuant to Title 5, California Code of Regulations, Section 55002(b)(4).

5) Repeated enrollment must only be allowed if in accordance with provisions of Division 2 (commencing with Section 51000), Sections 55761-55763 and Section 58161 of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(b)(5).

G) For community college districts to establish and implement the following standards and criteria for noncredit courses and classes, pursuant to Title 5, California Code of Regulations, Section 55002(c):

1) For the district to ensure that all such courses have been (1) recommended by the college and/or district curriculum committee and (2)

approved by the district governing board as a course meeting the needs of enrolled students, pursuant to Title 5, California Code of Regulations, Section 55002(c)

2) The college and/or district curriculum committee must evaluate the course to ensure that the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement that the committee deems to be appropriate for the enrolled students, prior to course approval, pursuant to Title 5, California Code of Regulations, Section 55002(c)(1).

3) The course must be described in a course outline of record that meets all of the following criteria, pursuant to Title 5, California Code of Regulations, Section 55002(c)(2):

(a) The outline must be maintained in the official college files;

(b) The outline must be made available to each instructor;

(c) The outline must specify the (1) scope, (2) objectives, (3) contents, (4) instructional methodology, and (5) methods of evaluation for determining whether the stated objectives have been met.

4) All sections of the course must be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

H) For community college districts to establish and implement policies and

procedures to ensure that all community services classes meet the following minimum requirements, pursuant to Title 5, California Code of Regulations, Section 55002(d):

1) The local district governing board must review and approve all such classes, pursuant to Title 5, California Code of Regulations, Section 55002(d)(1);

2) The classes must be designed for the physical, mental, moral, economic, or civic development of persons enrolled therein, pursuant to Title 5, California Code of Regulations, Section 55002(d)(2);

3) The classes must provide subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students, pursuant to Title 5, California Code of Regulations, Section 55002(d)(3);

4) The classes must be conducted in accordance with a predetermined strategy or plan, pursuant to Title 5, California Code of Regulations, Section 55002(d)(4);

5) The classes must be open to all members of the community, pursuant to Title 5, California Code of Regulations, Section 55002(d)(5); and

6) The classes may not be claimed for apportionment purposes, pursuant to Title 5, California Code of Regulations, Section 55002(d)(6).

l) To implement policies and procedures to establish standards regarding credit

hours, pursuant to Title 5, California Code of Regulations, Section 55002.5.

1) One credit hour of community college work must be weighted at approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks.

2) Where a term is more or less than 16 weeks, the district must ensure that more or less than one credit hour is allowed in the same ratio that the length of the term is to 16 weeks.

J) To ensure that courses of instruction in social sciences include a study of the (1) role, (2) participation, and (3) contribution of all of the following groups to the (a) economic, (b) political, and (c) social development of both California and the United States of America, pursuant to Title 5, California Code of Regulations, Section 55004:

1) both men and women,

2) black Americans,

3) American Indians,

4) Mexicans,

5) Asians,

6) Pacific Island people, and

7) other ethnic groups.

K) For community colleges to ensure that, for each course offered, all of the following facts are made available to students through college publications

before the students enroll in the course, pursuant to Title 5, California Code of Regulations, Section 55005:

1) Whether the course is offered as a credit or noncredit course, or a community services class, pursuant to Title 5, California Code of Regulations, Section 55005(a).

2) Whether the course is transferable to four-year colleges and universities, pursuant to Title 5, California Code of Regulations, Section 55005(b).

3) Whether the course fulfills a major or general education requirement, pursuant to Title 5, California Code of Regulations, Section 55005(c).

4) Whether the course is offered on the basis of credit-no credit, and if so, which provision of Subdivision (a) of section 51302 is applicable, pursuant to Title 5, California Code of Regulations, Section 55005(d).

L) For the authorities of each community college maintaining credit and non-credit courses and community services classes and activities to keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities, pursuant to Title 5, California Code of Regulations, Section 55006.

M) To submit each course to be offered by a community college to the Chancellor for approval on forms provided by the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 55100.

1) For the district governing board to establish and implement policies for all

individual courses that are offered as part of an educational program that has been previously approved by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55100(b).

2) For the district to designate the appropriate classification of any course or activity approved by a district, whether or not approval by the Chancellor is required, in accordance with section 55001, pursuant to Title 5, California Code of Regulations, Section 55100(c).

N) For district governing boards to prepare and submit to the Chancellor an application for approval, on forms provided by the Chancellor, before offering any course as part of an educational program at a college, pursuant to Title 5, California Code of Regulations, Section 55130.

1) To ensure that the application for approval contains at least all of the following, pursuant to Title 5, California Code of Regulations, Section 55130(b):

a) The name of the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(1).

b) The description of the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(2).

c) The purposes and specific objectives of the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(3).

d) The place of the proposed program in the district master plan, pursuant to Title 5, California Code of Regulations, Section 55130(b)(4).

e) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning, pursuant to Title 5, California Code of Regulations, Section 55130(b)(5).

f) The need for the proposed program ascertained with regard to at least all of the following factors, pursuant to Title 5, California Code of Regulations, Section 55130(b)(6):

(i) Other community colleges in the area currently offering the program;

(ii) Other programs closely related to the proposed program offered by the college;

(iii) Relation of the proposed program to job market analysis;

(iv) Enrollment projection for the proposed program;

(v) Recommendations of area vocational master plan committees when applicable; and

(vi) The classification of the courses in the program in accordance with section 55001.

g) The need for and present adequacy of the following resources, determined in relation to the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(7):

(i) Library and media center resources;

(ii) Facilities and equipment required to initiate and sustain the program, with reference made to the five-year master plan if a new facility is to be used;

(iii) Availability of adequate or proposed financial support;

(iv) Availability of faculty.

2) To ensure that the development, establishment and evaluation of an education program include representative faculty involvement, pursuant to Title 5, California Code of Regulations, Section 55130(c).

O) To submit all courses or programs offered for noncredit to the Chancellor for approval in accordance with section 55100 on forms provided by the Chancellor's Office, pursuant to Title 5, California Code of Regulations, section 55150(a).

1) To keep course outlines for all noncredit courses on file in the community college offering the course, pursuant to Title 5, California Code of Regulations, Section 55150(b).

2) For authorities of each community college maintaining noncredit courses to keep such current records and reports as may be required by the

Chancellor, pursuant to Title 5, California Code of Regulations, Section 55150(c).

P) For districts to implement policies for the approval and classification of any community services classes conducted by the district and to report the classification of all such classes to the Chancellor in accordance with section 55001, pursuant to Title 5, California Code of Regulations, Section 55160.

Q) If the district claims state support for a contract class, districts must ensure that approval of the class is obtained in the manner provided for classes of the same type, as provided in this article and approval of the contract is obtained in the manner provided for by law, pursuant to Title 5, California Code of Regulations, Section 55170.

R) For the district governing board to apply the following criteria and procedures if reinstating any course which was deleted from the credit or noncredit curriculum during the 1982-83 fiscal year, in response to provision Number 11 of Item 6870-101-001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982), pursuant to Title 5, California Code of Regulations, Section 55182:

1) To ensure that such courses are only reinstated in a manner consistent with the policy of the Board of Governors that offerings which are primarily avocational, or recreational shall be offered as community services classes, and not as credit or noncredit courses, pursuant to Title 5, California Code of Regulations, Section 55182(a);

2) To determine that the course meets the criteria and standards for courses specified in section 55002, pursuant to Title 5, California Code of Regulations, Section 55182(b);

3) To ensure that any reinstated course has first been reviewed through the college's or district's established procedure for the approval of new courses, pursuant to Title 5, California Code of Regulations, Section 55182(c);

4) To submit the course to the Chancellor for approval, or report approval of the course, depending on the requirements of section 55100 and to use a separate designation to distinguish reinstated courses from new courses, pursuant to Title 5, California Code of Regulations, Section 55182(d); and

5) To make a determination that reinstatement of the course maintains or improves the curriculum balance of the district in accordance with the mission of the community college and local needs, pursuant to Title 5, California Code of Regulations, Section 55182(e).

S) For each community college and/or district's curriculum committee to assess each associate degree credit course to determine if prerequisite or corequisite courses are necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E), pursuant to Title 5, California Code of Regulations, Section 55201(a).

1) If such courses are deemed to be necessary by the curriculum committee, then the district must ensure that such courses are required and offered,

pursuant to Title 5, California Code of Regulations, Section 55201(a).

T) For community college districts to adopt and implement policies for the following, regarding any prerequisites, corequisites, and "advisories on recommended preparation" required by the district, pursuant to Title 5, California Code of Regulations, Section 55201:

1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation, pursuant to Title 5, California Code of Regulations, Section 55201(b)(1).

a) Such policies must provide that in order to establish a prerequisite or corequisite, the prerequisite or corequisite must be determined to be necessary and appropriate for achieving the purpose for which it is being established, pursuant to Title 5, California Code of Regulations, Section 55201(b)(1).

b) District policies must specify the level of scrutiny required in order to establish different types of prerequisites, corequisites, and advisories on recommended preparation, pursuant to Title 5, California Code of Regulations, Section 55201(b)(1).

c) At a minimum, prerequisites, corequisites, and advisories on recommended preparation must be based on content review, with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite being established, pursuant to Title 5,

California Code of Regulations, Section 55201(b)(1).

d) The policy must provide that the types of prerequisites to be used in conjunction with courses in communication or computation skills may be established only on the basis of data collected using sound research practices, pursuant to Title 5, California Code of Regulations, Section 55201(b)(1).

e) Any determinations about prerequisites and corequisites must be made on a course-by-course or program-by-program basis, pursuant to Title 5, California Code of Regulations, Section 55201(b)(1).

2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline, particularly those aspects of the course outline that are the basis for justifying the establishment of the prerequisite or corequisite, pursuant to Title 5, California Code of Regulations, Section 55201(b)(2).

3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites, to assure that they remain necessary and appropriate, pursuant to Title 5, California Code of Regulations, Section 55201(b)(3).

a) These processes must provide for district review of each prerequisite and corequisite at least once every six years, pursuant to Title 5, California Code of Regulations, Section 55201(b)(3).

b) These processes must also provide for the periodic review of advisories on recommended preparation, pursuant to Title 5, California Code of Regulations, Section 55201(b)(3).

4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite, pursuant to Title 5, California Code of Regulations, Section 55201(b)(4).

5) Prerequisites or corequisites may be established only for any of the following purposes, pursuant to Title 5, California Code of Regulations, Section 55201(c):

a) When the prerequisite or corequisite is expressly required or expressly authorized by statute or regulation, pursuant to Title 5, California Code of Regulations, Section 55201(c)(1);

b) When the prerequisite will assure that a student has the skills, concepts, and/or information that is presupposed in terms of the course or program for which it is being established, such that a student who has not met the prerequisite is highly unlikely to receive a satisfactory grade in the course for which the prerequisite is being established, pursuant to Title 5, California Code of Regulations, Section 55201(c)(2);

c) When the corequisite course will assure that a student acquires the necessary skills, concepts, and/or information, such that a student

who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established, pursuant to Title 5, California Code of Regulations, Section 55201(c)(3); and

d) When the prerequisite or corequisite is necessary to protect the health and safety of a student or the health and safety of others, pursuant to Title 5, California Code of Regulations, Section 55201(c)(4).

6) To ensure that no prerequisite or corequisite is established or renewed unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established, pursuant to Title 5, California Code of Regulations, Section 55201(d).

7) To ensure that if a course in communication or computation skills is established as a prerequisite or corequisite for any course other than another course in communication or computation skills, the district completes the following activities, pursuant to Title 5, California Code of Regulations, Section 55201(e):

a) the district must conduct a content review, and

b) the district must gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or

corequisite.

8) To establish procedures for a student to challenge any prerequisite or corequisite for any of the following grounds, pursuant to Title 5, California Code of Regulations, Section 55201(f):

a) If the prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites, pursuant to Title 5, California Code of Regulations, Section 55201(f)(1);

b) If the prerequisite or corequisite is in violation of Title 5, California Code of Regulations, sections 55200 - 55202, pursuant to Title 5, California Code of Regulations, Section 55201(f)(2);

c) If the prerequisite or corequisite is either unlawfully discriminatory or being applied in an unlawfully discriminatory manner, pursuant to Title 5, California Code of Regulations, Section 55201(f)(3);

d) If the student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite, pursuant to Title 5, California Code of Regulations, Section 55201(f)(4);

e) If the student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available, pursuant to Title

5, California Code of Regulations, Section 55201(f)(5);

f) Such other grounds for challenge that the district governing board has established, pursuant to Title 5, California Code of Regulations, Section 55201(f)(6).

9) In the case of a challenge alleging unlawful discrimination regarding any prerequisite or corequisite, the district must, upon completion of the challenge procedure, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of Division 6 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 55201(g).

10) District policies adopted pursuant to this section must be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division, pursuant to Title 5, California Code of Regulations, Section 55201(h).

U) For community college districts to apply the following additional rules to the establishment of prerequisites and corequisites, pursuant to Title 5, California Code of Regulations, Section 55202:

1) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established, pursuant

to Title 5, California Code of Regulations, Section 55202(a).

2) The district must ensure that any prerequisites establishing communication or computational skill requirements are not established across the entire curriculum unless established on a course-by-course basis, pursuant to Title 5, California Code of Regulations, Section 55202(b).

3) The determination of whether a student meets a prerequisite must be based either on successful completion of an appropriate course or on an assessment using multiple measures, pursuant to Title 5, California Code of Regulations, Section 55202(c).

   a) The district must ensure that the selection and use of any assessment instrument is done in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of Division 6 of the California Code of Regulations

4) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the district must offer precollegiate basic skills courses designed to teach the required skills, pursuant to Title 5, California Code of Regulations, Section 55202(d).

   a) Such courses must be offered with reasonable frequency; and

   b) A reasonable number of sections of such courses must be offered so that the number of students who are required to meet the

associated skills prerequisites and who diligently seek enrollment in the prerequisite course are able to enroll in the course.

5) Whenever a corequisite course is established, sufficient sections must be offered to reasonably accommodate all students who are required to take the corequisite and the district must waive any corequisite as to any student for whom space in the course is not available, pursuant to Title 5, California Code of Regulations, Section 55202(e).

6) The district must ensure that if an exit test is required to satisfy a prerequisite or corequisite, such test is incorporated into the grading for the prerequisite or corequisite course, pursuant to Title 5, California Code of Regulations, Section 55202(f).

7) The district must make the determination of whether a student meets a prerequisite prior to his or her enrollment in the course requiring the prerequisite, unless enrollment is being permitted pending verification that the student has met the prerequisite or corequisite, pursuant to Title 5, California Code of Regulations, Section 55202(g).

V) For community college districts to adopt and implement policies and procedures pertaining to distance education that ensure the following, pursuant to Title 5, California Code of Regulations, sections 55205-55219:

1) The instruction provided as distance education must meet all requirements that may be imposed by the Americans with Disabilities Act

(42 U.S.C. Sec. 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794d), pursuant to Title 5, California Code of Regulations, Section 55205.

2) The same standards of course quality must be applied to distance education as are applied to traditional classroom courses, in regard to course quality judgments and any local course quality determination or review process, pursuant to Title 5, California Code of Regulations, Section 55207.

3) Determinations and judgments about the quality of distance education under the course quality standards must be made with the full involvement of faculty in accordance with the provisions commencing with section 53200, pursuant to Title 5, California Code of Regulations, Section 55209.

4) District governing boards must ensure the following regarding instructor contact, pursuant to Title 5, California Code of Regulations, Section 55211:

a) All approved courses offered as distance education must include regular effective contact between instructors and students, pursuant to Title 5, California Code of Regulations, Section 55211(a).

b) All distance education courses must be delivered consistent with guidelines issued by the Chancellor pursuant to section 409 of the

Procedures and Standing Orders of the Board of Governors, pursuant to Title 5, California Code of Regulations, Section 55211(b).

5) Each proposed or existing distance education course, must be separately reviewed and approved according to the district's certified course approval procedures, pursuant to Title 5, California Code of Regulations, Section 55213.

6) Instructors of sections delivered via distance education technology must be selected by the same procedures used to determine all instructional assignments and possess the minimum qualifications for the discipline into which the course's subject matter most appropriately falls, pursuant to Title 5, California Code of Regulations, Section 55215.

7) The number of students assigned to any one course section offered by distance education must be determined by and be consistent with other district procedures related to faculty assignment, pursuant to Title 5, California Code of Regulations, Section 55217.

8) Any district conducting any noncredit and nontransferable distance learning courses must perform all of the following, pursuant to Title 5, California Code of Regulations, Section 55219:

a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and

faculty participating in new courses or sections of established courses, pursuant to Title 5, California Code of Regulations, Section 55219(a);

b) Prepare and provide to the local governing board, no later than August 31st of each year, a report on all distance education activity, pursuant to Title 5, California Code of Regulations, Section 55219(b);

c) Compile, prepare and provide other information consistent with reporting guidelines developed by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors, pursuant to Title 5, California Code of Regulations, Section 55219(c).

W) For community college districts to adopt and implement policies and procedures regarding independent study courses that ensure all of the following, pursuant to Title 5, California Code of Regulations, Sections 55300-55350:

1) Approved courses conducted as independent study must be reported to the Chancellor in accordance with specified procedures as required by law, pursuant to Title 5, California Code of Regulations, Section 55300.

2) All independent study courses must meet the following criteria, pursuant to Title 5, California Code of Regulations, Section 55316:

a) The course must be accepted by the college toward completion of

an appropriate educational sequence leading to an associate degree, pursuant to Title 5, California Code of Regulations, Section 55316(a); and

b) The course must be recognized by an institution of the University of California or the California State University upon transfer to that institution, pursuant to Title 5, California Code of Regulations, Section 55316(b).

3) Districts must ensure that if they offer, as an independent study course, any noncredit courses or any nontransferable courses designed to meet the requirements of sections 55805.5, 55806, and 55002(a) or (b), that such courses are conducted in the following manner, pursuant to Title 5, California Code of Regulations, Section 55316.5:

a) By distance education;

b) Consistent with the requirements of sections 55205-55219 of Title 5 of the California Code of Regulations; and

c) Consistent with the guidelines developed by the Chancellor.

4) Districts must ensure that academic standards applicable to courses of independent study are the same as those applied to other credit courses in the college, pursuant to Title 5, California Code of Regulations, Section 55320.

5) A report by an instructor on appropriate records bearing the student's

name for purposes of state apportionment must certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by each student enrolled in the course, pursuant to Title 5, California Code of Regulations, Section 55321.

6) The college must provide access to the instructor for the students enrolled in independent study courses at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods, in addition to regularly scheduled office hours as practiced at that college, pursuant to Title 5, California Code of Regulations, Section 55322.

7) In order for attendance in a course of independent study to be eligible for state apportionment, the district must report the course in the manner required by Chapter 6 of Title 5 of the California Code of Regulations (pertaining to Curriculum and Instruction), and ensure that the course meets all other requirements of statute and regulation relative to eligibility for state apportionment, pursuant to Title 5, California Code of Regulations, Section 55340.

8) The district must ensure that any instructor assigned to an independent study course meets all of the following criteria, pursuant to Title 5, California Code of Regulations, Section 55350:

a) The instructor must be qualified to provide service in that capacity

during the period in which that service is rendered, pursuant to Title 5, California Code of Regulations, Section 55350(a);

b) The instructor must be responsible for the supervision, control, and evaluation of the course and the enrolled students, pursuant to Title 5, California Code of Regulations, Section 55350(b);

c) The instructor must provide (1) orientation, (2) guidance, and (3) information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college, pursuant to Title 5, California Code of Regulations, Section 55350(c); and

d) The instructor must provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, and include this schedule in the written record, pursuant to Title 5, California Code of Regulations, Section 55350(d).

X) For community college districts to adopt and implement policies and procedures to comply with the curriculum standards and criteria for curriculum approval set forth by the Chancellor's Office in the "Program and Course Approval Handbook" ("Handbook") (September 2001), established pursuant to Title 5, California Code of Regulations, Section 55000.5.

1) Community Colleges must document that a proposed educational

program meets all five of the following criteria for approval before the program will be approved by the Chancellor's Office: (1) Appropriateness to Mission; (2) Need; (3) Quality; (4) Feasibility; and (5) Compliance, pursuant to "Handbook", page 16.

a) Appropriateness to Mission

(i) Curriculum must be designed to be taught to lower division students for credit toward the degree, for purposes of transfer, occupational preparation, or career supplementation or upgrade, rather than avocational purposes, pursuant to "Handbook", page 16.

(ii) Curriculum must be designed to provide systematic instruction in a body of content or skill whose mastery forms the basis of the student grade, rather than designed primarily to provide group activities or services, pursuant to "Handbook", page 16.

b) Need

(i) There must be a demonstrative need for a course or program that meets the stated goals and objectives, at this time, and in the region the college proposes to serve with the program, pursuant to "Handbook", page 16.

(ii) Primarily occupational programs must demonstrate need for the program by gathering and supplying all of the following, pursuant to "Handbook", page 16:

(1) labor market information;

(2) an employer survey;

(3) a job market analysis, or other information that shows that jobs are available for program completers;

(4) a recommendation for approval by the "Regional Occupational Consortium"

c) Quality

(i) The program must be designed so that successfully completing the program requirements will enable students to fulfill the program goals and objectives, pursuant to "Handbook", page 17.

(ii) Courses and programs must be integrated, with courses designed to effectively meet their objectives and the goals and objectives of the programs for which they are required, pursuant to "Handbook", page 17.

d) Feasibility

(i) The college must have the resources (funding, faculty, facilities and equipment) to realistically maintain the program

at the level of quality described in the new program application, pursuant to "Handbook", page 18.

(ii) The college must commit to offering all the required courses for the program at least once every two years, unless a longer time frame is justified based on the best interests of the students, pursuant to "Handbook", page 18.

2) Community Colleges must comply with the Chancellor's Office Procedures when compiling data for, preparing and submitting program approval applications for each of the following programs as detailed in Appendix A, "Forms and instructions for Approval of New Programs", pursuant to "Handbook", page 18.

a) New Occupational Program Approval Application (Districts must comply with all procedures detailed in pages A-1 through A-19).

b) New Transfer Program Approval Application (Districts must comply with all procedures detailed in pages A-21 through A-35).

c) Request to Add New Option or Certificate within Existing Program to Inventory (Districts must comply with all procedures detailed in pages A-37 through A-41).

d) Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program) (Districts must comply with all procedures detailed in pages A-43 through A-44).

e) Request to Add Projected Program to Inventory (Districts must comply with all procedures detailed in pages page A-45).

f) Credit/Noncredit Apprenticeship Program Approval Application (Districts must comply with all procedures detailed in pages A-47 through A-54).

3) Community Colleges must assess and categorize all courses that are not part of an approved program and determine whether they qualify as one of the five categories of "stand alone courses" that have been granted blanket approval by the Chancellor, and therefore need not be submitted to the Chancellor's Office for approval, as outlined in and pursuant to "Handbook", pages 24-25.

CONDITION 12. VOCATIONAL EDUCATION PROGRAMS

A) To develop and implement policies for the establishment, modification, or discontinuance of courses or programs, which incorporate statutory responsibilities regarding vocational or occupational training program review, in accordance with Education Code Section 78016, pursuant to Title 5, California Code of Regulations, Section 51022(a).

B) To conduct a job market study of the labor market focusing on whether the anticipated employment demand for students in the proposed program justifies the establishment of the proposed course of instruction prior to establishing a vocational educational program, pursuant to Education Code Section

78015(a)(1).

1) To use the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code or if the program is not available, other available sources of labor market information when conducting the study, pursuant to Education Code Section 78015(a)(1).

2) To include in the study a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges and private postsecondary schools in the area pursuant to Education Code Section 78015(a)(1).

3) To make copies of each job market study available to the public pursuant to Education Code Section 78015(a)(2).

4) To determine whether the study justifies the proposed vocational education program, pursuant to Education Code Section 78105(b).

5) If the governing board of the community college district determines the job market study justifies initiation of the proposed program, it shall determine by resolution whether the program shall be offered through the districts' own facilities or through a contract with an approved private post secondary school, pursuant to Education Code Section 78015(c).

C) For the governing board of the community college district to review every

vocational or occupational training program offered by a community college district every two years to ensure the programs are effective, meet a documented labor market demand, and do not unnecessarily duplicate other manpower training programs in the area, pursuant to Education Code Section 78016(a).

1) For the governing board of a community college district to consider the review and comments of the local Private Industry Council established pursuant to Division 8 of the Unemployment Insurance Code before it conducts its review process, pursuant to Education Code Section 78016(c).

2) To provide a written summary of the findings of each review to the public, pursuant to Education Code Section 78016(e).

D) To incorporate the definitions contained in Section 55600, for all of the following terms, into district policies, procedures and documents: "Vocational Educational Contract"; "The California State Plan for Vocational Education"; "Contractor"; and "Eligible Cost", pursuant to Title 5, California Code of Regulations, Section 55600.

E) For the governing board of a community college district to appoint and supervise a vocational education advisory committee, pursuant to Title 5, California Code of Regulations, Section 55601.

1) For the advisory committee to be responsible for and to implement both of

the following activities, pursuant to Title 5, California Code of Regulations, Section 55601:

a) To develop recommendations on the vocational education program, pursuant to Title 5, California Code of Regulations, Section 55601; and

b) To act as a liaison between the district and potential employers, pursuant to Title 5, California Code of Regulations, Section 55601.

2) For the district to appoint one or more representatives of the general public to the vocational education advisory committee who is knowledgeable about all of the following, pursuant to Title 5, California Code of Regulations, Section 55601:

a) the disadvantaged,

b) students,

c) teachers,

d) business,

e) industry,

f) school administration, and

g) the field office of the Department of Employment Development.

F) For any community college district that contracts with a private post secondary school, an activity center, work activity center, or sheltered work shop, to

implement policies and procedures to ensure all of the following, pursuant to Title 5, California Code of Regulations, Sections 55602, 55605 and 55607:

1) All contracts must be approved by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55602(1).

2) All contracts must provide the following, pursuant to Title 5, California Code of Regulations, Section 55602:

   a) The amount contracted for per student must not exceed the amount it costs to provide the same training in community colleges or the tuition charged in postsecondary schools, pursuant to Title 5, California Code of Regulations, Section 55602(2);

   b) Those students who are currently enrolled in community colleges and are receiving training in another institution, must not be charged additional tuition, pursuant to Title 5, California Code of Regulations, Section 55602(3);

   c) All programs, courses and classes of instruction must meet the standards set forth in the California State Plan for Vocational Education or a course of study for adult schools approved by the Department of Education, pursuant to Title 5, California Code of Regulations, Section 55602(4).

3) The community college district must organize and administer the contracts to ensure that there will be separate accounts for all income and

expenditures applicable to the contract, pursuant to Title 5, California Code of Regulations, Section 55605(e).

4) The community college district must submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor with regard to each vocational education contract it enters into with a private post secondary school, an activity center, work activity center, or sheltered work shop to provide vocational skill training, pursuant to Title 5, California Code of Regulations, Section 55607.

5) All records related to income and expenditures regarding the contracts must be made available for audit by the state or federal government and retained for five years or one year after the audit, pursuant to Title 5, California Code of Regulations, Section 55607.

G) If the governing board of a community college district enters into a contract with a private or public entity for the education of students whose capacity to function is impaired by physical deficiency or injury in vocational education classes, the governing board of the community college district must approve of and supervise all instruction, pursuant to Title 5, California Code of Regulations, Section 55602.5.

H) To adopt and implement policies and procedures to ensure that contractors provide (1) vocational, (2) technical, and (3) occupational instruction related to attainment of (a) skills, (b) knowledge, and (c) attitudes so that students may be

prepared for any of the following, pursuant to Title 5, California Code of Regulations, Section 55603:

1) Gainful employment in the occupational area for which training has been provided, pursuant to Title 5, California Code of Regulations, Section 55603(a); or

2) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, pursuant to Title 5, California Code of Regulations, Section 55603(b); or

3) Enrollment in more advanced training programs, pursuant to Title 5, California Code of Regulations, Section 55603(c).

l) To ensure all vocational education contracts entered into with contractors meet all of the following conditions, pursuant to Title 5, California Code of Regulations, Section 55620:

1) Manpower needs and job opportunities must be identified and established for the instruction program, pursuant to Title 5, California Code of Regulations, Section 55620(a).

2) The program or courses must not already be available in the region served, pursuant to Title 5, California Code of Regulations, Section 55620(b).

3) The program or courses must provide vocational education opportunities

that are not otherwise available, pursuant to Title 5, California Code of Regulations, Section 55620(c).

4) The programs or services must not reduce vocational education efforts of any district, pursuant to Title 5, California Code of Regulations, Section 55620(d).

5) Costs must not exceed the same cost to provide the same training in the public entity or the tuition private postsecondary schools charge their students, pursuant to Title 5, California Code of Regulations, Section 55620(e).

6) The community college student must not be forced to pay additional tuition for any training in the contract, pursuant to Title 5, California Code of Regulations, Section 55620(f).

7) Districts must ensure that only students who are sixteen or older and enrolled in a community college are eligible for enrollment under a contract, pursuant to Title 5, California Code of Regulations, Section 55620(g).

8) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or confirm to contractual relationship guidelines, pursuant to Title 5, California Code of Regulations, Section 55620(h).

J) To ensure each contract expressly includes at least all of the following

provisions, pursuant to Title 5, California Code of Regulations, Section 55630.

1) For the governing board of the community college to determine, by resolution, that offering the program through a contract is appropriate, pursuant to Title 5, California Code of Regulations, Section 55630(a).

2) To include methods for identifying eligible costs and payment procedures to ensure the students enrolled are not being charged additional tuition or an amount that exceeds the cost to provide the same training in the community college or the tuition the private postsecondary school charges, pursuant to Title 5, California Code of Regulations, Section 55630(b).

3) To include procedures, terms and conditions relating to all of the following topics, pursuant to Title 5, California Code of Regulations, Section 55630(c):

   a) enrollment period;

   b) transferring of students;

   c) class hours required to meet performance objectives,

   d) supervision of staff; and

   e) withdrawal of students prior to completion of a course or program.

4) For the contractor and community college district to insure that students are provided with ancillary and support services, which include at least both of the following services, pursuant to Title 5, California Code of

Regulations, Section 55630(d):

a) Counseling and guidance; and

b) Placement assistance.

5) To ensure that qualified faculty provide instruction, pursuant to Title 5, California Code of Regulations, Section 55630(e).

6) To include performance objectives for each class and a report regarding accomplishments of the objectives at the end of each contract period, pursuant to Title 5, California Code of Regulations, Section 55630(f).

7) For the contractor to maintain records of student attendance and achievement, and for the community college to develop a record review schedule for the contractor to use, pursuant to Title 5, California Code of Regulations, Section 55630(g).

8) To include terms and conditions relating to termination of the contract, pursuant to Title 5, California Code of Regulations, Section 55630(h).

9) For the contractor to be in compliance with the Civil Rights Act of 1964, pursuant to Title 5, California Code of Regulations, Section 55630(i).

10) For the contractor to provide workers' compensation insurance coverage for any student, pursuant to Title 5, California Code of Regulations, Section 55630(j).

11) For the contractor to provide indemnity and defense for the state and community college district against any and all claims and liability, pursuant

to Title 5, California Code of Regulations, Section 55630(k).

CONDITION 13. COURSE ARTICULATION - LOCAL

For the governing board of each community college district to develop, file with the Chancellor, and implement its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools, pursuant to Title 5, California Code of Regulations, Section 51022(b).

CONDITION 14. ACADEMIC FREEDOM

For community college districts to adopt and implement a policy statement on academic freedom, pursuant to Title 5, California Code of Regulations, Section 51023(a) and (c).

1) To make such policy available to faculty pursuant to Title 5, California Code of Regulations, Section 51023(a);

2) To file the policy with the Chancellor pursuant to Title 5, California Code of Regulations, Section 51023(a); and

3) For the district to substantially comply with the adopted policies and procedures pursuant to Title 5, California Code of Regulations, Section 51023(c).

CONDITION 15. SHARED GOVERNANCE (Faculty, Staff, Students)

Faculty Shared Governance (Academic Senate)

A) For the governing board of community college districts to adopt, implement and comply with procedures which are consistent with the provisions of Title 5, California Code of Regulations, Sections 53000-53206, regarding the role of academic senates and faculty councils, pursuant to Title 5, California Code of

Regulations, Section 51023(b) and (c).

1) To file such adopted procedures with the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51023(b).

2) For the district governing board to develop and implement policies on academic and professional matters by "consulting collegially" with the Academic Senate through either or both of the following methods, pursuant to Title 5, California Code of Regulations, Section 53200(d):

   a) relying primarily upon the advice and judgment of the academic senate, pursuant to Title 5, California Code of Regulations, Section 53200(d)(1); or

   b) agreeing that the district governing board, or such representatives as it may designate, and the representatives of the academic senate must have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations, pursuant to Title 5, California Code of Regulations, Section 53200(d)(2).

3) To ensure that the following procedure is used to establish an academic senate, pursuant to Title 5, California Code of Regulations, Section 53202:

   a) The full-time faculty of a community college must vote by secret ballot to form an academic senate, pursuant to Title 5, California

Code of Regulations, Section 53202(a).

b) When the full-time faculty of multi-college districts vote on whether or not to form a district academic senate, the vote must be made by secret ballot, pursuant to Title 5, California Code of Regulations, Section 53202(b).

c) The governing board of a district must recognize the academic senate and authorize the faculty to do the following, pursuant to Title 5, California Code of Regulations, Section 53202(c):

(1) Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate, pursuant to Title 5, California Code of Regulations, Section 53202(c)(1); and

(2) Provide for the selection of the members of the academic senate in accordance with accepted democratic election procedures, pursuant to Title 5, California Code of Regulations, Section 53202(c)(2).

d) To allow the full-time faculty to provide for the membership and participation of part-time faculty members in the academic senate, pursuant to Title 5, California Code of Regulations, Section 53202(d).

e) To permit the part-time faculty to form an academic senate in a

community college that does not have any full-time faculty members, pursuant to Title 5, California Code of Regulations, Section 53202(e).

4) For the governing board of a community college district to adopt and implement policies for appropriate delegation of authority and responsibility to its college and/or district academic senate, pursuant to Title 5, California Code of Regulations, Section 53203.

a) For such policies to provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters, pursuant to Title 5, California Code of Regulations, Section 53203(a).

b) For the governing board or its designees to consult collegially with representatives of the academic senate when adopting such policies and procedures, pursuant to Title 5, California Code of Regulations, Section 53203(b).

c) To ensure that, while in the process of consulting collegially, the academic senate retains the right to meet with or to appear before the governing board with respect to the views, recommendations, or proposals of the senate, pursuant to Title 5, California Code of Regulations, Section 53203(c).

d) For the governing board of a district to adopt procedures for responding to recommendations of the academic senate that incorporate the following, pursuant to Title 5, California Code of Regulations, Section 53203(d):

(1) If a recommendation of the academic senate is not accepted, in instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the governing board, upon request of the academic senate, must promptly communicate its reasons in writing to the academic senate, pursuant to Title 5, California Code of Regulations, Section 53203(d)(1).

(2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy must remain in effect unless continuing with such policy exposes the district to a good faith belief of compelling legal liability or causes substantial fiscal hardship, pursuant to Title 5, California Code of Regulations, Section 53203(d)(2).

e) To ensure that the academic senate consults with the chief executive officer prior to the appointment of faculty members to serve on college or district committees, task forces, or other groups

dealing with academic and professional matters, pursuant to Title 5, California Code of Regulations, Section 53203(f).

5) To ensure that the academic senate consultation process does not modify the scope or detract from any negotiated agreements between collective bargaining representatives and district governing boards, pursuant to Title 5, California Code of Regulations, Section 53204.

6) To grant release or reassigned time to the faculty members who have been elected to serve as president and vice president of the Academic Senate of the California Community Colleges (ASCCC) for the time required by the ASCCC, pursuant to Title 5, California Code of Regulations, Section 53207.

a) Districts must document and certify to the Chancellor by August all administrative costs associated with hiring faculty to replace the faculty serving as president and vice president of the ASCCC for which the district seeks reimbursement, pursuant to Title 5, California Code of Regulations, Section 53207(c).

b) Districts must, if seeking to refuse to grant release or reassigned time, certify to the Chancellor by August 1 that the faculty member who seeks release or reassigned time under this section is in a position for which a qualified

temporary replacement cannot be found to meet the needs of the students if the district seeks to refuse, pursuant to Title 5, California Code of Regulations, Section 53207(d).

Staff Shared Governance

B) For the governing board of a community college district to adopt and implement policies and procedures to provide district and college staff the opportunity to participate effectively in district and college governance that include the following, pursuant to Title 5, California Code of Regulations, Section 51023.5:

1) Definitions of non-faculty staff positions that the governing board is required by law to recognize or chooses to recognize, pursuant to legal authority, with separate definitions for all management and nonmangement positions, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(1).

2) Participation structures and procedures for the defined staff positions, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(2).

3) A requirement that the governing board or its designees must consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies in performing the requirements of 51023.5, subdivisions (a)(1) and (2), pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(3).

4) For the governing board or its designees to broadly inform all staff of

policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views when no groups or structures for participation exist that provide representation for particular groups of staff, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(3).

5) To provide staff with opportunities to participate in the formulation and development of the following, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(4):

   a) district and college policies and procedures, and

   b) those processes for jointly developing recommendations for action by the governing board that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

6) To ensure that the governing board provides staff an opportunity to participate in the formulation and development of any matter significantly affecting staff, prior to taking action on any such matter, unless an unforeseeable, emergency situation exists, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(5)

7) The policies and procedures of the governing board must ensure that the recommendations and opinions of staff are given reasonable consideration, pursuant to Title 5, California Code of Regulations, Section

51023.5(a)(6).

8) For the selection of staff representatives to serve on college and district task forces, committees, or other governance groups to be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(7).

a) In cases where the law does not require a particular staff group to make such a selection, for the selection to be made by, or in consultation with, district staff groups that the governing board has officially recognized in its policies and procedures for staff participation, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(7).

b) For all staff representatives to be selected from the category that they represent, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(7).

9) In developing and carrying out such policies and procedures, the district governing board must ensure that its actions do not do any of the following, pursuant to Title 5, California Code of Regulations, Section 51023.5(b):

a) dominate or interfere with the formation or administration of any

employee organization,

b) contribute financial or other support to any employee organization,

c) in any way encourage employees to join any organization in preference to another,

d) intrude on matters within the scope of representation under Section 3543.2 of the Government Code, or

e) interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.

Student Shared Governance

C) For the governing board of a community college districts to adopt and implement policies and procedures to provide students the opportunity to participate effectively in district and college governance, pursuant to Title 5, California Code of Regulations, Section 51023.7.

1) To provide students with the opportunity to participate in the formulation and development of district and college policies and procedures that have or will have a significant effect on students, including the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures, pursuant to Title 5, California Code of Regulations, Section 51023.7(a)(1).

2) To ensure that the governing board provides students an opportunity to participate in the formulation and development of any matter significantly affecting students, prior to taking action on any such matter, unless an unforeseeable, emergency situation exists, pursuant to Title 5, California Code of Regulations, Section 51023.7(a)(2).

3) For governing board procedures to ensure that, at the district and college levels, recommendations and positions developed by students are given every reasonable consideration, pursuant to Title 5, California Code of Regulations, Section 51023.7(a)(3).

4) For the districts to ensure that the selection of student representatives to serve on college or district committees, task forces, or other governance groups are made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district, pursuant to Title 5, California Code of Regulations, Section 51023.7(a)(4).

5) To classify the following as matters that have or will have a "significant effect on students", which thereby require providing students with prior notice and opportunity to participate in the development of any action to be taken on the matter, pursuant to Title 5, California Code of Regulations, Section 51023.7(b):

(a) grading policies;

(b) codes of student conduct;

(c) academic disciplinary policies;

(d) curriculum development;

(e) courses or programs which should be initiated or discontinued;

(f) processes for institutional planning and budget development;

(g) standards and policies regarding student preparation and success;

(h) student services planning and development;

(i) student fees within the authority of the district to adopt; and

(j) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

6) For the governing board to ensure that reasonable consideration is given to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff, pursuant to Title 5, California Code of Regulations, Section 51023.7(c).

CONDITION 16. MATRICULATION

A) For any community college or district receiving funding under the Seymour-Campbell Matriculation Act of 1986 as contained in Education Code Sections 78210-78218 to agree to carry out the provisions of the the article for the period during which funding is received, and to expend such

funds only for those matriculation services approved by the Board of Governors or for any contribution of matching funds as may be required by the Board of Governors, pursuant to Education Code Section 78211.5.

B) For the districts to provide all of the following matriculation services to students, pursuant to Education Code Section 78212(b) and Title 5, California Code of Regulations Section 55520:

1) Processing of the application for admission, pursuant to Education Code Section 78212(b)(1) and Title 5, California Code of Regulations, Section 55520(a);

2) Student orientation, pursuant to Education Code Section 78212(b)(2) and Title 5, California Code of Regulations, Section 55520(b);

a) Districts must ensure that orientation and pre-orientation services are designed to provide nonexempt students and potential students all of the following information, pursuant to Title 5, California Code of Regulations, Section 55520(b):

(1) College procedures and course scheduling, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2);

(2) Academic expectations, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2);

(3) Financial assistance, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2); and

(4) Any other matters the college or district finds appropriate, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2).

b) Districts must ensure that such information is provided on a timely basis, pursuant to Title 5, California Code of Regulations, Section 55520(b).

3) Assessment and counseling upon enrollment, pursuant to Education Code Section 78212(b)(3) and Title 5, California Code of Regulations, Section 55520(c) and 55520(d).

a) For the assessment and counseling to include all of the following, pursuant to Education Code Section 78212(b)(3):

(1) Math and language skills, pursuant to Education Code Section 78212(b)(3)(A);

(2) Identification of aptitudes, interests and educational objectives, pursuant to Education Code Section 78212(b)(3)(B);

(3) Study and learning skills, pursuant to Education Code Section 78212(b)(3)(C);

(4) Referral to specialized support services, pursuant to Education Code Section 78212(b)(3)(D); and

(5) Course selection, pursuant to Education Code Section 78212(b)(3)(E).

b) For assessment of all nonexempt students to be implemented in accordance with Title 5 of the California Code of Regulations Section 55524, pursuant to Title 5, California Code of Regulations, Section 55520(c);

c) For counseling or advisement of for nonexempt students to be implemented in accordance with Title 5 of the California Code of Regulations, Section 55523, pursuant to Title 5, California Code of Regulations, Section 55520(d).

5) Postenrollment evaluation of each student's progress, pursuant to Education Code Section 78212(b)(4) and Title 5, California Code of Regulations, Section 55520(f):

a) Districts must provide remedial counseling for any of the following students, pursuant to Education Code Section 78212(b)(4):

(1) Students who are enrolled in remedial courses, pursuant to Education Code Section 78212(b)(4);

(2) Students who have not declared an educational objective as required, pursuant to Education Code Section 78212(b)(4);

or

(3) Students who are on academic probation, pursuant to Education Code Section 78212(b)(4).

b) Districts must ensure that all post enrollment evaluations are implemented in accordance with Title 5 of the California Code of Regulations, Section 55526, pursuant to Title 5, California Code of Regulations, Section 55520(f).

6) Assistance in developing a student educational plan which meets the following criteria, pursuant to Title 5, California Code of Regulations, Section 55520(e):

a) The plan must be implemented in accordance with Title 5 of the California Code of Regulations, Section 55525, pursuant to Title 5, California Code of Regulations, Section 55520(e).

b) The plan must identify the student's educational objectives, pursuant to Title 5, California Code of Regulations, Section 55520(e).

c) The plan must identify the courses, services and programs to be used to achieve the student's educational objectives, pursuant to Title 5, California Code of Regulations, Section 55520(e).

7) Referral of students to the following programs, pursuant to Title 5, California Code of Regulations, Section 55520(g):

a) Support services, pursuant to Title 5, California Code of Regulations, Section 55520(g)(1); and

b) Specialized curriculum offerings that include both of the following, pursuant to Title 5, California Code of Regulations, Section 55520(g)(2):

(1) Pre-collegiate basic skills courses, pursuant to Title 5, California Code of Regulations, Section 55520(g)(2); and

(2) Programs in English as a Second Language, pursuant to Title 5, California Code of Regulations, Section 55520(g)(2).

C) For community college districts to adopt and implement policies regarding the use of assessment instruments in the matriculation process that incorporate the following, pursuant to Education Code Section 78213 and Title 5, California Code of Regulations, Section 55524:

1) Districts must obtain authorization from the Board of Governors prior to the use of any assessment instruments, pursuant to Education Code Section 78213(a).

2) Assessment instruments must be sensitive to cultural and language differences between students, pursuant to Education Code Section 78213(b)(1);

3) Assessment instruments must be used as an advisory tool to assist students in the selection of an educational program, pursuant to

Education Code Section 78213(b)(2); and

4) Assessment instruments must not be used to exclude students from admission to community colleges, pursuant to Education Code Section 78213(b)(3).

5) Districts must comply with any recommendations concerning assessment instruments that are issued by the advisory committee established by the Board of Governors, pursuant to Education Code Section 78213(c).

6) Districts must ensure that they only use assessment instruments that have been approved and listed by the Chancellor and that they follow the Chancellor's procedure when seeking to have assessment instruments approved and added to the list of approved instruments, pursuant to Title 5, California Code of Regulations, Section 55524.

D) For community college districts to consult with the Chancellor and establish, implement and maintain an institutional research database to evaluate the effectiveness of the matriculation services which includes all of the following information, pursuant to Education Code Section 78214:

1) Prior student educational experience, pursuant to Education Code Section 78214(b)(1);

2) Educational objectives, pursuant to Education Code Section 78214(b)(2);

3) Criteria for exemption from assessment or required counseling or advisement, pursuant to Education Code Section 78214(b)(3);

4) Need for financial assistance, pursuant to Education Code Section 78214(b)(4);

5) Ethnicity, sex, and age, pursuant to Education Code Section 78214(b)(5);

6) Academic performance, pursuant to Education Code Section 78214(b)(6);

7) Any additional information that the Chancellor finds appropriate, pursuant to Education Code Section 78214(b)(7);

8) An assessment of the effectiveness of the programs in attaining the following objectives, pursuant to Education Code Section 78214(c):

a) Helping students to define their educational goals, pursuant to Education Code Section 78214(c)(1);

b) Assisting institutions in the assessment of students' educational needs, pursuant to Education Code Section 78214(c)(2);

c) Matching institutional resources with students' educational needs, pursuant to Education Code Section 78214(c)(3); and

d) Providing students with specialized support services, pursuant to Education Code Section 78214(c)(4).

E) For community colleges to comply with the criteria established by the Board of Governors regarding exempting students from participation in orientation, assessment testing, or required counseling or advisement, by adopting and implementing district policies that specify the grounds for exemption, pursuant to Education Code Section 78215 and Title 5, California Code of Regulations,

Section 55532.

1) Districts must identify such adopted policies in the matriculation plan, pursuant to Title 5, California Code of Regulations, Section 55532(a).

2) Districts must report to the Chancellor the number of students, by category, that have been exempted, pursuant to Title 5, California Code of Regulations, Section 55532(a).

3) Districts must ensure that only students who have completed an associate degree or higher are permitted to qualify for such exemption, pursuant to Title 5, California Code of Regulations, Section 55532(b).

4) Districts must notify any student exempted by this section that he or she is covered by an exemption and give that student an opportunity to choose whether or not to participate in that part of the matriculation process, pursuant to Title 5, California Code of Regulations, Section 55532(c).

5) Districts must ensure that their policies do not use any of the following as the sole criterion for exempting any student who does not wish to participate, pursuant to Title 5, California Code of Regulations, Section 55532(d):

   a) The student has enrolled only in evening classes, pursuant to Title 5, California Code of Regulations, Section 532(d)(1);

   b) The student has enrolled in fewer than some specified number of units, pursuant to Title 5, California Code of Regulations, Section

55532(d)(2);

c) The student is undecided about his or her educational objectives, pursuant to Title 5, California Code of Regulations, Section 55532(d)(3); or

d) The student does not intend to earn a degree or certificate, pursuant to Title 5, California Code of Regulations, Section 55532(d)(4).

F) For community college districts to comply with the matriculation funding formula developed by the Board of Governors and to ensure that each dollar of state matriculation funding is matched by three dollars of other district resources devoted to the matriculation program, pursuant to Education Code Section 78216 and Title 5, California Code of Regulations, Section 55518(b).

G) For community colleges to develop a plan for student matriculation that reflects all of the following, pursuant to Education Code Section 78216(c):

1) A method for providing the services, pursuant to Education Code Section 78216(c)(1);

2) The college budget for the matriculation services, pursuant to Education Code Section 78216(c)(2);

3) The development and training of staff and faculty to implement the matriculation services, pursuant to Education Code Section 78216(c)(3);

4) In multicampus districts, the coordination of the college matriculation plan

with other college plans, pursuant to Education Code Section 78216(c)(4); and

5) Computerized information services and institutional research and evaluation necessary for implementation of the matriculation program, pursuant to Education Code Section 78216(c)(5).

H) For the governing board of each community college district to implement all of the following regarding student matriculation services, pursuant to Title 5, California Code of Regulations, Section 51024:

1) Adopt, implement and submit to the Chancellor a matriculation plan, pursuant to Title 5, California Code of Regulations, Section 51024(a);

2) Evaluate its matriculation program and participate in statewide evaluation activities, pursuant to Title 5, California Code of Regulations, Section 51024(b);

3) Provide matriculation services to its students, pursuant to Title 5, California Code of Regulations, Section 51024(c);

4) Establish and implement procedures for waivers and appeals in connection with its matriculation program, pursuant to Title 5, California Code of Regulations, Section 51024(d); and

5) Substantially comply with all other provisions of Sections 55500 through 55534 (Matriculation Programs) of Title 5, pursuant to Title 5, California Code of Regulations, Section 51024(e).

I) For the community college districts to consult with the Chancellor to assist in the adoption of a schedule for implementing the provisions of the matriculation program and to ensure that they comply with the schedule in implementing district matriculation programs, pursuant to Title 5, California Code of Regulations, Section 55500.

J) For community college districts to recognize, adopt and incorporate into their policies and procedures the definitions of the following terms that are pertinent to the matriculation program: "matriculation", "assessment instruments, methods, or procedures", "pre-collegiate basic skills courses", "disproportionate impact", "exemption", "matriculation services", "matriculation practices", "student", "orientation", and "student follow-up", as detailed in and pursuant to Title 5, California Code of Regulations, Section 55502.

K) For community college districts to adopt and implement a matriculation plan describing the services to be provided to its students, pursuant to Title 5, California Code of Regulations, Section 55510.

1) Districts must ensure that the adopted matriculation plan includes at least all of the following information, pursuant to Title 5, California Code of Regulations, Section 55510(a):

a) A description of methods by which services will be delivered, pursuant to Title 5, California Code of Regulations, Section 55510(a)(1);

b) The matriculation budget, pursuant to Title 5, California Code of Regulations, Section 55510(a)(2);

c) Plans for faculty and staff development, pursuant to Title 5, California Code of Regulations, Section 55510(a)(3);

d) Computerized information services and institutional research and evaluation necessary to implement the Chapter, pursuant to Title 5, California Code of Regulations, Section 55510(a)(4);

e) Criteria for student matriculation exemption, pursuant to Title 5, California Code of Regulations, Section 55510(a)(5);

f) Procedures for establishing and reviewing prerequisites, pursuant to Title 5, California Code of Regulations, Section 55510(a)(6);

g) Procedures for considering student challenges to prerequisites, pursuant to Title 5, California Code of Regulations, Section 55510(a)(7); and

h) In districts with more than one college, arrangements for coordination by the district of the matriculation plans of its various colleges, pursuant to Title 5, California Code of Regulations, Section 55510(a)(8).

2) Districts must develop the plan through consultation with representatives of all of the following groups, pursuant to Title 5, California Code of Regulations, Section 55510(b):

a) Academic Senate;

b) Students; and

c) Staff with appropriate expertise.

3) Districts must ensure that the plan conforms to the law and is submitted to the Chancellor for initial and periodic review and approval, pursuant to Title 5, California Code of Regulations, Section 55510(c).

L) For the districts to establish a program of institutional research for ongoing evaluation of its matriculation process to ensure compliance with the requirements of the chapter that incorporates the following, pursuant to Title 5, California Code of Regulations, section 55512:

1) Districts must evaluate all assessment procedures to ensure they minimize cultural or linguistic bias and are used in a valid manner, pursuant to Title 5, California Code of Regulations, section 55512(a);

2) Districts must determine whether any procedures have a disproportionate impact on particular groups of students, based on ethnicity, gender, age or disability, pursuant to Title 5, California Code of Regulations, section 55512(a);

3) If a disproportionate impact exists, districts must consult with the Chancellor and develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact, pursuant to Title 5, California Code of Regulations, section 55512(a);

4) Districts must perform and include an analysis of the degree to which the matriculation program does any of the following, pursuant to Title 5, California Code of Regulations, section 55512(a):

a) Impacts on particular courses, programs, and facilities, pursuant to Title 5, California Code of Regulations, section 55512(a)(1);

b) Helps students to define their educational goals, pursuant to Title 5, California Code of Regulations, section 55512(a)(2);

c) Promotes student success, pursuant to Title 5, California Code of Regulations, section 55512(a)(3);

d) Assists the district in the assessment of students' educational needs, pursuant to Title 5, California Code of Regulations, section 55512(a)(4);

e) Matches district resources with students' educational needs, pursuant to Title 5, California Code of Regulations, section 55512(a)(5);

f) Provides students with the support services described in section 545520(g), pursuant to Title 5, California Code of Regulations, section 55512(a)(6).

5) Districts must provide for and implement a review of the revenue and expenditures of the matriculation program as part of its annual financial audit, pursuant to Title 5, California Code of Regulations, Section

55512(b).

M) For the community college districts to annually prepare and submit a report describing the district's efforts to implement its matriculation program and also expenditures made for that purpose that includes at least all of the following information, pursuant to Title 5, California Code of Regulations, Section 55514:

1) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who are placed in (1) pre-collegiate, (2) associate-degree applicable, or (3) transfer level courses in any of the following educational areas, pursuant to Title 5, California Code of Regulations, Section 55514(a):

a) Reading;

b) Writing;

c) Computation; or

d) English as a Second Language.

2) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who (1) enter and (2) complete pre-collegiate basic skills courses, pursuant to Title 5, California Code of Regulations, Section 55514(b);

3) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, completing pre-collegiate basic skills courses who subsequently (1) enter and (2) complete courses

applicable to the associate degree, pursuant to Title 5, California Code of Regulations, Section 55514(c);

4) Outcome and retention data, as described in section 55512(a), indicating the effectiveness of matriculation, pursuant to Title 5, California Code of Regulations, Section 55514(d);

5) The basis on which the use of particular assessment instruments, methods or procedures was validated by a district, pursuant to Title 5, California Code of Regulations, Section 55514(e);

6) The numbers of students exempted, pursuant to section 55532, from participation in the district's matriculation program, by category of exemption, pursuant to Title 5, California Code of Regulations, Section 55514(f);

7) The number of students filing complaints pursuant to 55534 and the bases of those complaints, pursuant to Title 5, California Code of Regulations, Section 55514(g);

8) The particular matriculation services, as listed in section 55520, which each student received, pursuant to Title 5, California Code of Regulations, Section 55514(h); and

9) Any other matter the Chancellor, after consultation with community college districts, deems necessary for the effective evaluation of matriculation programs, pursuant to Title 5, California Code of

Regulations, Section 55514(i).

N) For community college districts to develop and implement a program for providing all faculty and staff with training on the provision of matriculation services that meets the following criteria, pursuant to Title 5, California Code of Regulations, Section 55516:

1) The training must be appropriate to the needs of the faculty and staff, pursuant to Title 5, California Code of Regulations, Section 55516.

2) The training must include at least all of the following information regarding assessment instruments, methods or procedures that are used in the matriculation process, pursuant to Title 5, California Code of Regulations, Section 55516:

a) Their proper (1) purpose, (2) design, (3) evaluation, and (4) use, pursuant to Title 5, California Code of Regulations, Section 55516; and

b) Their (1) limitations and (2) possible misuse, pursuant to Title 5, California Code of Regulations, Section 55516.

O) For community college districts, when implementing matriculation services, to ensure that the following uses of assessment instruments are prohibited, pursuant to Title 5, California Code of Regulations, Section 55521:

1) Any use that has not been approved by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55521(a)(1);

2) Use in a manner or for a purpose other than that for which it was developed or validated for, pursuant to Title 5, California Code of Regulations, Section 55521(a)(2);

3) Use of any single instrument by itself for student placement, evaluation or referral purposes, pursuant to Title 5, California Code of Regulations, Section 55521(a)(3);

4) To exclude any person from admission, pursuant to Title 5, California Code of Regulations, Section 55521(a)(4);

5) To mandatorily place a student in or exclude from any educational program, unless as an established prerequisite, pursuant to Title 5, California Code of Regulations, Section 55521(a)(5);

6) To subject any person to unlawful discrimination, pursuant to Title 5, California Code of Regulations, Section 55521(a)(6).

P) For community college districts to implement appropriate modifications in the matriculation process so that the needs of ethnic and language minority students and students with disabilities are accommodated and met, pursuant to Title 5, California Code of Regulations, Section 55522.

Q) For community college districts to make reasonable efforts to provide and implement counseling and advisement services for all of the following students, pursuant to Title 5, California Code of Regulations, Section 55523:

1) All nonexempt students who are on probation, have not declared a

specific educational goal, or are enrolled in pre-collegiate basic skills courses, pursuant to Title 5, California Code of Regulations, Section 55523(a)(1), (a)(2), and (a)(3); and

2) All students in general, to offer advice on academic requirements and the selection of specific courses, pursuant to Title 5, California Code of Regulations, Section 55523(a)(4).

R) For community college districts to establish and implement a process for all of the following, regarding the Student Educational Plan, pursuant to Title 5, California Code of Regulations, Section 55525:

1) Counseling students on selecting a specific educational goal, pursuant to Title 5, California Code of Regulations, Section 55525(a);

2) Affording the student an opportunity to develop a written educational plan, pursuant to Title 5, California Code of Regulations, Section 55525(b);

3) Recording such educational plan, pursuant to Title 5, California Code of Regulations, Section 55525(c);

4) Reviewing the plan as necessary to ensure that the plan continues to accurately reflect the needs and goals of the student, pursuant to Title 5, California Code of Regulations, Section 55525(c);

5) Affording a student the right to file a complaint pursuant to Section 55534(a) if that student believes the district has violated the requirements

of this Section, pursuant to Title 5, California Code of Regulations, Section 55525(d).

S) For community college districts to establish and implement a follow-up process to assist the student in achieving his or her educational goal which includes regular monitoring to detect early signs of academic difficulty and advice or referral to specialized services where necessary, pursuant to Title 5, California Code of Regulations, Section 55526.

T) For the governing boards community college districts to adopt and implement policies and procedures that clearly define student rights and responsibilities and the consequences of failure to fulfill such responsibilities, pursuant to Title 5, California Code of Regulations, Section 55530.

1) Districts must ensure that all such information is available in written form to all students during or prior to enrollment (e.g., during orientation) and be included in class schedules, catalogs, other appropriate publications and in the student's educational plan, pursuant to Title 5, California Code of Regulations, Section 55530(b) and (d);

2) Districts must take steps to ensure that the matriculation process is efficient, pursuant to Title 5, California Code of Regulations, section 55530(c);

3) The policy must define the period of time within which a student must identify a specific educational goal and provide the student with an

opportunity to develop a student educational plan once that goal has been identified by the student, pursuant to Title 5, California Code of Regulations, section 55530(d).

4) The district must classify all information obtained from the matriculation process as "student records" that are subject to the requirements of Sections 54600-54626 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 55530(e).

U) For community college districts to establish and implement written procedures for and to hear a student challenge to an alleged violation of the matriculation program, pursuant to Title 5, California Code of Regulations, Section 55534.

1) Districts must investigate and attempt to resolve any student complaints regarding matriculation violations in a timely manner, pursuant to Title 5, California Code of Regulations, Section 55534(a).

2) Districts must retain records of all such complaints for at least three years after the complaint has been resolved, and to allow review of such records by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55534(a).

3) When a challenge contains an allegation that a community college district has been discriminatory, the district must, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful

discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division, pursuant to Title 5, California Code of Regulations, Section 55534(b).

CONDITION 17. FULL-TIME / PART-TIME FACULTY

A) For community college districts to ensure that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, is taught by full-time instructors, by applying a portion of any "program improvement" funds received pursuant to Education Code Section 84755, according to the following guidelines, pursuant to Education Code Section 87482.6(a):

1) For districts which have between 67 percent and 75 percent of credit instruction hours taught by full-time instructors in the previous fiscal year, to apply up to 33 percent of their program improvement allocation toward the goal of attaining the 75 percent standard, pursuant to Education Code 87482.6(a)(1).

2) For those districts with less than 67 percent of credit instruction hours taught by full-time instructors, to apply up to 40 percent of their program improvement allocation to reach the 75 percent standard, pursuant to Education Code Section 87482.6(a)(2).

B) For community college districts to adopt and implement policies and procedures to comply with and to adjust their budget in accordance with the regulations adopted by the Board of Governors, pertaining to allocation of funds

in relation to the number of full-time equivalent faculty (FTF) employed by a district and the number of credit hours of instruction taught by such faculty, pursuant to Education Code Section 87482.6(b) and Title 5, California Code of Regulations, Sections 53312 and 53314.

1) For districts to compile and prepare all data required for the Chancellor to annually compute and determine the number of full-time faculty a district has retained each year and the estimate number of full-time faculty a district needs to secure for the following year, in order to receive program improvement funds, pursuant to Education Code Section 87482.6(b) and Title 5, California Code of Regulations, Sections 53312 and 53314.

2) For districts to secure the number of full-time faculty that the Chancellor requires, as determined by the computation formula contained in subdivision (b)(3), in order to receive program improvement funds, pursuant to Education Code Section 87482.6(b)(3).

C) For community college districts to implement policies and procedures to comply with the regulations adopted by the Board of Governors which establish minimum standards regarding the percentage of hours of credit instruction that must be taught by full-time instructors, pursuant to Education Code Section 87482.7.

D) For community college districts to implement policies and procedures to comply with the following duties in order to ensure that the 75 percent full-time faculty

percentage is met, pursuant to Title 5, California Code of Regulations, Section 51025:

1) For a district with less than a 75 percent full-time faculty percentage, to increase the base full-time faculty obligation by the Fall term of the succeeding fiscal year by a particular method of calculation as specified in Title 5, California Code of Regulations, Section 50125(a)(1), so that the faculty obligation correlates with the growth revenues received related to increases in the full-time student population, pursuant to Title 5, California Code of Regulations, Section 51025(a)(1).

2) For districts which have between 67 percent and 75 percent of credit instruction hours taught by full-time instructors in the previous fiscal year, to apply up to 33 percent of their program improvement allocation toward the goal of attaining the 75 percent standard, pursuant to Title 5, California Code of Regulations, Section 51025(a)(2).

3) For those districts with less than 67 percent of credit instruction hours taught by full-time instructors, to apply up to 40 percent of their program improvement allocation to reach the 75 percent standard, pursuant to Title 5, California Code of Regulations, Section 51025(a)(3).

4) For districts which are required to apply a portion of their program improvement allocation fund toward reaching the 75 percent standard, to use those funds to increase the number of full-time faculty, by the Fall

term of the succeeding fiscal year, by a particular calculation method as specified in, and pursuant to Title 5, California Code of Regulations, Section 51025(a)(4).

E) For districts to ensure that all policies and procedures regarding the proportion of full-time and part-time faculty to be employed by community colleges, incorporate and implement the requirements contained in Section 51025 of Title 5 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 53300.

F) For districts to define and catagorize all faculty members as either "part-time" or "full-time" in accordance with the definitions prescribed in and pursuant to Title 5, California Code of Regulations, Sections 53301 and 53302.

G) For districts to determine it's full-time faculty percentage using the formula described in Title 5, California Code of Regulations, Section 53308.

H) For districts, when making the calculations required in Section 51025, to calculate full-time equivalent faculty (FTEF) attributable to full-time faculty according to the following rules, pursuant to Title 5, California Code of Regulations, Section 53309:

1) To calculate instruction based on the percentage of instructional hours per week considered a full-time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments, pursuant to Title 5, California Code of

Regulations, Section 53309(a).

2) To calculate non-instructional activities based on the percentage of working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties, pursuant to Title 5, California Code of Regulations, Section 53309(b).

3) To include the regular assignment of full-time faculty as defined in Section 53302, pursuant to Title 5, California Code of Regulations, Section 53309(c).

4) To exclude full-time faculty overload from the calculation of FTEF, pursuant to Title 5, California Code of Regulations, Section 53309(d).

5) To include full-time faculty sabbatical FTEF, whether paid or unpaid, and exclude the FTEF of replacement faculty, whether full-time or part-time, from the computation to determine the full-time faculty percentage in compliance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(e).

6) To include FTEF for full-time faculty who are released or reassigned, pursuant to Title 5, California Code of Regulations, Section 53309(f).

   a) To count the FTEF of a full-time faculty member on released or reassigned time as if the faculty member was teaching/working full-time and had not been provided released or reassigned time, pursuant to Title 5, California Code of Regulations, Section

53309(f).

b) To exclude the FTEF of replacement faculty, whether full-time or part-time, when computing the full-time faculty percentage in compliance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(f).

7) To include unpaid leave FTEF for a faculty member on unpaid leave, pursuant to Title 5, California Code of Regulations, Section 53309(g).

a) To count the FTEF of a full-time faculty member on unpaid leave as if the faculty member was teaching/working full-time and had not been provided with unpaid leave, pursuant to Title 5, California Code of Regulations, Section 53309(g).

b) To exclude the FTEF of replacement faculty, whether full-time or part-time, when computing the full-time faculty percentage in compliance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(g).

8) To include credit instruction FTEF taught by classified staff or administrators who are appropriately qualified to teach, so long as the following conditions are met, pursuant to Title 5, California Code of Regulations, Section 53309(h):

a) Only the actual hours of teaching by such individuals are included in determining the FTEF, pursuant to Title 5, California Code of

Regulations, Section 53309(h); and

b) The hours of teaching by such individuals are part of a regular contract, and not taught as an overload assignment, pursuant to Title 5, California Code of Regulations, Section 53309(h).

9) To include the FTEF of a faculty member who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time faculty member by the current Fall primary term, pursuant to Title 5, California Code of Regulations, Section 53309(i).

10) To exclude the FTEF of replacement faculty, whether full-time or part-time, when computing the full-time faculty percentage in accordance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(i).

a) For districts to fill the position(s) of resigned or retired FTEF by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position, pursuant to Title 5, California Code of Regulations, Section 53309(i).

b) For districts to ensure that, in such cases, replacement is made by

the following primary term to avoid a reduction by the Chancellor in the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025, pursuant to Title 5, California Code of Regulations, Section 53309(i).

I) For districts, when making the calculations required in Section 51025, to calculate the percentage of full-time faculty in the district according to the calculation method prescribed in Section 53308, pursuant to Title 5, California Code of Regulations, Section 53308.

J) For districts, when making the calculations required in Section 51025, to calculate full-time equivalent faculty (FTEF) attributable to part-time faculty according to the following rules, pursuant to Title 5, California Code of Regulations, Section 53310:

1) With respect to instruction, FTEF must be calculated based on the percentage of instructional hours per week considered a full-time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments, pursuant to Title 5, California Code of Regulations, Section 53310(a).

2) With respect to non-instructional activities, FTEF must be calculated based on the percentage of working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties, pursuant to Title 5, California Code of Regulations,

Section 53310(b).

3) All instructional and non-instructional activities of part-time faculty must be included, except the following, pursuant to Title 5, California Code of Regulations, Section 53310(c):

a) FTEF attributable to part-time faculty who replace full-time faculty on sabbatical leave, pursuant to Title 5, California Code of Regulations, Section 53310(c)(1).

b) FTEF attributable to part-time faculty who replace full-time faculty on released or reassigned time, pursuant to Title 5, California Code of Regulations, Section 53310, pursuant to Title 5, California Code of Regulations, Section 53310(c)(2).

c) FTEF of part-time faculty replacing full-time faculty on unpaid leave, pursuant to Title 5, California Code of Regulations, Section 53310(c)(3).

d) FTEF of part-time faculty replacing full-time faculty who resigned or retired late as defined in section 53309(i), pursuant to Title 5, California Code of Regulations, Section 53310(c)(4).

K) To determine the data necessary to calculate the base full-time faculty percentage from the current year's Fall management information system staff data submission to the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 53311.

CONDITION 18. STUDENT EQUITY

A) To establish and implement policies and procedures and to conduct staff training to ensure that a general prohibition against discrimination exists in community colleges, pursuant to Education Code Sections 72010-72014, 221.5, 221.7, 66016 and 66030.

1) To provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex, pursuant to Education Code Section 72011.

2) To establish and implement policies and procedures to ensure that community colleges are in compliance with Education Code Sections 221.5 (policy of the state; prohibited discrimination), 221.7 (school-sponsored athletic programs; prohibited discrimination) and 66016 (equal opportunity; participation in athletics), relating to sex discrimination, pursuant to Education Code Section 72012. (For duties encompassed in Education Code Sections 221.5, 221.7 and 66016, see duties under numbers 5, 6 and 7 respectively).

3) To incorporate into district policies and procedures regarding matters within Division 6 of the Education Code, that with respect to access to community college district services, classes, and programs, and with respect to all references within this division, "handicap" and "disability" have the same meaning, pursuant to Education Code Section 72013.

4) To establish and implement policies and procedures to ensure that no funds under the control of the community college district are ever used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin, pursuant to Education Code Section 72014.

5) To require all classes and courses to be conducted without regard to the sex of the student enrolled, pursuant to Education Code Section 221.5 and 66271.7, in the following ways:

a) Districts must ensure that no student is prohibited from enrolling in any class course the basis of the sex of the pupil, pursuant to Education Code Sections 221.5(b) and 66271.7(b).

b) Districts must ensure that if students of one sex are required to enroll in a particular course, the same course is also required of students of the opposite sex, pursuant to Education Code Sections 221.5(c) and 66271.7(c).

c) Districts must ensure that no school counselor, teacher, instructor, administrator, or aide offers any of the following types of guidance to students of one sex that is different from that offered to students of the opposite sex, based on that student's sex, pursuant to

Education Code Sections 221.5(d) and 66271.7(d):

(i) vocational;

(ii) school program;

(iii) career; or

(iv) higher education opportunity guidance.

d) Districts must require any school personnel acting in a career counseling or course selection capacity to any student, to affirmatively explore with the student the possibility of careers, or courses leading to careers, that are nontraditional for the student's sex, pursuant to Education Code Sections 221.5(d) and 66271.7(d).

e) Districts must notify the parents or legal guardian of a pupil at least once, in advance of career counseling and course selection and allow such parents to participate in the counseling sessions and decisions (for minor students), pursuant to Education Code Section 221.5(d).

f) Districts must make participation in physical education activities or sports available to students of both sexes if it is required of students of one sex, pursuant to Education Code Sections 221.5(e) and 66271.7(e).

6) To ensure that public funds for athletic programs are only used for those

programs that provide equal opportunity to both sexes for participation and for use of facilities, pursuant to Education Code Sections 221.7(b) and 66271.7(g).

7) For the governing boards of community college districts to apportion public funds available for athletics in a manner that ensures that equitable amounts are allocated for all students, insofar as practicable, pursuant to Education Code Section 66271.7(g).

8) To ensure that opportunities for participation in intercollegiate athletic programs be provided on as equal a basis as is practicable to both make and female students, in compliance with the Legislative intent, pursuant to Education Code Section 66016.

9) For the governing boards of the community colleges to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, pursuant to Education Code Section 66030.

B) To create and implement a Comprehensive Mission Statement to identify common educational missions shared by educational institutions in California, pursuant to Education Code Section 66010.1 - 66010.7

1) For the Community Colleges to provide the following, pursuant to Education Code Section 66010.2:

a) Access to education to all qualified Californians, particularly for

those who have been underrepresented in both their graduation rates from secondary institutions and in their attendance at higher educational institutions, pursuant to Education Code Section 66010.2(a);

b) Quality teaching and programs of excellence for their students, pursuant to Education Code Section 66010.2(b); and

c) Educational equity through a diverse student body and faculty, and an environment in which each person, regardless of race, gender, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential, pursuant to Education Code Section 66010.2(c).

2) For Community Colleges to establish and implement policies and procedures for intersegmental collaboration and coordination when it can do any of the following, pursuant to Education Code Section 66010.7(b):

a) Enhance the achievement of the institutional missions shared by the segments, pursuant to Education Code Section 66010.7(b)(1);

b) Provide more effective planning of postsecondary education on a statewide basis, pursuant to Education Code Section 66010.7(b)(2);

c) Facilitate achievement of the goals of educational equity, pursuant to Education Code Section 66010.7(b)(3);

d) Enable public and independent higher education to meet more effectively the educational needs of a geographic region, pursuant to Education Code Section 66010.7(b)(4);

e) Facilitate student progress from one segment to another, particularly with regard to preparation of students for higher education as well as the transfer from the California Community Colleges to four-year institutions, pursuant to Education Code Section 66010.7(b)(5).

3) For the leaders of community colleges and the Superintendent of Public Instruction to work together to promote and facilitate the development of intersegmental programs and other cooperative efforts aimed at improving the progress of students through the educational systems and at strengthening the teaching profession at all levels, pursuant to Education Code Section 66010.7(c).

4) For the community colleges to make available and for the California Postsecondary Education Commission to review and evaluate the effectiveness of intersegmental activities in accomplishing the established goals, and report its findings to the Governor and Legislature biennially, pursuant to Education Code Section 66010.7(d).

C) To establish and implement policies and procedures to comply with the Sex Equity in Education Act of 1988, pursuant to Education Code Sections 66250 -

66292.4.

1) To ensure that equal rights and opportunities in the community colleges are afforded to all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, color, ancestry, sexual orientation, or perception by others that a person has any of the above characteristics, pursuant to Education Code Section 66251.

2) To affirmatively combat racism, sexism, and other forms of bias, pursuant to Education Code Section 66252(b).

3) To incorporate the following terms and definitions into district policies and procedures relating to sex equity in education, as detailed in and pursuant to Education Code Sections 66260-66264:

a) "Governing board" means the governing board of a community college, pursuant to Education Code Section 66261;

b) "Postsecondary educational institution" means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University, pursuant to Education Code Section 66261.5;

c) "Sex" has the same meaning as defined in Section 212, pursuant

to Education Code Section 66262 and pursuant to Education Code Section 212, "Sex" means the biological condition or quality of being a male or female human being;

d) "Sexual harassment" has the same meaning as defined in Section 212.5, pursuant to Education Code Section 66262.5 and pursuant to Education Code Section 212.5, "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(i) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress, pursuant to Education Code Section 212.5(a);

(ii) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual, pursuant to Education Code Section 212.5(b);

(iii) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or

educational environment, pursuant to Education Code Section 212.5(c); or

(iv) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution, pursuant to Education Code Section 212.5(d).

e) "State financial assistance" has the same meaning as defined in Section 213, pursuant to Education Code Section 66263 and pursuant to Education Code Section 213, "State financial assistance" means "any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any pupils admitted to the educational institution that includes all of the following:

(i) Grants of state property, or any interest therein, pursuant to Education Code Section 213(b)(1);

(ii) Provision of the services of state personnel, pursuant to Education Code Section 213(b)(2); and

(iii) Funds provided by contract, tax rebate, appropriation,

allocation, or formula, pursuant to Education Code Section 213(b)(3).

f) "State student financial aid" has the same meaning as defined in Section 214, pursuant to Education Code section 66264 and pursuant to Education Code Section 214, "State student financial aid" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution, which includes, but is not limited to, scholarships, loans, grants, or wages.

4) To ensure that no person in the community colleges is subject to discrimination on the basis of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, color, ancestry, sexual orientation, or perception by others that a person has any of the above characteristics, pursuant to Education Code Section 66270.

5) To establish and implement a written policy on sexual harassment that includes information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies, pursuant to Education Code Section 66281.5(b) and (c).

6) To display a copy of the community college's written policy on sexual

harassment in all of the following places and manners, pursuant to Education Code Section 66281.5(d)-(g):

a) The policy must be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite, pursuant to Education Code Section 66281.5(d).

b) The policy, as it pertains to students, must be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable, pursuant to Education Code Section 66281.5(e).

c) The policy must be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired, pursuant to Education Code Section 66281.5(f).

d) The policy must appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution, pursuant to Education Code Section 66281.5(g).

7) To provide assurance to any agency administering state funds that the activity conducted by the community college will be in compliance with the Sex Equity in Education Act and any other applicable provisions of state

law prohibiting discrimination on the basis of sex, pursuant to Education Code Section 66290.

a) Districts must make this assurance in the manner required by the agency distributing the funds, pursuant to Education Code Section 66290.

b) Districts must make this assurance prior to receipt of such funds, pursuant to Education Code Section 66290.

8) To prepare and submit compliance reports to the Chancellor's office, as that entity may require, pursuant to Education Code Section 66291(a).

9) To make all reports submitted pursuant to 66291(a) available for public inspection during regular business hours, pursuant to Education Code Section 66291(b).

10) For the governing board of a community college district to ensure that programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability, pursuant to Education Code Section 66292(a).

11) To allow a party to a written complaint of prohibited discrimination to appeal any action taken by the governing board of a community college district, pursuant to Education Code Section 66292.3(a).

12) To advise any person who files a complaint of prohibited discrimination that civil law remedies may also be available to such complainants,

pursuant to Education Code Section 66292.3(b).

13) To publish in appropriate informational materials the fact that civil law remedies may be available to complainants of prohibited discrimination, pursuant to Education Code Section 66292.3(b).

D) To establish and implement a Student Equity Plan, as authorized by Education Code Section 66271.1 and implemented by Title 5, California Code of Regulations Sections 51026 and 54220.

1) For the governing board of community college districts to adopt and implement a student equity plan prior to receipt of state aid, pursuant to Title 5, California Code of Regulations Section 51026.

2) For Community College districts to adopt and implement a student equity plan which includes the following for each college in the district, pursuant to Title 5, California Code of Regulations, Section 54220:

a) Campus-based research as to the extent of student equity in (1) access, (2) retention, (3) degree and certificate completion, (4) ESL and basic skills completion, and (5) transfer and the determination of what activities are most likely to be effective, pursuant to Title 5, California Code of Regulations, Section 54220(a)(1);

(i) To periodically review the data compiled, and

(ii) To make efforts to address any problems that are identified, pursuant to Chancellor's Revised Guidelines and

Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

b) Goals for (1) access, (2) retention, (3) degree and certificate completion, (4) ESL and basic skills completion, and (5) transfer; for the overall student population and for each population group of students, as appropriate, pursuant to Title 5, California Code of Regulations, Section 54220(a)(2);

(i) For these goals to meet the following standards: (1) be written; (2) include specific measures for determining progress toward achieving the desired outcomes; (3) identify the baseline data findings that forms the bases for noting an equity issue; (4) identify the amount and direction of change expected to reflect the desired outcome or amount of progress to be achieved; (5) include target dates and/or timetables to establish a time frame for assessing the effectiveness in achieving expected outcomes, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

c) Race-neutral measures, or, when legally appropriate, race-conscious measures, implemented in accordance with standards adopted by the Board of Governors, to address any disparity in

student population if significant underrepresentation of a particular group is found to exist, pursuant to Title 5, California Code of Regulations, Section 54220(a)(2);

(i) To implement race/gender neutral measures when working to eliminate any noted underrepresentation, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(ii) To take active steps, beyond compliance with nondiscrimination laws, to promote student equity when significant underrepresentation exists, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(iii) To implement the following procedures when significant underrepresentation exists: (1) review its practices and procedures and identify and implement any additional measures which might reasonably be expected to address the needs of significantly underrepresented groups in the success indicator areas in question; (2) consider various other means of reducing the underrepresentation, which do not involve taking underrepresented group status into account, and implement any such techniques which are

determined to be feasible and potentially effective; and (3) establish target dates for achieving expected outcomes, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(iv) To use race/gender neutral methods to rectify underrepresentation for at least 3 years before considering mechanisms that take race or gender into account, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

d) Implementation activities designed to attain the goals, including a means of coordinating existing student equity related programs, pursuant to Title 5, California Code of Regulations, Section 54220(a)(3);

e) Sources of funds for the activities in the plan, pursuant to Title 5, California Code of Regulations, Section 54220(a)(4);

f) A schedule and process for evaluation, pursuant to Title 5, California Code of Regulations, Section 54220(a)(5);

(i) To conduct an annual survey of the college's student population and gather ethnicity, gender and disability data

for use in evaluating the progress in implementing the goals set forth in its plan, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(ii) For the evaluation schedule to contain specific information about who is doing what and when and how often the plan itself will be evaluated, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(g) An executive summary that includes, at a minimum, (1) the groups for whom goals have been set; (2) the goals; (3) the initiatives that the college or district will undertake to achieve these goals; (4) the resources that have been budgeted for that purpose; and (5) the district official to contact for further information, pursuant to Title 5, California Code of Regulations, Section 54220(a)(6);

(i) For the designated contact person to be responsible for the following: (1) monitoring, review, and evaluation of student success for all students; (2) guiding the planning and development process to promote student success; (3) compiling the results of the periodic review process to determine effective success strategies; (4) reporting these

findings to the success/equity advisory committee on an annual basis; (5) submitting a copy of this report along with any resulting committee board action to the Chancellor's Office, pursuant to Chancellor's Revised Guidelines and Information, (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

3) To develop the student equity plan with the active involvement of all groups on campus and with the involvement of appropriate people from the community, pursuant to Title 5, California Code of Regulations, Section 54220(b). To implement this subdivision, the governing board must determine who may qualify as "appropriate people from the community" and give notice to such people and also to all groups on campus of any meetings or activities regarding the development of the student equity plan.

4) For the governing board to submit the Board-adopted plan to the Office of the Chancellor, pursuant to Title 5, California Code of Regulations, Section 54220(c).

E) Community Colleges must ensure that their student equity plans, established pursuant to Title 5, California Code of Regulations, Sections 51026 and 54220 adhere to the Chancellor's criteria for reviewing and evaluating student equity plans, as detailed in and pursuant to the "Student Equity Plan Review

Procedures and Instructions" contained in Appendix 1 of "Student Equity: Guidelines for Developing a Plan, 2002"

CONDITION 19. TRANSFER CENTERS

A) To implement policies and procedures to comply with the statewide common course numbering system adopted and disseminated by the Board of Governors, pursuant to Education Code Section 71027.

B) To implement policies and procedures to comply with the common core curriculum for transfer, established and disseminated by the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University, pursuant to Education Code Sections 66720 -66722.5

1) For the governing board of each community college district to direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum, pursuant to Education Code Section 66721.5(a)

2) For community colleges to ensure that a copy of the current transfer core curriculum is distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution, pursuant to Education Code Section 6621.5(b)

3) For the governing board of community college districts to ensure that the

text of the current transfer core curriculum is included in the published class schedule for each academic term, pursuant to Education Code Section 6621.5(c).

4) For community colleges to implement policies and procedures to ensure that the transfer function is a central institutional priority, and that the maintenance of an effective transfer system constitutes a fundamental policy and practice in the community college system, pursuant to Education Code Section 66722.

5) For community colleges to implement policies and procedures to pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments, pursuant to Education Code Section 66722.5.

C) For community college districts to implement a comprehensive transfer system, pursuant to Education Code Sections 66730 - 66744.

1) To recognize student matriculation from community colleges through the University of California and the California State University as a central institutional priority of all segments of higher education, pursuant to Education Code Section 66731.

2) For the governing boards of each community college district to design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University, pursuant to Education Code Section 66732.

a) To declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within the district, pursuant to Education Code Section 66732; and

b) To declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education, pursuant to Education Code Section 66732.

3) For each community college district governing board to ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services, pursuant to Education Code Section 66736.

a) To design and implement such centers or services to affirmatively:

(1) seek out,

(2) counsel,

(3) advise, and

(4) monitor the progress of (a) potential and (b) identified community college transfer students, pursuant to Education Code Section 66736.

b) To ensure that all such policies and procedures give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations, pursuant to Education Code Section 66736.

4) For community college districts to implement policies and procedures to comply with the new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education designed to facilitate the successful transfer of students between the community colleges and the universities, as developed by the Board of Governors of the California Community Colleges, pursuant to Education Code Section 66737.

5) For the governing board of each community college district to assist in the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures

to support and enhance the transfer function, pursuant to Education Code Section 66738.

a) To ensure that the elements in a comprehensive transfer system include the following, pursuant to Education Code Section 66738(b):

(1) Enrollment and resource planning; intersegmental faculty curricular efforts;

(2) Coordinated counseling;

(3) Financial aid and transfer services;

(4) Transfer articulation agreements and programs;

(5) Specific efforts to improve diversity;

(6) Early outreach activities;

(7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses; and

(8) Centers.

b) To expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, pursuant to Education Code Section 66738(c);

c) To expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus, pursuant to Education Code Section 66738(c).

D) For faculty from the community colleges and university campuses to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency, pursuant to Education Code Section 66740.

1) To implement policies and procedures to ensure that, where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors are made readily available to (a) community college counselors, (b) faculty, and (c) students on an annual basis, pursuant to Education Code Section 66740.

2) In cases where the prescribed course of study is altered by the university department, to communicate notice of the modification to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major, pursuant to Education Code Section 66740.

3) For Community college districts, in conjunction with the California State University and the University of California, to develop discipline-based

agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses, pursuant to Education Code Section 66740.

E) To ensure that, each community college student is assured of the opportunity to enter into a transfer agreement program enabling a student to (1) receive high priority consideration, (2) attain equivalent special treatment, or (3) enter into a contract when applying for university admission at the advanced standing level, pursuant to Education Code Section 66741.

F) For the community college governing boards to prepare and present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature, pursuant to Education Code Section 66742.

1) For the reports to include recent statistics on student enrollment by the following, pursuant to Education Code Section 66742:

a) campus,

b) segment,

c) gender,

d) ethnicity, and

e) the ratio of upper division to lower division, including information on both (1) freshman and (2) transfer student access to the system.

2) For the reports to include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus, pursuant to Education Code Section 66742.

3) To ensure that, for transfer students, this data indicates the segment of origin for all students, pursuant to Education Code Section 66742.

4) For the data to be separately identified for transfer students from California Community Colleges, pursuant to Education Code Section 66742.

5) For the data to identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group, pursuant to Education Code Section 66742.

6) For the reports to describe the following, pursuant to Education Code Section 66742:

   a) The number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, pursuant to Education Code Section 66742;

   b) The number of California Community College transfer students denied either (1) admission to the student's first choice of a particular campus of the California State University or the

University of California or (2) the student's first choice of a major field of study, pursuant to Education Code Section 66742; and

c) The number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California, pursuant to Education Code Section 66742.

7) For the reports to include information by sex and ethnicity on retention and degree completion for the following, pursuant to Education Code Section 66742:

a) transfer students

b) native students, and

c) the number and percentage of baccalaureate degree recipients who transferred from a community college.

G) For community college districts to compile, prepare and make available data required by the California Postsecondary Education Commission's intersegmental advisory committee on transfer access and performance so that the committee may present biennial reports to the Governor and the Legislature on the status of transfer policies and programs, pursuant to Education Code Section 66743

H) To implement and comply with minimum standards for transfer centers, pursuant to Title 5 of the California Code of Regulations, Section 51027.

1) For the governing board of each community college district to recognize transfer as one of its primary missions, and to place priority emphasis on the preparation and transfer of underrepresented students, including African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepresented in the transfer process, pursuant to Title 5, California Code of Regulations, Section 51027(a).

2) For each community college district governing board to develop, adopt and implement a transfer center plan that includes the following, pursuant to Title 5, California Code of Regulations, Section 51027(b):

a) A description of the activities of the transfer center and the services to be provided to students, pursuant to Title 5, California Code of Regulations, Section 51027(b);

b) Identification of target student populations, pursuant to Title 5, California Code of Regulations, Section 51027(b);

c) Establishment of target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students, pursuant to Title 5, California Code of Regulations, Section 51027(b);

d) Consultation with baccalaureate college and university personnel in

the development of the transfer center plan, pursuant to Title 5, California Code of Regulations, Section 51027(b); and

e) Inclusion of at least the following plan components, pursuant to Title 5, California Code of Regulations, Section 51027(b):

(1) services to be provided to students;

(2) facilities;

(3) staffing;

(4) advisory committee; and

(5) evaluation and reporting.

3) For community college districts to implement the following required services, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1):

a) To identify, contact, and provide transfer support services to targeted student populations as identified in the transfer center plan, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(A);

(1) To place priority emphasis on African-American, Chicano/Latino, American Indian, disabled, low-income, and other underrepresented students; and

(2) To develop and implement these activities in cooperation with student services departments and with faculty.

b) To ensure: (1) the provision of academic planning for transfer, (2) the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and (3) the development and use of course-to-course and major articulation agreements, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(B).

(1) To ensure that academic planning and articulation activities are provided in cooperation with (1) student services, (2) with faculty, and (3) with baccalaureate institution personnel as available.

c) To ensure that students receive accurate and up-to-date academic and transfer information through coordinated transfer counseling services, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(C).

d) To monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(D).

e) To support the progress of transfer students through referral as necessary, to such services as: (1) ability and diagnostic testing, (2) tutoring, (3) financial assistance, (4) counseling, and (5) to other

instructional and student services on campus as appropriate, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(E).

f) To assist students in the transition process, including timely completion and submittal of necessary forms and applications, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(F).

g) To develop and implement a schedule of services for transfer students to be provided by baccalaureate institution staff, in cooperation with baccalaureate institution personnel as available, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(G).

h) To provide: (1) a resource library of college catalogs, (2) transfer guides, (3) articulation information and agreements, (4) applications to baccalaureate institutions, and (5) related transfer information, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(H).

4) For each district governing board to provide space and facilities adequate to support the transfer center and its activities, pursuant to Title 5, California Code of Regulations, Section 51027(b)(2).

a) To designate a particular location on campus as the focal point of

transfer functions, pursuant to Title 5, California Code of Regulations, Section 51027(b)(2).

b) To ensure that this location is readily identifiable and accessible to students, faculty, and staff, pursuant to Title 5, California Code of Regulations, Section 51027(b)(2).

5) For each district governing board to provide clerical support for the transfer center and assign college staff to accomplish the following, pursuant to Title 5, California Code of Regulations, Section 51027(b)(3):

a) To coordinate the activities of the transfer center;

b) To coordinate underrepresented student transfer efforts;

c) To serve as liaison to articulation, to student services, and to instructional programs on campus;

d) To work with baccalaureate institution personnel.

6) For each district to designate an advisory committee to plan the development, implementation, and ongoing operations of the transfer center, pursuant to Title 5, California Code of Regulations, Section 51027(b)(4).

a) To ensure that membership is representative of campus departments and services.

b) To ensure that Baccalaureate institution personnel are included as available.

7) For each district governing board to include in its transfer center plan, a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan, pursuant to Title 5, California Code of Regulations, Section 51027(b)(5).

8) For each community college district to prepare and submit an annual report to the Chancellor describing the following, pursuant to Title 5, California Code of Regulations, Section 51027(b)(5):

a) the status of the district's efforts to implement its transfer center(s),

b) achievement of transfer center plan targets and goals, and

c) expenditures supporting transfer center operations.

COMPONENT 20: COMPLIANCE ENFORCEMENT

A) To adopt and implement policies and procedures to comply with the requirements of Education Code Section 70901(b)(6) and Chapter 2 of Division 6 of the California Code of Regulations regarding the minimum conditions the district must meet to receive state aid for the support of the community college, pursuant to Title 5, California Code of Regulations, Section 51000.

B) To prepare and submit all data necessary to respond to any review by the State Chancellor to determine whether the district has complied with the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2 of the California Code of Regulations, pursuant to Title 5, California

Code of Regulations, Section 51101.

C) To adopt and implement policies and procedures to comply with any enforcement orders that the Chancellor may issue to the district regarding district compliance with the provisions of Subchapter 1 (commencing with Section 51100) of Chapter 2 of the California Code of Regulations (Minimum Conditions), pursuant to Title 5, California Code of Regulations, Section 51102.

1) To prepare and submit to the Chancellor an official written response by a date specified by the Chancellor, if the Chancellor notifies the chief executive officer of the district that any noncompliance with the Subchapter exists, pursuant to Title 5, California Code of Regulations, Section 51102(a);

2) If the Chancellor so requires, to prepare, submit and implement a plan and timetable for achieving compliance as a condition for continued receipt of state aid Title 5, California Code of Regulations, Section 51102(b)(2).

SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

None of the Government Code Section 17556[121] statutory exceptions to a finding

[121]Government Code section 17556 as last amended by Chapter 589/89:

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if after a hearing, the commission finds that:
(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to

of costs mandated by the state apply to this statute. Note that to the extent community colleges may have previously performed functions similar to those mandated by the referenced code section, such efforts did not establish a preexisting duty that would relieve the state of its constitutional requirement to later reimburse districts when these activities became mandated.[122]

SECTION 3. FUNDING FOR THE STATE MANDATE

No funds were appropriated by the statute, regulation, or executive orders which establish the programs which result in costs mandated by the state.

"AB 1725," Statutes of 1988, Chapter 973 Programs

Several of the activities included in this test claim were initially established by "AB 1725," Statutes of 1988, Chapter 973. At Section 70 (an uncodified section),

---

implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."

[122]Government Code section 17565, as added by Chapter 879/86:

If a local agency or school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.

subdivision (b) (2), states: "It is the intent of the Legislature that moneys appropriated during Phase II fully fund any state mandate created pursuant to this section." At subdivision (e): "Based on estimates provided . . . , the Legislature finds and declares that its estimate of this funding amount is seventy million dollars ($70,000,000), in addition to the seventy million dollars ($70,000,000) estimated under subdivision (d) [for Phase I]."

The appropriations referenced in the Section 70 intent language are assigned to specific priorities in Education Code section 84755[123] (added by Statutes of 1988,

---

[123]Education Code section 84755, as added by Chapter 973/88, Section 21.7

(a) The Legislature finds and declares that program-based funding, once implemented, will more adequately and accountably fund the costs of providing quality community college education. Given that program-based funding will not be implemented until fiscal year 1991-92, given that community colleges will be entering a period of major reform and incurrence of new state mandates commencing in January 1989, and given that community colleges will be entering this period of reform having lost purchasing power since the 1977-78 fiscal year, the Legislature recognizes the need to create a transitional funding mechanism for program improvement and mandate funding that can operate until program-based funding is implemented.

(b) For the purpose of improving the quality of community college educational programs and services, for the purpose of reimbursing state-mandated local program costs imposed by this act, and for the purposes of initially implementing specified reforms, the board of governors shall, from amounts appropriated for purposes of this section, allocate program improvement revenues to each district on the basis of an amount per unit of average daily attendance funded in the prior fiscal year. However, this amount shall be increased or decreased to provide for equalization in a manner determined by the Board of Governors, consistent with Sections 84703 to 84705, inclusive.

Each community college district shall use its allocation to initially reimburse state-mandated local program costs, and then to implement specified reforms and make authorized program and service improvements as follows:

(1) Developing articulated programs provided for in Section 69 of Chapter 973 of the Statutes of 1988 with school districts and campuses of the University of California and California State University.

(2) Applying minimum qualifications to all newly hired faculty and administrators, including candidates for these positions as required by Section 87356.

(3) Developing and administering a process for waiver of minimum qualifications as required by Section 87359.

(4) Establishing and applying local hiring criteria as required by Section 87360.

(5) Establishing and applying faculty service areas and competency criteria as required by Sections 87743 to 87743.5, inclusive.

Chapter 973, Section 21.7), including Section 87610.1 which is referenced at subdivision (b), items (7) and (8). However, in a preamble, subdivision (b) states that the new funds will be allocated to "each district on the basis of an amount per unit of

---

(6) Evaluating temporary employees, instituting peer review evaluation, and widely distributing evaluation procedures as required by Section 87663.

(7) Establishing and applying new processes for tenure evaluation required by Section 87610.1.

(8) Establishing and applying the tenure denial grievance procedure required by Section 87610.1.

(9) Establishing and applying a process for moving administrators into faculty positions as required by Sections 87454 to 87458, inclusive.

(10) Publishing and distributing a report on the affirmative action success rate as required by Section 87102.

(11) Improving instruction by reducing the ratio of full-time equivalent students to full-time equivalent instructors.

(12) Improving instruction by increasing the hiring of full-time instructors and limiting the practice of hiring part-time instructors.

(13) Augmenting budgets for college libraries and learning resources.

(14) Augmenting budgets for plant maintenance and operations.

(15) Adding new courses or programs to serve community need.

(16) Making progress towards affirmative action goals and timetables established by the district.

(17) Developing and maintaining programs and services authorized by Section 78212.5.

(18) Augmenting budgets for student services in the areas of greatest need.

(19) Providing for release time for faculty and staff as deemed appropriate by the governing board of each community college district, to enable faculty and staff participation in implementing reforms.

(c) Except as provided by Section 87482.6, and except as necessary to reimburse the costs of new state mandates, district governing boards shall have full authority to expend program improvement allocations for any or all of the authorized purposes specified in subdivision (b).

(d) As required by the board of governors, the governing board of each community college district shall submit to the board of governors a plan for using the resources allocated pursuant to this section. The board of governors shall review each plan to ensure that proposed expenditures are consistent with the listing of authorized expenditures provided in this section, and the board of governors shall approve all plans to the full extent that expenditures are authorized by this section. To the extent that a community college district expends its program improvement allocation consistent with its plan, the board of governors shall include the district's allocation as part of the district's base budget for subsequent years.

(e) The board of governors, through the annual systemwide budget submitted pursuant to paragraph (5) of subdivision (b) of Section 70901, shall request necessary resources for the purposes of this section. It is the intent of the Legislature that the appropriation and allocation of program improvement money not otherwise provided pursuant to subdivision (b) shall be accomplished through the annual state budget process beginning with the 1989-90 fiscal year. After June 30, 1991, if Section 84750 is implemented, it is the intent of the Legislature to fund the ongoing operations of community college districts pursuant to Section 84750.

average daily attendance funded in the prior fiscal year," but only after the amount is "increased or decreased to provide for equalization." This effectively negates any concept of cost reimbursement, which is the actual cost of the increased level of service, it is merely a general funding device disguised as a mandate reimbursement apportionment.

Notwithstanding, this funding scenario, to the extent actually implemented, it does not meet the Government Code section 17556, subdivision (e) exception to a finding of "costs mandated by the state," since the statute (Chapter 973/88) did not provide for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or *include additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.* The funding, to the extent it actually was later provided, was provided by *subsequent* legislation, and *the sufficiency* of the funding remains a question of fact (note that Section 70 declares that it is an "estimate"). More to the point, at Section 67 of Chapter 973, Statutes of 1988, the Legislature leaves it to the Commission on State Mandates to determine if there are any reimbursable mandated costs.

To the extent that funding was made available, and continues to be made available each subsequent year, such funding might reduce the reimbursable costs, but does not preclude an initial determination of whether a reimbursable mandate exists. The test claimant is informed and believes that the Chancellor of the California

Community Colleges on or about 1991 prepared an AB 1725 cost questionnaire to obtain from each community college the cost of implementing the provisions of AB 1725, that the cost data was specific to each new program enacted, that most of the community colleges provided this data to the Chancellor, and that the Chancellor is in possession of this information. This information can be utilized to establish base-period cost and revenue information.

Special Purpose Funding

Community colleges received dedicated grant and categorical funding for some of the activities included in this test claim (e.g., Matriculation Services). To the extent that the funding is provided each year, and to the extent that the dedicated funds are applied to activities mandated by the state, the amounts received and applicable to mandated activities will reduce the amount of cost mandated by the state. The test claimant is informed and believes that the Chancellor of the California Community Colleges has the documentation necessary to determine the amounts of these special purpose funds allocated to each college year, and the purposes for which the funds were intended. This information can be utilized to determine the revenue offset amounts each year.

PART IV. ADDITIONAL CLAIM REQUIREMENTS

The following elements of this claim are provided pursuant to Section 1183, Title 2, California Code of Regulations:

Exhibit 1: The Declaration of Piedad F. Robertson,
President, Santa Monica Community College District

Exhibit 2: Copies of Statutes cited:

Chapter 1169, Statutes of 2002
Chapter 187, Statutes of 2000
Chapter 587, Statutes of 1999
Chapter 1023, Statutes of 1998
Chapter 914, Statutes of 1998
Chapter 365, Statutes of 1998
Chapter 758, Statutes of 1995
Chapter 493, Statutes of 1995
Chapter 1198, Statutes of 1991
Chapter 1188, Statutes of 1991
Chapter 1038, Statutes of 1991
Chapter 1667, Statutes of 1990
Chapter 1372, Statutes of 1990
Chapter 1514, Statutes of 1988
Chapter 973, Statutes of 1988
Chapter 1467, Statutes of 1986
Chapter 1371, Statutes of 1984
Chapter 537, Statutes of 1983
Chapter 143, Statutes of 1983
Chapter 1329, Statutes of 1982
Chapter 1117, Statutes of 1982
Chapter 891, Statutes of 1981
Chapter 470, Statutes of 1981
Chapter 910, Statutes of 1980
Chapter 977, Statutes of 1979
Chapter 797, Statutes of 1979
Chapter 967, Statutes of 1977
Chapter 36, Statutes of 1977
Chapter 1176, Statutes of 1976
Chapter 783, Statutes of 1976
Chapter 275, Statutes of 1976
Chapter 802, Statutes of 1975
Chapter 1526, Statutes of 1974
Chapter 280, Statutes of 1974
Chapter 182, Statutes of 1974
Chapter 1525, Statutes of 1971

Exhibit 3: Education Code sections cited:

212	66251	66271.1	66722	66742	72014	78214	87101
212.5	66252	66271.7	66722.5	66743	78015	78215	87102
213	66260	66281.5	66730	70901	78016	78216	87103
214	66261	66290	66731	70901.5	78210	78218	87105
221.5	66261.5	66291	66732	70902	78211	81820	87106
221.7	66262	66292	66736	71027	78211.5	81821	87107
66010.2	66262.5	66292.3	66737	72011	78212	81822	87108
66010.7	66263	66720	66738	72012	78212.5	81823	87482.6
66016	66264	66721	66740	72013	78213	87100	87482.7
66030	66270	66721.5	66741				

Exhibit 4: Title 5, California Code of Regulations sections cited:

51000	51102	53203	55006	55316.5	55522	55753	55805
51002	53000	53204	55100	55320	55523	55753.5	55805.5
51004	53001	53206	55130	55321	55524	55753.7	55806
51006	53002	53207	55150	55322	55525	55754	55807
51008	53003	53300	55160	55340	55526	55755	55808
51010	53004	53301	55170	55350	55530	55756	55809
51012	53005	53302	55182	55401	55532	55756.5	55825
51014	53006	53308	55200	55402	55534	55757	55827
51016	53020	53309	55201	55403	55600	55758	55828
51018	53021	53310	55202	55404	55601	55758.5	55829
51020	53022	53311	55205	55405	55602	55759	55830
51021	53023	53312	55207	55500	55602.5	55760	55831
51022	53024	53314	55209	55502	55603	55761	58102
51023	53025	54220	55211	55510	55605	55762	58104
51023.5	53026	55000	55213	55512	55607	55763	58106
51023.7	53027	55000.5	55215	55514	55620	55764	58107
51024	53030	55001	55217	55516	55630	55765	58108
51025	53033	55002	55219	55518	55750	55800	
51026	53034	55002.5	55300	55520	55751	55800.5	
51027	53200	55004	55316	55521	55752	55801	
51100	53202	55005					

Exhibit 5: State Agency Program Manuals and advisories (Executive Orders)

Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002)

"Program and Course Approval Handbook" Chancellor's Office California Community Colleges (September 2001)

"Student Equity: Guidelines for Developing a Plan" Fall 2002, The Academic Senate for California Community Colleges
(Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions")
(Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, adopted by the Academic Senate Fall 2002)

Exhibit 6: Informational Exhibits

Component 5: Equal Employment Opportunity
Memo issued by the Board of Governors, "Title 5 Regulations: Equal Employment Opportunity, Action Scheduled" (July 8-9, 2002)

Component 7: Approval of New Colleges and Educational Centers
Memo issued by the Board of Governors, "Approval of College Status for Folsom Lake Center, Los Rios Community College District, Action Scheduled" (November 12-13, 2002)

Component 16: Matriculation
Report issued by the Chancellor's Office, "Matriculation Standards"

Memo issued by the Board of Governors, "Study Session on Basic Skills, Information" (July 8-9, 2002)

Component 18: Student Equity
Report issued by the Board of Governor's Committee on Equity, Diversity and Human Resources, "Report from the Equity and Diversity Task Force" (November 12-13, 2002)

Component 20: Compliance Enforcement
Report issued by the Board of Governors, "Minutes of the Meeting" (November 12, 2002)

General Information
Report issued by the Chancellor's Office, "Description of Grant Programs Administered by the Chancellor's Office" (last revised October 9, 2002)

Report issued by the Chancellor's Office, "AB 1725: A Comprehensive Analysis" (January 1989)

Memo issued by the Chancellor's Office, "AB 1725: First Major Update" (August 1989)

Memo issued by the Chancellor's Office, "AB 1725: Second Major Update" (October 1990)

PART V. CERTIFICATION

I declare under penalty of perjury that the statements made in this document are true and correct of my own knowledge, and as to all other matters, I believe them to be true and correct based upon information and belief.

Executed on June 13, 2003, at Santa Monica, California, by:

Thomas J. Donner
Executive Vice President, Business/Administration
Santa Monica Community College District
1900 Pica Blvd.
Santa Monica, California 90405-1628

Voice: (310) 434-4201
FAX: (310) 434-8200

/
/
/

PART VI. APPOINTMENT OF REPRESENTATIVE

Santa Monica Community college appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.

Thomas J. Donner, Executive Vice President
Business/Administration
Santa Monica Community College District

6-13-03
Date

/
/
/
/

EXHIBIT 1

DECLARATIONS

DECLARATION OF PIEDAD F. ROBERTSON, PRESIDENT

Santa Monica Community College District

Test Claim of Santa Monica Community College District

COSM No. _____

COMPONENT 1: STANDARDS OF SCHOLARSHIP:
T5, CCR, Sections 51002, 55750-55765

COMPONENT 2: DEGREES AND CERTIFICATES:
T5, CCR, Sections 51004, 55800-55809

COMPONENT 3: OPEN COURSES:
T5, CCR, Sections 51006, 58102-58108

COMPONENT 4: COMPREHENSIVE PLAN:
Education Code Sections 81820-81823 T5, CCR, Sections 51008, 55401-55405

COMPONENT 5: EQUAL EMPLOYMENT OPPORTUNITY:
Education Code Sections 87100-87108 T5, CCR, Sections 51010, 53000-53034

COMPONENT 6: STUDENT FEES:
T5, CCR, Section 51012

COMPONENT 7: APPROVAL OF NEW COLLEGES AND EDUCATIONAL CENTERS:
T5, CCR, Sections 51014, 55825-55831

COMPONENT 8: ACCREDITATION:
T5, CCR, Section 51016

Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002)

COMPONENT 9: COUNSELING PROGRAMS:
T5, CCR, Section 51018

COMPONENT 10: INSTRUCTIONAL OBJECTIVES:
T5, CCR, Section 51020

COMPONENT 11: CURRICULUM:
T5, CCR, Sections 51021, 55000-55350

"Program and Course Approval Handbook" Chancellor's Office California Community Colleges (September 2001)

COMPONENT 12: VOCATIONAL EDUCATION PROGRAMS:
Education Code Sections 78015-78016 T5, CCR, Sections 51022, 55600-55630

COMPONENT 13: COURSE ARTICULATION-LOCAL:
T5, CCR, Section 51022

COMPONENT 14: ACADEMIC FREEDOM:
T5, CCR, Section 51023

COMPONENT 15: SHARED GOVERNANCE (Faculty, Staff, Students):
T5, CCR, Sections 51023-51023.7, 53200-53207

COMPONENT 16: MATRICULATION:
Education Code Sections 78210-78218 T5, CCR, Sections 51024, 55500-55534

COMPONENT 17: FULL-TIME / PART-TIME FACULTY:
Education Code Sections 87482.6-87482.7 T5, CCR, Sections 51025, 53300-53314

COMPONENT 18: STUDENT EQUITY:
Education Code Sections 212, 212.5, 213, 214, 221.5, 221.7, 66010.2, 66010.7, 66016, 66030, 66251-66292.3, 72011-72014

T5, CCR, Sections 51026, 54220

Chancellor's Office "Student Equity Plan Review Procedures and Instructions" (Appendix 1 of "Student Equity: Guidelines for Developing a Plan," 2002)

Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, adopted by the Academic Senate Fall 2002 (Appendix 3 of "Student Equity Guidelines for Developing a Plan, 2002)

COMPONENT 19: TRANSFER CENTERS:
Education Code Sections 66720-66743, 71027 T5, CCR, Section 51027

COMPONENT 20: ENFORCEMENT
Education Code Section 70901(b) T5, CCR, Sections 51000, 51100-51102

Minimum Conditions for State Aid

I, Piedad F. Robertson, President/Superintendent, Santa Monica Community College District, make the following declaration and statement.

In my capacity as President, I am responsible for the district's compliance with laws governing the operation of the district. I am familiar with the provisions and requirements of the Education Code Sections, California Code of Regulations and Implementing Guidelines of the Chancellor's Office enumerated above which require the district to:

COMPONENT 1: STANDARDS OF SCHOLARSHIP

A) To adopt and implement regulations consistent with the standards of scholarship contained in Title 5, California Code of Regulations, Sections 55750 - 55765, as a minimum condition for receipt of state aid, pursuant to Title 5, California Code of Regulations, Section 51002 and 55750.

1) To file a copy of such regulations, and any amendments with the Chancellor, pursuant to Section 51002(b);

2) To substantially comply with such regulations and the regulations of the Board of Governors pertaining to standards of scholarship, pursuant to Section 51002(c);

3) To publish such regulations in the college catalog under appropriate headings, pursuant to Section 55750.

B) To determine and implement a uniform grading practice for the district which is based on sound academic principles and conforms to the following standards, pursuant to Title 5, California Code of Regulations, Section 55751:

1) Work in all courses acceptable in fulfillment of the requirements for an

associate or baccalaureate degree, a certificate, diploma or license must be graded in accordance with the governing board adopted grading scale, pursuant to Title 5, California Code of Regulations, Section 55751(a); and,

2) Such work must also be graded in accordance with the provisions of section 55752 (regarding credit-no credit options) or section 55753 (regarding credit by examination), pursuant to Title 5, California Code of Regulations, Section 55751(b).

C) To implement the following, regarding courses offered on a credit-no credit basis, pursuant to Title 5, California Code of Regulations, Section 55752:

1) To make the decision to offer such courses by resolution and to issue regulations authorizing such credit-no credit courses, pursuant to Title 5, California Code of Regulations, Section 55752(a).

2) To specify in the college catalog the category into which each course falls, pursuant to Title 5, California Code of Regulations, Section 55752(a):

a) Courses where all students are evaluated on a "credit-no credit" basis, pursuant to Title 5, California Code of Regulations, Section 55752(a)(1); and

b) Courses where each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit-no credit" or a letter grade, pursuant to Title 5, California Code of Regulations, Section 55752(a)(2).

3) To ensure that all units earned on a "credit-no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions are counted in satisfaction of community college curriculum

requirements, pursuant to Title 5, California Code of Regulations, Section 55752(b).

4) To ensure that units earned on a "credit-no credit" basis are not used to calculate grade point averages, pursuant to Title 5, California Code of Regulations, Section 55752(c).

5) To consider units attempted for which "NC" (as defined in section 55758) is recorded in probation and dismissal procedures, pursuant to Title 5, California Code of Regulations, Section 55752(c).

6) To allow independent study courses to be graded on a "credit-no credit" basis, pursuant to Title 5, California Code of Regulations, Section 55752(d).

7) To use the "CR/NC" grading system when a district offers courses in which there is a single standard of performance for which unit credit is assigned, pursuant to Title 5, California Code of Regulations, Section 55752(e).

D) To adopt, publish, and implement procedures and regulations pertaining to credit by examination, which implement the following requirements, pursuant to Title 5, California Code of Regulations, Section 55753:

1) To only grant credits to students who are registered at the college, in good standing and only for a course listed in the catalog of the community college, pursuant to Title 5, California Code of Regulations, Section 55753(b).

2) To ensure that the nature and content of an examination to be determined solely by faculty in the discipline that normally teaches the course for

which credit is to be granted, pursuant to Title 5, California Code of Regulations, Section 55753(c).

3) To ensure that a separate examination is conducted for each course for which credit is to be granted, pursuant to Title 5, California Code of Regulations, Section 55753(d).

4) To ensure that a student's academic record is clearly annotated to reflect that credit was earned by examination, pursuant to Title 5, California Code of Regulations, Section 55753(e).

5) To ensure that grading is performed according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit-no credit option if that option is ordinarily available for the course, pursuant to Title 5, California Code of Regulations, Section 55753(f).

6) To ensure that units for which credit is given pursuant to the provisions of this section are not be counted in determining the 12 semester hours of credit in residence required for an associate degree, pursuant to Title 5, California Code of Regulations, Section 55753(g).

E) For the curriculum committee to establish and implement policies and procedures for appropriate faculty to follow in determining an "articulated high school course," deemed to be comparable to a specific community college course, pursuant to Title 5, California Code of Regulations, Section 55753.5.

1) To ensure that any articulated high school courses used to partially satisfy certificate or major requirements are clearly noted as such on the student's academic record, pursuant to Title 5, California Code of

Regulations, Section 55753.5(c).

2) To ensure that notations of community college course credit are made only if community college courses are successfully completed or if credit is earned via credit by examination, pursuant to Title 5, California Code of Regulations, Section 55753.5(c).

3) To ensure that, except through credit by examination, as defined in Section 55753, high school courses are not be used to satisfy either of the following, pursuant to Title 5, California Code of Regulations, Section 55753.5(d):

   a) The requirement of Section 55806 that students complete at least 60 semester or 90 quarter units in order to receive an associate degree, pursuant to Title 5, California Code of Regulations, Section 55753.5(d)(1); or

   b) Any general education requirement for the associate degree established by the district, pursuant to Title 5, California Code of Regulations, Section 55753.5(d)(2).

4) To ensure that all community college district-high school articulation agreements are subject to the provisions of Section 55753.5, pursuant to Title 5, California Code of Regulations, Section 55753.5(e).

5) To allow any student who, prior July 1, 2002, has successfully completed a high school course articulated under the terms of a previous agreement to be permitted to apply the credit so earned according to the terms of the previous agreement, pursuant to Title 5, California Code of Regulations, Section 55753.5(e).

F) To adopt and implement policies regarding advanced placement examinations which implement the following, pursuant to Title 5, California Code of Regulations, Section 55753.7:

1) Appropriate faculty members must review, analyze and approve all of the following, pursuant to Title 5, California Code of Regulations, Section 55753.7:

a) Advanced placement examinations,

b) Scores deemed to constitute satisfactory performance,

c) Courses offered by the college for which credit will be granted, and

d) Requirements that may be met by such examinations.

2) A student's academic record must be clearly annotated to reflect any credit that was earned through an advanced placement examination, pursuant to Title 5, California Code of Regulations, Section 55753.7.

G) To either comply with the statewide standards for academic probation, or for the district governing board to adopt and implement higher, local standards regarding probation, pursuant to Title 5, California Code of Regulations, Section 55754.

H) To adopt, publish and implement procedures and conditions for probation and appeal of probation and request for removal from probation, that are not lower than the statewide standards and that allow removal from probation, pursuant to Title 5, California Code of Regulations, Section 55755.

I) To adopt, publish and implement procedures and conditions for dismissal and appeal of dismissal and request for reinstatement that are not lower than the

statewide standards, pursuant to Title 5, California Code of Regulations, Section 55756.

J) To implement and comply with the following standards regarding remedial course work, pursuant to Title 5, California Code of Regulations, Section 55756.5:

1) To determine a student's need for remedial course work using appropriate assessment instruments, methods, or procedures administered in compliance with chapter 6 (commencing with section 55500) of division 6 of Title 5, California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 55756.5(b).

2) To ensure that, except as otherwise provided, no student receives more than 30 semester units (or 45 quarter units) of credit for remedial course work, pursuant to Title 5, California Code of Regulations, Section 55756.5(b).

3) To refer students that have exhausted the unit limitation to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement, pursuant to Title 5, California Code of Regulations, Section 55756.5(b).

4) To track and ensure that students enrolled in English as a Second Language (ESL) classes and those students identified by the district as having a learning disability are exempted from the limitation on remedial course work, pursuant to Title 5, California Code of Regulations, Section 55756.5(c).

5) For the governing board to review and approve any locally developed standards which provides for a waiver of the limitation on remedial course work with respect to any student, and for the standards to include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units, pursuant to Title 5, California Code of Regulations, Section 55756.5(d).

6) To dismiss and refer to adult noncredit education courses any student who does not attain full eligibility status for college-level work within the required time limit, unless provided with a waiver, pursuant to Title 5, California Code of Regulations, Section 55756.5(e).

7) To allow a student who has successfully completed all appropriate "remedial course work," or has demonstrated the level of skills which reasonably assures success in college-level courses, to request reinstatement to proceed with college-level course work, pursuant to Title 5, California Code of Regulations, Section 55756.5(f).

8) For the governing board to prepare and submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following, pursuant to Title 5, California Code of Regulations, Section 55756.5(g):

   a) The effect of this section on students by sex, age, and ethnicity, pursuant to Title 5, California Code of Regulations, Section 55756.5(g)(1); and

   b) Success rates for students enrolled in "remedial course work," pursuant to Title 5, California Code of Regulations, Section

55756.5(g)(2).

K) To adopt and implement rules and regulations governing whether the units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew, will be included in or excluded from the category of "units attempted," pursuant to Title 5, California Code of Regulations, Section 55757.

L) To utilize a statewide grading scale established on the basis of point equivalencies that comply with the requirements of Section 55758, and to notify students of these standards by publication, pursuant to Title 5, California Code of Regulations, Section 55758.

M) To adopt and implement a withdrawal policy that is consistent with the requirements of Title 5, California Code of Regulations, Section 55758(e).

N) To establish and implement policies and procedures to ensure that grades earned in nondegree credit courses are not included in calculating students' degree applicable grade point averages, pursuant to Title 5, California Code of Regulations, Section 55758.5.

O) To make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter, pursuant to Title 5, California Code of Regulations, Section 55759.

1) To make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties, pursuant to Title 5, California Code of Regulations, Section 55759.

2) To make reasonable efforts to notify a student of removal from probation

or reinstatement after dismissal within time lines established by the district, pursuant to Title 5, California Code of Regulations, Section 55759.

3) To publish probation and dismissal policies and procedures in the college catalog, pursuant to Title 5, California Code of Regulations, Section 55759.

P) To establish and implement policies to ensure that the instructor of any course of instruction in a community college district for which grades are awarded, determines the grade to be awarded each student in accordance with section 55758 (Academic Record Symbols and Grade Point Average), pursuant to Title 5, California Code of Regulations, Section 55760.

Q) To adopt, publish and implement procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded, pursuant to Title 5, California Code of Regulations, Section 55761.

R) To establish and implement policies and procedures to ensure that any procedures or regulations adopted pertaining to the repetition of courses for which substandard academic performance has been previously recorded, implement the requirements of Title 5, California Code of Regulations, Section 55762.

S) To establish and implement policies and procedures to ensure compliance with all of the following, pertaining to the repetition of courses for which substandard work has not been recorded, pursuant to Title 5, California Code of Regulations, Section 55763.

1) To ensure that repetition of courses for which substandard work has not been recorded is permitted only upon petition of the student and with the

written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition, pursuant to Title 5, California Code of Regulations, Section 55763(b).

2) To permit repetition, without petition, in instances when such repetition is necessary for a student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment, pursuant to Title 5, California Code of Regulations, Section 55763(c).

3) To annotate a student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history when course repetition under this section occurs, pursuant to Title 5, California Code of Regulations, Section 55763(d).

T) To adopt, publish and implement procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance which is not reflective of a student's demonstrated ability, pursuant to Title 5, California Code of Regulations, Section 55764 and 55765:

1) For such procedures or regulations to include a clear statement of the educational principles upon which they are based, pursuant to Title 5, California Code of Regulations, Section 55764.

2) To refer to such procedures as academic renewal regulations, pursuant to Title 5, California Code of Regulations, Section 55764.

3) To annotate a student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history when academic renewal procedures or regulations adopted by a district permit previously recorded, substandard course work to be

disregarded in the computation of grade point averages, pursuant to Title 5, California Code of Regulations, Section 55764.

4) To ensure that such regulations or procedures comply with Education Code section 76224, pertaining to the finality of grades assigned by instruction, and Chapter 2.5 (commencing with section 59020) of division 10 of Title 5, California Code of Regulations, pertaining to the retention, destruction and permanency of records, pursuant to Title 5, California Code of Regulations, Section 55765(a).

5) For such regulations to state the following, pursuant to Title 5, California Code of Regulations, Section 55765(b):

   a) The maximum amount of course work that may be alleviated, pursuant to Title 5, California Code of Regulations, Section 55765(b)(1);

   b) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the course work to be alleviated, pursuant to Title 5, California Code of Regulations, Section 55765(b)(2);

   c) The length of time to have elapsed since the course work to be alleviated was recorded, pursuant to Title 5, California Code of Regulations, Section 55765(b)(3); and

   d) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations, pursuant to Title 5, California Code of Regulations, Section 55765(b)(4).

6) To adopt, publish and implement specific procedures to be followed in implementing any procedures or regulations adopted pursuant to this section which state at a minimum, pursuant to Title 5, California Code of Regulations, Section 55765(c):

a) The procedures to be followed by students in petitioning for alleviation, pursuant to Title 5, California Code of Regulations, Section 55765(c)(1); and

b) The officers and/or personnel responsible for implementing the procedures or regulations, pursuant to Title 5, California Code of Regulations, Section 55765(c)(2).

COMPONENT 2: DEGREES AND CERTIFICATES

A) To adopt and implement policies, procedures and regulations for the award of degrees and certificates, which comply with Division 6, Chapter 6, Subchapter 10 of Title 5 of the California Code of Regulations (Degrees and Certificates), pursuant to Title 5, California Code of Regulations, Sections 51004 and 55800.

1) To file a copy of such regulations and any subsequent amendments with the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51004(b) and 55800;

2) To publish the adopted policy in the college catalog, pursuant to Title 5, California Code of Regulations, Section 55800.

B) To establish and implement policies and procedures to ensure that any student who successfully completes the prescribed course of study for an associates degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses, is

awarded an associate degree, pursuant to Title 5, California Code of Regulations, Section 55800.5.

C) To monitor credits that qualify as being "satisfactorily completed" and to define such credits as " either credit earned on a "credit-no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based", for purposes of Sections 55806 and 55809, pursuant to Title 5, California Code of Regulations, Section 55801.

D) To adopt and implement a policy which states the district's specific philosophy on General Education and to ensure that this policy is consistent with the philosophy of the Board of Governors, pursuant to Title 5, California Code of Regulations, Section 55805.

1) For the district governing board to establish and implement criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education, pursuant to Title 5, California Code of Regulations, Section 55805(b).

2) For the district governing board to review their adopted policy and criteria on a regular basis, pursuant to Title 5, California Code of Regulations, Section 55805(c).

F) To review and catagorize all courses, and permit only courses that conform to the standards specified in section 55002(a) and that fall into the following categories to be offered for associate degree credit, pursuant to Title 5, California Code of Regulations, Section 55805.5:

1) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be

offered for transfer, pursuant to Title 5, California Code of Regulations, Section 55805.5(a);

2) Courses that apply to the major in non-baccalaureate occupational fields, pursuant to Title 5, California Code of Regulations, Section 55805.5(b);

3) English courses not more than one level below the first transfer level composition course, pursuant to Title 5, California Code of Regulations, Section 55805.5(c);

4) All mathematics courses above and including Elementary Algebra, pursuant to Title 5, California Code of Regulations, Section 55805.5(d); or

5) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the English and Math courses specified above, pursuant to Title 5, California Code of Regulations, Section 55805.5(e).

G) To offer the appropriate curriculum and to establish and implement policies and procedures to ensure that the degree of Associate in Arts or Associate in Science is conferred upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work, in accordance with the criteria included in Title 5, California Code of Regulations, Section 55806.

H) To establish and implement a process to respond to a student petition requesting that noncredit courses be counted toward associate degrees, pursuant to Title 5, California Code of Regulations, Section 55807.

J) To award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements, pursuant to Title 5, California Code of Regulations, Section 55809.

COMPONENT 3: OPEN COURSES

A) To adopt a statement pertaining to its policy on open enrollment which provides that, unless specifically exempted by statute or regulation, every course reported for state aid shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets any prerequisites that have been properly established by a district, pursuant to Title 5, California Code of Regulations, Section 51006.

1) To publish the open enrollment policy statement in the official catalog, schedule of classes, and addenda to the schedule of classes for which full-time equivalent student (FTES) is reported for state apportionment, pursuant to Title 5, California Code of Regulations, Section 51006(b);

2) To file a copy of such policy with the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51006(b).

B) To publish a clear description of each course, which is understandable to the prospective student, in the official catalog, and/or schedule of classes, and/or addenda, pursuant to Title 5, California Code of Regulations, Section 58102.

C) To establish and implement procedures to ensure, if a course description indicates a course is designed to meet certain specialized needs, that the district affirms the availability of the course to all qualified students, pursuant to Title 5, California Code of Regulations, Section 58102.

D) To describe all courses to be conducted within the district in the official general catalog and/or addenda and to list such courses in the schedules of classes, pursuant to Title 5, California Code of Regulations, Section 58104.

1) To ensure that any courses which are established or conducted after publication of the general catalog or regular schedule of classes are reasonably well publicized, pursuant to Title 5, California Code of Regulations, Section 58104.

2) To ensure that any announcements of course offerings are not limited to a specialized clientele, pursuant to Title 5, California Code of Regulations, Section 58104.

3) To ensure that no group or individual receives notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students, pursuant to Title 5, California Code of Regulations, Section 58104.

E) To establish and implement policies and procedures to ensure that, as a condition to be claimed for purposes of state apportionment, all community college courses are open to enrollment by any student who has been admitted to the college, unless the course qualifies for a limitation, pursuant to Title 5, California Code of Regulations, Section 58106.

1) To permit enrollment to be limited to students meeting prerequisites and corequisites that have been established in compliance with Sections 55200-55202 of Title 5, pursuant to Title 5, California Code of Regulations, Section 58106(a).

2) To ensure that any other limitation used by the district falls into one

of the acceptable reasons for enrollment limitations, pursuant to Title 5, California Code of Regulations, Section 58106(b).

3) To adopt and implement policies identifying any enrollment limitations used, ensuring that such policies provide fair and equitable procedures for determining who may enroll in affected courses or programs, and are consistent with at least one of the approaches included in Title 5, California Code of Regulations, Section 58106(b).

F) To establish and implement procedures for and to respond to a student to challenge an enrollment limitation, pursuant to Title 5, California Code of Regulations, Section 58106(c), (d), and (e).

1) To permit students to challenge an enrollment limitation on any of the following included in Title 5, California Code of Regulations, Section 58106(c):

2) For the district to handle such enrollment limitation challenges in a timely manner, pursuant to Title 5, California Code of Regulations, Section 58106(d);

3) To waive the enrollment limitation with respect to any student whose challenge is upheld, pursuant to Title 5, California Code of Regulations, Section 58106(d);

4) To advise any student who has challenged an enrollment limitation based on the theory of unlawful discrimination that he or she may also file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of Title 5 of the California Code of Regulations, once the challenge procedure has been completed,

pursuant to Title 5, California Code of Regulations, Section 58106(e).

G) To establish and implement policies and procedures to ensure that any public funds used in connection with athletic programs are used only for those programs which provide facilities and opportunities for participation by both sexes on an equitable basis, pursuant to Title 5, California Code of Regulations, Section 58107.

H) To ensure that all procedures for registration and standards for enrollment in any course are consistent with all sections of Title 5 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 58108.

1) To ensure that such procedures and standards are uniformly administered by appropriately authorized employees of the district, pursuant to Title 5, California Code of Regulations, Section 58108.

2) To ensure that, except as otherwise provided by state law, no student shall be required to do any of the following, pursuant to Title 5, California Code of Regulations, Section 58108:

a) To confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district, pursuant to Title 5, California Code of Regulations, Section 58108;

b) To be required to participate in any preregistration activity not uniformly required, pursuant to Title 5, California Code of Regulations, Section 58108;

c) To be subjected to nonacademic requisites, imposed by anyone, as barriers to enrollment in or the successful completion of a class,

pursuant to Title 5, California Code of Regulations, Section 58108; or

d) To be subjected to any registration procedures that result in restricting enrollment to a specialized clientele, pursuant to Title 5, California Code of Regulations, Section 58108;

e) To be required to make any special effort not required of all students to register in any class or course section, with respect to accessibility to off-campus sites and facilities, pursuant to Title 5, California Code of Regulations, Section 58108.

3) To ensure that, once enrolled in a class, all students have equal access to the site, pursuant to Title 5, California Code of Regulations, Section 58108.

COMPONENT 4: COMPREHENSIVE PLAN

Comprehensive Master Plans: Capital Construction and Educational

A) To establish policies for, approve and implement a comprehensive master plan for community college facilities which meets the following requirements, pursuant to Title 5, California Code of Regulations, Section 51008:

1) The plan must include both academic master plans (Educational Master Plans) and long range master plans for facilities (Capital Construction Master Plans), pursuant to Title 5, California Code of Regulations, Section 51008(a);

2) The plan must address planning requirements which meet the specifications issued by the Board of Governors, as detailed in Title 5 California Code of Regulations, Sections 55401-55405, pursuant

to Title 5, California Code of Regulations, Section 51008(a);

3) The plans, as well as any annual updates or changes to the plans, must be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans, as detailed in Title 5, California Code of Regulations, Sections 55401-55405, pursuant to Title 5, California Code of Regulations, Section 51008(b).

Capital Construction Master Plans:

A) To annually prepare, update and submit to the Board of Governors of the California Community Colleges, a plan for capital construction covering a five-year time period, as opposed to the earlier ten-year time period required prior to 1975, pursuant to Education Code Section 81820 and Title 5, California Code of Regulations, Section 51008.

B) To establish and implement policies and procedures and gather the appropriate data to ensure that the five-year plan for capital construction sets out the estimated capital construction needs of the district with reference to elements including at least all of the following information, pursuant to Education Code Section 81821:

1) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized, pursuant to Education Code Section 81821(a).

2) The enrollment projections for the district formulated by the Department

of Finance, pursuant to Education Code Section 81821(b).

3) The current enrollment capacity of the district, pursuant to Education Code Section 81821(c).

4) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the Board of Governors in consultation with the California Postsecondary Education Commission and consistent with its standards, pursuant to Education Code Section 81821(d).

5) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the Board of Governors, pursuant to Education Code Section 81821(e).

6) An estimate of district funds which must be made available for capital outlay matching purposes pursuant to regulations adopted by the Board of Governors, pursuant to Education Code Section 81821(f).

C) To establish and implement policies and procedures to ensure that, if the college submits an additional capital construction plan based on each college or educational center maintained by the district, the district must prepare and include documentation justifying that students will be better served by such a plan due to the existence of either of the following circumstances, pursuant to Education Code Section 81823:

1) The isolation of students within a district in terms of the distance of students from the location of an educational program or the inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program, pursuant to Education Code

Section 81823(a)(1).

2) The inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students, pursuant to Education Code Section 81823(a)(2).

Educational Master Plans:

A) To establish and implement policies for, and to approve, current and long range educational plans and programs, pursuant to Title 5, California Code of Regulations, Section 55401 and Section 51008.

B) To annually, on or before November 1st of each year, submit to the Chancellor an educational master plan, pursuant to Title 5, California Code of Regulations, Section 55402.

C) For each educational master plan submitted to the Chancellor to be on a form provided by the Chancellor, and to contain all information that the Chancellor requires, pursuant to Title 5, California Code of Regulations, Section 55403.

D) To establish and implement policies and procedures to ensure that the contents of each educational master plan contains all of the following information, pursuant to Title 5, California Code of Regulations, Section 55404:

1) The educational objectives of the Community College or district, pursuant to Title 5, California Code of Regulations, Section 55404;

2) The future plans for all of the following, pursuant to Title 5, California Code of Regulations, Section 55404:

a) transfer programs;

b) occupational programs;

c) continuing education courses; and

d) remedial and developmental programs.

3) Plans for the development and expansion of at least all of the following ancillary services, pursuant to Title 5, California Code of Regulations, Section 55404:

a) library;

b) counseling;

c) placement; and

d) financial aid.

COMPONENT 5: EQUAL EMPLOYMENT OPPORTUNITY

A) To commit to a sustained action to devise recruiting, training and advancement opportunities that will result in equal employment opportunities for all qualified applicants and employees, pursuant to Education Code Section 87101(c).

B) To periodically submit to the Board of Governors an affirmation of compliance with the equal employment opportunity article as a condition for the receipt of funds under Education Code Section 87107, pursuant to Education Code Section 87102.

1) For the district's equal employment opportunity program to ensure participation in, and commitment to, the program by district personnel, pursuant to Education Code Section 87102(a).

2) For the plan to include steps that the district will take in eliminating improper discrimination or preferences in its hiring and employment practices, pursuant to Education Code Section 87102(a).

3) For the plan to address how the district will make progress in achieving the ratio of full-time to part-time faculty hiring, as indicated in Education

Code Section 87482.6, while still ensuring equal employment opportunity, pursuant to Education Code Section 87102(a).

C) To adopt and implement a district policy which describes its equal employment opportunity program, pursuant to Title 5, California Code of Regulations, Section 51010.

1) For the policy to meet the requirements of section 53002, pursuant to Title 5, California Code of Regulations, Section 51010(a).

2) To develop, adopt and implement a district equal employment opportunity plan which meets the requirements of section 53003, pursuant to Title 5, California Code of Regulations, Section 51010(b).

3) To ensure that the district's employment patterns are annually surveyed in the manner required by section 53004, pursuant to Title 5, California Code of Regulations, Section 51010(c).

4) To ensure that a program of recruitment is carried out as required by section 53021, pursuant to Title 5, California Code of Regulations, Section 51010(d).

5) To ensure that screening and selection procedures are developed and used in accordance with section 53024, pursuant to Title 5, California Code of Regulations, Section 51010(e).

6) To ensure that, where necessary, additional steps are taken consistent with the requirements of section 53006, pursuant to Title 5, California Code of Regulations, Section 51010(f).

7) To ensure that the pattern of hiring and retention, when viewed over time, is consistent with the objectives established in the district's equal

employment opportunity plan, pursuant to Title 5, California Code of Regulations, Section 51010(g).

8) To substantially comply with the other provisions of subchapter 1 (commencing with section 53000) of chapter 4 of Title 5 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 51010(h).

D) To incorporate the definitions for the following terms within the district's policies and procedures, as outlined in and pursuant to Title 5, California Code of Regulations, Section 53001: "adverse impact"; "business necessity"; "equal employment opportunity"; "equal employment opportunity plan"; "equal employment opportunity programs", "ethnic minorities"; "ethnic group identification"; "goals for persons with disabilities"; "in-house of promotional only hiring"; "monitored group"; "person with a disability"; "projected representation"; "reasonable accommodation"; "screening or selection procedure"; "significantly underrepresented group"; "target date" and "timetable".

E) To adopt and implement a policy statement setting forth the district's commitment to an equal employment opportunity program, pursuant to Title 5, California Code of Regulations, Section 53002.

F) To develop, adopt and implement a district-wide written equal employment opportunity plan to implement its equal employment opportunity program, pursuant to Title 5, California Code of Regulations, Section 53003.

1) To submit such plans and any revisions to the Chancellor's Office for review and approval, pursuant to Title 5, California Code of Regulations, Section 53003(a).

2) To review, and if necessary, revise such plans at least every three years, pursuant to Title 5, California Code of Regulations, Section 53003(b).

3) To notify the Chancellor at least 30 days prior to adopting any other amendments to the plan, pursuant to Title 5, California Code of Regulations, Section 53003(b).

4) For the plan to include all of the following, pursuant to Title 5, California Code of Regulations, Section 53003(c):

   a) The designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this subchapter pursuant to section 53020, pursuant to Title 5, California Code of Regulations, Section 53003(c)(1);

   b) The procedure for filing complaints pursuant to section 53026 and the person with whom such complaints are to be filed, pursuant to Title 5, California Code of Regulations, Section 53003(c)(2);

   c) A process for notifying all district employees of the provisions of the plan and the policy statement required under section 53002, pursuant to Title 5, California Code of Regulations, Section 53003(c)(3);

   d) A process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this subchapter and of state and federal nondiscrimination laws, pursuant to Title 5, California Code of Regulations, Section 53003(c)(4);

e) A process for providing annual written notice to appropriate community-based and professional organizations concerning the district's plan and the need for assistance from the community and such organizations in identifying qualified applicants, pursuant to Title 5, California Code of Regulations, Section 53003(c)(5);

f) An analysis of the number of persons from monitored groups who are employed in the district's work force and those who have applied for employment in each of the job categories listed in section 53004(a), pursuant to Title 5, California Code of Regulations, Section 53003(c)(6);

g) An analysis of the degree to which monitored groups are underrepresented in comparison to the numbers of persons from such groups whom the Chancellor determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant, pursuant to Title 5, California Code of Regulations, Section 53003(c)(7);

h) Methods for addressing any identified underrepresentation, pursuant to Title 5, California Code of Regulations, Section 53003(c)(8).

i) Additional steps consistent with section 53006 to remedy any significant underrepresentation identified in the plan, pursuant to Title 5, California Code of Regulations, Section 53003(c)(9);

j) Any other measures necessary to further equal employment opportunity throughout the district, pursuant to Title 5, California

Code of Regulations, Section 53003(c)(10); and

k) Any goals for hiring persons with disabilities that are required by section 53025, pursuant to Title 5, California Code of Regulations, Section 53003(d).

5) To make a continuous good faith effort to comply with the requirements of the plan required under this section, pursuant to Title 5, California Code of Regulations, Section 53003(e).

G) To conduct a survey of district employees on an annual basis and to monitor applicants for employment on an ongoing basis in order to evaluate the implementation of its equal employment opportunity plan and to provide data needed for the analyses required by sections 53003, 53006, 53023, and 53024, pursuant to Title 5, California Code of Regulations, Section 53004.

1) To annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of employees at each college in the district, pursuant to Title 5, California Code of Regulations, Section 53004(a).

2) To ensure that each employee is reported so that he or she may be identified as belonging to one of the following seven job categories, pursuant to Title 5, California Code of Regulations, Section 53004(a):

a) executive/administrative/managerial;

b) faculty and other instructional staff;

c) professional nonfaculty;

d) secretarial/clerical;

e) technical and paraprofessional;

f) skilled crafts; and

g) service and maintenance.

3) To ensure that, for purposes of the survey and report required pursuant to subdivision (a) of this section, each applicant or employee is afforded the opportunity to identify his or her gender, ethnic group identification and, if applicable, his or her disability, pursuant to Title 5, California Code of Regulations, Section 53004(b).

H) To establish an Equal Employment Opportunity Advisory Committee, that includes a diverse membership whenever possible, to assist the district in developing and implementing the plan required under section 53003, pursuant to Title 5, California Code of Regulations, Section 53005.

I) To establish and implement policies and procedures to ensure that, if a determination is made that a particular monitored group is significantly underrepresented with respect to one or more job categories, the district shall take additional steps to ensure equal employment opportunity, pursuant to Title 5, California Code of Regulations, Section 53006.

1) For the district, in taking the required initial steps, to implement all of the following actions:

a) To review district recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group, pursuant to Title 5, California Code of Regulations, Section 53006(a)(1);

b) To consider various other means of reducing the

underrepresentation which do not involve taking monitored group status into account, and implement any such techniques which are determined to be feasible and potentially effective, pursuant to Title 5, California Code of Regulations, Section 53006(a)(2);

c) To determine whether the group is still significantly underrepresented in the category or categories in question after the measures described in (1) and (2) have been in place for a reasonable period of time, pursuant to Title 5, California Code of Regulations, Section 53006(a)(3);

d) If significant underrepresentation persists, to monitor the staffing rate for the significantly underrepresented group in the specified job category or categories on an ongoing basis until the projected representation has been achieved for that group in the category or categories in question, pursuant to Title 5, California Code of Regulations, Section 53006(a)(4).

2) For the district to implement all of the following actions if a reasonable period of time passes and significant underrepresentation persists for a particular group in the job category in question, pursuant to Title 5, California Code of Regulations, Section 53006(b):

a) To review each locally established "required," "desired" or "preferred" qualification being used to screen applicants for positions in the job category to determine if it is job-related and consistent with business necessity through a process meeting the requirements of federal law or is among those qualifications which

the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system, pursuant to Title 5, California Code of Regulations, Section 53006(b)(1);

b) To discontinue the use of any locally established qualification that has not been found to satisfy the requirements set forth in paragraph (1) of the subdivision, pursuant to Title 5, California Code of Regulations, Section 53006(b)(2);

c) To continue using qualification standards meeting the requirements of paragraph (1) only where no alternative qualification standard is reasonably available which would accomplish all of the following, pursuant to Title 5, California Code of Regulations, Section 53006(b)(3):

(i) select for the same characteristics;

(ii) meet the requirements of paragraph (1); and

(iii) be expected to have a less exclusionary effect.

J) To establish and implement policies and procedures to ensure that the district governing board is ultimately responsible for proper implementation of the subchapter pertaining to equal employment opportunity at all levels of district and college operation and for making measurable progress toward equal employment opportunity by the methods described in the district's equal employment opportunity plan, pursuant to Title 5, California Code of Regulations, Section 53020.

1) For the governing board to ensure that an equal employment opportunity

officer is designated to oversee the day-to-day implementation of the requirements set forth in the subchapter, pursuant to Title 5, California Code of Regulations, Section 53020(a).

2) To describe the administrative structure created by any delegation of authority to the equal employment opportunity officer or others in the district's equal employment opportunity plan submitted pursuant to section 53003, pursuant to Title 5, California Code of Regulations, Section 53020(b).

a) To design such structure in such a manner so as to ensure prompt and effective implementation of the requirements of this subchapter, pursuant to Title 5, California Code of Regulations, Section 53020(b).

b) For the plan to also designate a single officer, who may be the equal employment opportunity officer, who shall be given authority and responsibility for all of the following, pursuant to Title 5, California Code of Regulations, Section 53020(b):

(i) receiving complaints filed pursuant to section 53026;

(ii) for ensuring that such complaints are promptly and impartially investigated; and

(iii) ensuring that selection procedures and the applicant pool are properly monitored as required by sections 53023 and 53024.

K) To establish and implement policies and procedures to actively recruit from both within and outside the district work force to attract qualified applicants for all new

openings, pursuant to Title 5, California Code of Regulations, Section 53021.

1) For such recruitment to include outreach designed to ensure that all persons, including persons from monitored groups, are provided the opportunity to seek employment with the district, pursuant to Title 5, California Code of Regulations, Section 53021(a).

2) To apply the requirement of open recruitment to all new full-time and part-time openings in all job categories and classifications, pursuant to Title 5, California Code of Regulations, Section 53021(a).

3) To ensure that recruitment for full-time faculty and educational administrator positions are at least statewide and, at a minimum, include seeking qualified applicants listed in the California Community Colleges Equal Employment Opportunity Registry, pursuant to Title 5, California Code of Regulations, Section 53021(a).

4) To ensure that recruitment for part-time faculty positions is conducted by full and open recruitment, pursuant to Title 5, California Code of Regulations, Section 53021(a).

5) To ensure that "in-house or promotional only" recruitment is not used to fill any new opening except when the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceed one year in duration, pursuant to Title 5, California Code of Regulations, Section 53021(b).

6) To establish and implement policies and procedures to ensure that, when the district believes justification exists for use of the exception listed in

subdivision (b), that the district notifies the Equal Employment Opportunity Advisory Committee and the Chancellor at least ten (10) working days prior to offering the position to a candidate, pursuant to Title 5, California Code of Regulations, Section 53021(c).

7) For the district to comply with its established hiring procedures and to afford all qualified district employees the opportunity to apply for open positions even where in-house or promotional only recruitment is permitted pursuant to subdivision (b), pursuant to Title 5, California Code of Regulations, Section 53021(d).

L) To ensure that job announcements clearly state job specifications and set forth the knowledge, skills, and abilities necessary to job performance, pursuant to Title 5, California Code of Regulations, Section 53022.

1) To ensure that, for faculty and administrative positions, job requirements include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students, pursuant to Title 5, California Code of Regulations, Section 53022.

2) To ensure that job specifications, including any "required," "desired" or "preferred" qualifications beyond the state minimum qualifications which the district wishes to utilize, are reviewed before the position is announced, to ensure conformity with the requirements of this subchapter and state and federal nondiscrimination laws, pursuant to Title 5, California Code of Regulations, Section 53022.

M) To implement policies and procedures to analyze the applicant pool for open

positions in the community college districts, pursuant to Title 5, California Code of Regulations, Section 53023.

1) To ensure that all employment applications afford each applicant an opportunity to voluntarily identify his or her gender, ethnic group identification and, if applicable, his or her disability, pursuant to Title 5, California Code of Regulations, Section 53023(a).

   a) To take measures to ensure that this information remains confidential, pursuant to Title 5, California Code of Regulations, Section 53023(a).

   b) To only use this information for research, validation, monitoring, evaluating the effectiveness of the district's equal employment opportunity program, or any other purpose specifically authorized in the subchapter, or by any applicable statute or regulation, pursuant to Title 5, California Code of Regulations, Section 53023(a).

2) To analyze the composition of the initial applicant pool after the application deadline has passed, to ensure that any failure to obtain projected representation for any monitored group is not due to discriminatory recruitment procedures, pursuant to Title 5, California Code of Regulations, Section 53023(b).

   a) To extend the application deadline, if necessary, and to conduct additional recruitment that will eliminate discriminatory recruitment procedures and ensure that recruitment efforts provide a full and fair opportunity for participation to a wide diversity of potential applicants, pursuant to Title 5, California Code of Regulations,

Section 53023(b).

b) To screen applications to determine which candidates satisfy job specifications set forth in the job announcement, when recruitment efforts have offered an opportunity for participation to a wide diversity of potential applicants or further recruitment efforts would be futile, pursuant to Title 5, California Code of Regulations, Section 53023(b).

3) To analyze the composition of the qualified applicant pool, before the selection process continues, to ensure that no monitored group is adversely impacted pursuant to section 53001(a), pursuant to Title 5, California Code of Regulations, Section 53023(c).

a) If adverse impact is found to exist, the district must take effective steps to address the adverse impact before the selection process continues, pursuant to Title 5, California Code of Regulations, Section 53023(c).

b) For such steps to include the following:

(i) Extending the deadline and undertaking inclusive outreach efforts to ensure that members of the adversely impacted group have equal opportunity to seek employment with the district, pursuant to Title 5, California Code of Regulations, Section 53023(c)(1); and

(ii) Including all applicants who were screened out on the basis of any locally established qualifications beyond state minimum qualifications which have not been specifically

demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law or which are not among those which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system, pursuant to Title 5, California Code of Regulations, Section 53023(c)(2).

4) If adverse impact persists after taking steps required under subdivision (c), the district must ensure that the selection process proceeds only if one of the following is present, pursuant to Title 5, California Code of Regulations, Section 53023(d):

a) The job announcement does not require qualifications beyond the statewide minimum qualifications, pursuant to Title 5, California Code of Regulations, Section 53023(d)(1); or

b) Locally established qualifications beyond state minimum qualifications, if any, are demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law and suitable alternative selection procedures to reduce the adverse impact were unavailable, pursuant to Title 5, California Code of Regulations, Section 53023(d)(2); or

c) The particular qualification beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job-related

and consistent with business necessity throughout the community college system, pursuant to Title 5, California Code of Regulations, Section 53023(d)(3).

5) To ensure that the district does not advertise or utilize in future hiring processes for the same position or a substantially similar position any locally established qualifications beyond state minimum qualifications that the district was unable to verify under subdivision (b)(2) unless such qualifications are so verified in advance of commencing any such future hiring process, pursuant to Title 5, California Code of Regulations, Section 53023(e).

N) To establish and implement policies and procedures pertaining to screening or selection procedures in the hiring process, pursuant to Title 5, California Code of Regulations, Section 53024.

1) To ensure that all screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, are all of the following, pursuant to Title 5, California Code of Regulations, Section 53024(a):

a) Provided to the Chancellor upon request, pursuant to Title 5, California Code of Regulations, Section 53024(a)(1);

b) Designed to ensure that for faculty and administrative positions, meaningful consideration is given to the extent to which applicants demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students, pursuant to Title 5,

California Code of Regulations, Section 53024(a)(2);

c) Based solely on job-related criteria, pursuant to Title 5, California Code of Regulations, Section 53024(a)(3); and

d) Designed to avoid an adverse impact, as defined in section 53001(a), and monitored by means consistent with this section to detect and address any adverse impact which does occur for any monitored group, pursuant to Title 5, California Code of Regulations, Section 53024(a)(4).

2) If monitoring pursuant to subdivision (a)(4) reveals that any selection technique or procedure has adversely impacted any such group, for the chief executive officer or his/her designee to suspend the selection process and take timely and effective steps to remedy the problem before the selection process resumes, pursuant to Title 5, California Code of Regulations, Section 53024(b).

a) To ensure that confidential information is not disclosed if the equal employment opportunity officer, or other official charged with responsibility for monitoring selection procedures, assists the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures which have produced an adverse impact, pursuant to Title 5, California Code of Regulations, Section 53024(b).

b) To immediately discontinue the use of any qualifications where adverse impact results from locally established qualifications beyond state minimum qualifications that have not been verified as

described in section 53023(c)(2) or replaced with suitable alternatives having a lesser adverse impact, and to continue any applicant eliminated on the basis of that qualification in the hiring process, pursuant to Title 5, California Code of Regulations, Section 53024(b).

3) To establish and implement policies and procedures to ensure that the district does not do any of the following in the employment process, pursuant to Title 5, California Code of Regulations, Section 53024(c):

   a) Designate or set aside particular positions to be filled by members of any group defined in terms of ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry or sexual orientation, pursuant to Title 5, California Code of Regulations, Section 53024(c);

   b) Engage in any other practice which would result in discriminatory or preferential treatment prohibited by state or federal law, pursuant to Title 5, California Code of Regulations, Section 53024(c);

   c) Apply the district's equal employment opportunity plan in a rigid manner which has the purpose or effect of so discriminating, pursuant to Title 5, California Code of Regulations, Section 53024(c).

4) To ensure that seniority or length of service is taken into consideration, pursuant to Title 5, California Code of Regulations, Section 53024(d):

5) To ensure that any selection testing for employees follows the procedures outlined in the Equal Employment Opportunity Commission's "Uniform

Guidelines on Employee Selection Procedures", pursuant to Title 5, California Code of Regulations, Section 53024(e).

6) To ensure that, whenever possible, screening committees include a diverse membership to bring a variety of perspectives to the assessment of applicant qualifications, pursuant to Title 5, California Code of Regulations, Section 53024(f).

7) To establish and implement policies and procedures for the governing board or its designee to have the following authority, pursuant to Title 5, California Code of Regulations, Section 53024(g):

a) To make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee, pursuant to Title 5, California Code of Regulations, Section 53024(g);

b) To reject all candidates and to order further review by the screening committee, pursuant to Title 5, California Code of Regulations, Section 53024(g); and

c) To reopen the position where necessary to further achievement of the objectives of the equal employment opportunity plan or to ensure equal employment opportunity, pursuant to Title 5, California Code of Regulations, Section 53024(g).

O) To establish and implement policies and procedures to afford persons with disabilities equal employment opportunity in community college districts, pursuant to Title 5, California Code of Regulations, Section 53025.

1) For the district to ensure that applicants and employees with disabilities

receive reasonable accommodations consistent with the requirements of Government Code sections 11135 et seq. and 12940(m), section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, pursuant to Title 5, California Code of Regulations, Section 53025(a).

2) To accomplish all of the following, regarding district goals established for persons with disabilities prior to the effective date of this subdivision where significant underrepresentation still exists, pursuant to Title 5, California Code of Regulations, Section 53025(b):

   a) update that goal;

   b) set a new target date for achieving projected representation in the category or categories in question; and

   c) concurrently comply with subdivisions (a)(1), (a)(2) and (b) of section 53006 with respect to persons with disabilities.

3) Where persons with disabilities are found to be significantly underrepresented, measures required under subdivisions (a)(1) and (a)(2) of section 53006 must be implemented concurrently with setting a goal with a target date for achieving projected representation for persons with a disability in each job category where the underrepresentation was found to exist, pursuant to Title 5, California Code of Regulations, Section 53025(c).

P) To establish and implement a process permitting any person to file a complaint alleging that the requirements of the subchapter have been violated, pursuant to Title 5, California Code of Regulations, Section 53026.

1) To immediately forward a copy of the complaint to the Chancellor,

pursuant to Title 5, California Code of Regulations, Section 53026.

2) To prepare and submit to the Chancellor a written investigative report within ninety (90) days, if the Chancellor so requires, pursuant to Title 5, California Code of Regulations, Section 53026.

3) To process any complaints which also allege discrimination prohibited by Government Code sections 11135 et seq. according to the procedures set forth in subchapter 5 (commencing with section 59300) of chapter 10 of this division, pursuant to Title 5, California Code of Regulations, Section 53026.

Q) To compile and provide the data required under Section 53004 no later than March 31st of the preceding fiscal year or to request and receive an extension of the deadline from the Chancellor, as a condition for receipt of any funds under the Equal Employment Opportunity fund base, pursuant to Title 5, California Code of Regulations, Section 53033.

R) To prepare and submit a report on the use of Equal Employment Opportunity funds to the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 53034.

1) For such report to be submitted no later than September 30th of the fiscal year following the use of the funds, pursuant to Title 5, California Code of Regulations, Section 53034.

2) Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required under section 53004, districts must report that rate by a separate survey conducted, as directed by the Chancellor's Office, pursuant to Title 5, California Code of

Regulations, Section 53034.

COMPONENT 6: STUDENT FEES

A) To develop and implement policies and procedures to ensure that the collection of student fees comply with the law (generally, Education Code sections 76300-76395), pursuant to Title 5, California Code of Regulation 51012.

COMPONENT 7: APPROVAL OF NEW COLLEGES AND EDUCATIONAL CENTERS

A) To establish and implement policies and procedures to ensure that, when planning the formation of a new college or educational center, the district must obtain approval for such college or educational center from the Board of Governors, before classes begin at the new college or educational center, pursuant to Title 5, California Code of Regulations, Section 51014(a).

B) To establish and implement policies and procedures to comply with the provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 of Title 5 of the California Code of Regulations when requesting the approval of new colleges and educational centers, pursuant to Title 5, California Code of Regulations, Section 51014(b).

C) To establish and implement policies and procedures to ensure that, when planning the formation of a new college or educational center, as defined in section 55827 of Title 5, the district must employ and comply with the standards contained in sections 55829 (Assessment of Needs and Preferences), 55830 (Identification of Objectives) and 55831 (Analysis of Alternative Delivery Systems), pursuant to Title 5, California Code of Regulations, Section 55825.

D) To ensure that college documents, policies and procedures incorporate the definitions contained in Section 55827 for the terms "College" and "Educational

Center", pursuant to Title 5, California Code of Regulations, Section 55827.

E) To prepare and provide to the Chancellor's Office all information necessary to enable the Chancellor to maintain an inventory of all off-campus programs and facilities in the community colleges, pursuant to Title 5, California Code of Regulations, Section 55828(a).

F) To prepare and submit to the Chancellor's Office, according to the Chancellor's forms and requirements, proposals for new colleges and new educational centers that contain at least all of the following elements, pursuant to Title 5, California Code of Regulations, Section 55828(c):

(1) Assessment of Needs and Preferences (section 55829);

(2) Identification of Objectives (section 55830); and

(3) Analysis of Alternative Delivery Systems (section 55831).

G) To establish and implement policies and procedures to ensure that, when submitting a proposal for a new college or educational center, the district must compile and include all of the required data in such proposal as part of their "Assessment of Needs and Preferences" requirement, pursuant to Title 5, California Code of Regulations, Sections 55828(c)(1) and 55829.

H) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served, pursuant to Title 5, California Code of Regulations, Section 55830(a).

I) Objectives of the proposed programs and services must be sufficiently specific to enable the district board to evaluate the success with which needs and preferences are met, pursuant to Tile 5, California Code of Regulations, Section 55830(b).

J) The proposed operation must be the most effective and equitable of feasible delivery system alternatives for providing intended programs and services, pursuant to Title 5, California Code of Regulations, Section 55831(a):

1) The criteria for selecting the proposed delivery system must include all of the following, pursuant to Title 5, California Code of Regulations, Section 55831(b):

a) Accessibility of programs and services to individuals in the service area, pursuant to Title 5, California Code of Regulations, Section 55831(b)(1);

b) Content and quality of programs and services, pursuant to Title 5, California Code of Regulations, Section 55831(b)(2); and

c) Cost of programs and services, pursuant to Title 5, California Code of Regulations, Section 55831(b)(3).

2) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include at least all of the following, pursuant to Title 5, California Code of Regulations, Section 55831(c):

a) Increased utilization of existing district resources, pursuant to Title 5, California Code of Regulations, Section 55831(c)(1);

b) Forming a new college, educational center, and/or outreach locations, pursuant to Title 5, California Code of Regulations, Section 55831(c)(2); and

c) Use of media such as television, computer-assisted instruction or programmed learning packages, pursuant to Title 5, California Code of Regulations, Section 55831(c)(3).

3) Alternative delivery systems considered must be all of the following, pursuant to Title 5, California Code of Regulations, Section 55831(c):
   a) adequately described;
   b) generally mutually exclusive; and
   c) limited to a manageable number to facilitate analysis and review.

4) Proposed sources of funding for needed resources must be identified for both short and long-term operations, pursuant to Title 5, California Code of Regulations, Section 55831(d).

COMPONENT 8: ACCREDITATION

A) To establish and implement policies and procedures to ensure district compliance with the accreditation standards and requirements promulgated by the ACCJAC, pursuant to Title 5, California Code of Regulations, Section 51016.

B) To provide documentation to the ACCJAC ensuring that the district has completed all of the following basic requirements to qualify for the status of accreditation, pursuant to the ACCJAC Handbook, page 9:

1) The community college must have completed a period of intensive and comprehensive self-study, followed by an on-site evaluation of institutional performance, demonstrating that it meets Commission standards, pursuant to the ACCJAC Handbook, page 9.

2) The community college must have demonstrated that its educational programs operate at a satisfactory level of quality and are consistent with the college's stated purposes and with Commission standards, pursuant to the ACCJAC Handbook, page 9.

3) The community college must have demonstrated the availability of

sufficient resources to support existing and planned activities at a satisfactory level of quality and must have offered reasonable grounds for the belief that there will continue to be adequate resources in the future, pursuant to the ACCJAC Handbook, page 9.

4) The community college must have committed itself to all of the following, pursuant to the ACCJAC Handbook, page 10:

a) institutional improvement,

b) periodic self-evaluation, and

c) compliance with all Commission standards, policies, procedures and decisions.

C) To apply to become a "Candidate for Accreditation" prior to making a formal application for accreditation, by compiling, preparing and submitting to the ACCJAC appropriate documentation to show district fulfillment of the following twenty ACCJAC Eligibility Requirements for Accreditation, pursuant to the ACCJAC Handbook, Part I, pages 12-15:

1) Authority

The community college must be authorized by a governmental organization or agency as required by the jurisdiction in which it operates, to do both of the following, pursuant to the ACCJAC Handbook, page 12:

a) To operate as an educational institution.

b) To award degrees.

2) Mission

The community college's educational mission must meet all of the following criteria, pursuant to the ACCJAC Handbook, page 13:

a) The mission must be clearly defined, adopted, and published by its governing board;

b) The mission must be consistent with its legal authorization;

c) The mission must be appropriate to a degree granting institution of higher education;

d) The mission must be appropriate to the constituency it seeks to serve.

3) Governing Board

The community college must have a functioning governing board that meets the following criteria, pursuant to the ACCJAC Handbook, pages 13:

a) The board must be responsible for the quality and integrity of the institution;

b) The board must be responsible for ensuring that the institution's mission is being carried out;

c) The board's membership must be sufficient in size and composition to fulfill all board responsibilities;

d) The board must be an independent organization;

e) The majority of the board members must not have any (1) employment, (2) family or (3) financial interest in the institution.

4) Chief Executive Officer

The community college must have a chief executive officer who is appointed by the governing board and whose primary responsibility is to

the institution, pursuant to the ACCJAC Handbook, page 13.

5) Administrative Capacity

The community college must have sufficient staff that are appropriately prepared and experienced to provide the administrative services necessary to support the college's mission and purpose, pursuant to the ACCJAC Handbook, page 13.

6) Operational Status

The community college must be operational and enroll students that are actively pursuing the college's degree programs, pursuant to the ACCJAC Handbook, page 13.

7) Degrees

A substantial portion of the community college's educational offerings must lead to degrees, and a significant proportion of the college's students must be enrolled in these degree leading courses, pursuant to the ACCJAC Handbook, page 13.

8) Educational Programs

The community college's principal degree programs must meet all of the following criteria, pursuant to the ACCJAC Handbook, page 13:

a) The programs must be congruent with the college's mission;

b) The programs must be based on recognized higher education field(s) of study;

c) The programs must be of sufficient content and length;

d) The programs must be conducted at levels of quality and rigor that are appropriate to the degrees offered;

e) At least one degree program must be of two academic years in length.

9) Academic Credit

The community college must award academic credits based on generally accepted practices in degree-granting institutions of higher education and provide appropriate information regarding the award of academic credit, pursuant to the ACCJAC Handbook, page 14.

10) Educational Objectives

The community college must define and publish for its students the educational objectives of each program offered, pursuant to the ACCJAC Handbook, page 14.

11) General Education

The community college must define and incorporate into all of its degree programs a substantial component of general education that meets the following criteria, pursuant to the ACCJAC Handbook, page 14:

a) The component must be designed to ensure breadth of knowledge;

b) The component must promote intellectual inquiry;

c) The component must include demonstrated competence in writing and computational skills and an introduction to some of the major areas of knowledge;

d) Degree credit for general education programs must be consistent with levels of quality and rigor that are appropriate to higher education.

12) Faculty

The community college must have a substantial core of qualified faculty with full-time responsibility to the institution, pursuant to the ACCJAC Handbook, page 14.

a) The faculty must be sufficient in size and experience to support all of the institution's educational programs;

b) The district must adopt a clear statement of faculty responsibilities.

13) Student Services

The community college must provide for all of its students appropriate student services and development programs that are consistent with student characteristics and the college's institutional mission, pursuant to the ACCJAC Handbook, page 14.

14) Admissions

The community college must adopt, implement and adhere to admission policies that meet the following criteria, pursuant to the ACCJAC Handbook, page 14:

a) The policies must be consistent with the college's mission;

b) The policies must specify the student qualifications that are appropriate for its programs.

15) Information and Learning Resources

The community college must own or otherwise provide specific long-term access to sufficient information and learning resources and services to support its mission and all of its educational programs, pursuant to the ACCJAC Handbook, page 14.

16) Financial Resources

The community college must document (1) a funding base, (2) financial resources, and (3) plans for financial development that are adequate to support the college's mission and educational programs and to assure financial stability, pursuant to the ACCJAC Handbook, page 14-15.

17) Financial Accountability

The community college must regularly undergo and make available an external financial audit by a certified public accountant or an audit by an appropriate public agency, pursuant to the ACCJAC Handbook, page 15.

a) The community college must submit to the Committee a copy of the current budget.

b) The community college must submit to the Committee a copy of the current audited financial statement, as prepared by an outside CPA who has no other relationship to the institution.

c) The audit must be certified.

d) Any exceptions to the audit requirement must be explained.

18) Institutional Planning and Evaluation

The community college must provide evidence of basic planning for the development of the institution, pursuant to the ACCJAC Handbook, page 15.

a) The plan must identify and integrate plans for the following:

(i) academic personnel;

(ii) learning resources;

(iii) facilities; and

(iv) financial development.

b) The plan must identify and integrate procedures for the following:

(i) program review; and

(ii) institutional improvement.

c) The community college must engage in a systematic evaluation of how well and in what ways it is accomplishing its purposes, that includes at least the following information:

(i) an assessment of student learning; and

(ii) documentation of institutional effectiveness.

19) Public Information

The community college must publish in its catalog or other appropriate places accurate and current information that describes the following, pursuant to the ACCJAC Handbook, page 15:

a) The college's purposes and objectives;

b) Admission requirements and procedures;

c) Rules and regulations directly affecting students;

d) Programs and courses;

e) Degrees offered and the degree requirements;

f) Costs and refund policies;

g) Grievance procedures;

h) Academic credentials of faculty and administrators;

i) Any other items relative to attending the institution and withdrawing from

it.

20) Relations with the Accrediting Commission

The governing board must agree to do all of the following, regarding its relations with the Accrediting Commission, pursuant to the ACCJAC Handbook, page 15:

a) Provide assurance that the institution adheres to the eligibility requirements, accreditation standards and policies of the Commission;

b) Describe itself in identical terms to all its accrediting agencies;

c) Communicate any changes in its accredited status; and

d) Agree to disclose information required by the Commission to carry out its accrediting responsibilities.

D) To adopt and implement policies and procedures to comply with the ACCJAC's Ten "Standards For Accreditation", pursuant to the ACCJAC Handbook, Part II, pages 19-32.

Standard One: Institutional Mission

1) To adopt, implement and regularly review and revise a mission statement for the institution which identifies all of the following, pursuant to Standard 1, subdivisions (1-4).

a) The district's educational purpose, pursuant to Standard 1, subdivision 1.

b) The potential students of the district, pursuant to Standard 1, subdivision 2.

c) The district's place in the higher education community, pursuant to

Standard 1, subdivision 3.

Standard Two: Institutional Integrity

2) To include in the district's catalogs clear and accurate information regarding all of the following, pursuant to Standard 2, subdivision (1):

   a) The district's educational purpose;

   b) Degrees, curricular offerings, educational resources, and course offerings;

   c) Student fees and other financial obligations, student financial aid and fee refund policies;

   d) Requirements for admission and for achievement of degrees, including the academic calendar and information regarding program length;

   e) The names of administrators, faculty and governing board members.

3) To adopt and implement policies setting forth the following:

   a) The district's commitment to the free pursuit and dissemination of knowledge, pursuant to Standard 2, subdivision (2).

   b) The district's expectations concerning the principles of academic honesty and the sanctions for violations, pursuant to Standard 2, subdivision (5).

   c) The district's understanding of and concern for issues of equity and diversity, pursuant to Standard 2, subdivision (6).

4) To give clear prior notice of any district policies that reflect any specific

beliefs or world views or that require codes of conduct of faculty, administrative and support staff or students, pursuant to Standard 2, subdivision (4).

5) To establish and implement policies and procedures to ensure compliance with the Commission's standards, policies and guidelines, and public disclosure, and self-study requirements, pursuant to Standard 2, subdivision (8).

6) To regularly evaluate and revise institutional policies, practices and publications to ensure integrity in all representations about the district's mission, programs and services, pursuant to Standard 2, subdivision (9).

Standard Three: Institutional Effectiveness

7) To establish and implement a broad-based and integrated system of research, evaluation and planning to assess institutional effectiveness, pursuant to Standard 3.

   a) The district must use the results of the evaluation to improve the institution, pursuant to Standard 3.

   b) The district must develop and implement the means for evaluating the success of its programs, pursuant to Standard 3, subdivision (A.3).

   c) The district must provide evidence that its program evaluations improve the district's programs and services, pursuant to Standard 3, subdivision (A.4).

   d) The district must define and publish its planning processes and integrate it with the evaluation processes to identify priorities for

improvement, pursuant to Standard 3, subdivision (B.2).

e) The district must regularly engage in (1) educational, (2) financial, (3) physical and (4) human resources planning and implement any changes to improve the programs and services, pursuant to Standard 3, subdivision (B.3).

f) The district must specify its intended institutional outcomes and clearly document the achievement of these goals, pursuant to Standard 3, subdivision (C.1).

g) The district must clearly communicate matters of quality assurance to the public, pursuant to Standard 3, subdivision (C.2).

Standard Four: Educational Programs

8) If the community college district eliminates any programs or if program requirements are significantly changed, the community college must establish and implement policies and procedures so that enrolled students will be able to complete their education in a timely manner and with a minimum amount of disruption, pursuant to Standard 4, subdivision (A.3).

9) To establish and implement procedures to ensure that the district has sufficient (1) human, (2) financial and (3) physical resources to support its educational programs, pursuant to Standard 4, subdivision (A.5).

a) The community college district must establish and implement academic advising programs for its students, pursuant to Standard 4, subdivision (A.4).

b) The community college district must train faculty and other personnel to assist in advisory roles, pursuant to Standard 4,

subdivision (A.5).

10) To establish and implement procedures in order to demonstrate that the district's degrees and programs support the mission of the institution, pursuant to Standard 4, subdivision (B.1).

a) The community college district must identify its degrees and certificates in ways which are consistent with (1) the program content, (2) degree objectives and (3) student mastery of knowledge and skills, pursuant to Standard 4, subdivision (B.2).

b) The community college district must (1) identify, and (2) make public expected learning outcomes for its degrees and certificate programs, pursuant to Standard 4, subdivision (B.3).

c) The community college district must document the technical and professional competence of students completing its occupational and vocational programs, pursuant to Standard 4, subdivision (B.6).

11) To establish, implement, and publish in its general catalog, a general education component for all of its degrees which are based on the humanities and fine arts, the natural sciences and the social sciences, pursuant to Standard 4, subdivisions (C.1 - C.4).

12) To clearly define the district's process for establishing and evaluating all of its educational programs and to conduct these evaluations on a regular basis, pursuant to Standard 4, subdivision (D.1).

a) The community college district must clearly state (1) how it evaluates student learning, (2) how it awards credits, and (3) its

transfer of credit policies, pursuant to Standard 4, subdivisions (D.3 and D.4).

b) The community college district must provide evidence that all of its courses and programs, both credit and non-credit are (1) designed, (2) approved and (3) administered under established institutional procedures, pursuant to Standard 4, subdivision (D.6)

Standard Five: Student Support and Development

13) To establish policies for and to implement all of the following, regarding student support and development, pursuant to Standard 5:

a) To publish admissions policies which are consistent with the district's mission, pursuant to Standard 5, subdivision (1).

b) To provide to all prospective and current students information regarding all of the following, pursuant to Standard 5, subdivision (2):

(i) graduation requirements;

(ii) social and academic policies;

(iii) refund policies;

(iv) student conduct standards; and

(v) complaint and grievance procedures.

c) To identify student needs and provide students with academic support, pursuant to Standard 5, subdivision (3).

Standard Six: Information and Learning Resources

14) To make information and learning resources readily accessible to students, faculty and administrators, pursuant to Standard 6, subdivision

(3).

a) The community college district must have professionally qualified staff to provide appropriate support and training to those who use the resources, pursuant to Standard 6, subdivision (4).

b) The district must provide consistent financial support to effectively maintain and improve its learning resources, pursuant to Standard 6, subdivision (5).

c) If the district contracts with another institution to support its educational programs, it must document that a formal agreement exists, pursuant to Standard 6, subdivision (6).

Standard Seven: Faculty and Staff

15) To clearly state and make public the (1) criteria, (2) qualifications and (3) procedures for selecting all faculty, pursuant to Standard 7, subdivision (A.2).

a) To list all degrees held by faculty in the college's primary catalog, pursuant to Standard 7, subdivision (A.4).

b) To evaluate each category of staff in systematic and stated intervals, pursuant to Standard 7, subdivision (B.1).

c) To adopt and implement policies ensuring fairness in all employment procedures, pursuant to Standard 7, subdivision (D.1).

d) To establish and implement provisions for the security and confidentiality of personnel records, pursuant to Standard 7, subdivision (D.4).

Standard Eight: Physical Resources

16) To provide adequate physical resources to support the district's purposes and goals, pursuant to Standard 8, subdivision (1).

Standard Nine: Financial Resources

17) To establish and implement a financial plan that supports the district's institutional goals, pursuant to Standard 9, subdivision (A.1).

a) The community college district must clearly define and follow guidelines and processes for financial planning and budget development, pursuant to Standard 9, subdivision (A.4).

b) The community college district must ensure that all contractual agreements that it enters into are governed by institutional policies and contain appropriate provisions to maintain the integrity of the institution, pursuant to Standard 9, subdivision (B.5).

c) The community college district must (1) clearly identify its future obligations and payment plans, (2) adopt policies for appropriate risk management and (3) institute a plan for responding to financial emergencies or unforeseen circumstances, pursuant to Standard 9, subdivisions (C.1, C.2 and C.4).

Standard Ten: Governance and Administration

18) To establish a governing board that will be responsible for the quality and integrity of the community college, pursuant to Standard 10, subdivision (A.1).

a) The governing board establishment process must include a mechanism that provides for continuity of board membership and staggered terms of office, pursuant to Standard 10, subdivision

(A.1).

b) The district's governing board must establish broad institutional policies and delegate responsibility for implementing those policies, pursuant to Standard 10, subdivision (A.3).

c) The governing board must evaluate its policies on a regular basis, pursuant to Standard 10, subdivision (A.3).

d) The governing board must select and evaluate the chief executive officer and other major academic and administrative officers, pursuant to Standard 10, subdivision (A.4).

e) The governing board must develop a program for new member orientation and governing board development, pursuant to Standard 10, subdivision (A.6).

f) The community college's district chief executive officer must provide effective leadership and implement all of the following activities, pursuant to Standard 10, subdivision (B.1, B.2, C.1 and C.2):

(i) define goals;

(ii) develop plans;

(iii) establish priorities for the community college;

(iv) control the community college's budget and expenditures; and

(v) ensure the implementation of statutes, regulations and board policies.

g) The community college district must ensure that its administrative

officers are qualified by training and experience to perform their responsibilities by evaluating such officers systematically and regularly, pursuant to Standard 10, subdivision (B.4).

h) The community college district must have a written policy which identifies appropriate institutional support for faculty participation in governance, pursuant to Standard 10, subdivision (B.8).

i) The community college district must clearly state and publicize the role of staff and students in institutional governance, pursuant to Standard 10, subdivisions (B.9 and B.10).

j) The community college district must adopt a statement that clearly delineates the operational responsibilities and functions of the district and those of the college, pursuant to Standard 10, subdivision (C.3).

k) The community college district must implement an effective process for the establishment and review of district (1) policy, (2) planning, and (3) financial management, pursuant to Standard 10, subdivision (C.6).

E) To establish and implement policies and procedures to ensure that applications for accreditation comply with the procedures the ACCJAC has set forth in and pursuant to the ACCJAC Handbook, pages 87-91.

COMPONENT 9: COUNSELING PROGRAMS

A) To establish and implement regulations and procedures to provide counseling programs for students within the district, pursuant to Title 5, California Code of Regulations, Section 51018.

B) To file a copy of the district's regulations regarding counseling programs with the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 51018(a).

C) To publicize the counseling program, pursuant to Title 5, California Code of Regulations, Section 51018(b).

D) To ensure the counseling program is organized and functioning and meets the needs of average students and those with special needs, pursuant to Title 5, California Code of Regulations, Section 51018(b) and (b)(4).

E) To ensure the counseling program includes at least all of the following services, pursuant to Title 5, California Code of Regulations, Section 51018(b):

1) academic counseling;
2) career counseling;
3) personal counseling;
4) skills testing programs;
5) financial assistance programs; and
6) job placement services.

F) To ensure that academic, career and personal counseling services are provided to all of the following students, pursuant to Title 5, California Code of Regulations, Section 51018(c):

1) First-time students enrolled for more than six units,
2) Students enrolled provisionally, and
3) Students on academic or progress probation

COMPONENT 10: INSTRUCTIONAL OBJECTIVES

A) To develop and implement policies and procedures establishing stated

objectives for its instructional programs, pursuant to Title 5, California Code of Regulations, Section 51020.

B) To develop and implement policies and procedures establishing stated objectives for all of its district functions, pursuant to Title 5, California Code of Regulations, Section 51020.

COMPONENT 11: CURRICULUM

A) To establish and implement educational programs and courses that will further the objectives of the community college and meet the approval of the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51021.

B) To incorporate in district documents and policies the definitions contained in Section 55000 and 55200 for all of the following terms, pursuant to Title 5, California Code of Regulations, Sections 55000 and 55200:

1) To incorporate the terms and definitions for "course"; "educational program"; and "class", pursuant to Title 5, California Code of Regulations, Section 55000.

2) To incorporate the terms and definitions for "prerequisite"; "corequisite"; "advisory on recommended preparation"; "satisfactory grade"; "necessary and appropriate"; and "content review", pursuant to Title 5, California Code of Regulations, Section 55200.

C) To adopt and implement policies and procedures to comply with the Handbook issued by the Chancellor's Office pertaining to (1) course approval criteria, (2) implementation plans for administrative regulations, and (3) procedures for securing course and program approvals, and to prepare and provide to the Chancellor all documentation that the Chancellor may require to monitor and

review the district's approved courses, pursuant to Title 5, California Code of Regulations, Section 55000.5.

D) To report the classification of all courses, classes and activities offered to the Chancellor's Office and for such information to include all of the following data, pursuant to Title 5, California Code of Regulations Section 55001 Subdivision (c):

1) The unique static course identifier and the course title for all courses regardless of whether they are for credit or noncredit, pursuant to Title 5, California Code of Regulations Section 55001(c)(1);

2) The classification of each credit and noncredit course in accordance with its primary objective, pursuant to Title 5, California Code of Regulations Section 55001(c)(2);

3) An indication of whether the course is credit or noncredit, pursuant to Title 5, California Code of Regulations Section 55001(c)(3);

4) An indication of whether the course transfers to the California State University or the University of California or both, pursuant to Title 5, California Code of Regulations Section 55001(c)(4);

5) The number of community service classes and activities in each category and its participants, pursuant to Title 5, California Code of Regulations Section 55001(c)(5) and 5001(c)(6).

E) To establish and implement the following standards and criteria for associate degree credit courses and classes, pursuant to Title 5, California Code of Regulations, Section 55002(a):

1) For the district to ensure that all such courses have been (1) designated

as appropriate to the associate degree in accordance with the requirements of Section 55805.5, (2) recommended by the college and/or district curriculum committee and (3) approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission, pursuant to Title 5, California Code of Regulations, Section 55002(a).

2) For the college and/or district administration and the academic senate to establish and supervise a curriculum committee that must evaluate and recommend for approval or disapproval all potential associate degree courses, pursuant to Title 5, California Code of Regulations, Section 55002(a)(1).

3) For the district to ensure that the curriculum committee recommends approval of an associate degree credit course if the course meets the standards included in Title 5, California Code of Regulations, Section 55002(a)(2).

4) The course must be described in a course outline of record that is maintained in the official college files and made available to each instructor, pursuant to Title 5, California Code of Regulations, Section 55002(a)(3).

5) Each section of the course must be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record, pursuant to Title 5, California Code of Regulations, Section 55002(a)(4).

6) Repeated course enrollment must only be allowed if in accordance with

the provisions of Chapter 2 (commencing with Section 51000), Sections 55761-55763 and Section 58161 of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(a)(5).

F) To establish and implement the following standards and criteria for nondegree credit courses and classes, pursuant to Title 5, California Code of Regulations, Section 55002(b):

1) For the district to ensure that all such courses have been (1) designated by the governing board as not applicable to the associate degree, (2) recommended by the college and/or district curriculum committee, and (3) approved by the district governing board, pursuant to Title 5, California Code of Regulations, Section 55002(b).

2) For the district to ensure that all such courses fall within one of the following categories, pursuant to Title 5, California Code of Regulations, Section 55002(b):

a) Precollegiate basic skills courses, defined as "community services classes" in Section 55502(d), pursuant to Title 5, California Code of Regulations, Section 55002(b)(1)(A);

b) Courses that are designed to enable students to succeed in college-level work that meet the criteria included in Title 5, California Code of Regulations, Section 55002(b)(1)(B).

c) Precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college-level occupational courses or programs, pursuant to Title 5, California Code of Regulations, Section 55002(b)(1)(C);

d) Essential occupational instruction for which meeting the standards for an Associate Degree Credit course is neither necessary nor required, pursuant to Title 5, California Code of Regulations, Section 55002(b)(1)(D).

2) The college and/or district curriculum committee must evaluate and recommend approval of the course on the basis of the following standards and submit the course for approval to the Chancellor's Office in order to be eligible for state apportionment, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2):

a) The course must provide for measurement of student performance in terms of the stated course objectives and culminate in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(A).

b) The course must grant units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(B).

c) The course must (1) provide instruction in critical thinking; (2) generally treat subject matter with a scope and intensity that prepares students to study independently outside of class time; (3) include reading and writing assignments and homework; and (4)

provide assignments that are sufficiently rigorous so that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(C).

d) When the college and/or district curriculum committee deems appropriate, the course may require prerequisites or corequisites for the course that are established, reviewed, and applied in accordance with Article 2.5 (commencing with Section 55200) of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(b)(2)(D).

3) The course must be described in a course outline of record that is maintained in the official college files and made available to each instructor, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3).

a) The course outline of record must specify the (1) unit value, (2) scope, (3) objectives, and (4) content of the course in terms of a specific body of knowledge, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3).

b) The course outline must specify types or provide examples of all of the following, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3):

(i) required reading and writing assignments,

(ii) other outside-of-class assignments,

(iii) instructional methodology, and

(iv) methods of evaluation for determining whether the stated objectives have been met by students.

c) The course specifications must be such as to typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives, pursuant to Title 5, California Code of Regulations, Section 55002(b)(3).

4) All sections of the course must be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record, pursuant to Title 5, California Code of Regulations, Section 55002(b)(4).

5) Repeated enrollment must only be allowed if in accordance with provisions of Division 2 (commencing with Section 51000), Sections 55761-55763 and Section 58161 of Title 5, pursuant to Title 5, California Code of Regulations, Section 55002(b)(5).

G) To establish and implement the following standards and criteria for noncredit courses and classes, pursuant to Title 5, California Code of Regulations, Section 55002(c):

1) For the district to ensure that all such courses have been (1) recommended by the college and/or district curriculum committee and (2) approved by the district governing board as a course meeting the needs of enrolled students, pursuant to Title 5, California Code of Regulations, Section 55002(c)

2) The college and/or district curriculum committee must evaluate the course to ensure that the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement that the committee deems to be appropriate for the enrolled students, prior to course approval, pursuant to Title 5, California Code of Regulations, Section 55002(c)(1).

3) The course must be described in a course outline of record that meets all of the criteria included in Title 5, California Code of Regulations, Section 55002(c)(2).

4) All sections of the course must be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

H) To establish and implement policies and procedures to ensure that all community services classes meet the following minimum requirements, pursuant to Title 5, California Code of Regulations, Section 55002(d):

1) The local district governing board must review and approve all such classes, pursuant to Title 5, California Code of Regulations, Section 55002(d)(1);

2) The classes must be designed for the physical, mental, moral, economic, or civic development of persons enrolled therein, pursuant to Title 5, California Code of Regulations, Section 55002(d)(2);

3) The classes must provide subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students, pursuant to Title 5, California Code of

Regulations, Section 55002(d)(3);

4) The classes must be conducted in accordance with a predetermined strategy or plan, pursuant to Title 5, California Code of Regulations, Section 55002(d)(4);

5) The classes must be open to all members of the community, pursuant to Title 5, California Code of Regulations, Section 55002(d)(5); and

6) The classes may not be claimed for apportionment purposes, pursuant to Title 5, California Code of Regulations, Section 55002(d)(6).

I) To implement policies and procedures to establish standards regarding credit hours, pursuant to Title 5, California Code of Regulations, Section 55002.5.

1) One credit hour of community college work must be weighted at approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks.

2) Where a term is more or less than 16 weeks, the district must ensure that more or less than one credit hour is allowed in the same ratio that the length of the term is to 16 weeks.

J) To ensure that courses of instruction in social sciences include a study of the (1) role, (2) participation, and (3) contribution of all ethnic groups to the (a) economic, (b) political, and (c) social development of both California and the United States of America, pursuant to Title 5, California Code of Regulations, Section 55004.

K) To ensure that, for each course offered, all of the following facts are made available to students through college publications before the students enroll in the course, pursuant to Title 5, California Code of Regulations, Section 55005:

1) Whether the course is offered as a credit or noncredit course, or a community services class, pursuant to Title 5, California Code of Regulations, Section 55005(a).

2) Whether the course is transferable to four-year colleges and universities, pursuant to Title 5, California Code of Regulations, Section 55005(b).

3) Whether the course fulfills a major or general education requirement, pursuant to Title 5, California Code of Regulations, Section 55005(c).

4) Whether the course is offered on the basis of credit-no credit, and if so, which provision of Subdivision (a) of section 51302 is applicable, pursuant to Title 5, California Code of Regulations, Section 55005(d).

L) To establish policies and procedures to ensure that when the district maintains credit and non-credit courses and community services classes and activities, the district must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities, pursuant to Title 5, California Code of Regulations, Section 55006.

M) To submit each course to be offered by a community college to the Chancellor for approval on forms provided by the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 55100.

1) For the district governing board to establish and implement policies for all individual courses that are offered as part of an educational program that has been previously approved by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55100(b).

2) For the district to designate the appropriate classification of any course or

activity approved by a district, whether or not approval by the Chancellor is required, in accordance with section 55001, pursuant to Title 5, California Code of Regulations, Section 55100(c).

N) To prepare and submit to the Chancellor an application for approval, on forms provided by the Chancellor, before offering any course as part of an educational program at a college, pursuant to Title 5, California Code of Regulations, Section 55130.

1) To ensure that the application for approval contains at least all of the following, pursuant to Title 5, California Code of Regulations, Section 55130(b):

a) The name of the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(1).

b) The description of the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(2).

c) The purposes and specific objectives of the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(3).

d) The place of the proposed program in the district master plan, pursuant to Title 5, California Code of Regulations, Section 55130(b)(4).

e) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning, pursuant to Title 5, California Code of

Regulations, Section 55130(b)(5).

f) The need for the proposed program ascertained with regard to at least all of the factors listed in Title 5, California Code of Regulations, Section 55130(b)(6).

g) The need for and present adequacy of district resources, determined in relation to the proposed program, pursuant to Title 5, California Code of Regulations, Section 55130(b)(7).

2) To ensure that the development, establishment and evaluation of an education program include representative faculty involvement, pursuant to Title 5, California Code of Regulations, Section 55130(c).

O) To submit all courses or programs offered for noncredit to the Chancellor for approval in accordance with section 55100 on forms provided by the Chancellor's Office, pursuant to Title 5, California Code of Regulations, section 55150(a).

1) To keep course outlines for all noncredit courses on file in the community college offering the course, pursuant to Title 5, California Code of Regulations, Section 55150(b).

2) For authorities of each community college maintaining noncredit courses to keep such current records and reports as may be required by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55150(c).

P) To establish and implement policies for the approval and classification of any community services classes conducted by the district and to report the classification of all such classes to the Chancellor in accordance with section

55001, pursuant to Title 5, California Code of Regulations, Section 55160.

Q) If the district claims state support for a contract class, the district must ensure that approval of the class is obtained in the manner provided for classes of the same type, as provided in this article and approval of the contract is obtained in the manner provided for by law, pursuant to Title 5, California Code of Regulations, Section 55170.

R) For the district governing board to apply the criteria and procedures for reinstating any course which was deleted from the credit or noncredit curriculum during the 1982-83 fiscal year, in response to provision Number 11 of Item 6870-101-001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982), pursuant to Title 5, California Code of Regulations, Section 55182.

S) For the community college and/or district's curriculum committee to assess each associate degree credit course to determine if prerequisite or corequisite courses are necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E), pursuant to Title 5, California Code of Regulations, Section 55201(a).

T) To adopt and implement policies for the following, regarding any prerequisites, corequisites, and "advisories on recommended preparation" required by the district, pursuant to Title 5, California Code of Regulations, Section 55201:

1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation, pursuant to Title 5, California Code of Regulations, Section 55201(b)(1).

2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline, particularly those aspects of the course outline that are the basis for

justifying the establishment of the prerequisite or corequisite, pursuant to Title 5, California Code of Regulations, Section 55201(b)(2).

3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites, to assure that they remain necessary and appropriate, pursuant to Title 5, California Code of Regulations, Section 55201(b)(3).

4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite, pursuant to Title 5, California Code of Regulations, Section 55201(b)(4).

5) Prerequisites or corequisites may be established only for the purposes included in Title 5, California Code of Regulations, Section 55201(c).

6) To ensure that no prerequisite or corequisite is established or renewed unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established, pursuant to Title 5, California Code of Regulations, Section 55201(d).

7) To ensure that if a course in communication or computation skills is established as a prerequisite or corequisite for any course other than another course in communication or computation skills, the district completes the activities required in Title 5, California Code of Regulations, Section 55201(e).

8) To establish and implement policies and procedures for a student to challenge any prerequisite or corequisite for any of the grounds provided for by Title 5, California Code of Regulations, Section 55201(f).

9) In the case of a challenge alleging unlawful discrimination regarding any prerequisite or corequisite, the district must, upon completion of the

challenge procedure, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of Division 6 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 55201(g).

10) District policies adopted pursuant to this section must be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division, pursuant to Title 5, California Code of Regulations, Section 55201(h).

U) To establish and implement policies and procedures which apply the following additional rules to the establishment of prerequisites and corequisites, pursuant to Title 5, California Code of Regulations, Section 55202:

1) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established, pursuant to Title 5, California Code of Regulations, Section 55202(a).

2) The district must ensure that any prerequisites establishing communication or computational skill requirements are not established across the entire curriculum unless established on a course-by-course basis, pursuant to Title 5, California Code of Regulations, Section 55202(b).

3) The determination of whether a student meets a prerequisite must be based either on successful completion of an appropriate course or on an assessment using multiple measures, pursuant to Title 5, California Code

of Regulations, Section 55202(c).

4) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the district must offer precollegiate basic skills courses designed to teach the required skills, pursuant to Title 5, California Code of Regulations, Section 55202(d).

5) Whenever a corequisite course is established, sufficient sections must be offered to reasonably accommodate all students who are required to take the corequisite and the district must waive any corequisite as to any student for whom space in the course is not available, pursuant to Title 5, California Code of Regulations, Section 55202(e).

6) The district must ensure that if an exit test is required to satisfy a prerequisite or corequisite, such test is incorporated into the grading for the prerequisite or corequisite course, pursuant to Title 5, California Code of Regulations, Section 55202(f).

7) The district must make the determination of whether a student meets a prerequisite prior to his or her enrollment in the course requiring the prerequisite, unless enrollment is being permitted pending verification that the student has met the prerequisite or corequisite, pursuant to Title 5, California Code of Regulations, Section 55202(g).

V) To adopt and implement policies and procedures pertaining to distance education that ensure the following, pursuant to Title 5, California Code of Regulations, sections 55205-55219:

1) The instruction provided as distance education must meet all requirements that may be imposed by the Americans with Disabilities Act

(42 U.S.C. Sec. 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794d), pursuant to Title 5, California Code of Regulations, Section 55205.

2) The same standards of course quality must be applied to distance education as are applied to traditional classroom courses, in regard to course quality judgments and any local course quality determination or review process, pursuant to Title 5, California Code of Regulations, Section 55207.

3) Determinations and judgments about the quality of distance education under the course quality standards must be made with the full involvement of faculty in accordance with the provisions commencing with section 53200, pursuant to Title 5, California Code of Regulations, Section 55209.

4) District governing boards must ensure the following regarding instructor contact, pursuant to Title 5, California Code of Regulations, Section 55211:

   a) All approved courses offered as distance education must include regular effective contact between instructors and students, pursuant to Title 5, California Code of Regulations, Section 55211(a).

   b) All distance education courses must be delivered consistent with guidelines issued by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors, pursuant to Title 5, California Code of Regulations, Section 55211(b).

5) Each proposed or existing distance education course, must be separately reviewed and approved according to the district's certified course approval procedures, pursuant to Title 5, California Code of Regulations, Section 55213.

6) Instructors of sections delivered via distance education technology must be selected by the same procedures used to determine all instructional assignments and possess the minimum qualifications for the discipline into which the course's subject matter most appropriately falls, pursuant to Title 5, California Code of Regulations, Section 55215.

7) The number of students assigned to any one course section offered by distance education must be determined by and be consistent with other district procedures related to faculty assignment, pursuant to Title 5, California Code of Regulations, Section 55217.

8) Any district conducting any noncredit and nontransferable distance learning courses must perform all of the following, pursuant to Title 5, California Code of Regulations, Section 55219:

   a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses, pursuant to Title 5, California Code of Regulations, Section 55219(a);

   b) Prepare and provide to the local governing board, no later than August 31st of each year, a report on all distance education activity, pursuant to Title 5, California Code of Regulations, Section

55219(b);

c) Compile, prepare and provide other information consistent with reporting guidelines developed by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors, pursuant to Title 5, California Code of Regulations, Section 55219(c).

W) To adopt and implement policies and procedures regarding independent study courses that ensure all of the following, pursuant to Title 5, California Code of Regulations, Sections 55300-55350:

1) Approved courses conducted as independent study must be reported to the Chancellor in accordance with specified procedures as required by law, pursuant to Title 5, California Code of Regulations, Section 55300.

2) All independent study courses must meet the following criteria, pursuant to Title 5, California Code of Regulations, Section 55316:

a) The course must be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, pursuant to Title 5, California Code of Regulations, Section 55316(a); and

b) The course must be recognized by an institution of the University of California or the California State University upon transfer to that institution, pursuant to Title 5, California Code of Regulations, Section 55316(b).

3) To ensure that if the district offers, as an independent study course, any noncredit courses or any nontransferable courses designed to meet

the requirements of sections 55805.5, 55806, and 55002(a) or (b), that such courses are conducted in the following manner, pursuant to Title 5, California Code of Regulations, Section 55316.5:

a) By distance education;

b) Consistent with the requirements of sections 55205-55219 of Title 5 of the California Code of Regulations; and

c) Consistent with the guidelines developed by the Chancellor.

4) To ensure that academic standards applicable to courses of independent study are the same as those applied to other credit courses in the college, pursuant to Title 5, California Code of Regulations, Section 55320.

5) A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment must certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by each student enrolled in the course, pursuant to Title 5, California Code of Regulations, Section 55321.

6) The college must provide access to the instructor for the students enrolled in independent study courses at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods, in addition to regularly scheduled office hours as practiced at that college, pursuant to Title 5, California Code of Regulations, Section 55322.

7) In order for attendance in a course of independent study to be eligible for state apportionment, the district must report the course in the manner required by Chapter 6 of Title 5 of the California Code of Regulations

(pertaining to Curriculum and Instruction), and ensure that the course meets all other requirements of statute and regulation relative to eligibility for state apportionment, pursuant to Title 5, California Code of Regulations, Section 55340.

8) To ensure that any instructor assigned to an independent study course meets all of the following criteria, pursuant to Title 5, California Code of Regulations, Section 55350:

a) The instructor must be qualified to provide service in that capacity during the period in which that service is rendered, pursuant to Title 5, California Code of Regulations, Section 55350(a);

b) The instructor must be responsible for the supervision, control, and evaluation of the course and the enrolled students, pursuant to Title 5, California Code of Regulations, Section 55350(b);

c) The instructor must provide (1) orientation, (2) guidance, and (3) information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college, pursuant to Title 5, California Code of Regulations, Section 55350(c); and

d) The instructor must provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, and include this schedule in the written record, pursuant to Title 5, California Code of Regulations, Section 55350(d).

X) To adopt and implement policies and procedures to comply with the curriculum

standards and criteria for curriculum approval set forth by the Chancellor's Office in the "Program and Course Approval Handbook" ("Handbook") (September 2001), established pursuant to Title 5, California Code of Regulations, Section 55000.5.

1) The Community College must document that a proposed educational program meets all five of the following criteria for approval before the program will be approved by the Chancellor's Office: (1) Appropriateness to Mission; (2) Need; (3) Quality; (4) Feasibility; and (5) Compliance, pursuant to "Handbook", page 16-18.

   a) Appropriateness to Mission

   b) Need

   c) Quality

   d) Feasibility

2) The Community College must comply with the Chancellor's Office Procedures when compiling data for, preparing and submitting program approval applications for each of the following programs as detailed in Appendix A, "Forms and instructions for Approval of New Programs", pursuant to "Handbook", page 18.

   a) New Occupational Program Approval Application (Districts must comply with all procedures detailed in pages A-1 through A-19).

   b) New Transfer Program Approval Application (Districts must comply with all procedures detailed in pages A-21 through A-35).

   c) Request to Add New Option or Certificate within Existing Program to Inventory (Districts must comply with all procedures detailed in

pages A-37 through A-41).

d) Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program) (Districts must comply with all procedures detailed in pages A-43 through A-44).

e) Request to Add Projected Program to Inventory (Districts must comply with all procedures detailed in pages page A-45).

f) Credit/Noncredit Apprenticeship Program Approval Application (Districts must comply with all procedures detailed in pages A-47 through A-54).

3) The Community College must assess and categorize all courses that are not part of an approved program and determine whether they qualify as one of the five categories of "stand alone courses" that have been granted blanket approval by the Chancellor, and therefore need not be submitted to the Chancellor's Office for approval, as outlined in and pursuant to "Handbook", pages 24-25.

COMPONENT 12: VOCATIONAL EDUCATION PROGRAMS

A) To develop and implement policies for the establishment, modification, or discontinuance of courses or programs, which incorporate statutory responsibilities regarding vocational or occupational training program review, in accordance with Education Code Section 78016, pursuant to Title 5, California Code of Regulations, Section 51022(a).

B) To conduct a job market study of the labor market focusing on whether the anticipated employment demand for students in the proposed program justifies the establishment of the proposed course of instruction prior to establishing a

vocational educational program, pursuant to Education Code Section 78015(a)(1).

1) To use the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code or if the program is not available, other available sources of labor market information when conducting the study, pursuant to Education Code Section 78015(a)(1).

2) To include in the study a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges and private postsecondary schools in the area pursuant to Education Code Section 78015(a)(1).

3) To make copies of each job market study available to the public pursuant to Education Code Section 78015(a)(2).

4) To determine whether the study justifies the proposed vocational education program, pursuant to Education Code Section 78105(b).

5) If the governing board of the community college district determines the job market study justifies initiation of the proposed program, it shall determine by resolution whether the program shall be offered through the districts' own facilities or through a contract with an approved private post secondary school, pursuant to Education Code Section 78015(c).

C) To review every vocational or occupational training program offered by a community college district every two years to ensure the programs are effective, meet a documented labor market demand, and do not unnecessarily duplicate

other manpower training programs in the area, pursuant to Education Code Section 78016(a).

1) For the governing board of the community college district to consider the review and comments of the local Private Industry Council established pursuant to Division 8 of the Unemployment Insurance Code before it conducts its review process, pursuant to Education Code Section 78016(c).

2) To provide a written summary of the findings of each review to the public, pursuant to Education Code Section 78016(e).

D) To incorporate the definitions contained in Section 55600, for all of the following terms, into district policies, procedures and documents: "Vocational Educational Contract"; "The California State Plan for Vocational Education"; "Contractor"; and "Eligible Cost", pursuant to Title 5, California Code of Regulations, Section 55600.

E) For the governing board of the community college district to appoint and supervise a vocational education advisory committee, pursuant to Title 5, California Code of Regulations, Section 55601.

1) For the advisory committee to be responsible for and to implement both of the following activities, pursuant to Title 5, California Code of Regulations, Section 55601:

a) To develop recommendations on the vocational education program, pursuant to Title 5, California Code of Regulations, Section 55601; and

b) To act as a liaison between the district and potential employers,

pursuant to Title 5, California Code of Regulations, Section 55601.

2) For the district to appoint one or more representatives of the general public to the vocational education advisory committee who is knowledgeable about all of the following, pursuant to Title 5, California Code of Regulations, Section 55601:

a) the disadvantaged,

b) students,

c) teachers,

d) business,

e) industry,

f) school administration, and

g) the field office of the Department of Employment Development.

F) To establish and implement policies and procedures to ensure that whenever the district contracts with a private post secondary school, an activity center, work activity center, or sheltered work shop, that all of the following criteria are met, pursuant to Title 5, California Code of Regulations, Sections 55602, 55605 and 55607:

1) All contracts must be approved by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55602(1).

2) All contracts must provide the following, pursuant to Title 5, California Code of Regulations, Section 55602:

a) The amount contracted for per student must not exceed the amount it costs to provide the same training in community colleges

or the tuition charged in postsecondary schools, pursuant to Title 5, California Code of Regulations, Section 55602(2);

b) Those students who are currently enrolled in community colleges and are receiving training in another institution, must not be charged additional tuition, pursuant to Title 5, California Code of Regulations, Section 55602(3);

c) All programs, courses and classes of instruction must meet the standards set forth in the California State Plan for Vocational Education or a course of study for adult schools approved by the Department of Education, pursuant to Title 5, California Code of Regulations, Section 55602(4).

3) The community college district must organize and administer the contracts to ensure that there will be separate accounts for all income and expenditures applicable to the contract, pursuant to Title 5, California Code of Regulations, Section 55605(e).

4) The community college district must submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor with regard to each vocational education contract it enters into with a private post secondary school, an activity center, work activity center, or sheltered work shop to provide vocational skill training, pursuant to Title 5, California Code of Regulations, Section 55607.

5) All records related to income and expenditures regarding the contracts must be made available for audit by the state or federal government and retained for five years or one year after the audit, pursuant to Title 5,

California Code of Regulations, Section 55607.

G) If the governing board of the community college district enters into a contract with a private or public entity for the education of students whose capacity to function is impaired by physical deficiency or injury in vocational education classes, the governing board of the community college district must approve of and supervise all instruction, pursuant to Title 5, California Code of Regulations, Section 55602.5.

H) To adopt and implement policies and procedures to ensure that contractors provide (1) vocational, (2) technical, and (3) occupational instruction related to attainment of (a) skills, (b) knowledge, and (c) attitudes so that students may be prepared for any of the following, pursuant to Title 5, California Code of Regulations, Section 55603:

1) Gainful employment in the occupational area for which training has been provided, pursuant to Title 5, California Code of Regulations, Section 55603(a); or

2) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, pursuant to Title 5, California Code of Regulations, Section 55603(b); or

3) Enrollment in more advanced training programs, pursuant to Title 5, California Code of Regulations, Section 55603(c).

I) To ensure all vocational education contracts entered into with contractors meet all of the following conditions, pursuant to Title 5, California Code of Regulations, Section 55620:

1) Manpower needs and job opportunities must be identified and established

for the instruction program, pursuant to Title 5, California Code of Regulations, Section 55620(a).

2) The program or courses must not already be available in the region served, pursuant to Title 5, California Code of Regulations, Section 55620(b).

3) The program or courses must provide vocational education opportunities that are not otherwise available, pursuant to Title 5, California Code of Regulations, Section 55620(c).

4) The programs or services must not reduce vocational education efforts of any district, pursuant to Title 5, California Code of Regulations, Section 55620(d).

5) Costs must not exceed the same cost to provide the same training in the public entity or the tuition private postsecondary schools charge their students, pursuant to Title 5, California Code of Regulations, Section 55620(e).

6) The community college student must not be forced to pay additional tuition for any training in the contract, pursuant to Title 5, California Code of Regulations, Section 55620(f).

7) The district must ensure that only students who are sixteen or older and enrolled in a community college are eligible for enrollment under a contract, pursuant to Title 5, California Code of Regulations, Section 55620(g).

8) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or confirm to contractual

relationship guidelines, pursuant to Title 5, California Code of Regulations, Section 55620(h).

J) To ensure each contract expressly includes at least all of the following provisions, pursuant to Title 5, California Code of Regulations, Section 55630.

1) For the governing board of the community college to determine, by resolution, that offering the program through a contract is appropriate, pursuant to Title 5, California Code of Regulations, Section 55630(a).

2) To include methods for identifying eligible costs and payment procedures to ensure the students enrolled are not being charged additional tuition or an amount that exceeds the cost to provide the same training in the community college or the tuition the private postsecondary school charges, pursuant to Title 5, California Code of Regulations, Section 55630(b).

3) To include procedures, terms and conditions relating to all of the following topics, pursuant to Title 5, California Code of Regulations, Section 55630(c):

a) enrollment period;

b) transferring of students;

c) class hours required to meet performance objectives,

d) supervision of staff; and

e) withdrawal of students prior to completion of a course or program.

4) For the contractor and community college district to insure that students are provided with ancillary and support services, which include at least both of the following services, pursuant to Title 5, California Code of

Regulations, Section 55630(d):

a) Counseling and guidance; and

b) Placement assistance.

5) To ensure that qualified faculty provide instruction, pursuant to Title 5, California Code of Regulations, Section 55630(e).

6) To include performance objectives for each class and a report regarding accomplishments of the objectives at the end of each contract period, pursuant to Title 5, California Code of Regulations, Section 55630(f).

7) For the contractor to maintain records of student attendance and achievement, and for the community college to develop a record review schedule for the contractor to use, pursuant to Title 5, California Code of Regulations, Section 55630(g).

8) To include terms and conditions relating to termination of the contract, pursuant to Title 5, California Code of Regulations, Section 55630(h).

9) For the contractor to be in compliance with the Civil Rights Act of 1964, pursuant to Title 5, California Code of Regulations, Section 55630(i).

10) For the contractor to provide workers' compensation insurance coverage for any student, pursuant to Title 5, California Code of Regulations, Section 55630(j).

11) For the contractor to provide indemnity and defense for the state and community college district against any and all claims and liability, pursuant to Title 5, California Code of Regulations, Section 55630(k).

COMPONENT 13: COURSE ARTICULATION - LOCAL

A) To develop, file with the Chancellor, and implement the district's policies and

procedures to provide that all district courses and programs are articulated with proximate four-year colleges and high schools, pursuant to Title 5, California Code of Regulations, Section 51022(b).

COMPONENT 14: ACADEMIC FREEDOM

A) To adopt and implement a policy statement on academic freedom, pursuant to Title 5, California Code of Regulations, Section 51023(a) and (c)

1) To make such policy available to faculty pursuant to Title 5, California Code of Regulations, Section 51023(a);

2) To file the policy with the Chancellor pursuant to Title 5, California Code of Regulations, Section 51023(a); and

3) For the district to substantially comply with the adopted policies and procedures pursuant to Title 5, California Code of Regulations, Section 51023(c).

COMPONENT 15: SHARED GOVERNANCE (Faculty, Staff, Students)

Part I: Faculty Shared Governance (Academic Senate)

A) To adopt, implement and comply with procedures which are consistent with the provisions of Title 5, California Code of Regulations, Sections 53000-53206, regarding the role of academic senates and faculty councils, pursuant to Title 5, California Code of Regulations, Section 51023(b) and (c).

1) To file such adopted procedures with the Chancellor, pursuant to Title 5, California Code of Regulations, Section 51023(b)

2) For the district governing board to develop and implement policies on academic and professional matters by "consulting collegially" with the Academic Senate through either or both of the following methods,

pursuant to Title 5, California Code of Regulations, Section 53200(d):

a) relying primarily upon the advice and judgment of the academic senate, pursuant to Title 5, California Code of Regulations, Section 53200(d)(1); or

b) agreeing that the district governing board, or such representatives as it may designate, and the representatives of the academic senate must have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations, pursuant to Title 5, California Code of Regulations, Section 53200(d)(2).

3) To ensure that the following procedure is used to establish an academic senate, pursuant to Title 5, California Code of Regulations, Section 53202:

a) The full-time faculty of a community college must vote by secret ballot to form an academic senate, pursuant to Title 5, California Code of Regulations, Section 53202(a).

b) When the full-time faculty of multi-college districts vote on whether or not to form a district academic senate, the vote must be made by secret ballot, pursuant to Title 5, California Code of Regulations, Section 53202(b).

c) The governing board of the district must recognize the academic senate and authorize the faculty to do the following, pursuant to Title 5, California Code of Regulations, Section 53202(c):

(1) Fix and amend by vote of the full-time faculty the

composition, structure, and procedures of the academic senate, pursuant to Title 5, California Code of Regulations, Section 53202(c)(1); and

(2) Provide for the selection of the members of the academic senate in accordance with accepted democratic election procedures, pursuant to Title 5, California Code of Regulations, Section 53202(c)(2).

d) To allow the full-time faculty to provide for the membership and participation of part-time faculty members in the academic senate, pursuant to Title 5, California Code of Regulations, Section 53202(d).

e) To permit the part-time faculty to form an academic senate in a community college that does not have any full-time faculty members, pursuant to Title 5, California Code of Regulations, Section 53202(e).

4) For the governing board of the community college district to adopt and implement policies for appropriate delegation of authority and responsibility to its college and/or district academic senate, pursuant to Title 5, California Code of Regulations, Section 53203.

a) For such policies to provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters, pursuant to Title 5, California Code of Regulations, Section 53203(a).

b) For the governing board or its designees to consult collegially with representatives of the academic senate when adopting such policies and procedures, pursuant to Title 5, California Code of Regulations, Section 53203(b).

c) To ensure that, while in the process of consulting collegially, the academic senate retains the right to meet with or to appear before the governing board with respect to the views, recommendations, or proposals of the senate, pursuant to Title 5, California Code of Regulations, Section 53203(c).

d) For the governing board of the district to adopt procedures for responding to recommendations of the academic senate that incorporate the following, pursuant to Title 5, California Code of Regulations, Section 53203(d):

(1) If a recommendation of the academic senate is not accepted, in instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the governing board, upon request of the academic senate, must promptly communicate its reasons in writing to the academic senate, pursuant to Title 5, California Code of Regulations, Section 53203(d)(1).

(2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy must remain in effect unless continuing with such policy exposes

the district to a good faith belief of compelling legal liability or causes substantial fiscal hardship, pursuant to Title 5, California Code of Regulations, Section 53203(d)(2).

e) To ensure that the academic senate consults with the chief executive officer prior to the appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, pursuant to Title 5, California Code of Regulations, Section 53203(f).

5) To ensure that the academic senate consultation process does not modify the scope or detract from any negotiated agreements between collective bargaining representatives and district governing boards, pursuant to Title 5, California Code of Regulations, Section 53204.

6) To grant release or reassigned time to the faculty members who have been elected to serve as president and vice president of the Academic Senate of the California Community Colleges (ASCCC) for the time required by the ASCCC, pursuant to Title 5, California Code of Regulations, Section 53207.

Part II: Staff Shared Governance (Classified and Other Staff Groups)

B) To adopt and implement policies and procedures to provide district and college staff the opportunity to participate effectively in district and college governance that include the following, pursuant to Title 5, California Code of Regulations, Section 51023.5:

1) Definitions of non-faculty staff positions that the governing board is required by law to recognize or chooses to recognize, pursuant to legal

authority, with separate definitions for all management and nonmangement positions, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(1).

2) Participation structures and procedures for the defined staff positions, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(2).

3) A requirement that the governing board or its designees must consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies in performing the requirements of 51023.5, subdivisions (a)(1) and (2), pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(3).

4) For the governing board or its designees to broadly inform all staff of policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views when no groups or structures for participation exist that provide representation for particular groups of staff, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(3).

5) To provide staff with opportunities to participate in the formulation and development of the following, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(4):

   a) district and college policies and procedures, and

   b) those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

6) To ensure that the governing board provides staff an opportunity to participate in the formulation and development of any matter significantly affecting staff, prior to taking action on any such matter, unless an unforeseeable, emergency situation exists, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(5)

7) The policies and procedures of the governing board must ensure that the recommendations and opinions of staff are given reasonable consideration, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(6).

8) For the selection of staff representatives to serve on college and district task forces, committees, or other governance groups to be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(7).

   a) In cases where the law does not require a particular staff group to make such a selection, for the selection to be made by, or in consultation with, district staff groups that the governing board has officially recognized in its policies and procedures for staff participation, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(7).

   b) For all staff representatives to be selected from the category that they represent, pursuant to Title 5, California Code of Regulations, Section 51023.5(a)(7).

9) In developing and carrying out such policies and procedures, the district governing board must ensure that its actions do not do any of the following, pursuant to Title 5, California Code of Regulations, Section 51023.5(b):

a) dominate or interfere with the formation or administration of any employee organization,

b) contribute financial or other support to any employee organization,

c) in any way encourage employees to join any organization in preference to another,

d) intrude on matters within the scope of representation under Section 3543.2 of the Government Code, or

e) interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations.

Part III: Student Shared Governance

C) To adopt and implement policies and procedures to provide students the opportunity to participate effectively in district and college governance, pursuant to Title 5, California Code of Regulations, Section 51023.7.

1) To provide students with the opportunity to participate in the formulation and development of district and college policies and procedures that have or will have a significant effect on students, including the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures, pursuant to Title

5, California Code of Regulations, Section 51023.7(a)(1).

2) To ensure that the governing board provides students an opportunity to participate in the formulation and development of any matter significantly affecting students, prior to taking action on any such matter, unless an unforeseeable, emergency situation exists, pursuant to Title 5, California Code of Regulations, Section 51023.7(a)(2).

3) For governing board procedures to ensure that, at the district and college levels, recommendations and positions developed by students are given every reasonable consideration, pursuant to Title 5, California Code of Regulations, Section 51023.7(a)(3).

4) For the district to ensure that the selection of student representatives to serve on college or district committees, task forces, or other governance groups are made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district, pursuant to Title 5, California Code of Regulations, Section 51023.7(a)(4).

5) To classify the following as matters that have or will have a "significant effect on students", which thereby require providing students with prior notice and opportunity to participate in the development of any action to be taken on the matter, pursuant to Title 5, California Code of Regulations, Section 51023.7(b):

(a) grading policies;

(b) codes of student conduct;

(c) academic disciplinary policies;

(d) curriculum development;

(e) courses or programs which should be initiated or discontinued;

(f) processes for institutional planning and budget development;

(g) standards and policies regarding student preparation and success;

(h) student services planning and development;

(i) student fees within the authority of the district to adopt; and

(j) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

6) For the governing board to ensure that reasonable consideration is given to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff, pursuant to Title 5, California Code of Regulations, Section 51023.7(c).

COMPONENT 16: MATRICULATION SERVICES

A) To establish and implement policies and procedures which agree to carry out the provisions of the Seymour-Campbell Matriculation Act of 1986 as contained in Education Code Sections 78210-78218 for the period during which funding is received under the article, and to expend such funds only for those matriculation services approved by the Board of Governors or for any contribution of matching funds as may be required by the Board of Governors, pursuant to Education Code Section 78211.5.

B) For the district to provide all of the following matriculation services to students, pursuant to Education Code Section 78212(b) and Title 5,

California Code of Regulations Section 55520:

1) Processing of the application for admission, pursuant to Education Code Section 78212(b)(1) and Title 5, California Code of Regulations, Section 55520(a);

2) Student orientation, pursuant to Education Code Section 78212(b)(2) and Title 5, California Code of Regulations, Section 55520(b);

   a) Districts must ensure that orientation and pre-orientation services are designed to provide nonexempt students and potential students all of the following information, pursuant to Title 5, California Code of Regulations, Section 55520(b):

      (1) College procedures and course scheduling, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2);

      (2) Academic expectations, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2);

      (3) Financial assistance, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2); and

      (4) Any other matters the college or district finds appropriate, pursuant to Title 5, California Code of Regulations, Section 55520(b) and Education Code Section 78212(b)(2).

b) The district must ensure that such information is provided on a timely basis, pursuant to Title 5, California Code of Regulations, Section 55520(b).

3) Assessment and counseling upon enrollment, pursuant to Education Code Section 78212(b)(3) and Title 5, California Code of Regulations, Section 55520(c) and 55520(d).

a) For the assessment and counseling to include all of the following, pursuant to Education Code Section 78212(b)(3):

(1) Math and language skills, pursuant to Education Code Section 78212(b)(3)(A);

(2) Identification of aptitudes, interests and educational objectives, pursuant to Education Code Section 78212(b)(3)(B);

(3) Study and learning skills, pursuant to Education Code Section 78212(b)(3)(C);

(4) Referral to specialized support services, pursuant to Education Code Section 78212(b)(3)(D); and

(5) Course selection, pursuant to Education Code Section 78212(b)(3)(E).

b) For assessment of all nonexempt students to be implemented in accordance with Title 5 of the California Code of Regulations Section 55524, pursuant to Title 5, California Code of Regulations, Section 55520(c);

c) For counseling or advisement of for nonexempt students to

be implemented in accordance with Title 5 of the California Code of Regulations, Section 55523, pursuant to Title 5, California Code of Regulations, Section 55520(d).

5) Postenrollment evaluation of each student's progress, pursuant to Education Code Section 78212(b)(4) and Title 5, California Code of Regulations, Section 55520(f):

a) The district must provide remedial counseling for any of the following students, pursuant to Education Code Section 78212(b)(4):

(1) Students who are enrolled in remedial courses, pursuant to Education Code Section 78212(b)(4);

(2) Students who have not declared an educational objective as required, pursuant to Education Code Section 78212(b)(4); or

(3) Students who are on academic probation, pursuant to Education Code Section 78212(b)(4).

b) The district must ensure that all post enrollment evaluations are implemented in accordance with Title 5 of the California Code of Regulations, Section 55526, pursuant to Title 5, California Code of Regulations, Section 55520(f).

6) Assistance in developing a student educational plan which meets the following criteria, pursuant to Title 5, California Code of Regulations, Section 55520(e):

a) The plan must be implemented in accordance with Title 5 of

the California Code of Regulations, Section 55525, pursuant to Title 5, California Code of Regulations, Section 55520(e).

b) The plan must identify the student's educational objectives, pursuant to Title 5, California Code of Regulations, Section 55520(e).

c) The plan must identify the courses, services and programs to be used to achieve the student's educational objectives, pursuant to Title 5, California Code of Regulations, Section 55520(e).

7) Referral of students to the following programs, pursuant to Title 5, California Code of Regulations, Section 55520(g):

a) Support services, pursuant to Title 5, California Code of Regulations, Section 55520(g)(1); and

b) Specialized curriculum offerings that include both of the following, pursuant to Title 5, California Code of Regulations, Section 55520(g)(2):

(1) Pre-collegiate basic skills courses, pursuant to Title 5, California Code of Regulations, Section 55520(g)(2); and

(2) Programs in English as a Second Language, pursuant to Title 5, California Code of Regulations, Section 55520(g)(2).

C) To adopt and implement policies regarding the use of assessment instruments in the matriculation process that incorporate the following,

pursuant to Education Code Section 78213 and Title 5, California Code of Regulations, Section 55524:

1) The district must obtain authorization from the Board of Governors prior to the use of any assessment instruments, pursuant to Education Code Section 78213(a).

2) Assessment instruments must be sensitive to cultural and language differences between students, pursuant to Education Code Section 78213(b)(1);

3) Assessment instruments must be used as an advisory tool to assist students in the selection of an educational program, pursuant to Education Code Section 78213(b)(2); and

4) Assessment instruments must not be used to exclude students from admission to community colleges, pursuant to Education Code Section 78213(b)(3).

5) The district must comply with any recommendations concerning assessment instruments that are issued by the advisory committee established by the Board of Governors, pursuant to Education Code Section 78213(c).

6) The district must ensure that they only use assessment instruments that have been approved and listed by the Chancellor and that they follow the Chancellor's procedure when seeking to have assessment instruments approved and added to the list of approved instruments, pursuant to Title 5, California Code of Regulations, Section 55524.

D) To consult with the Chancellor and establish, implement and maintain an institutional research database to evaluate the effectiveness of the matriculation services which includes all of the following information, pursuant to Education Code Section 78214:

1) Prior student educational experience, pursuant to Education Code Section 78214(b)(1);

2) Educational objectives, pursuant to Education Code Section 78214(b)(2);

3) Criteria for exemption from assessment or required counseling or advisement, pursuant to Education Code Section 78214(b)(3);

4) Need for financial assistance, pursuant to Education Code Section 78214(b)(4);

5) Ethnicity, sex, and age, pursuant to Education Code Section 78214(b)(5);

6) Academic performance, pursuant to Education Code Section 78214(b)(6);

7) Any additional information that the Chancellor finds appropriate, pursuant to Education Code Section 78214(b)(7);

8) An assessment of the effectiveness of the programs in attaining the following objectives, pursuant to Education Code Section 78214(c):

a) Helping students to define their educational goals, pursuant to Education Code Section 78214(c)(1);

b) Assisting institutions in the assessment of students' educational needs, pursuant to Education Code Section

78214(c)(2);

c) Matching institutional resources with students' educational needs, pursuant to Education Code Section 78214(c)(3); and

d) Providing students with specialized support services, pursuant to Education Code Section 78214(c)(4).

E) To comply with the criteria established by the Board of Governors regarding exempting students from participation in orientation, assessment testing, or required counseling or advisement, by adopting and implementing district policies that specify the grounds for exemption, pursuant to Education Code Section 78215 and Title 5, California Code of Regulations, Section 55532.

1) The district must identify such adopted policies in the matriculation plan, pursuant to Title 5, California Code of Regulations, Section 55532(a).

2) The district must report to the Chancellor the number of students, by category, that have been exempted, pursuant to Title 5, California Code of Regulations, Section 55532(a).

3) The district must ensure that only students who have completed an associate degree or higher are permitted to qualify for such exemption, pursuant to Title 5, California Code of Regulations, Section 55532(b).

4) The district must notify any student exempted by this section that he or she is covered by an exemption and give that student an

opportunity to choose whether or not to participate in that part of the matriculation process, pursuant to Title 5, California Code of Regulations, Section 55532(c).

5) The district must ensure that their policies do not use any of the following as the sole criterion for exempting any student who does not wish to participate, pursuant to Title 5, California Code of Regulations, Section 55532(d):

a) The student has enrolled only in evening classes, pursuant to Title 5, California Code of Regulations, Section 532(d)(1);

b) The student has enrolled in fewer than some specified number of units, pursuant to Title 5, California Code of Regulations, Section 55532(d)(2);

c) The student is undecided about his or her educational objectives, pursuant to Title 5, California Code of Regulations, Section 55532(d)(3); or

d) The student does not intend to earn a degree or certificate, pursuant to Title 5, California Code of Regulations, Section 55532(d)(4).

F) To comply with the matriculation funding formula developed by the Board of Governors and to ensure that each dollar of state matriculation funding is matched by three dollars of other district resources devoted to the matriculation program, pursuant to Education Code Section 78216 and Title 5, California Code of Regulations, Section 55518(b).

G) To develop and implement a plan for student matriculation that reflects all

of the following, pursuant to Education Code Section 78216(c):

1) A method for providing the services, pursuant to Education Code Section 78216(c)(1);

2) The college budget for the matriculation services, pursuant to Education Code Section 78216(c)(2);

3) The development and training of staff and faculty to implement the matriculation services, pursuant to Education Code Section 78216(c)(3);

4) The coordination of the college matriculation plan with other college plans, pursuant to Education Code Section 78216(c)(4); and

5) Computerized information services and institutional research and evaluation necessary for implementation of the matriculation program, pursuant to Education Code Section 78216(c)(5).

H) To establish policies and procedures for and to implement all of the following regarding student matriculation services, pursuant to Title 5, California Code of Regulations, Section 51024:

1) The district must implement and submit to the Chancellor a matriculation plan, pursuant to Title 5, California Code of Regulations, Section 51024(a);

2) The district must evaluate the its matriculation program and participate in statewide evaluation activities, pursuant to Title 5, California Code of Regulations, Section 51024(b);

3) The district must provide matriculation services to its students, pursuant to Title 5, California Code of Regulations, Section

51024(c);

4) The district must establish and implement procedures for waivers and appeals in connection with the matriculation program, pursuant to Title 5, California Code of Regulations, Section 51024(d); and

5) The district must substantially comply with all other provisions of Sections 55500 through 55534 (Matriculation Programs) of Title 5, pursuant to Title 5, California Code of Regulations, Section 51024(e).

I) To consult with the Chancellor to assist in the adoption of a schedule for implementing the provisions of the matriculation program and to ensure that they comply with the schedule in implementing district matriculation programs, pursuant to Title 5, California Code of Regulations, Section 55500.

J) To recognize, adopt and incorporate into district policies and procedures the definitions of the following terms that are pertinent to the matriculation program: "matriculation", "assessment instruments, methods, or procedures", "pre-collegiate basic skills courses", "disproportionate impact", "exemption", "matriculation services", "matriculation practices", "student", "orientation", and "student follow-up", as detailed in and pursuant to Title 5, California Code of Regulations, Section 55502.

K) To adopt and implement a matriculation plan describing the services to be provided to district students, pursuant to Title 5, California Code of Regulations, Section 55510.

1) The district must ensure that the adopted matriculation plan includes at least all of the following information, pursuant to Title 5, California Code of Regulations, Section 55510(a):

   a) A description of methods by which services will be delivered, pursuant to Title 5, California Code of Regulations, Section 55510(a)(1);

   b) The matriculation budget, pursuant to Title 5, California Code of Regulations, Section 55510(a)(2);

   c) Plans for faculty and staff development, pursuant to Title 5, California Code of Regulations, Section 55510(a)(3);

   d) Computerized information services and institutional research and evaluation necessary to implement the Chapter, pursuant to Title 5, California Code of Regulations, Section 55510(a)(4);

   e) Criteria for student matriculation exemption, pursuant to Title 5, California Code of Regulations, Section 55510(a)(5);

   f) Procedures for establishing and reviewing prerequisites, pursuant to Title 5, California Code of Regulations, Section 55510(a)(6);

   g) Procedures for considering student challenges to prerequisites, pursuant to Title 5, California Code of Regulations, Section 55510(a)(7); and

   h) Arrangements for coordination by the district of the matriculation plans of the various colleges in the district,

pursuant to Title 5, California Code of Regulations, Section 55510(a)(8).

2) The district must develop the plan through consultation with representatives of all of the following groups, pursuant to Title 5, California Code of Regulations, Section 55510(b):

a) Academic Senate;

b) Students; and

c) Staff with appropriate expertise.

3) The district must ensure that the plan conforms to the law and is submitted to the Chancellor for initial and periodic review and approval, pursuant to Title 5, California Code of Regulations, Section 55510(c).

L) To establish and implement a program of institutional research for ongoing evaluation of the district matriculation process to ensure compliance with the requirements of the chapter that incorporates the following, pursuant to Title 5, California Code of Regulations, section 55512:

1) The district must evaluate all assessment procedures to ensure they minimize cultural or linguistic bias and are used in a valid manner, pursuant to Title 5, California Code of Regulations, section 55512(a);

2) The district must determine whether any procedures have a disproportionate impact on particular groups of students, based on ethnicity, gender, age or disability, pursuant to Title 5, California

Code of Regulations, section 55512(a);

3) If a disproportionate impact exists, the district must consult with the Chancellor and develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact, pursuant to Title 5, California Code of Regulations, section 55512(a);

4) The district must perform and include an analysis of the degree to which the matriculation program does any of the following, pursuant to Title 5, California Code of Regulations, section 55512(a):

   a) Impacts on particular courses, programs, and facilities, pursuant to Title 5, California Code of Regulations, section 55512(a)(1);

   b) Helps students to define their educational goals, pursuant to Title 5, California Code of Regulations, section 55512(a)(2);

   c) Promotes student success, pursuant to Title 5, California Code of Regulations, section 55512(a)(3);

   d) Assists the district in the assessment of students' educational needs, pursuant to Title 5, California Code of Regulations, section 55512(a)(4);

   e) Matches district resources with students' educational needs, pursuant to Title 5, California Code of Regulations, section 55512(a)(5);

   f) Provides students with the support services described in

section 545520(g), pursuant to Title 5, California Code of Regulations, section 55512(a)(6).

5) The district must provide for and implement a review of the revenue and expenditures of the matriculation program as part of its annual financial audit, pursuant to Title 5, California Code of Regulations, Section 55512(b).

M) To annually prepare and submit a report describing the district's efforts to implement the matriculation program and also expenditures made for that purpose that includes at least all of the following information, pursuant to Title 5, California Code of Regulations, Section 55514:

1) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who are placed in (1) pre-collegiate, (2) associate-degree applicable, or (3) transfer level courses in any of the following educational areas, pursuant to Title 5, California Code of Regulations, Section 55514(a):

a) Reading;

b) Writing;

c) Computation; or

d) English as a Second Language.

2) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who (1) enter and (2) complete pre-collegiate basic skills courses, pursuant to Title 5, California Code of Regulations, Section 55514(b);

3) The proportion of students from various ethnic, gender, age or

disability groups, as defined by the Chancellor, completing pre-collegiate basic skills courses who subsequently (1) enter and (2) complete courses applicable to the associate degree, pursuant to Title 5, California Code of Regulations, Section 55514(c);

4) Outcome and retention data, as described in section 55512(a), indicating the effectiveness of matriculation, pursuant to Title 5, California Code of Regulations, Section 55514(d);

5) The basis on which the use of particular assessment instruments, methods or procedures was validated by a district, pursuant to Title 5, California Code of Regulations, Section 55514(e);

6) The numbers of students exempted, pursuant to section 55532, from participation in the district's matriculation program, by category of exemption, pursuant to Title 5, California Code of Regulations, Section 55514(f);

7) The number of students filing complaints pursuant to 55534 and the bases of those complaints, pursuant to Title 5, California Code of Regulations, Section 55514(g);

8) The particular matriculation services, as listed in section 55520, which each student received, pursuant to Title 5, California Code of Regulations, Section 55514(h); and

9) Any other matter the Chancellor, after consultation with community college districts, deems necessary for the effective evaluation of matriculation programs, pursuant to Title 5, California Code of Regulations, Section 55514(i).

N) To develop and implement a program for providing all faculty and staff with training on the provision of matriculation services that meets the following criteria, pursuant to Title 5, California Code of Regulations, Section 55516:

1) The training must be appropriate to the needs of the faculty and staff, pursuant to Title 5, California Code of Regulations, Section 55516.

2) The training must include at least all of the following information regarding assessment instruments, methods or procedures that are used in the matriculation process, pursuant to Title 5, California Code of Regulations, Section 55516:

a) Their proper (1) purpose, (2) design, (3) evaluation, and (4) use, pursuant to Title 5, California Code of Regulations, Section 55516; and

b) Their (1) limitations and (2) possible misuse, pursuant to Title 5, California Code of Regulations, Section 55516.

O) For the district, when implementing matriculation services, to ensure that the following uses of assessment instruments are prohibited, pursuant to Title 5, California Code of Regulations, Section 55521:

1) Any use that has not been approved by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55521(a)(1);

2) Use in a manner or for a purpose other than that for which it was developed or validated for, pursuant to Title 5, California Code of Regulations, Section 55521(a)(2);

3) Use of any single instrument by itself for student placement, evaluation or referral purposes, pursuant to Title 5, California Code of Regulations, Section 55521(a)(3);

4) To exclude any person from admission, pursuant to Title 5, California Code of Regulations, Section 55521(a)(4);

5) To mandatorily place a student in or exclude from any educational program, unless as an established prerequisite, pursuant to Title 5, California Code of Regulations, Section 55521(a)(5);

6) To subject any person to unlawful discrimination, pursuant to Title 5, California Code of Regulations, Section 55521(a)(6).

P) To establish and implement appropriate modifications in the matriculation process so that the needs of ethnic and language minority students and students with disabilities are accommodated and met, pursuant to Title 5, California Code of Regulations, Section 55522.

Q) To make reasonable efforts to provide and implement counseling and advisement services for all of the following students, pursuant to Title 5, California Code of Regulations, Section 55523:

1) All nonexempt students who are on probation, have not declared a specific educational goal, or are enrolled in pre-collegiate basic skills courses, pursuant to Title 5, California Code of Regulations, Section 55523(a)(1), (a)(2), and (a)(3); and

2) All students in general, to offer advice on academic requirements and the selection of specific courses, pursuant to Title 5, California Code of Regulations, Section 55523(a)(4).

R) To establish and implement a process for all of the following, regarding the Student Educational Plan, pursuant to Title 5, California Code of Regulations, Section 55525:

1) Counseling students on selecting a specific educational goal, pursuant to Title 5, California Code of Regulations, Section 55525(a);

2) Affording the student an opportunity to develop a written educational plan, pursuant to Title 5, California Code of Regulations, Section 55525(b);

3) Recording such educational plan, pursuant to Title 5, California Code of Regulations, Section 55525(c);

4) Reviewing the plan as necessary to ensure that the plan continues to accurately reflect the needs and goals of the student, pursuant to Title 5, California Code of Regulations, Section 55525(c);

5) Affording a student the right to file a complaint pursuant to Section 55534(a) if that student believes the district has violated the requirements of this Section, pursuant to Title 5, California Code of Regulations, Section 55525(d).

S) To establish and implement a follow-up process to assist the student in achieving his or her educational goal which includes regular monitoring to detect early signs of academic difficulty and advice or referral to specialized services where necessary, pursuant to Title 5, California Code of Regulations, Section 55526.

T) To adopt and implement policies and procedures that clearly define

student rights and responsibilities and the consequences of failure to fulfill such responsibilities, pursuant to Title 5, California Code of Regulations, Section 55530.

1) The district must ensure that all such information is available in written form to all students during or prior to enrollment (e.g., during orientation) and be included in class schedules, catalogs, other appropriate publications and in the student's educational plan, pursuant to Title 5, California Code of Regulations, Section 55530(b) and (d);

2) The district must take steps to ensure that the matriculation process is efficient, pursuant to Title 5, California Code of Regulations, section 55530(c);

3) The policy must define the period of time within which a student must identify a specific educational goal and provide the student with an opportunity to develop a student educational plan once that goal has been identified by the student, pursuant to Title 5, California Code of Regulations, section 55530(d).

4) The district must classify all information obtained from the matriculation process as "student records" that are subject to the requirements of Sections 54600-54626 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 55530(e).

U) To establish and implement written procedures for and to hear a student challenge to an alleged violation of the matriculation program, pursuant to

Title 5, California Code of Regulations, Section 55534.

1) The district must investigate and attempt to resolve any student complaints regarding matriculation violations in a timely manner, pursuant to Title 5, California Code of Regulations, Section 55534(a).

2) The district must retain records of all such complaints for at least three years after the complaint has been resolved, and to allow review of such records by the Chancellor, pursuant to Title 5, California Code of Regulations, Section 55534(a).

3) When a challenge contains an allegation that a community college district has been discriminatory, the district must, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division, pursuant to Title 5, California Code of Regulations, Section 55534(b).

COMPONENT 17: FULL-TIME/PART-TIME FACULTY (75 Percent Standard)

A) To ensure that at least 75 percent of the hours of credit instruction is taught by full-time instructors, by applying a portion of any "program improvement" funds received pursuant to Education Code Section 84755, according to the following guidelines, pursuant to Education Code Section 87482.6(a):

1) If the district has between 67 percent and 75 percent of credit instruction hours taught by full-time instructors in the previous fiscal year, the district must apply up to 33 percent of the program improvement allocation

toward the goal of attaining the 75 percent standard, pursuant to Education Code 87482.6(a)(1).

2) If the district has less than 67 percent of credit instruction hours taught by full-time instructors, the district must apply up to 40 percent of the program improvement allocation to reach the 75 percent standard, pursuant to Education Code Section 87482.6(a)(2).

B) To adopt and implement policies and procedures to comply with and to adjust the district budget in accordance with the regulations adopted by the Board of Governors, pertaining to allocation of funds in relation to the number of full-time equivalent faculty (FTF) employed by a district and the number of credit hours of instruction taught by such faculty, pursuant to Education Code Section 87482.6(b) and Title 5, California Code of Regulations, Sections 53312 and 53314.

1) To compile and prepare all data required for the Chancellor to annually compute and determine the number of full-time faculty the district has retained each year and the estimate number of full-time faculty the district needs to secure for the following year, in order to receive program improvement funds, pursuant to Education Code Section 87482.6(b) and Title 5, California Code of Regulations, Sections 53312 and 53314.2)

2) For the district to secure the number of full-time faculty that the Chancellor requires, as determined by the computation formula contained in subdivision (b)(3), in order to receive program improvement funds, pursuant to Education Code Section 87482.6(b)(3).

C) To establish and implement policies and procedures to comply with the

regulations adopted by the Board of Governors which establish minimum standards regarding the percentage of hours of credit instruction that must be taught by full-time instructors, pursuant to Education Code Section 87482.7.

D) To establish and implement policies and procedures to comply with the following duties in order to ensure that the 75 percent full-time faculty percentage is met, pursuant to Title 5, California Code of Regulations, Section 51025:

1) If the district has less than a 75 percent full-time faculty percentage, the district must increase the base full-time faculty obligation by the Fall term of the succeeding fiscal year by a particular method of calculation as specified in Title 5, California Code of Regulations, Section 50125(a)(1), so that the faculty obligation correlates with the growth revenues received related to increases in the full-time student population, pursuant to Title 5, California Code of Regulations, Section 51025(a)(1).

2) If the district has between 67 percent and 75 percent of credit instruction hours taught by full-time instructors in the previous fiscal year, the district must apply up to 33 percent of their program improvement allocation toward the goal of attaining the 75 percent standard, pursuant to Title 5, California Code of Regulations, Section 51025(a)(2).

3) If the district has less than 67 percent of credit instruction hours taught by full-time instructors, the district must apply up to 40 percent of their program improvement allocation to reach the 75 percent standard, pursuant to Title 5, California Code of Regulations, Section 51025(a)(3).

4) If the district is required to apply a portion of the program improvement allocation fund toward reaching the 75 percent standard, the district must

use those funds to increase the number of full-time faculty, by the Fall term of the succeeding fiscal year, by a particular calculation method as specified in, and pursuant to Title 5, California Code of Regulations, Section 51025(a)(4).

E) To ensure that all policies and procedures regarding the proportion of full-time and part-time faculty to be employed by community colleges, incorporate and implement the requirements contained in Section 51025 of Title 5 of the California Code of Regulations, pursuant to Title 5, California Code of Regulations, Section 53300.

F) To define and catagorize all faculty members as either "part-time" or "full-time" in accordance with the definitions prescribed in and pursuant to Title 5, California Code of Regulations, Sections 53301 and 53302.

G) To determine the district's full-time faculty percentage using the formula described in Title 5, California Code of Regulations, Section 53308.

H) For the district, when making the calculations required in Section 51025, to calculate full-time equivalent faculty (FTEF) attributable to full-time faculty according to the following rules, pursuant to Title 5, California Code of Regulations, Section 53309:

1) To calculate instruction based on the percentage of instructional hours per week considered a full-time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments, pursuant to Title 5, California Code of Regulations, Section 53309(a).

2) To calculate non-instructional activities based on the percentage of

working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties, pursuant to Title 5, California Code of Regulations, Section 53309(b).

3) To include the regular assignment of full-time faculty as defined in Section 53302, pursuant to Title 5, California Code of Regulations, Section 53309(c).

4) To exclude full-time faculty overload from the calculation of FTEF, pursuant to Title 5, California Code of Regulations, Section 53309(d).

5) To include full-time faculty sabbatical FTEF, whether paid or unpaid, and exclude the FTEF of replacement faculty, whether full-time or part-time, from the computation to determine the full-time faculty percentage in compliance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(e).

6) To include FTEF for full-time faculty who are released or reassigned, pursuant to Title 5, California Code of Regulations, Section 53309(f).

   a) To count the FTEF of a full-time faculty member on released or reassigned time as if the faculty member was teaching/working full-time and had not been provided released or reassigned time, pursuant to Title 5, California Code of Regulations, Section 53309(f).

   b) To exclude the FTEF of replacement faculty, whether full-time or part-time, when computing the full-time faculty percentage in compliance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(f).

7) To include unpaid leave FTEF for a faculty member on unpaid leave, pursuant to Title 5, California Code of Regulations, Section 53309(g).
   a) To count the FTEF of a full-time faculty member on unpaid leave as if the faculty member was teaching/working full-time and had not been provided with unpaid leave, pursuant to Title 5, California Code of Regulations, Section 53309(g).
   b) To exclude the FTEF of replacement faculty, whether full-time or part-time, when computing the full-time faculty percentage in compliance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(g).

8) To include credit instruction FTEF taught by classified staff or administrators who are appropriately qualified to teach, so long as the following conditions are met, pursuant to Title 5, California Code of Regulations, Section 53309(h):
   a) Only the actual hours of teaching by such individuals are included in determining the FTEF, pursuant to Title 5, California Code of Regulations, Section 53309(h); and
   b) The hours of teaching by such individuals are part of a regular contract, and not taught as an overload assignment, pursuant to Title 5, California Code of Regulations, Section 53309(h).

9) To include the FTEF of a faculty member who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time faculty member by the current Fall primary term,

pursuant to Title 5, California Code of Regulations, Section 53309(i).

10) To exclude the FTEF of replacement faculty, whether full-time or part-time, when computing the full-time faculty percentage in accordance with Section 53308, pursuant to Title 5, California Code of Regulations, Section 53309(i).

a) For the district to fill the position(s) of resigned or retired FTEF by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position, pursuant to Title 5, California Code of Regulations, Section 53309(i).

b) For the district to ensure that, in such cases, replacement is made by the following primary term to avoid a reduction by the Chancellor in the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025, pursuant to Title 5, California Code of Regulations, Section 53309(i).

I) For the district, when making the calculations required in Section 51025, to calculate the percentage of full-time faculty in the district according to the calculation method prescribed in Section 53308, pursuant to Title 5, California Code of Regulations, Section 53308.

J) For the district, when making the calculations required in Section 51025, to calculate full-time equivalent faculty (FTEF) attributable to part-time faculty according to the following rules, pursuant to Title 5, California Code of Regulations, Section 53310:

1) With respect to instruction, FTEF must be calculated based on the percentage of instructional hours per week considered a full-time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments, pursuant to Title 5, California Code of Regulations, Section 53310(a).

2) With respect to non-instructional activities, FTEF must be calculated based on the percentage of working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties, pursuant to Title 5, California Code of Regulations, Section 53310(b).

3) All instructional and non-instructional activities of part-time faculty must be included, except the following, pursuant to Title 5, California Code of Regulations, Section 53310(c):

   a) FTEF attributable to part-time faculty who replace full-time faculty on sabbatical leave, pursuant to Title 5, California Code of Regulations, Section 53310(c)(1).

   b) FTEF attributable to part-time faculty who replace full-time faculty on released or reassigned time, pursuant to Title 5, California Code of Regulations, Section 53310, pursuant to Title 5, California Code of Regulations, Section 53310(c)(2).

   c) FTEF of part-time faculty replacing full-time faculty on unpaid leave, pursuant to Title 5, California Code of Regulations, Section 53310(c)(3).

   d) FTEF of part-time faculty replacing full-time faculty who

resigned or retired late as defined in section 53309(i), pursuant to Title 5, California Code of Regulations, Section 53310(c)(4).

K) To determine the data necessary to calculate the base full-time faculty percentage from the current year's Fall management information system staff data submission to the Chancellor's Office, pursuant to Title 5, California Code of Regulations, Section 53311.

COMPONENT 18: STUDENT EQUITY

A) To establish and implement policies and procedures and to conduct staff training to ensure that a general prohibition against discrimination exists in community colleges, pursuant to Education Code Sections 72010-72014, 221.5, 221.7, 66016 and 66030.

1) To provide access to district services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex, pursuant to Education Code Section 72011.

2) To establish and implement policies and procedures to ensure that the district is in compliance with Education Code Sections 221.5 (policy of the state; prohibited discrimination), 221.7 (school-sponsored athletic programs; prohibited discrimination) and 66016 (equal opportunity; participation in athletics), relating to sex discrimination, pursuant to Education Code Section 72012. (For duties encompassed in Education Code Sections 221.5, 221.7 and 66016, see duties under numbers 5, 6 and 7 respectively)

3) To incorporate into district policies and procedures regarding matters

within Division 6 of the Education Code, that with respect to access to community college district services, classes, and programs, and with respect to all references within this division, "handicap" and "disability" have the same meaning, pursuant to Education Code Section 72013.

4) To establish and implement policies and procedures to ensure that no funds under the control of the community college district are ever used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin, pursuant to Education Code Section 72014.

5) To require all classes and courses to be conducted without regard to the sex of the student enrolled, pursuant to Education Code Section 221.5 and 66271.7, in the following ways:

   a) The district must ensure that no student is prohibited from enrolling in any class course the basis of the sex of the pupil, pursuant to Education Code Sections 221.5(b) and 66271.7(b).

   b) The district must ensure that if students of one sex are required to enroll in a particular course, the same course is also required of students of the opposite sex, pursuant to Education Code Sections 221.5(c) and 66271.7(c).

   c) The district must ensure that no school counselor, teacher, instructor, administrator, or aide offers any of the following types of guidance to students of one sex that is different from that offered to

students of the opposite sex, based on that student's sex, pursuant to Education Code Sections 221.5(d) and 66271.7(d):

(i) vocational;

(ii) school program;

(iii) career; or

(iv) higher education opportunity guidance.

d) The district must require any school personnel acting in a career counseling or course selection capacity to any student, to affirmatively explore with the student the possibility of careers, or courses leading to careers, that are nontraditional for the student's sex, pursuant to Education Code Sections 221.5(d) and 66271.7(d).

e) The district must notify the parents or legal guardian of a pupil at least once, in advance of career counseling and course selection and allow such parents to participate in the counseling sessions and decisions (for minor students), pursuant to Education Code Section 221.5(d).

f) The district must make participation in physical education activities or sports available to students of both sexes if it is required of students of one sex, pursuant to Education Code Sections 221.5(e) and 66271.7(e).

6) To ensure that public funds for athletic programs are only used for those programs that provide equal opportunity to both sexes for participation and for use of facilities, pursuant to Education Code Sections 221.7(b)

and 66271.7(g).

7) The district must apportion public funds available for athletics in a manner that ensures that equitable amounts are allocated for all students, insofar as practicable, pursuant to Education Code Section 66271.7(g).

8) To ensure that opportunities for participation in intercollegiate athletic programs be provided on as equal a basis as is practicable to both make and female students, in compliance with the Legislative intent, pursuant to Education Code Section 66016.

9) The district must ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, pursuant to Education Code Section 66030.

B) To establish and implement policies and procedures to comply with the Sex Equity in Education Act of 1988, pursuant to Education Code Sections 66250 - 66292.4.

1) To ensure that equal rights and opportunities in the community college are afforded to all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, color, ancestry, sexual orientation, or perception by others that a person has any of the above characteristics, pursuant to Education Code Section 66251.

2) To affirmatively combat racism, sexism, and other forms of bias, pursuant to Education Code Section 66252(b).

3) To incorporate the following terms and definitions into district policies and procedures relating to sex equity in education, as detailed in and pursuant to Education Code Sections 66260-66264:

a) "Governing board" means the governing board of a community college, pursuant to Education Code Section 66261;

b) "Postsecondary educational institution" means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University, pursuant to Education Code Section 66261.5;

c) "Sex" has the same meaning as defined in Section 212, pursuant to Education Code Section 66262 and pursuant to Education Code Section 212, "Sex" means the biological condition or quality of being a male or female human being;

d) "Sexual harassment" has the same meaning as defined in Section 212.5, pursuant to Education Code Section 66262.5 and pursuant to Education Code Section 212.5, "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(i) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress, pursuant to Education Code Section 212.5(a);

(ii) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual, pursuant to Education Code Section 212.5(b);

(iii) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment, pursuant to Education Code Section 212.5(c); or

(iv) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution, pursuant to Education Code Section 212.5(d).

e) "State financial assistance" has the same meaning as defined in Section 213, pursuant to Education Code Section 66263 and pursuant to Education Code Section 213, "State financial assistance" means "any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any pupils admitted to the educational institution that includes all of the following:

(i) Grants of state property, or any interest therein, pursuant to

Education Code Section 213(b)(1);

(ii) Provision of the services of state personnel, pursuant to Education Code Section 213(b)(2); and

(iii) Funds provided by contract, tax rebate, appropriation, allocation, or formula, pursuant to Education Code Section 213(b)(3).

f) "State student financial aid" has the same meaning as defined in Section 214, pursuant to Education Code section 66264 and pursuant to Education Code Section 214, "State student financial aid" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution, which includes, but is not limited to, scholarships, loans, grants, or wages.

4) To ensure that no person in the community college is subject to discrimination on the basis of their sex, ethnic group identification, race, national origin, religion , mental or physical disability, color, ancestry, sexual orientation, or perception by others that a person has any of the above characteristics, pursuant to Education Code Section 66270.

5) To establish and implement a written policy on sexual harassment that includes information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies, pursuant to Education Code Section

66281.5(b) and (c).

6) To display a copy of the community college's written policy on sexual harassment in all of the following places and manners, pursuant to Education Code Section 66281.5(d)-(g):

a) The policy must be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite, pursuant to Education Code Section 66281.5(d).

b) The policy, as it pertains to students, must be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable, pursuant to Education Code Section 66281.5(e).

c) The policy must be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired, pursuant to Education Code Section 66281.5(f).

d) The policy must appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution, pursuant to Education Code Section 66281.5(g).

7) To provide assurance to any agency administering state funds that the activity conducted by the community college will be in compliance with the Sex Equity in Education Act and any other applicable provisions of state

law prohibiting discrimination on the basis of sex, pursuant to Education Code Section 66290.

a) The district must make this assurance in the manner required by the agency distributing the funds, pursuant to Education Code Section 66290.

b) The district must make this assurance prior to receipt of such funds, pursuant to Education Code Section 66290.

8) To prepare and submit compliance reports to the Chancellor's office, as that entity may require, pursuant to Education Code Section 66291(a).

9) To make all reports submitted pursuant to 66291(a) available for public inspection during regular business hours, pursuant to Education Code Section 66291(b).

10) To ensure that programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability, pursuant to Education Code Section 66292(a).

11) To allow a party to a written complaint of prohibited discrimination to appeal any action taken by the governing board of the community college district, pursuant to Education Code Section 66292.3(a).

12) To advise any person who files a complaint of prohibited discrimination that civil law remedies may also be available to such complainants, pursuant to Education Code Section 66292.3(b).

13) To publish in appropriate informational materials the fact that civil law remedies may be available to complainants of prohibited discrimination, pursuant to Education Code Section 66292.3(b).

C) To establish and implement a Student Equity Plan, as authorized by Education Code Section 66271.1 and implemented by Title 5, California Code of Regulations Sections 51026 and 54220.

1) To adopt and implement a student equity plan prior to receipt of state aid, pursuant to Title 5, California Code of Regulations Section 51026.

2) To adopt and implement a student equity plan which includes the following for each college in the district, pursuant to Title 5, California Code of Regulations, Section 54220:

a) Campus-based research as to the extent of student equity in (1) access, (2) retention, (3) degree and certificate completion, (4) ESL and basic skills completion, and (5) transfer, and the determination of what activities are most likely to be effective, pursuant to Title 5, California Code of Regulations, Section 54220(a)(1) and the Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan");

(i) To periodically review the data compiled, and

(ii) To make efforts to address any problems that are identified, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

b) Goals for (1) access, (2) retention, (3) degree and certificate completion, (4) ESL and basic skills completion, and (5) transfer; for the overall student population and for each population group of students, as appropriate, pursuant to Title 5, California Code of

Regulations, Section 54220(a)(2);

(i) For these goals to meet the following standards: (1) be written; (2) include specific measures for determining progress towards achieving the desired outcomes; (3) identify the baseline data findings that forms the bases for noting an equity issue; (4) identify the amount and direction of change expected to reflect the desired outcome or amount of progress to be achieved; (5) include target dates and/or timetables to establish a time frame for assessing the effectiveness in achieving expected outcomes, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

c) Race-neutral measures, or, when legally appropriate, race-conscious measures, implemented in accordance with standards adopted by the Board of Governors, to address any disparity in student population if significant underrepresentation of a particular group is found to exist, pursuant to Title 5, California Code of Regulations, Section 54220(a)(2);

(i) To implement race/gender neutral measures when working to eliminate any noted underrepresentation, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(ii) To take active steps, beyond compliance with nondiscrimination laws, to promote student equity when

significant underrepresentation exists, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(iii) To implement the following procedures when significant underrepresentaion exists: (1) review its practices and procedures and identify and implement any additional measures which might reasonably be expected to address the needs of significantly underrepresented groups in the success indicator areas in question; (2) consider various other means of reducing the underrepresentation, which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective; and (3) establish target dates for achieving expected outcomes, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(iv) To use race/gender neutral methods to rectify underrepresentation for at least 3 years before considering mechanisms that take race or gender into account, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

d) Implementation activities designed to attain the goals, including a

means of coordinating existing student equity related programs, pursuant to Title 5, California Code of Regulations, Section 54220(a)(3);

e) Sources of funds for the activities in the plan, pursuant to Title 5, California Code of Regulations, Section 54220(a)(4);

f) A schedule and process for evaluation, pursuant to Title 5, California Code of Regulations, Section 54220(a)(5);

(i) To conduct an annual survey of the college's student population and gather ethnicity, gender and disability data for use in evaluating the progress in implementing the goals set forth in its plan, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

(ii) For the evaluation schedule to contain specific information about who is doing what and when and how often the plan itself will be evaluated, pursuant to Chancellor's Revised Guidelines and Information (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

g) An executive summary that includes, at a minimum, (1) the groups for whom goals have been set; (2) the goals; (3) the initiatives that the college or district will undertake to achieve these goals; (4) the resources that have been budgeted for that purpose; and (5) the district official to contact for further information, pursuant to Title 5, California Code of Regulations, Section 54220(a)(6);

h) For the designated contact person to be responsible for the following: (1) monitoring, review, and evaluation of student success for all students; (2) guiding the planning and development process to promote student success; (3) compiling the results of the periodic review process to determine effective success strategies; (4) reporting these findings to the success/equity advisory committee on an annual basis; (5) submitting a copy of this report along with any resulting committee board action to the Chancellor's Office, pursuant to Chancellor's Revised Guidelines and Information, 2002 (Appendix 3 of "Student Equity: Guidelines for Developing a Plan").

3) To develop the student equity plan with the active involvement of all groups on campus and with the involvement of appropriate people from the community, pursuant to Title 5, California Code of Regulations, Section 54220(b). To implement this subdivision, the governing board must determine who may qualify as "appropriate people from the community" and give notice to such people and also to all groups on campus of any meetings or activities regarding the development of the student equity plan.

4) For the governing board to submit the Board-adopted plan to the Office of the Chancellor, pursuant to Title 5, California Code of Regulations, Section 54220(c).

D) To create and implement a Comprehensive Mission Statement to identify common educational missions shared by educational institutions in California,

pursuant to Education Code Section 66010.1 - 66010.7

1) To provide the following, pursuant to Education Code Section 66010.2:
   a) Access to education to all qualified Californians, particularly for those who have been underrepresented in both their graduation rates from secondary institutions and in their attendance at higher educational institutions, pursuant to Education Code Section 66010.2(a);
   b) Quality teaching and programs of excellence for their students, pursuant to Education Code Section 66010.2(b); and
   c) Educational equity through a diverse student body and faculty, and an environment in which each person, regardless of race, gender, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential, pursuant to Education Code Section 66010.2(c).
2) To establish and implement policies and procedures for intersegmental collaboration and coordination when it can do any of the following, pursuant to Education Code Section 66010.7(b):
   a) Enhance the achievement of the institutional missions shared by the segments, pursuant to Education Code Section 66010.7(b)(1);
   b) Provide more effective planning of postsecondary education on a statewide basis, pursuant to Education Code Section 66010.7(b)(2);
   c) Facilitate achievement of the goals of educational equity, pursuant to Education Code Section 66010.7(b)(3);

d) Enable public and independent higher education to meet more effectively the educational needs of a geographic region, pursuant to Education Code Section 66010.7(b)(4);

e) Facilitate student progress from one segment to another, particularly with regard to preparation of students for higher education as well as the transfer from the California Community Colleges to four-year institutions, pursuant to Education Code Section 66010.7(b)(5).

3) For the leaders of community college to work with the Superintendent of Public Instruction to promote and facilitate the development of intersegmental programs and other cooperative efforts aimed at improving the progress of students through the educational systems and at strengthening the teaching profession at all levels, pursuant to Education Code Section 66010.7(c).

4) For the community college to make available and for the California Postsecondary Education Commission to review and evaluate the effectiveness of intersegmental activities in accomplishing the established goals, and report its findings to the Governor and Legislature biennially, pursuant to Education Code Section 66010.7(d).

E) To ensure that the district student equity plans, established pursuant to Title 5, California Code of Regulations, Sections 51026 and 54220 adhere to the Chancellor's criteria for reviewing and evaluating student equity plans, as detailed in and pursuant to the "Student Equity Plan Review Procedures and Instructions" contained in Appendix 1 of "Student Equity: Guidelines for

Developing a Plan, 2002"

COMPONENT 19: TRANSFER CENTERS

A) To implement policies and procedures to comply with the statewide common course numbering system adopted and disseminated by the Board of Governors, pursuant to Education Code Section 71027.

B) To establish and implement policies and procedures to comply with the common core curriculum for transfer, established and disseminated by the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University, pursuant to Education Code Sections 66720 -66722.5

1) To provide each of their students with a copy of the current transfer core curriculum, pursuant to Education Code Section 66721.5(a)

2) To ensure that a copy of the current transfer core curriculum is distributed to each newly admitted student who is enrolled in a degree or certification program and is physically in attendance at the institution, pursuant to Education Code Section 6621.5(b)

3) To ensure that the text of the current transfer core curriculum is included in the published class schedule for each academic term, pursuant to Education Code Section 6621.5(c).

4) To establish and implement policies and procedures to ensure that the transfer function is a central institutional priority, and that the maintenance of an effective transfer system constitutes a fundamental policy and practice in the community college system,

pursuant to Education Code Section 66722.

5) To establish and implement policies and procedures to pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments, pursuant to Education Code Section 66722.5.

C) To establish and implement a comprehensive transfer system, pursuant to Education Code Sections 66730 - 66744.

1) To recognize student matriculation from community colleges through the University of California and the California State University as a central institutional priority of all segments of higher education, pursuant to Education Code Section 66731.

2) To design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University, pursuant to Education Code Section 66732.

3) To ensure that the district college or colleges maintain student transfer counseling centers or other counseling and student services, pursuant to Education Code Section 66736.

a) To design and implement such centers or services to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college

transfer students, pursuant to Education Code Section 66736.

b) To ensure that all such policies and procedures give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations, pursuant to Education Code Section 66736

4) To establish and implement policies and procedures to comply with the new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education designed to facilitate the successful transfer of students between the community college and the universities, as developed by the Board of Governors of the California Community Colleges, pursuant to Education Code Section 66737.

5) To assist in the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function, pursuant to Education Code Section 66738.

a) To ensure that the elements in a comprehensive transfer system include the following, pursuant to Education Code Section 66738(b):

1) Enrollment and resource planning; intersegmental faculty curricular efforts;
2) Coordinated counseling;
3) Financial aid and transfer services;
4) Transfer articulation agreements and programs;
5) Specific efforts to improve diversity;
6) Early outreach activities;
7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses; and
8) Centers.

b) To expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, pursuant to Education Code Section 66738(c);

c) To expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus, pursuant to Education Code Section 66738(c).

D) For faculty from the community college to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency, pursuant to Education Code Section 66740.

1) To establish and implement policies and procedures to ensure that, where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors are made readily available to (a) community college counselors, (b) faculty, and (c) students on an annual basis, pursuant to Education Code Section 66740.

2) In cases where the prescribed course of study is altered by the university department, to communicate notice of the modification to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major, pursuant to Education Code Section 66740.

3) For the district, in conjunction with the California State University and the University of California, to develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses, pursuant to Education Code Section 66740.

E) To ensure that, each student is assured of the opportunity to enter into a transfer agreement program enabling a student to (1) receive high priority consideration, (2) attain equivalent special treatment, or (3) enter into a contract when applying for university admission at the advanced standing level, pursuant to Education Code Section 66741.

F) To prepare and present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature, pursuant to Education Code Section 66742.

1) For the reports to include recent statistics on student enrollment by campus, segment, gender, ethnicity, and the ratio of upper division to lower division, including information on both (1) freshman and (2) transfer student access to the system, pursuant to Education Code Section 66742.

2) For the reports to include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus, pursuant to Education Code Section 66742.

3) To ensure that, for transfer students, this data indicates the segment of origin for all students, pursuant to Education Code Section 66742.

4) For the data to be separately identified for transfer students from California Community Colleges, pursuant to Education Code Section 66742.

5) For the data to identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group, pursuant to Education Code Section 66742.

6) For the reports to describe the following, pursuant to Education Code Section 66742:

a) The number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, pursuant to Education Code Section 66742;

b) The number of California Community College transfer students denied either (1) admission to the student's first choice of a particular campus of the California State University or the University of California or (2) the student's first choice of a major field of study, pursuant to Education Code Section 66742; and

c) The number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California, pursuant to Education Code Section 66742.

7) For the reports to include information by sex and ethnicity on retention and degree completion for transfer students, native students, and the number and percentage of baccalaureate degree recipients who transferred from a community college, pursuant to Education Code Section 66742.

G) To compile, prepare and make available data required by the California Postsecondary Education Commission's intersegmental advisory committee on transfer access and performance so that the committee may present biennial reports to the Governor and the Legislature on the status of transfer policies and programs, pursuant to Education Code Section 66743

H) To implement and comply with minimum standards for transfer centers, pursuant to Title 5 of the California Code of Regulations, Section 51027.

1) To recognize transfer as one of the districts primary missions, and to place priority emphasis on the preparation and transfer of underrepresented students, including African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepresented in the transfer process, pursuant to Title 5, California Code of Regulations, Section 51027(a).

2) To develop, adopt and implement a transfer center plan that includes the following, pursuant to Title 5, California Code of Regulations, Section 51027(b):

a) A description of the activities of the transfer center and the services to be provided to students, pursuant to Title 5, California Code of Regulations, Section 51027(b);

b) Identification of target student populations, pursuant to Title 5, California Code of Regulations, Section 51027(b);

c) Establishment of target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students, pursuant to Title 5, California Code of Regulations, Section 51027(b);

d) Consultation with baccalaureate college and university

personnel in the development of the transfer center plan, pursuant to Title 5, California Code of Regulations, Section 51027(b); and

e) Inclusion of at least the following plan components, pursuant to Title 5, California Code of Regulations, Section 51027(b):

(1) services to be provided to students;

(2) facilities;

(3) staffing;

(4) advisory committee; and

(5) evaluation and reporting.

3) To establish and implement the following required services, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1):

a) To identify, contact, and provide transfer support services to targeted student populations as identified in the transfer center plan, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(A);

(1) To place priority emphasis on African-American, Chicano/Latino, American Indian, disabled, low-income, and other underrepresented students; and

(2) To develop and implement these activities in cooperation with student services departments and with faculty.

b) To ensure: (1) the provision of academic planning for transfer, (2) the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and (3) the development and use of course-to-course and major articulation agreements, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(B).

(1) To ensure that academic planning and articulation activities are provided in cooperation with (1) student services, (2) with faculty, and (3) with baccalaureate institution personnel as available.

c) To ensure that students receive accurate and up-to-date academic and transfer information through coordinated transfer counseling services, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(C).

d) To monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(D).

e) To support the progress of transfer students through referral as necessary, to such services as: (1) ability and diagnostic testing, (2) tutoring, (3) financial assistance, (4) counseling, and (5) to other instructional and student services on campus as appropriate, pursuant to Title 5, California Code

of Regulations, Section 51027(b)(1)(E).

f) To assist students in the transition process, including timely completion and submittal of necessary forms and applications, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(F).

g) To develop and implement a schedule of services for transfer students to be provided by baccalaureate institution staff, in cooperation with baccalaureate institution personnel as available, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(G).

h) To provide: (1) a resource library of college catalogs, (2) transfer guides, (3) articulation information and agreements, (4) applications to baccalaureate institutions, and (5) related transfer information, pursuant to Title 5, California Code of Regulations, Section 51027(b)(1)(H).

4) To provide space and facilities adequate to support the transfer center and its activities, pursuant to Title 5, California Code of Regulations, Section 51027(b)(2).

a) To designate a particular location on campus as the focal point of transfer functions, pursuant to Title 5, California Code of Regulations, Section 51027(b)(2).

b) To ensure that this location is readily identifiable and accessible to students, faculty, and staff, pursuant to Title 5, California Code of Regulations, Section 51027(b)(2).

5) To provide clerical support for the transfer center and assign college staff to accomplish the following, pursuant to Title 5, California Code of Regulations, Section 51027(b)(3):

   a) To coordinate the activities of the transfer center;

   b) To coordinate underrepresented student transfer efforts;

   c) To serve as liaison to articulation, to student services, and to instructional programs on campus;

   d) To work with baccalaureate institution personnel.

6) To designate an advisory committee to plan the development, implementation, and ongoing operations of the transfer center, pursuant to Title 5, California Code of Regulations, Section 51027(b)(4).

   a) To ensure that membership is representative of campus departments and services.

   b) To ensure that Baccalaureate institution personnel are included as available.

7) To include in the districts transfer center plan, a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan, pursuant to Title 5, California Code of Regulations, Section 51027(b)(5).

8) To prepare and submit an annual report to the Chancellor describing the following, pursuant to Title 5, California Code of Regulations, Section 51027(b)(5):

a) the status of the district's efforts to implement its transfer center(s),

b) achievement of transfer center plan targets and goals, and

c) expenditures supporting transfer center operations.

COMPONENT 20: COMPLIANCE ENFORCEMENT

A) To adopt and implement policies and procedures to comply with the requirements of Education Code Section 70901(b)(6) and Chapter 2 of Division 6 of the California Code of Regulations regarding the minimum conditions the district must meet to receive state aid for the support of the community college, pursuant to Title 5, California Code of Regulations, Section 51000.

B) To prepare and submit all data necessary to respond to any review by the State Chancellor to determine whether the district has complied with the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2 of the California Code of Regualtions, pursuant to Title 5, California Code of Regulations, Section 51101.

C) To adopt and implement policies and procedures to comply with any enforcement orders that the Chancellor may issue to the district regarding district compliance with the provisions of Subchapter 1 (commencing with Section 51100) of Chapter 2 of the California Code of Regulations (Minimum Conditions), pursuant to Title 5, California Code of Regulations, Section 51102.

1) To prepare and submit to the Chancellor an official written response by a date specified by the Chancellor, if the Chancellor

notifies the chief executive officer of the district that any noncompliance with the Subchapter exists, pursuant to Title 5, California Code of Regulations, Section 51102(a);

2) If the Chancellor so requires, to prepare, submit and implement a plan and timetable for achieving compliance as a condition for continued receipt of state aid Title 5, California Code of Regulations, Section 51102(b)(2).

It is estimated that the Santa Monica Community College District incurred more than $1000 in staffing and other costs in excess of any funding provided to the district for the period from July 1, 2001 through June 30, 2002 to implement these new duties mandated by the state for which the district has not been reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

EXECUTED this _____ day of June, 2003, at _____, California

_____

Piedad F. Robertson, President
Santa Monica Community College District

notifies the chief executive officer of the district that any noncompliance with the Subchapter exists, pursuant to Title 5, California Code of Regulations, Section 51102(a);

2) If the Chancellor so requires, to prepare, submit and implement a plan and timetable for achieving compliance as a condition for continued receipt of state aid Title 5, California Code of Regulations, Section 51102(b)(2).

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

It is estimated that the Santa Monica Community College District incurred more than $1000 in staffing and other costs in excess of any funding provided to the district for the period from July 1, 2001 through June 30, 2002 to implement these new duties mandated by the state for which the district has not been reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

EXECUTED this 16th day of June, 2003, at Santa Monica, California

Piedad F. Robertson, President
Santa Monica Community College District

/
/
/
/
/
/
/
/

EXHIBIT 2

COPIES OF STATUTES CITED

SEC. 50. Section 72012 of the Education Code is amended to read:

72012. Every community college shall comply with * * * Sections 221.5, 221.7, and 66016, relating to sex discrimination.

SEC. 51. Section 72015 of the Education Code is amended and renumbered to read:

66271.7. (a) It is the policy of the state that community college classes and courses, including nonacademic and elective classes and courses, shall be conducted without regard to the sex of the student enrolled in these classes and courses.

(b) No community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student.

(c) No community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

(f) The Legislature finds and declares that female students are not accorded opportunities for participation in community college athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in community college athletics be provided equally to male and female students and on an equitable basis to all students.

(g) Insofar as practicable, in apportioning public funds, community college district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs. Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of the governing board of a community college district, or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and opportunities for participation shall include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(h) It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports. Nothing in this section shall be construed to require a community college to require competition between male and female students in school-sponsored athletic programs.

SCHOOLS AND SCHOOL DISTRICTS—COMMUNITY COLLEGES—BOARD OF GOVERNORS

CHAPTER 1023

A.B. No. 2329

AN ACT to amend Section 70901 of the Education Code, and to amend Sections 10295, 10430, 12100.5, and 12120 of, and to add Sections 20661 and 20662 to, the Public Contract Code, relating to community colleges.

[Approved by Governor September 30, 1998.]

[Filed with Secretary of State September 30, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2329, Firestone. Community colleges: contracts.

Under existing law, the Regents of the University of California and the Trustees of the California State University are not subject to laws governing contracts for the state procurement of materials, goods, supplies, or services, or for the acquisition of electronic data-processing and telecommunications goods and services, with certain exceptions. Under existing law, the trustees are required to develop policies and procedures that further expressed legislative policies for procurement without the involvement of the Department of Finance or the Department of General Services.

This bill would provide that the Board of Governors of the California Community Colleges is not subject to the laws described above, but would require the board to develop policies and procedures that further express legislative policies for procurement without the involvement of the Department of Finance or the Department of General Services.

Under existing law, Section 8 of Article XVI of the California Constitution (Proposition 98) sets forth a formula for computing the minimum amount of General Fund revenues that the state is required to appropriate for the support of school districts, as defined, and community college districts for each fiscal year.

The bill would authorize the Chancellor of the California Community Colleges to enter into a contract on behalf of one or more community college districts, subject to certain restrictions. The bill would require the chancellor to report to the Legislature and the Governor by

January 1, 2001, on contracts entered into pursuant to these provisions and any resultant cost savings. The bill would authorize the chancellor to enter into a contract with a community college district whereby the district performs services or acts as a fiscal agent on behalf of the California Community Colleges when the funds for the contract or agreement are in satisfaction of the state obligation to provide funding pursuant to Section 8 of Article XVI of the California Constitution. The bill would authorize the Board of Governors of the California Community Colleges to adopt regulations to implement the provisions of this paragraph.

This bill would incorporate additional changes in Section 10430 of the Public Contract Code proposed by SB 412, to be operative if SB 412 and this bill are both enacted and become effective on or before January 1, 1999, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 70901 of the Education Code is amended to read:

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general

apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Contract for the procurement of goods and services, as necessary.

(16) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

SEC. 2. Section 10295 of the Public Contract Code, as amended by Chapter 88 of the Statutes of 1998, is amended to read:

10295. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or elementary school textbooks, (b) services, whether or not the services involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval. This section applies to any state agency that by general or specific statute is expressly or impliedly authorized to enter into transactions referred to in this section. This section does not apply to any transaction entered into by the Trustees of the California State University, by the Board of Governors of the California Community Colleges, or by a department under the State Contract Act or the California State University Contract Law, any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code, any contract entered into by the Department of Transportation that is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, any contract entered into by the Department of Personnel Administration for state employees in State Bargaining Unit 16 for employee benefits, occupational health and safety, training services, or combination thereof any contract let by the Legislature, or any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 3. Section 10430 of the Public Contract Code, as amended by Section 72 of Chapter 88 of the Statutes of 1998, is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b) Transactions covered under Chapter 3 (commencing with Section 12100).

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295 or 10295.1. However, the Trustees of the California State University and the Board of Governors of the California Community Colleges shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment for each meeting of the board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section 4648 of the Welfare and Institutions Code if the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

SEC. 3.5. Section 10430 of the Public Contract Code, as amended by Section 72 of Chapter 88 of the Statutes of 1998, is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b)(1) Transactions covered under Chapter 3 (commencing with Section 12100), except that Sections 10365.5, 10410, and 10411 shall apply to all individuals, companies, corporations, or other entities that bid on or are awarded contracts, either as contractors or subcontractors, pursuant to that chapter.

(2) The changes made to this subdivision during the 1998 portion of the 1997–98 Regular Session shall not be construed to have retroactive effect on any pending action, arbitration, or administrative proceeding, but shall only apply to an action, arbitration, or administrative proceeding, at law or in equity, that is commenced on or after January 1, 1999.

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295 or 10295.1. However, the Trustees of the California State University and the Board of Governors of the California Community Colleges shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment for each meeting of the board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section 4648 of the Welfare and Institutions Code if the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

SEC. 4. Section 12100.5 of the Public Contract Code is amended to read:

12100.5. The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges shall not be subject to this chapter except that the trustees shall develop policies and procedures maintained in its state university administrative manual and the board shall adopt policies and procedures maintained in its administrative manual that further the legislative policies for procurement expressed in this chapter but without the involvement of the Director of Finance and the Director of General Services or the Department of Finance and the Department of General Services.

SEC. 5. Section 12120 of the Public Contract Code is amended to read:

12120. The Legislature finds and declares that, with the advent of deregulation in the telecommunications industry, substantial cost savings can be realized by the state through the specialized evaluation and procurement of alternative telecommunications systems. All contracts for the acquisition of telecommunications services and all contracts for the acquisition of telecommunications goods, whether by lease or purchase, shall be made by, or under the supervision of, the Department of General Services. All procurements shall be accomplished in accordance with Chapter 3 (commencing with Section 12100), relating to the acquisition of electronic data-processing goods and services, except to the extent any directive or provision is uniquely applicable to electronic data-processing acquisitions. The Department of General Services shall have responsibility for the establishment of policy and procedures for telecommunications. The Department of General Services shall have responsibility for the establishment of tactical policy and procedures for data-processing acquisitions consistent with statewide strategic policy as established by the Department of Finance. The Department of Finance shall have review and approval responsibility of data-processing information and telecommunication acquisitions to assure consistency with budgetary objectives. The Trustees of the California State University and the Board of Governors of the California Community Colleges shall assume the functions of the Department of Finance and the Department of General Services with regard to procurement of telecommunication goods and services by the California State University and the California Community Colleges, respectively. The trustees and the board shall each grant to the Department of General Services, Division of Telecommunications, an opportunity to bid whenever the university or the college system solicits bids for telecommunications goods and services.

SEC. 6. Section 20661 is added to the Public Contract Code, to read:

20661. (a) The Chancellor of the California Community Colleges is authorized to enter into a contract on behalf of one or more community college districts, subject to the following restrictions:

(1) No district may be required to participate in any contract entered into pursuant to this section.

(2) The cost to each district that is a party to or a beneficiary of a contract entered into pursuant to this section must be lower than the cost the district could obtain through its standard contracting procedures. No contract for the procurement of goods or services may be made when a bid has been received by a participating district for the procurement of the same goods or services unless the contract would result in a lower price for the goods or services upon the same terms, conditions, and specifications.

(3) The state shall not incur any financial responsibility in connection with a contract entered into pursuant to this section.

(b) The Chancellor of the California Community Colleges is authorized to charge a fee, commission, or other charge to either or both of the following:

(1) Each provider of goods or services under a contract entered into pursuant to this section.

(2) Each community college district that the chancellor enters into a contract on behalf of pursuant to this section.

(c) On or before January 1, 2001, the Chancellor of the California Community Colleges shall report to the Legislature and the Governor on contracts entered into pursuant to this section and any resultant cost savings.

(d) The Board of Governors of the California Community Colleges shall adopt regulations to implement this section.

SEC. 7. Section 20662 is added to the Public Contract Code, to read:

20662. The Chancellor of the California Community Colleges is authorized to enter into a contract or other agreement with the governing board of any community college district whereby the district performs services or acts as a fiscal agent on behalf of the California Community colleges. This section shall apply only when the funds for the contract or agreement are in satisfaction of the state obligation to provide funding pursuant to Section 8 of Article XVI of the California Constitution.

SEC. 7.5. (a) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code applies to the Board of Governors of the California Community Colleges and to the Chancellor's Office of the California Community Colleges. The Legislature finds and declares that this subdivision is declaratory of existing law.

(b) Nothing in this act shall be construed to provide any exemption from Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code for the Board of Governors of the California Community Colleges or the Chancellor's Office of the California Community Colleges.

SEC. 8. It is the intent of the Legislature that this act will result in greater efficiency in the operation of the California Community Colleges.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 10430 of the Public Contract Code proposed by both this bill and SB 412. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 10430 of the Public Contract Code, and (3) this bill is enacted after SB 412, in which case Section 3 of this bill shall not become operative.

EDUCATION—CALIFORNIA STUDENT SAFETY AND VIOLENCE PREVENTION ACT

CHAPTER 587

A.B. No. 537

AN ACT to amend Sections 200, 220, 66251, and 66270 of, to add Section 241 to, and to amend and renumber Sections 221 and 66271 of, the Education Code, relating to discrimination.

[Filed with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 537, Kuehl. Discrimination.

(1) Existing law provides that it is the policy of the State of California to afford all persons in public schools and postsecondary institutions, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the educational institutions of the state.

Existing law makes it a crime for a person, whether or not acting under color of law, to willfully injure, intimidate, interfere with, oppress, or threaten any other person, by force or threat of force, in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics.

This bill would also provide that it is the policy of the state to afford all persons in public school and postsecondary institutions equal rights and opportunities in the educational institutions of the state, regardless of any basis referred to in the aforementioned paragraph.

(2) Existing law prohibits a person from being subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity conducted by any educational institution or postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

This bill would also prohibit a person from being subjected to discrimination on the basis of any basis referred to in paragraph (1) in any program or activity conducted by any educational institution or postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

(3) This bill would state that it does not require the inclusion of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or a postsecondary educational institution and would prohibit this bill from being deemed to be violated by the omission of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or a postsecondary educational institution.

To the extent that this bill would impose new duties on school districts and community college districts, it would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. This bill shall be known, and may be cited, as the California Student Safety and Violence Prevention Act of 2000.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Under the California Constitution, all students of public schools have the inalienable right to attend campuses that are safe, secure, and peaceful. Violence is the number one cause of death for young people in California and has become a public health problem of epidemic proportion. One of the Legislature's highest priorities must be to prevent our children from the plague of violence.

(2) The fastest growing, violent crime in California is hate crime, and it is incumbent upon us to ensure that all students attending public school in California are protected from potentially violent discrimination. Educators see how violence affects youth every day; they know first hand that youth cannot learn if they are concerned about their safety. This legislation is designed to protect the institution of learning as well as our students.

(3) Not only do we need to address the issue of school violence but also we must strive to reverse the increase in teen suicide. The number of teens who attempt suicide, as well as the number who actually kill themselves, has risen substantially in recent years. Teen suicides in the United States have doubled in number since 1960 and every year over a quarter of a million adolescents in the United States attempt suicide. Sadly, approximately 4,000 of these attempts every year are completed. Suicide is the third leading cause of death for youths 15 through 24 years of age. To combat this problem we must seriously examine these grim statistics and take immediate action to ensure all students are offered equal protection from discrimination under California law.

SEC. 3. Section 200 of the Education Code is amended to read:

200. * * * It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, * * * mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 4. Section 220 of the Education Code is amended to read:

220. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, * * * mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

SEC. 5. Section 221 of the Education Code is renumbered to read:

220.5. This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 6. Section 241 is added to the Education Code, to read:

241. Nothing in the California Student Safety and Violence Prevention Act of 2000 requires the inclusion of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution; the California Student Safety and Violence Prevention Act of 2000 shall not be deemed to be violated by the omission of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution.

SEC. 7. Section 66251 of the Education Code is amended to read:

66251. It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, * * * mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 8. Section 66270 of the Education Code is amended to read:

66270. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 9. Section 66271 of the Education Code is renumbered to read:

66270.5. This chapter shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

POSTSECONDARY EDUCATION—COMMUNITY COLLEGE STUDENTS —ACCESS TO TRANSFER INFORMATION

CHAPTER 187

A.B. No. 1918

AN ACT to add Section 66721.5 to the Education Code, relating to public postsecondary education.

[Filed with Secretary of State July 24, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1918, Romero. Public postsecondary education: Access to Transfer Information for Community College Students Act.

(1) Existing law establishes the various segments of the higher education system in the state. These segments include the University of California, which is administered by the Regents of the University of California, the California State University, which is administered

by the Trustees of the California State University, the California Community Colleges, which are administered by the Board of Governors of the California Community Colleges, and various private institutions of higher learning.

This bill would enact the Access to Transfer Information for Community College Students Act. The bill would impose a state-mandated local program by requiring the governing board of each community college district to direct the appropriate officials at their respective campuses to provide students with copies of the transfer core curriculum, as defined to mean the lower-division, general education transfer curriculum that is fully articulated between the California Community Colleges and the California State University and the University of California. The bill would require that a copy of the current transfer core curriculum be distributed to each newly admitted community college student, as prescribed, and that the text of the current transfer core curriculum be included in the published class schedule. The bill would authorize copies of the curriculum to be available at prescribed locations on community college campuses.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited as, the "Access to Transfer Information for Community College Students Act."

SEC. 2. The Legislature finds and declares all of the following:

(a) Student matriculation, from community colleges through the University of California and the California State University, is recognized by the Governor, Legislature, and the governing boards of each of the segments of California's system of public postsecondary education as a central institutional priority of all segments of higher education.

(b) The Board of Governors of the California Community Colleges, with the cooperation of the Regents of the University of California and Trustees of the California State University, should ensure that all students are clearly and fully informed as to which community college courses and units are transferable.

(c) Knowledge of transfer agreements will improve a community college student's opportunity to transfer.

(d) The Master Plan for Higher Education establishes transfers as a priority. The California Community Colleges and the University of California established the goal of a 33 percent increase in transfers between the 1995–96 and the 2004–05 academic years.

(e) According to recent reports by the California Postsecondary Education Commission, the transfer rate to the University of California system has decreased every year since 1995. Given the decreased transfer rates, there is no possibility of achieving the goal of 33 percent.

SEC. 3. Section 66721.5 is added to the Education Code, to read:

66721.5. (a)(1) The governing board of each community college district shall direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum.

(2) As used in this section, "transfer core curriculum" means the lower-division, general education transfer curriculum that, pursuant to Section 66720, is fully articulated between the California Community Colleges and the California State University and University of California.

(b) A copy of the current transfer core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution.

(c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule for each academic term. Copies of the transfer core curriculum may also be made available in other locations on each campus, including, but not necessarily limited to, all of the following:

(1) The admissions office.

(2) The bookstore.

(3) The career counseling center.

(4) The veteran's affairs office.

(d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:

(1) During the registration process.

(2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.

(3) During the issuance of student identification cards.

(4) During student orientation programs.

(e) Nothing in this section shall be construed to limit the distribution of the transfer core curriculum to community college students.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

COLLEGES AND UNIVERSITIES—COMMUNITY COLLEGES—EQUAL EMPLOYMENT OPPORTUNITIES

CHAPTER 1169

S.B. No. 2028

AN ACT to amend Section 87482.7 of, and to repeal and add Article 4 (commencing with Section 87100) of Chapter 1 of Part 51 of, the Education Code, relating to community colleges.

[Filed with Secretary of State September 30, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2028, Vasconcellos. Community colleges: equal employment opportunity hiring.

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses throughout the state.

Existing statutes, relating to affirmative action hiring by the community colleges, that have been invalidated by order of the California Court of Appeal, require the board of governors, out of funds appropriated for that purpose, to provide assistance to local community colleges in maintaining high-quality affirmative action programs. The invalidated statutes also established the Faculty and Staff Diversity Fund in the State Treasury. Money in this fund was available to the board of governors, upon appropriation by the Legislature, for the purpose of enabling the community colleges as a system to address a goal of making the system's workforce reflect proportionately the adult population of the state.

This bill would repeal these invalidated provisions. The bill would instead enact provisions relating to equal employment opportunity hiring by the community colleges, and establish the Employment Opportunity Fund, to be administered by the board of governors, upon appropriation by the Legislature, for the purpose of promoting equal employment opportunities in hiring and promotion at the community colleges. The bill would make conforming changes.

The bill would require the governing board of each community college district that opts to participate under the bill to periodically submit to the board of governors an affirmation of compliance with the article. The bill would require the board of governors to adopt regulations to ensure that each participating community college district implements processes for ensuring equal employment opportunities. The bill would require the board of governors to develop systemwide strategies for encouraging community college students to become qualified for, and seek, employment as community college faculty or administrators. The bill would require the board of governors to develop and disseminate to community college districts a model equal employment opportunity plan.

The bill would require the board of governors to adopt regulations for the use of the fund, including outreach and recruitment, in-service training on equal employment opportunities, accommodations for applicants and employees with disabilities, and other activities to promote equal employment opportunities. The bill would prohibit the board of governors from using more than 25% of the revenues in the fund to provide technical assistance, service, monitor-

ing, and compliance functions. The bill would authorize the board of governors to allocate the remaining balance in the fund to the individual community college districts.

The people of the State of California do enact as follows:

SECTION 1. Article 4 (commencing with Section 87100) of Chapter 1 of Part 51 of the Education Code is repealed.

SEC. 2. Article 4 (commencing with Section 87100) is added to Chapter 1 of Part 51 of the Education Code, to read:

Article 4. Equal Employment Opportunity Hiring

87100. The Legislature finds and declares all of the following:

(a) In fulfilling its mission within California's system of public higher education, the California Community Colleges are committed to academic excellence and to providing all students with the opportunity to succeed in their chosen educational pursuits.

(b) Academic excellence can best be sustained in a climate of acceptance and with the inclusion of persons from a wide variety of backgrounds and preparations to provide service to an increasingly diverse student population.

(c) A workforce that is continually responsive to the needs of a diverse student population may be achieved by ensuring that all persons receive an equal opportunity to compete for employment and promotion within the community college districts and by eliminating barriers to equal employment opportunity.

(d) It is the intent of the Legislature to establish and maintain, within the California Community College districts, a policy of equal opportunity in employment for all persons, and to prohibit discrimination or preferential treatment based on ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry, or sexual orientation. Every aspect of personnel policy and practice in the community college districts should advance the realization of inclusion through a continuing program of equal employment opportunity.

(e) The Legislature recognizes that it is not enough to proclaim that community college districts must not discriminate and must not grant preferential treatment on impermissible bases. The Legislature declares that efforts must also be made to build a community in which nondiscrimination and equal opportunity are realized. It is the intent of the Legislature to require community college districts to adopt and implement programs and plans for ensuring equal employment opportunity in their employment practices.

87101. For the purposes of this article:

(a) "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and fully enjoy the benefits of employment by a community college district. Ensuring equal employment opportunity is advanced in an inclusive environment that fosters cooperation, acceptance, democracy, and the free expression of ideas. An inclusive environment is welcoming to men and women, persons with disabilities, individuals from all ethnic groups, and individuals from all other groups protected from discrimination by this article.

(b) "Equal employment opportunity plan" means a document that includes specific procedures for achieving equal employment opportunity.

(c) "Equal employment opportunity program" means all the various methods by which equal employment opportunity is ensured. These methods include, but are not necessarily limited to, actively recruiting, using nondiscriminatory employment practices, and monitoring employment practices to ensure equality of opportunity. Each district employer shall commit to sustained action to devise recruiting, training, and advancement opportunities that will result in equal employment opportunities for all qualified applicants and employees.

87102. (a) As a condition for the receipt of funds pursuant to Section 87107, the governing board of community college district that opts to participate under the article shall periodically submit to the board of governors an affirmation of compliance with this article. Each participating district's equal employment opportunity program shall ensure participation in, and commitment to, the program by district personnel. Each participating district's equal

employment opportunity plan shall include steps that the district will take in eliminating improper discrimination or preferences in its hiring and employment practices. Each plan shall address how the district will make progress in achieving the ratio of full-time to part-time faculty hiring, as indicated in Section 87482.6, while still ensuring equal employment opportunity.

(b) Each participating district's equal employment opportunity plan is a public record within the meaning of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

87103. The board of governors shall render assistance in developing and implementing equal employment opportunity programs in the community college districts.

87105. The board of governors shall adopt all necessary regulations to carry out the intent of this article and to ensure that each participating community college district implements processes for ensuring equal employment opportunities. Nothing in this act shall be construed to require any community college to incur any costs in excess of the funds allocated by the state for the purposes of this act.

87106. (a) The board of governors shall develop systemwide strategies for encouraging community college students to become qualified for, and seek, employment as community college faculty or administrators.

(b) The board of governors shall develop and disseminate to community college districts a model equal employment opportunity plan that accomplishes at least all of the following:

(1) Compliance with the regulations adopted by the board of governors to implement this article.

(2) Compliance with the other applicable state and federal nondiscrimination statutes.

(3) Implementation of the best practices for improving the equality of opportunity.

(4) Encouragement of districts to take steps reasonably calculated to inform their students about the opportunity to participate in the Graduate Assumption Program of Loans for Education authorized by Article 5.5 (commencing with Section 69618) of Chapter 2 of Part 42 and to participate in other programs developed by the board of governors pursuant to subdivision (a).

87107. In order to support the activities required and authorized by this article, the Employment Opportunity Fund is hereby established. The fund shall include moneys appropriated in the annual Budget Act or provided, pursuant to Section 87482.7, through transfer. The moneys in the fund shall be administered by the board of governors for the purpose of promoting equal employment opportunities in hiring and promotion at community college districts.

87108. (a) The board of governors shall adopt regulations for the use of the fund. Those uses may include, but need not be limited to, all of the following:

(1) Activities designed to encourage community college students to become qualified for, and seek, employment as community college faculty or administrators.

(2) Outreach and recruitment.

(3) In-service training on equal employment opportunities.

(4) Accommodations for applicants and employees with disabilities.

(5) Activities to promote equal employment opportunities and implement the requirements of this article.

(b) The Board of Governors of the California Community Colleges may use not more than 25 percent of the revenues in the fund to provide technical assistance, service, monitoring, and compliance functions. Service functions under this subdivision may include, but are not necessarily limited to, the provision of a clearinghouse for advertising community college district job opportunities and for allowing persons seeking jobs to make known their interest in community college employment. This clearinghouse shall include a special emphasis on faculty internship employment opportunities and on reaching students who are qualified for faculty internship programs. The remaining balance in the fund may be allocated to the individual community college districts as prescribed by the board of governors.

SEC. 3. Section 87482.7 of the Education Code is amended to read:

87482.7. (a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notification by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the * * * Employment Opportunity Fund pursuant to Section 87107.

EDUCATION—CALIFORNIA COMMUNITY COLLEGES

CHAPTER 973

A.B.No. 1725

AN ACT to amend Sections 66701, 71000, 71001, 78205, 84381, 84713, 87102, 87104, 87454, 87457, 87602, 87663, and 87743 of, to add Sections 71020.5, 71090.5, 78212.5, 84750, 84755, 87001, 87107, 87482.6, 87608.5, 87610.1, 87615, 87743.1, 87743.2, 87743.3, 87743.4, and 87743.5 to, to add Article 5 (commencing with Section 87150) to Chapter 1 of Part 51 of, to add Chapter 9.2 (commencing with Section 66720) to Part 40 of, and Chapter 2.5 (commencing with Section 87350) to Part 51 of, to add Part 43.5 (commencing with Section 70900) to Division 7 of, to repeal and add Sections 71020, 72411.5, 87458, 87605, 87608, 87609, 87610, and 87611 of, to repeal Sections 71023, 71025, 71026, 71027, 71028, 71062, 71063, 71064, 71066, 71068, 71069, 71070, 71071, 71072, 71073, 71075, 71076, 71079, 71080, 71091, 72201, 72230, 72231.5, 72233, 72282, 72284, 72285, 72286, 72287, 72288, 72289, 72290, 72291, 72292, 72300, 78200, 87455, and 87456 of, and to repeal Chapter 2 (commencing with Section 87200) of Part 51 of, the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved September 19, 1988]

[Filed September 19, 1988]

LEGISLATIVE COUNSEL'S DIGEST

AB 1725, Vasconcellos. California Community Colleges.

This bill would make various changes, as summarized below, in provisions governing the California Community Colleges, in the following general subject areas:

GOVERNANCE:

(1) Under existing law, the Board of Governors of the California Community Colleges (hereafter board of governors) is created, with specified membership, to administer and govern the statewide system of community colleges.

This bill would expressly designate the system as the California Community Colleges, and would make various legislative findings and declarations concerning the system. It would repeal and recast provisions of law relating to the board of governors and the governing boards of community college districts. The bill would revise the membership of the board of governors, to provide that of the 13 members appointed by the Governor under existing law, 2 shall be current or former elected members of local community college district governing boards. It would change the number of voting tenured faculty members on the board of governors from one to 2. It would provide that the 2 current or former elected members of the governing board of a community college appointed to the board under the provisions of this bill shall occupy the 1st and 3rd seats made available, as specified.

It would also provide that the additional voting tenured faculty member appointed to the board under the provisions of this bill shall occupy the 2nd seat made available, as specified. Commencing with appointments made on or after January 1, 1990, the bill

2018

would lengthen the terms of board members from 4 to 6 years, except that the faculty member of the board would have a 2-year term, and the student member a one-year term.

The bill would expressly establish certain responsibilities of the board of governors in various areas, including the monitoring of community college districts, fiscal management review, and development and submission to the Governor of a position paper regarding affirmative action. The bill would require the Governor to appoint up to 6 deputy and vice chancellors of the California Community Colleges, as specified.

(2) The bill would require the board to conduct a thorough review of all statutes affecting the administration and operation of the California Community Colleges, with recommendations for amendment and repeal, and submit the review to the Legislature no later than January 31, 1989.

(3) Under existing law, there are no express requirements that the board of governors develop guidelines or plans with respect to the academic senate, and the role of students in governance, or that the board clarify and define particular matters with respect to executive officers, in the community colleges.

This bill would require the board of governors to develop policies and guidelines concerning the academic senate, and standards regarding the role of students in governance.

(4) Under existing law, the board of governors, in adopting, amending, and repealing its regulations, is subject to existing procedures, administered by the Office of Administrative Law.

This bill would exclude the board from these existing procedures, and instead authorize the board of governors to establish its own regulatory procedure, subject to specified existing standards. The board would be required to consult with community college districts, as specified, as a part of this process.

MISSION AND FUNCTIONS:

(5) Existing law provides that the course of study for the California Community Colleges includes, as primary objectives, instruction designed to prepare students for admission to the upper division of 4-year educational institutions, and in vocational and technical fields leading to employment, general or liberal arts courses, and community services.

This bill would revise the missions and goals of the community colleges. The bill would also direct the board of governors, the Regents of the University of California (at their option), and the Trustees of the California State University to jointly develop, maintain, and disseminate, as specified, a common core curriculum in general education courses and lower division major preparation curricula for purposes of transfer. This bill would impose a state-mandated local program by requiring that the community colleges award an associate degree to each student who successfully meets certain requirements, including the transfer core curriculum as described.

(6) Under existing law, vocational education is one of the statutory purposes of the community college system.

This bill would direct the board of governors to provide certain information to the community college districts relative to vocational education programs and to work with community college districts, the State Board of Education, and the Trustees of the California State University to coordinate community college vocational education with vocational education programs, as specified.

The bill would direct the board of governors and the State Board of Education to determine the extent to which students are underrepresented in vocational education programs in the community colleges and in public schools, respectively, on the basis of gender or ethnic origin and to jointly file a report with the education policy committees of the Legislature on their findings.

The bill would make the provisions summarized in the preceding 2 paragraphs operative only to the extent funds are appropriated for their specific purposes. The bill would require the California Postsecondary Education Commission to conduct a study for the

use of the associate of applied sciences degree in community colleges in other states and to report its findings to the Legislature, as specified.

(7) Existing law provides for certain matriculation services in the California Community Colleges, including procedures for the academic assessment and counseling of students upon enrollment.

This bill would authorize each community college district to develop and maintain, as specified, career resource and placement centers, programs to instruct staff and faculty in the performance of matriculation services, orientation programs, and publicity programs. This bill would also require the board of governors to adopt regulations which substantially incorporates a policy that limits the total number of units of course credit that may be assigned to any student in remedial coursework to 30 semester units, or 45 quarter units, except pursuant to a specified waiver procedure.

(8) Under existing law, the community college system offers instruction in English as a second language.

This bill would direct the California Postsecondary Education Commission and the State Department of Education to jointly agree on a coordinated research framework to be utilized by each agency in a review of those programs in the California Community Colleges, the University of California, the California State University, and adult education programs, and of future educational needs in this area. The bill would state the purpose of the study as assessing the ongoing role of the California Community Colleges in this area, in relation to the respective roles of the University of California and the California State University. The bill would require that the results of the review, together with any recommendations for programs of cooperation, be reported to the Legislature no later than January 1, 1990, as specified.

FACULTY, ADMINISTRATORS, AND STAFF:

(9) Existing law requires the governing board of each community college district to establish an affirmative action employment program. Existing law requires that the governing board of each community college district submit to the board of governors, on or before January 1, 1980, an affirmation of compliance with existing law in this respect.

This bill would require the governing board of each district to submit the affirmation periodically, to meet certain requirements in conjunction with goals and timetables, and to publish and distribute, as specified, a record of the success rate of hiring employees through its affirmative action program, and thus, impose a state-mandated local program.

(10) Existing law requires the office of the Chancellor of the California Community Colleges to develop guidelines to assist community college districts in developing and implementing affirmative action employment programs.

This bill would require the office of the chancellor to establish a technical assistance team to review the affirmative action plan of each district that fails to comply with its plan and to take appropriate measures to effect compliance. The bill would require the board of governors to establish, by July 1, 1989, within the chancellor's office, or through other means, as necessary, a major service function to assist community college districts in specified matters relating to affirmative action. The bill would create the Faculty and Staff Diversity Fund, for allocation by the board of governors, upon appropriation by the Legislature, to districts for various affirmative action purposes. The bill would prescribe allocation standards applicable to the fund, and state the overall goal of the fund as addressing the goal that the system's workforce reflect proportionately the adult population of the state by the year 2005.

(11) The bill would create the Community College Faculty and Staff Development Fund, available upon appropriation by the Legislature, for district faculty and staff development, as specified.

(12) The bill would impose a state-mandated local program by requiring the governing board of each community college district to determine whether it would be beneficial to enter into specified agreements to provide part-time temporary teachers for the district. The bill would require that these teachers not displace persons currently teaching full or part time.

(13) This bill would require the Student Aid Commission to conduct, and, on or before January 1, 1990, to report to the Legislature and the California Postsecondary Education Commission the results of, a study of community college programs whose purpose is to increase the number of students entering into the teaching profession at the community college level. The bill would require the California Postsecondary Education Commission, on or before March 15, 1990, to review and comment on this report to the Legislature, as specified.

(14) Existing law includes provisions relating to the requirements for, and issuance, revocation, or suspension of, teaching credentials, and credentials for librarians, counselors, student personnel workers, supervisors, administrators, and chief administrative officers, for community college personnel.

This bill would repeal those provisions.

This bill would provide that any person employed under a credential as of June 30, 1990, is entitled to serve under the terms of the credential until it terminates, and that during that period the person is not required to meet the minimum qualifications until June 30, 1990.

The bill would require the board of governors to adopt regulations, with prior consultation, as specified, to establish prescribed minimum qualifications for these categories, and would institute a procedure for waiver of the qualifications. In addition, the bill would require that the board of governors adopt, subject to enumerated requirements, regulations authorizing governing boards to establish a process for employment of persons who do not meet the minimum qualifications. The bill would require that, among other things, the regulations require that the process, as well as the standards and criteria under which the governing board reaches its determinations, be developed and jointly agreed upon by the representatives of the governing board and the academic senate, and approved by the governing board. The bill would require that the existing process remain in place until the joint agreement is reached and approved. The provisions summarized in this paragraph would impose a state-mandated local program.

The bill would require that, with specified consultation, the board of governors establish a process to review minimum qualifications every 3 years.

This bill would require that the plan for new faculty qualifications being developed by the Chancellor of the California Community Colleges include a specified transition provision, consideration of projected California demographics, and consideration of affirmative action policies and programs.

The bill would require that community college districts, in establishing hiring criteria for faculty and administrators, identify criteria which address specified matters. It would also require that hiring criteria, policies, and procedures for new faculty members be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board, and that until the joint agreement is reached and approved, that the existing process remain in effect. The changes summarized in this paragraph would impose a state-mandated local program.

(15) Under existing law, the Community College Fund for Instructional Improvement is established to support alternative educational programs and services, as specified.

This bill would include programs for the improvement of the intellectual development of faculty and staff, as specified, within the scope of programs covered by the fund.

(16) Existing law authorizes each community college district to employ temporary employees in positions requiring certification qualifications.

This bill would require the board of governors to develop a 2-year pilot program regarding the employment of part-time temporary faculty by option-rollover contracts, as specified, in selected areas of specialization. This bill would require the board of governors to select 3 community college districts for participation in the program, thereby imposing a state-mandated local program upon those districts. If the board of governors deems this pilot program to be beneficial, this bill would require the board of governors, in consultation with the faculty, to establish policy and develop standards for employing part-time temporary faculty under option-rollover contracts.

(17) Existing law requires that a person, employed in an administrative or supervisory position requiring certification qualifications, upon completing a contract period, including any time served as a classroom instructor, in the same district, be classified as and become a regular employee as a classroom teacher.

This bill would repeal that provision, and impose a state-mandated local program by providing, instead, that a person employed in an administrative position that is not part of the classified service, who has not previously acquired tenured status as a faculty member in the same district, has the right, pursuant to a process developed and agreed upon jointly by representatives of the governing board and the academic senate, to become a 1st year probationary faculty member once his or her administrative assignment expires or is terminated, subject to specified conditions. The bill would require that the existing process remain in place until the joint agreement is reached and approved.

(18) Existing law requires that the governing board of a community college district employ persons in positions requiring certification qualifications by contract during their first academic year of employment, as defined.

This bill would require employment by contract during the 1st, 2nd, or 3rd year of employment, as specified, of those employees, and would make other related changes. This change would impose a state-mandated local program.

(19) Existing law provides that, if a contract employee is working under his or her 2nd consecutive contract, the governing board shall either hire the employee as a regular employee for all subsequent academic years, or shall not employ the contract employee as a regular employee.

This bill would, instead, require that the governing board make an election when the employee is employed under his or her 2nd consecutive contract to not enter into a contract for 2 academic years, enter into a contract for 2 academic years, or employ the contract employee as a regular employee for all subsequent academic years. If a contract employee is working under his or her 3rd consecutive contract pursuant to this provision, the bill would require that the governing board elect to employ the probationary employee as a tenured employee for all subsequent academic years, or not employ the probationary employee as a tenured employee. The changes summarized in this paragraph would become operative on July 1, 1990, and would impose a state-mandated local program.

The bill would make related changes to existing provisions governing mandatory written notice to a contract employee, thereby imposing a state-mandated local program.

(20) Existing law grants a right to a hearing to any contract employee who objects to an employment decision of the board, as specified.

This bill would, instead, grant those rights to 2nd- or 3rd-year contract employees. The bill would establish an appeal process regarding tenure decisions, including procedures for grievance and arbitration. This provision would impose a state-mandated local program.

(21) Existing law requires that contract employees of a community college district be evaluated at least once every academic year, and that regular employees be evaluated at least once in every 2 academic years.

This bill would change the required evaluation of regular employees to once every 3 years, and would require that temporary employees be evaluated within the 1st year of employment, and thereafter, at least once every 6 semesters or 9 quarters. This bill, in addition, would require that the evaluation include a peer review process, as specified, and that the peer review process address affirmative action concerns, as specified, and would revise the procedures and standards of evaluation. The changes described in this paragraph would impose a state-mandated local program.

In those districts in which evaluation procedures are collectively bargained, this bill would require that the faculty's representative consult with the academic senate before engaging in collective bargaining on those procedures.

(22) The bill would establish the minimum degree for tenure as a bachelor's degree or the equivalent from an accredited institution, or an equivalent foreign degree. This requirement would not apply to vocational faculty until January 1, 1994. The bill would

also provide for the granting of waivers from the degree requirement, under enumerated conditions, and pursuant to a process developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The bill would require that the existing process remain in place until the joint agreement is reached and approved. The changes summarized in this paragraph would impose a state-mandated local program.

(23) The bill also would impose a state-mandated local program by requiring each district to establish faculty service areas, as defined, that mandate faculty qualification for one or more of these areas, as specified.

(24) Existing law requires that the Chancellor of the California Community Colleges convene 2 short-term task forces to make recommendations regarding changes in community college financing, as specified, and in faculty and administrator, qualification, peer review, hiring, and retention, as specified.

This bill would require that the board of governors review the Education Employment Relations Act, as specified, and report to the Legislature as specified, not later than January 1, 1993. In conducting the review, the board would be required to convene a review committee, with specified representatives.

ACCESS TO PROGRAMS, AND THE SUCCESS OF PARTICIPANTS:

(25) Existing law authorizes the Chancellor of the California Community Colleges to adopt a list of authorized student assessment instruments.

This bill would require the chancellor, pursuant to consultation with appropriate community college personnel, to adopt that list.

This bill would also direct the chancellor, as specified, to report to the Legislature on the effectiveness of community college programs in the 1988–89 and 1989–90 fiscal years, on student retention, transfer, completion of vocational education programs, and skill level improvement, and on the impact of the matriculation process on community college student populations.

(26) The bill would require the chancellor to conduct a specified study regarding the feasibility of establishing, on a pilot basis, "interdisciplinary colleges" with a special concern for the integration of vocational and academic study.

RELATED PROVISIONS:

(27) The bill would revise the procedures and criteria for allocation of funds to community college districts by the board of governors. In accordance with specified criteria, standards, and requirements, the bill would require the board of governors to adopt regulations implementing a system of program-based funding, commencing in the 1991–92 fiscal year. In this connection, the bill would extend the operation of existing community college apportionment provisions from July 1, 1989, the date those provisions would become inoperative under existing law, to July 1, 1991. The bill also would require the board of governors and organizational representatives of the California Community Colleges to develop and implement a comprehensive community college educational and fiscal accountability system, as specified.

(28) This bill would appropriate $7,250,000 to the Board of Governors of the California Community Colleges and would allocate that appropriation for enumerated purposes of the bill, in specified amounts and under specified conditions. Based upon specified legislative findings and declarations, the bill would authorize the implementation of certain enumerated provisions only upon the provision of adequate funding, as defined.

(29) The bill would make numerous legislative findings, declarations, and statements of intent concerning these changes to existing law.

(30) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $500,000 statewide and other procedures for claims whose statewide costs exceed $500,000.

2023

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $500,000, shall be made from the State Mandates Claims Fund.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows, with regard to the general background and intent of this act:

(a) The California Community Colleges face an unprecedented challenge in the coming two decades, as California undergoes a major demographic, social, and economic transformation. The community colleges are at the center of this change, and the state's future as a healthy and free, diverse, and creative society depends in major part upon the commitments expressed through and in the community colleges.

(b) The community colleges educate hundreds of thousands of Californians every year, are the route to higher education for the majority of our people, provide access to language and citizenship for tens of thousands of immigrants annually, retrain workers in an economy changing more rapidly than any in history, and are the last hope for older citizens seeking skills and involvement in their communities. To do these things well, to bring excitement and power into the lives of students so diverse and needing so much, to serve the economy and society through its service of these students, requires a deep commitment from all who teach and learn, from those who administer and counsel, from those who fund and regulate.

(c) The community colleges embody an historic commitment to provide an opportunity for college instruction for all Californians capable of benefiting from instruction. The community colleges have historically found their mission in the statewide scheme for higher education, the Master Plan for Higher Education, and in local commitments to meet the needs of different communities—urban and rural, middle class and poor. From these sources have come the conviction, and the fact, that the community colleges ought to provide high quality lower division instruction for purposes of transfer to baccalaureate institutions, and a wide range of courses and programs to meet vocational and basic education needs. The community colleges have been notable because they are local and accessible, diverse in their responsiveness to local needs, and yet have maintained standards capable of placing students in any of the state's universities or in any of the state's industries.

(d) Since the development of the original master plan, there has been a significant change in the populations served by the community colleges, and in the anticipated needs of the state as we move into the 21st century. The state's population will grow by 22 percent between 1986 and 2000, from 27 million to roughly 33 million. By the turn of the century, California will have a cultural and ethnic pluralism unknown elsewhere in the mainland United States. Fifty-one percent of the schoolage children in 1989 will be minorities; the majority of the population will be nonwhite in the following decade. However, there is no one "minority community;" rather there will be recent immigrants from Asia and Central America, the children of today's urban ghettos, and members of the "working poor." These communities of Californians will turn increasingly to the community colleges for language training, job reskilling, technical education, or the liberal arts.

(e) By the year 2000, California will be proportionally older; 20 percent will be senior citizens. California will have more elderly citizens than any other state in the nation. These citizens will turn, as they have already, to the community colleges for continuing education and job skills.

(f) By the turn of the century, increasingly more working men and women will come to the community colleges to acquire job skills and retraining. In an economy of rapid change and intense international competition, there will be much job displacement, sometimes on a massive scale. The periodic recessions and the unpredictable collapse of one or more markets, or industries will cause new students to matriculate to the

2024

community colleges. But inside the economic center—not just at its margins—the workers of the future will need new literacy skills, and more ability to communicate and learn on their own. When analysts predict a labor shortage in California by 2000, the real issue will not be numbers but quality. The important questions will be whether working men and women will have the skills required for jobs of rapid transformation, and whether California will be able to compete economically with other states now making massive investment in their educational systems.

(g) The convergence of these tendencies—both demographic and economic—lead to the possibility of an increasingly stratified society. This can include what has been called a "permanent underclass;" mostly minority, and a semipermanent, semiemployable stratum of low-skilled workers. The consequences of this development would be dire: the permanent underutilization of the energies and talents of our people, the deepening of racial resentments and fears, and the constant anxiety among more and more of us that the future has no place for us.

(h) The Legislature is committed to an alternative vision in which California remains a place of opportunity and hope—where innovation and creativity mark our economy and our culture, and where the minds and spirits of all our communities contribute to our common future. The community colleges will be at the heart of whatever effort we make to insure that the future is equitable and open, that California's economy remains healthy and growing, and that both rural towns and rapidly expanding urban centers have educational resources close at hand. The community colleges are not the only place in which Californians will make their investment for an expansive and decent future, but they will have to be one such essential place.

(i) The community colleges—once envisaged as "junior colleges" devoted primarily to providing middle-class youth with a local option to the lower-division years of college—will be called upon for the tasks of retraining workers, teaching English to those recently among us, providing skills and opportunities for the elderly, providing a second chance to those who were failed by our secondary schools, and still providing lower division transfer education of quality and integrity for all who want it.

(j) The majority of people in California welcome this new epoch as a challenge of unprecedented opportunity. The Legislature shares this view, and expresses the intent that sufficient funding and resources of this state be provided to forge into a new range of educational engagements for our people. It is important in this regard to honor those who teach basic skills and literacy, as well as those who teach Shakespeare and Plato, to facilitate effective communication between "vocational" and "liberal arts" departments in an epoch where all vocations will require deeper and more subtle forms of literacy, and to build a new and diverse curriculum which engages all our diverse students, and demands the best of their minds and spirits.

(k) The people of California should have the opportunity to be proud of a system of community colleges which instills pride among its students and faculty, where rigor and standards are an assumed part of a shared effort to educate, where the hugely diverse needs of students are a challenge rather than a threat, where the community colleges serve as models for the new curricula and innovative teaching, where learning is what we care about most.

(*l*) It is the intent of the Legislature in enacting this act, to strengthen the capacity of the community colleges to meet the emerging needs of our state, and in particular, to better ensure that all Californians are offered a chance, challenged and taught with imagination and inspiration, offered assistance and counseling, and held to honest standards.

SEC. 2. The Legislature finds and declares the following with regard to the problems facing the California Community Colleges, and their mission and functions in resolving those problems:

(a) As the Commission for the Review of the Master Plan for Higher Education noted in its report, and as others have noted, the decline in the number of students seeking to transfer from the California Community Colleges to four-year educational institutions is attributable to a variety of factors, including, but not limited to, a decreased number of

2025

high school graduates, a lack of coordination among postsecondary segments and between postsecondary and secondary institutions, and the inadequate provision of student financial aid. This decline represents a serious threat to the historical objective of the community college system to provide access to quality education regardless of personal circumstance. The Legislature finds and declares that transfer between the California Community Colleges and California's four-year public universities is a matter of statewide concern.

(b) If the community college system is to fulfill its role in meeting the educational needs of this state in future years, there is a need for a reinvigorated transfer program in that system, involving a closer articulation between the community colleges and the other segments of public postsecondary education as to educational programs, expectations, and responsibilities, and involving the communication of the respective educational expectations of those segments to the high schools. The provision of quality transfer education is a primary mission of the community colleges.

(c) There is also a growing need in this state for quality courses and programs of baccalaureate program quality in the community college system for students who either do not desire to transfer to a four-year educational institution or who already possess a baccalaureate degree.

(d) Vocational and technical education is a primary mission of the California Community Colleges, and programs of study leading to employment meet the needs of both students and society. The dramatic changes in California's economy will require, however, an ongoing and thorough review of the relevance and responsiveness of current vocational education programs, as well as the relationship between those programs throughout the state.

(e) It is necessary that the Board of Governors of the California Community Colleges initiate, through the chancellor's office, a detailed examination of the implications of current economic developments and trends for the development of vocational education programs. In the agriculture, manufacturing, and services sectors, new technologies, the reorganization of production, and the shifting international context require that review.

(f) Current vocational programs in the California Community Colleges appropriately include both academic certificate or degree programs and short-term jobs skills and retraining programs. Both are essential to meet the rapidly shifting needs within the economy. Within many of those programs, however, there is a need for greater continuity between the high schools, the community colleges, and the four-year colleges or universities.

(g) Vocational "tracks" should have as much connection as possible with courses in the liberal arts and general education. This ensures the greatest variety of career options for students, and addresses a growing conviction on the part of industry that vocational training must include a broad variety of literacy skills beyond technical expertise. The chancellor's office should initiate a review of the curricular relationships between vocational and general education programs.

(h) As indicated by the Commission for the Review of the Master Plan for Higher Education, there exist patterns of gender and ethnic underrepresentation in a number of vocational education programs. For example, in 15 of the 30 largest community college vocational education programs, over 80 percent of the students are of the same gender.

(i) There is a massive and growing demand in this state for remedial education, resulting from a decline in high school academic standards, the increasing dropout rate, restrictions on funding of adult education programs in the public schools, and the growing number of adults seeking basic skills, language, and literacy training. This need exists in all ethnic groups, and affects students from all socioeconomic backgrounds, whether or not high school graduates. The provision of remedial education is an essential and important mission of the community colleges.

(j) The success of the assessment, counseling, and placement system in the community colleges depends upon the ability of community college districts to provide a full range of courses of remedial instruction and related support services.

(k) The effectiveness of a program of remedial instruction in offering educational opportunity to underprepared students requires better coordination between adult education programs and community college programs, based upon locally negotiated agreements between those institutions for the provision of remedial instruction.

(l) Courses in English as a second language are vital to California's transition to a future as a multicultural society in which men and women of diverse backgrounds can share a common language, and to the opportunity for hundreds of thousands of recent immigrants to become participants in our society. The provision of English as a second language is an essential and important mission of the community colleges.

(m) English as a second language is needed by students having enormously varied backgrounds as to place of origin and level of preexisting educational skills, and is therefore necessary as a means of applying their abilities in an English-speaking culture, rather than as an effort to provide remediation or retraining.

(n) Because the programs in English as a second language currently offered in the California Community Colleges and the adult schools are inadequate to meet the growing need in this state for those programs, it is essential that the community colleges seek to coordinate those programs with local adult education schools, if any.

(o) Adult literacy training and basic skills education are among the most difficult challenges facing California education in the next 15 years, based upon 1980 census figures showing that over four million adults in this state, and perhaps up to 25 percent of California's adult population, may be illiterate.

(p) Illiteracy prevents those Californians from reading newspapers, work manuals, and labels on cans of poison, and results in incalculable costs to this state in terms of lost economic productivity, higher welfare and public assistance expenditures, unemployment, crime, social isolation, and personal exclusion.

(q) Whereas democracy depends upon an informed and engaged population, the percentage of our citizens voting in elections is among the lowest of any democracy in the entire world, a fact that may be related to our rate of literacy, which is lower than that of any other industrial democracy.

(r) Programs in noncredit adult education, including adult literacy and citizenship programs conducted in the California Community Colleges are important and essential functions of that system. The relationship between those programs and similar programs offered by other institutions, governed by a variety of authorities, requires clarification.

(s) The Legislature should require that local agreements be entered into between various educational entities for the provision of adult literacy training and basic skills education.

SEC. 3. It is the intent of the Legislature that the California Community Colleges be governed under an efficient and flexible system, providing adequate fiscal oversight and development of educational standards at the state level, and incentive to design programs meeting the particular needs of each district at the local level. The Legislature recognizes that the California Community Colleges is a statewide system with common standards and practices governing local initiative and control. The Legislature therefore finds and declares that clarifying and strengthening the respective roles of the Board of Governors and the Chancellor of the California Community Colleges will enhance the efficiency and flexibility of the system.

SEC. 4. The Legislature finds and declares the following with regard to faculty, administrators, and staff of the California Community Colleges:

(a) The California Community Colleges will face a severe hiring crisis in the next 15 years. It is estimated that fully 55 percent of the current full-time faculty will retire in that period. In this regard there are three major interlocking issues which must be considered:

(1) There must be guarantees that the full-time positions which become open because of the retirement of these faculty members not be divided into part-time positions that are less expensive to fill than the full-time positions. The division of full-time positions that become vacant into part-time positions is currently occurring all too frequently. The

maintenance of a fully staffed, full-time faculty is an essential element of a coherent program.

(2) Competition for qualified persons is intense, from both other sectors of education and private business.

(3) Given the emerging turnover in faculty vacancies, the next 15 years represent the last major "window of opportunity" to significantly change the ethnic mix of the faculty during the next 30 years. It will be imperative for the faculty to be sympathetic and sensitive to cultural diversity in the colleges especially when the student body is continually changing. One means of ensuring this is for the faculty to be culturally balanced and more representative of the state's diversity.

(b) If the community colleges are to respond creatively to the challenges of the coming decades, they must have a strong and stable core of full-time faculty with long-term commitments to their colleges. There is proper concern about the effect of an overreliance upon part-time faculty, particularly in the core transfer curricula. Under current conditions, part-time faculty, no matter how talented as teachers, rarely participate in college programs, design departmental curricula, or advise and counsel students. Even if they were invited to do so by their colleagues, it may be impossible if they are simultaneously teaching at other colleges in order to make a decent living.

(c) However, in many areas the employment of part-time temporary faculty is both appropriate and necessary, especially in vocational programs where part-time faculty members may be practicing professionals in the field.

(d) Decisions regarding the appropriateness of part-time faculty should be made on the basis of academic and program needs, however, and not for financial savings. The Legislature's concern about abuses in this regard led to the establishment of the current statutory cap on part-time employment.

(e) There is widespread concern about the current tendency to fill "retiring" full-time positions with multiple part-time positions, and that there is a financial incentive to do so. Under current formulae, part-time faculty receive less money than do full-time faculty, and do not receive benefits. Thus, proposals concerning the status and conditions of part-time faculty will depend upon changes in the pay structure as well as the overall financing of the colleges.

(f) Changes in the governance of the California Community Colleges will affect, and be affected by, current collective bargaining agreements and the statutes governing those agreements, and that with regard to jurisdictional matters and questions of process, there can be considerable confusion regarding the relationship between collective bargaining agents, academic units organized through the colleges including departments and schools, and the academic senates.

(g) Community college instructors, recruited directly from graduate school or from some form of employment other than teaching, may not be prepared to deal effectively with the wide range of student abilities and attitudes found in community college classrooms. As larger numbers of students from many different cultural backgrounds and with significant English language and other deficiencies are enrolled, the problem will become more serious for both administrators and faculty. The proposed establishment of a student assessment, counseling, and placement program on each campus will also require additional training and assistance for both faculty and administrators.

(h) Professional development for faculty, support staff, student services staff, and administrators is vital. Further, the success of the assessment, counseling, and placement programs will depend upon the effectiveness of this training.

(i) The recruitment of faculty into the community colleges, and the maintaining of morale and enthusiasm among the faculty depends in large part upon the intellectual and personal environment within which faculty work. Much of that environment is created by their own authority over the substantive direction of the programs and courses in which they work, through the quality of their relationship with the college administration, and in the quality of their interactions with the communities of students they teach. At the same time, it is apparent that faculty morale comes from their engagement in the

development of new and innovative programs, from their engagement in professional and discipline-based associations, and from an active, intellectual life as scholars and teachers.

(j) Community colleges have less resources available for faculty professional and intellectual development than do other segments of the system of higher education, and this disparity may become a substantial barrier to the future recruitment of quality faculty. Yet, faculty in the community colleges should be no less intellectually engaged than their colleagues in the other segments. Their primary commitment to teaching makes it imperative that they have a vibrant and rich intellectual life.

(k) The success of the assessment, counseling, and placement system in the California Community Colleges will depend upon the commitment and dedication of trained student services staff. The importance of their role stretches across all aspects of community college life—including: counseling, reading and computational assessment and evaluation, financial aid assistance, providing and directing tutorial services, providing outreach into the local community, providing information to continuing students, and assisting the faculty in designing and providing courses of study which meet the particular needs of very different students. It is essential that the college have adequate service staff, and that they be superbly trained, especially in view of the current diversity of student educational needs in the community colleges.

(*l*) The tenure system is an important prerequisite for the maintenance of academic freedom, continuity in academic and vocational programs, and development of a faculty committed to the long-term health of the community colleges. At the same time, the tenure system is a central part of the governance of the colleges. Thus, the determination of standards for tenure, procedures governing tenure, and the actual granting of tenure determine in large part the substantive direction of the colleges.

(m) The current tenure system lacks adequate participation by the faculty, provides an inadequate probationary period for the evaluation of permanent faculty, and does not provide uniform systemwide procedures for due process and grievance.

(n) It is a general purpose of this act to improve academic quality, and to that end the Legislature specifically intends to authorize more responsibility for faculty members in duties that are incidental to their primary professional duties. It is the intent of the Legislature that, in exercising these increased responsibilities, faculty members are not deprived of their status as employees under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. It is also the intent of the Legislature that the exercise of this increased responsibility shall not make these faculty members managerial or supervisory employees, as those terms are defined in that chapter.

There has been a great deal of uncertainty as a result of the decision of the United States Supreme Court in National Labor Relations Board v. Yeshiva University, 444 U.S. 672, 63 L.Ed.2d 115, regarding whether increased faculty involvement in institutional governance and decisionmaking might subject the faculty members to legal challenges in connection with their rights of collective bargaining. This act is intended to enable faculty members who perform the duties described in subdivision (e) of Section 87610.1 of the Education Code to avoid having to choose between collective bargaining and greater participation in these functions by ensuring that increased participation in the tenure system, which occurs as an outgrowth of this act, shall not subject faculty members to losing their status as employees under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(o) Any set of laws, regulations, directives, or guidelines regarding community college faculty and administrator qualifications, evaluation, hiring, or retention should promote the efforts of local community colleges to ensure that their faculty and administration consists of:

(1) Teachers who can teach and who are experts in the subject matter of their curriculum.

(2) Counselors, librarians, and other instructional and student service faculty who can foster college effectiveness and who are experts in the subject matter of their specialty.

(3) Administrators who can lead, organize, plan, and supervise; who understand the needs of faculty and the learning process; and who value institutional governance based upon a genuine sharing of responsibility with faculty colleagues.

(p) (1) The laws, regulations, directives, or guidelines should help the community colleges ensure that the faculty and administrators they hire and retain are people who are sympathetic and sensitive to the racial and cultural diversity in the colleges, are themselves representative of that diversity, and are well prepared by training and temperament to respond effectively to the educational needs of all the special populations served by community colleges.

(2) All state and local policies, rules, and regulations regarding community college faculty and administrator qualifications, evaluation, hiring, or retention should strengthen faculty, administration, and board cooperation in matters related to those topics. They should also strengthen the role of the faculty as an authoritative, professional collegiate body.

(q) (1) In general, the appropriate focus of minimum qualifications is in helping the colleges to ensure that they will select faculty who are competent in subject matter and possess the basic academic preparation needed to work effectively at the college level. The minimum qualifications for all faculty should be the same except where the application of qualifications without differentiation would be clearly unreasonable or impractical.

(2) The minimum qualifications for administrators should help the colleges to ensure that they will select individuals who are competent to perform the kind of administrative responsibilities that administrators are normally required to assume, such as supervision, organizational planning, and budget development and administration, and who understand the needs of faculty and the learning process.

(r) (1) The pool of underrepresented individuals interested in faculty and administrative positions in the community colleges should be increased. Furthermore, practical and effective ways of finding and recruiting those individuals should be developed and maintained. The state's leadership in this effort is appropriate and urgently needed.

(2) The hiring process for administrators and faculty (both temporary and permanent) should be designed so that both faculty and administrators take real responsibility for meeting affirmative action goals and ensuring that affirmative action considerations effectively influence hiring decisions.

(s) (1) No single approach to hiring faculty can guarantee attainment of the colleges' affirmative action goals and consistent selection of qualified individuals. Nevertheless, any hiring process adopted by a college should require the joint and cooperative exercise of responsibility by the faculty, administration, and board and should reflect the differing source of each participant's authority and the kind of responsibility that authority conveys.

(2) The governing board of a community college district derives its authority from statute and from its status as the entity holding the institution in trust for the benefit of the public. As a result, the governing board and the administrators it appoints have the principal legal and public responsibility for ensuring an effective hiring process.

(3) Faculty members derive their authority from their expertise as teachers and subject matter specialists and from their status as professionals. As a result, the faculty has an inherent professional responsibility in the development and implementation of policies and procedures governing the hiring process.

(4) Beyond requiring a joint and cooperative exercise of responsibility, the hiring process should be focused on ensuring that the community colleges will select teachers who can teach and who are experts in the subject matter of their curriculum; and counselors, librarians, and other instructional and student services faculty who can foster community college effectiveness and who are experts in the subject matter of their specialty. This means that the colleges may establish criteria for hiring that go well beyond the minimum qualifications set by regulation. The establishment of additional criteria of this sort should be expected and encouraged.

(5) The focus of the hiring process for administrators is slightly different from the focus in hiring teachers. In hiring teachers, the goal is to find people who can teach, but

in hiring administrators the goal is to ensure that the community colleges will select administrators who are competent to perform the kind of administrative responsibilities that administrators are normally required to assume in the context of the operation and programs of the community colleges.

(t) The state should provide the community colleges with enough resources and a sufficiently stable funding environment to enable them to predict their staffing needs and to establish highly effective hiring processes. While the precise nature of the hiring process for faculty should be subject to local definition and control, each community college should, in a way that is appropriate to its circumstances, establish a hiring process that ensures that:

(1) Emphasis is placed on the responsibility of the faculty to ensure the quality of their faculty peers.

(2) Both faculty members and administrators participate effectively in all appropriate phases of the process.

(3) Positions to be filled are normally identified through a well defined, thoughtful, planning process.

(4) The time between the announcement of each position and the selection of a candidate for hire is long enough to allow a thorough, complete, and thoughtful search.

(5) Clear and complete job descriptions, including all job-related skills requirements and any additional qualifications recommended by the faculty when appropriate, are prepared for each position, and these job descriptions are reviewed before each position is announced, to ensure conformity with the community college's affirmative action and nondiscrimination commitments.

(6) All participants in the process are given appropriate training in affirmative action procedures and the affirmative action goals and timetables of the community college so that success in reaching those goals is better assured.

(7) Individuals, preferably minorities or women, who are knowledgeable about and responsible to the community college's affirmative action goals are included on all selection committees or similar groups.

(8) Final hiring decisions are, whenever reasonably possible, made during the regular academic year and promptly communicated to the faculty; the expectation that faculty recommendations regarding the hiring of faculty will normally be accepted is reinforced; and only in exceptional circumstances, and for compelling reasons communicated to the selection committee and to the president of the academic senate of the college, will someone be hired as a faculty member who has not been found to be among the best qualified by the faculty.

(u) The state should provide the community colleges with enough resources and a sufficiently stable funding environment to enable them to predict their staffing needs and to establish highly effective hiring processes. While the precise nature of the hiring process for administrators should be subject to local definition and control, each community college should, in a way that is appropriate to its circumstances, establish a hiring process which ensures that:

(1) Representatives of the faculty and other employees whose circumstances at work will be directly affected by the employment of the administrator participate effectively in all appropriate phases of the process.

(2) Positions to be filled are normally identified through a well defined, thoughtful, planning process.

(3) The time between the announcement of each position and the selection of a candidate for hire is long enough to allow a thorough, complete, and thoughtful search.

(4) Clear and complete job descriptions that include all job-related skills requirements are prepared for each position and these job descriptions are reviewed before each position is announced, to ensure conformity with the community college's affirmative action and nondiscrimination commitments.

(5) All participants in the process are given appropriate training in affirmative action procedures and goals and timetables of the community college, so that success in reaching those goals is better assured.

(6) Individuals, preferably minorities or women, who are knowledgeable about and responsive to the college's affirmative action goals are included on all selection committees or similar groups.

(7) Final hiring decisions are, whenever reasonably possible, made during the regular academic year and promptly communicated to the faculty and staff.

(v) (1) The evaluation process should promote professionalism, enhance performance, and be closely linked with staff development efforts.

(2) The evaluation process should be effective in yielding a genuinely useful and substantive assessment of performance. Among other things, this requires an articulation of clear, relevant criteria on which evaluations will be based.

(3) The evaluation process should be timely. This requires that evaluations be performed regularly at reasonable intervals.

(4) The specific purposes for which evaluations are conducted should be clear to everyone involved. This requires recognition that the principal purposes of the evaluation process are to recognize and acknowledge good performance, to enhance satisfactory performance and help employees who are performing satisfactorily further their own growth, to identify weak performance and assist employees in achieving needed improvement, and to document unsatisfactory performance.

(5) A faculty member's students, administrators, and peers should all contribute to his or her evaluation, but the faculty should, in the usual case, play a central role in the evaluation process and, together with appropriate administrators, assume principal responsibility for the effectiveness of the process.

(6) The procedures defined by negotiations should foster a joint and cooperative exercise of responsibility by the faculty, administration, and governing board of the community college and should reflect faculty and administrator expertise and authority in evaluating professional work as well as the governing board's legal and public responsibility for the process.

(w) Faculty tenure fosters academic freedom and should be maintained. For administrators, the need for job security justifies appointments of reasonable duration, but no one should obtain tenure or permanent status in an administrative position. A person should be granted tenure as a faculty member only after it has been determined through a process of evaluation that he or she is, and will likely continue to be, a positive asset to the community college. In other words, the award of tenure should be an affirmative act, rather than the result of default. The faculty's inherent professional responsibility to ensure the quality of their faculty peers requires faculty review to be at the heart of the evaluation process leading to tenure decisions.

SEC. 4.5. It is the intent of the Legislature that the Board of Governors of the California Community Colleges be broadly and equitably representative of the general public and that appointments to the board of governors include adequate representation on the basis of sex and on the basis of the major racial, ethnic, and economic groups in the state.

SEC. 5. The Legislature finds and declares the following with regard to access to the California Community Colleges, and the importance and value of success to those who participate in the system:

(a) It is the responsibility of this state to provide to every Californian the opportunity to realize his or her intellectual, emotional, and vocational potential. To fulfill this responsibility, and to ensure that California enjoys a healthy economy and society, open access to a quality community college system must be affirmed for a diverse student population, which includes, but is not limited to, recent high school graduates, senior citizens, persons who are Caucasian, Black, Asian, and Hispanic, disabled men and women, persons at a variety of income levels, businessmen and businesswomen, single parents, women reentering the work force, high school dropouts, and persons with baccalaureate degrees.

(b) It is the joint responsibility of the student and the community college to realize the student's goals and aspirations, which often change during the educational experience and which include such diverse purposes as literacy training, English acquisition and development both for persons whose primary language is English and persons having other primary languages, vocational training, job reskilling, skills enhancement, and education oriented toward transfer to a four-year college or university.

(c) Open access to community colleges must be assured for all adults who can benefit from instruction, which access is meaningful only if supported by a system of assessment, counseling, and placement that assists students in identifying their talents and abilities, directs them to courses that meet their needs, and maintains standards designed to ensure their success.

SEC. 6. Section 66701 of the Education Code is amended to read:

66701. (a) Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree.

(b) Authorized instruction in the community colleges shall include * * * standard collegiate courses for transfer to other institutions, vocational and technical courses leading to or upgrading, or leading to and upgrading, employment, general or liberal arts courses, adult noncredit courses, and community services programs and courses. However, priorities in the instructional programs shall be as follows:

(1) The primary mission of the community colleges is the provision of rigorous, high quality degree and certificate curricula in lower division arts and sciences and in vocational and occupational fields.

(2) The provision of remedial instruction, English as a second language instruction, and support services which help students succeed at the postsecondary level are essential and important functions of the community colleges.

(3) The provision of adult noncredit education curricula in areas defined as being in the state's interest is an essential and important function of the community colleges.

(4) The provision of community services courses and programs is an authorized function of the community colleges so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions.

SEC. 7. Chapter 9.2 (commencing with Section 66720) is added to Part 40 of the Education Code, to read:

CHAPTER 9.2. STUDENT TRANSFER

66720. The Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University, with appropriate consultation with the Academic Senates of the respective segments, shall jointly develop, maintain, and disseminate a common core curriculum in general education courses for the purposes of transfer. Any person who has successfully completed the transfer core curriculum, shall be deemed to have thereby completed all lower division general education requirements for the University of California and the California State University.

66721. Upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University shall jointly cause the curriculum to be published and distributed to each public school in this state that provides instruction in any of the grades 7 to 12, inclusive, and to each community college in this state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities. In addition, the Board of Governors shall distribute that transfer core curriculum to the State Board of Education, which shall apply that information to ensure, through its curriculum development activities, that public school pupils enrolled in any of the grades 9

to 12, inclusive, are aware of the academic requirements for preparation for higher education and may receive any necessary academic remediation in a timely manner.

66723. No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, makes that provision applicable.

SEC. 8. Part 43.5 (commencing with Section 70900) is added to Division 7 of the Education Code, to read:

PART 43.5. THE CALIFORNIA COMMUNITY COLLEGES

70900. There is hereby created the California Community Colleges, a postsecondary education system consisting of community college districts heretofore and hereafter established pursuant to law and the Board of Governors of the California Community Colleges. The board of governors shall carry out the functions specified in Section 70901 and local districts shall carry out the functions specified in Section 70902.

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

70901.5. (a) The board of governors shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

(1) Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(3) The board of governors shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.

(4) Prior to the adoption of regulations, the board of governors shall consider and respond to all written and oral comments received during the comment period.

(5) The effective date for a regulation shall be suspended if, within 30 days after adoption by the board of governors, at least two-thirds of all governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the board of governors shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

(B) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly adopted regulation, and shall go into effect in accordance with those procedures.

(C) Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed necessary to clarify the intent of the original regulation. If the board of governors decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any further appeal within the California Community Colleges.

(6) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the board of governors shall not adopt the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.

(7) Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the board of governors, the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the board of governors.

70902. (a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is

not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of the provisions of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right to participate effectively in district and college governance, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision (b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the

board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate; provided, however, that the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

SEC. 9. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of all of the following:

(a) Thirteen members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate. Of the members appointed by the Governor, two shall be current or former elected members of local community college district governing boards. The Governor shall appoint the current or former members of the governing board of a community college district for staggered six-year terms. The voting members who are current or former members of the governing board of a community college district shall first be appointed no later than January 15, 1990, and January 15, 1992, respectively.

* * *

(b) One voting student who is enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of his or her term of appointment, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester prior to his or her appointment and shall meet and maintain the minimum standards of scholarship prescribed for community college students. The student member shall be appointed by the Governor for a one-year term commencing on June 1. * * *

(c) Two voting tenured faculty members from a community college, who shall be appointed by the Governor for * * * two-year terms. The Governor shall appoint each faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. The first voting tenured faculty member appointed to the board shall occupy the seat on the board that is made available by the next full-term vacancy of a four-year term that exists after January 1, 1984. The first voting tenured faculty member appointed to the additional voting tenured faculty member seat on the board provided by the amendments to this section enacted by the Statutes of 1987 shall occupy the second seat on the board that is made available by the next full-term vacancies that exist after January 1, 1988. Thereafter, each seat shall be designated as a voting tenured faculty member seat and shall in the future be filled by a tenured faculty member from a community college pursuant to this section and Section 71003.

* * *

(d) Commencing with appointments made on or after January 1, 1990, all members of the board shall be appointed for staggered six-year terms, except in the case of the faculty appointments, which shall be two years, and the student appointment, which shall be one year, and the ex officio members, who shall serve during the period of their tenure in their respective state offices.

SEC. 9.5. Section 71001 of the Education Code is amended to read:

71001. (a) Except for the student member and the faculty member, the terms of office of the members of the board appointed by the Governor shall be as follows:

(1) To the positions expiring on December 1, 1985, the Governor shall appoint two persons whose terms shall expire on January 15, 1989.

(2) To the positions expiring on November 30, 1986, the Governor shall appoint three persons whose terms shall expire on January 15, 1988; three persons whose terms shall expire on January 15, 1990; and one person whose term shall expire on January 15, 1991.

(3) To the position expiring on January 2, 1987, the Governor shall appoint one person whose term shall expire on January 15, 1991.

(4) Commencing January 15, 1987, all terms of office of the members of the board, except the terms of the student member and the faculty members appointed by the Governor, shall be four years, and, commencing January 1, 1990, six years.

(b) Each term of office shall commence at the expiration of the preceding term.

(c) A member whose term has expired shall continue to discharge the duties of office until his or her successor is appointed by the Governor.

SEC. 10. Section 71020 of the Education Code is repealed.

SEC. 11. Section 71020 is added to the Education Code, to read:

71020. The board of governors shall develop and submit to the Governor, every three years, commencing July 1, 1989, an affirmative action paper concerning its own membership, providing the board's assessment of its role in statewide representation of minorities, women, and the disabled.

SEC. 11.5. Section 71020.5 is added to the Education Code, to read:

71020.5. (a) It is the intent of the Legislature in enacting this section to foster the creation, implementation, and phase-in of a comprehensive community college accountability system which describes the performance of community colleges in meeting the postsecondary educational needs of students. This educational and fiscal accountability system shall provide performance data on students, programs, and institutions.

It is further the intent of the Legislature that this accountability system assist all participants in the community college system, including students, faculty, staff, administrators, local governing boards, the chancellor, the state board of governors, the public, and other interested constituencies, in identifying the educational and fiscal strengths and weaknesses of colleges in order to improve educational quality in community colleges.

(b) The board of governors shall develop and implement a comprehensive community college educational and fiscal accountability system. In developing and implementing this system, the board of governors shall solicit consultation from institutional and organizational representatives of the California Community Colleges, including statewide faculty and staff organizations. At a minimum, the system shall:

(1) Be consistent with the Legislature's intent as expressed in this act, Chapter 136 of the Statutes of 1987, and Chapter 1465 of the Statutes of 1986.

(2) Draw from, and build upon, the system proposed in the report entitled "AB 3409 Community College Accountability Report," prepared pursuant to Chapter 1465 of the Statutes of 1986.

(3) Be designed to promote student success in community colleges.

(4) Define and measure, quantitatively and qualitatively, accountability information, including:

(A) Student access to community colleges.

(B) The extent to which the community college student body reflects proportionately the adult population of the state.

(C) Student transfer rates and programs.

(D) Academic standards and student achievement.

(E) Student goal satisfaction and success in courses and programs.

(F) Completion rates of courses and programs.

(G) Occupational preparation relative to state and local workforce needs and for entry-level employment, occupational advancement, and career changes of students.

(H) Adequacy of basic skills and English as a Second Language courses and instruction in preparing students to succeed in collegiate level work.

(I) Adequacy of and student satisfaction with student services.

(J) The extent to which the community college workforce reflects proportionately the adult population of the state.

(K) Fiscal conditions of community college districts.

(5) Be designed to streamline the use of multiple performance measures from appropriate sources of data, including, but not limited to, matriculation evaluations, categorical program evaluations, the community college management information system, and other existing data collection and evaluation systems.

(6) Provide feedback to individual colleges in order to improve access to community colleges, student performance, and educational programs where needed.

(7) Produce a published report of community college accountability.

(c) The Legislature finds and declares that successful implementation of a comprehensive educational and fiscal accountability system is, in part, dependent upon an adequate data collection and reporting system. The accountability system developed and implemented pursuant to this section shall be phased in, to the extent necessary, with the funding and local implementation of the community college management information system.

(d) The chancellor shall provide a written report on the accountability system developed pursuant to this section to the Legislature and Governor on or before July 1, 1990. This report shall not only delineate the accountability system and how it would be phased in, but shall differentiate between those portions of the system which can be implemented without imposing additional mandates on community college districts and those which can be implemented when additional funds are provided to reimburse the mandates on districts.

It is the intent of the Legislature that the accountability system be implemented over a three-year period, beginning not later than the 1991–92 academic year, which will provide student performance, program effectiveness, and institutional effectiveness information so that the accountability system, when fully implemented, will encompass the full range of information for effective decisionmaking, planning and budgeting.

SEC. 12. Section 71023 of the Education Code is repealed.

SEC. 12.1. Section 71025 of the Education Code is repealed.

SEC. 12.2. Section 71026 of the Education Code is repealed.

SEC. 12.3. Section 71027 of the Education Code is repealed.

SEC. 12.4. Section 71028 of the Education Code is repealed.

SEC. 12.5. Section 71062 of the Education Code is repealed.

SEC. 12.6. Section 71063 of the Education Code is repealed.

SEC. 12.7. Section 71064 of the Education Code is repealed.

SEC. 12.8. Section 71066 of the Education Code is repealed.

SEC. 12.9. Section 71068 of the Education Code is repealed.

SEC. 12.10. Section 71069 of the Education Code is repealed.

SEC. 12.11. Section 71070 of the Education Code is repealed.

SEC. 12.12. Section 71071 of the Education Code is repealed.

SEC. 12.13. Section 71072 of the Education Code is repealed.

SEC. 12.14. Section 71073 of the Education Code is repealed.

SEC. 12.15. Section 71075 of the Education Code is repealed.

SEC. 12.16. Section 71076 of the Education Code is repealed.

SEC. 12.17. Section 71079 of the Education Code is repealed.

SEC. 12.18. Section 71080 of the Education Code is repealed.

SEC. 12.19. Section 71091 of the Education Code is repealed.

SEC. 13. Section 71090.5 is added to the Education Code, to read:

71090.5. In addition to the position authorized by subdivision (e) of Section 4 of Article VII of the California Constitution, the Governor, with the recommendation of the board of governors, shall appoint up to six deputy and vice chancellors, who shall be exempt from state civil service. These appointments shall not result in any increase in funds, available for expenditure by the board of governors in the 1989–90 fiscal year, above the total

amount available to the board in the 1988–89 fiscal year. The appointments shall not exceed an aggregate total of six, for both the positions of deputy and vice chancellor.

SEC. 14. Section 72201 of the Education Code is repealed.

SEC. 14.2. Section 72230 of the Education Code is repealed.

SEC. 14.3. Section 72231.5 of the Education Code is repealed.

SEC. 14.4. Section 72233 of the Education Code is repealed.

SEC. 14.5. Section 72282 of the Education Code is repealed.

SEC. 14.6. Section 72284 of the Education Code is repealed.

SEC. 14.7. Section 72285 of the Education Code is repealed.

SEC. 14.8. Section 72286 of the Education Code is repealed.

SEC. 14.9. Section 72287 of the Education Code is repealed.

SEC. 14.10. Section 72288 of the Education Code is repealed.

SEC. 14.11. Section 72289 of the Education Code is repealed.

SEC. 14.12. Section 72290 of the Education Code is repealed.

SEC. 14.13. Section 72291 of the Education Code is repealed.

SEC. 14.14. Section 72292 of the Education Code is repealed.

SEC. 14.15. Section 72300 of the Education Code is repealed.

SEC. 15. Section 72411.5 of the Education Code is repealed.

SEC. 16. Section 72411.5 is added to the Education Code, to read:

72411.5. Every instructional or student services administrator of a community college district shall be employed, and all other administrators of a community college may be employed, by the governing board of the district by a contract not to exceed four years. The contract may be extended for periods of no more than four years at the discretion of the governing board. However, in the absence of an express agreement, every administrator shall serve in his or her administrative assignment at the pleasure of the governing board. The dismissal of, and imposition of penalties for cause on, an administrator employed by contract pursuant to this section shall, if the administrator does not have tenure as a faculty member, be in accordance with the terms of the contract of employment. If the administrator has tenure as a faculty member, the dismissal of, and imposition of penalties for cause on, the administrator shall be in accordance with the provisions applicable to faculty members.

SEC. 16.5. Section 78200 of the Education Code is repealed.

SEC. 17. Section 78205 of the Education Code is amended to read:

78205. The minimum requirement for graduation from a two-year community college course of study shall be * * * 60 credit hours of work. An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

SEC. 18. Section 78212.5 is added to the Education Code, to read:

78212.5. Each community college district may develop and maintain all of the following within each community college in the district:

(a) Career resource and placement centers having the purposes of maintaining information on vocational, technological and educational opportunities, and facilitating career employment.

(b) Programs to instruct appropriate staff and faculty members in the performance of matriculation services.

(c) Orientation programs designed to explain to new students academic requirements and other regulations of the community college, and the available student support services.

(d) A publicity program designed to inform the community served by the community college that the purposes of the mandatory matriculation process are intended to

facilitate, rather than restrict, student access to community college instruction, and to enhance each student's awareness of his or her abilities, skills, and potential.

(e) A publicity program designed to inform high schools in the community served by the community college, through orientation programs and other means, of student skill levels, and of available student support services.

SEC. 19. Section 84381 of the Education Code is amended to read:

84381. There is hereby created in the State Treasury the Community College Fund for Instructional Improvement. The fund shall consist of a revolving loan program and a direct grant program to support alternative educational programs and services within or on behalf of the California Community Colleges, including:

(a) Nontraditional forms, content, and methods of instruction, including, but not limited to, the following:

(1) Instructional programs which involve internships and experiential learning opportunities.

(2) Individualized instructional programs which require student development of learning objectives through learning contracts.

(3) Instructional programs which focus on the development of interpersonal skills.

(4) Instructional programs involving independent study.

(b) Programs for improving teaching abilities of faculty members.

(c) Programs addressing special learning needs of educationally disadvantaged students.

(d) Educational services for new clientele, including older, working adults.

(e) Efforts to improve traditional instructional programs.

(f) Programs for the improvement of the intellectual development of faculty and staff, including, but not limited to, the following:

(1) Intersegmental summer programs including research projects and seminars.

(2) College programs bringing visiting scholars to local districts.

(3) Interdisciplinary programs involving local noncollege institutions in the arts and sciences.

(4) Intersegmental research and public information projects on topics of special concern to rural and urban California regarding the environment, social history, and culture.

(5) Summer "bridge" programs for the transition period into college life.

SEC. 20. Section 84713 of the Education Code is amended to read:

84713. This article shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 21. Section 84750 is added to the Education Code, to read:

84750. The board of governors, in accordance with the statewide requirements contained in subdivisions (a) to (j), inclusive, and in consultation with institutional representatives of the California Community Colleges and statewide faculty and staff organizations, so as to ensure their participation in the development and review of policy proposals, shall develop criteria and standards for the purposes of making the annual budget request for the California Community Colleges to the Governor and the Legislature, and for the purpose of allocating the state general apportionment revenues, beginning with the budget request for the 1991–92 fiscal year.

In developing the criteria and standards, the board of governors shall utilize and strongly consider the guidelines and work products of the Task Force on Community College Financing as established pursuant to Chapter 1465 of the Statutes of 1986, and shall complete the development of these criteria and standards, accompanied by the necessary procedures, processes, and formulas for utilizing its criteria and standards, by

March 1, 1990, and shall submit on or before that date a report on these items to the Legislature and the Governor.

The board of governors shall develop the criteria and standards within the following statewide minimum requirements:

(a) The calculations of each community college district's revenue level for each fiscal year shall be based on the level of general apportionment revenues (state and local) the district received for the prior year plus any amount attributed to a deficit of minimum workload growth, with revenue adjustments being made for increases or decreases in workload, for program improvement as authorized by this section or by any other provision of law, for inflation, and for other purposes authorized by law.

(b) (1) For credit instruction, the funding mechanism developed pursuant to this section shall recognize the needs among the major categories of operation of community colleges, with categories established for instruction, instructional services and libraries, student services, maintenance and operations, and institutional support.

(2) The board of governors may propose to the Legislature, for enactment by statute, other cost categories when adequate data exist.

(3) Funding for noncredit classes shall be determined as follows:

(A) The preliminary amount per noncredit full-time equivalent student (FTES) for 1991–92 shall be equal to the comparable amount for 1990–91 with increases corresponding to the cost of living adjustment (COLA) specified in subdivision (e) and corresponding to any program improvement provided to the maintenance and operations category for 1991–92.

(B) Funds for maintenance and operations shall be included in the funds derived under paragraph (4) of subdivision (c).

(C) Funds for institutional support will be derived as part of the computation under paragraph (5) of subdivision (c).

(D) From the preliminary amount described in subparagraph (A), a deduction shall be made corresponding to the amounts derived in subparagraphs (B) and (C), and the remainder shall be the funded amount per noncredit FTES for 1991–92.

(E) Changes in noncredit FTES shall result in adjustments to revenues as follows:

(i) Increases in noncredit FTES shall result in an increase in revenues in the year of the increase and at the average rate per noncredit FTES.

(ii) Decreases in noncredit FTES shall result in a revenue reduction as follows:

(I) District revenue shall be adjusted at the average rate per noncredit FTES.

(II) Revenue adjustments shall be over a three-year period beginning in the year following the initial year of decrease in noncredit FTES.

(iii) Districts shall be entitled to restore any reductions in apportionment revenue due to decrease in noncredit FTES during the three years following the initial year of decrease in noncredit FTES if there is a subsequent increase in FTES.

(4) Except as otherwise provided by statute, current categorical programs providing direct services to students, including extended opportunity programs and services, and disabled students programs and services, shall continue to be funded separately through the annual Budget Act, and shall not be assumed under budget formulas of program-based funding.

(5) District revenues shall be determined based on systemwide funding standards within the categories, and revenue adjustments shall occur based on distinct measures of workload applicable to each category.

(c) Workload measures applicable to each category shall be established with the following measures to be provided:

(1) For credit instruction, the workload measure shall be the credit FTES. Changes in credit FTES shall result in adjustments in revenues as follows:

(A) Increases in FTES shall result in an increase in revenues in the year of the increase and at the statewide average per FTES.

(B) Decreases in FTES shall result in a revenue reduction as follows:

(i) High revenue districts (those at the statewide average or higher) shall be adjusted at the statewide average per FTES.

(ii) Low revenue districts (those below the statewide average) shall be adjusted at one-half of the district's average per FTES.

(iii) Revenue adjustments shall be made over a three-year period beginning in the year following the initial year of decrease in FTES.

(C) Districts shall be entitled to restore any reductions in apportionment revenue due to decrease in FTES during the three years following the initial year of decrease in FTES if there is a subsequent increase in FTES.

(2) For instructional services and libraries, the workload measure shall be the credit FTES. Changes in credit FTES with respect to instructional services and libraries shall result in adjustments to revenues as follows:

(A) Increases in FTES shall result in an increase in revenues in the year of the increase and at the statewide average rate per FTES.

(B) Decreases in FTES shall result in a revenue reduction as follows:

(i) High revenue districts (those at the statewide average or higher) shall be adjusted at the full amount of the statewide average per FTES.

(ii) Low revenue districts (those below the statewide average) shall be adjusted at one-half of the district's average per FTES.

(iii) Revenue adjustments shall be made over a three-year period beginning in the year following the initial year of decrease in FTES.

(C) Districts shall be entitled to restore any reductions in apportionment revenue due to decreases in FTES during the three years following the initial year of decreases in FTES if there is a subsequent increase in FTES.

(3) For student services, the workload measure shall be based on the numbers of credit students enrolled (headcount).

Changes in headcount shall result in adjustments to revenues as follows:

(A) Increases in headcount shall result in an increase in revenues in the year of the increase at the statewide average per headcount.

(B) Decreases in headcount shall result in a revenue reduction as follows:

(i) High revenue districts (those at the statewide average or higher) shall be adjusted at the full amount of the statewide average per headcount.

(ii) Low revenue districts (those below the statewide average) shall be adjusted at one-half of the district's average per headcount.

(iii) Revenue adjustments shall be made over a three-year period beginning in the year following the initial year of decrease in headcount.

(C) Districts shall be entitled to restore any reductions in apportionment revenue due to decrease in headcount during the three years following the initial year of decrease in headcount if there is a subsequent increase in headcount.

(4) For maintenance and operations, the workload measure shall be based on the number of square feet of owned or leased facilities. Changes in the number of square feet shall be adjusted as follows:

(A) Increases in the number of square feet shall result in an increase in revenue in the year that the increase occurs and at the average per square foot.

(B) Decreases in the number of square feet shall result in a decrease in revenue beginning July 1 of the first full year in which the square feet are no longer owned or leased and at the average rate per square foot.

(5) For institutional support, a single fixed percentage which shall apply to all districts shall be established based on the pattern from the most recent data. The percentage shall be obtained from statewide data by comparing expenditures for this category with the total revenue for all five categories.

(d) Funding standards, subject to the conditions and criteria of this section, shall be established by the board for the various categories of operation established pursuant to subdivision (b). In consultation as required by subdivision (e) of Section 70901, the board of governors shall annually request program improvement moneys to assist districts in meeting these standards.

(e) Annual revenue adjustments shall be made to reflect cost changes, using the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States as published by the United States Department of Commerce, and using the ratio for the fourth calendar quarter of the latest available year to the fourth calendar quarter of the prior year rounded up to the next hundredth.

(f) An adjustment for economies of scale for districts and colleges shall be provided.

(g) The statewide increase in workload of FTES and headcount shall be, at a minimum, the rate of change of the adult population as determined by the Department of Finance, and may be increased through the budget process to reflect such other factors as statewide priorities, the unemployment rate, and the number of students graduating from California high schools. The allocation of changes on a district-by-district basis shall be determined by the board of governors.

(h) For fiscal year 1991–92, all districts shall receive at least the amount of revenue to which they would have been entitled pursuant to Article 1 (commencing with Section 84700) of Chapter 5 of Part 50. Thereafter, allocations shall be made pursuant to this section, as implemented by the board of governors pursuant to the annual State Budget.

(i) Except as specifically provided by statute, regulations of the board of governors for determining and allocating the state general apportionment to the community colleges shall not require district governing boards to expend the allocated revenues in specified categories of operation or according to the workload measures developed by the board of governors.

(j) As used in this section:

(1) "Criteria" means the definitions of elements of institutional practice or activity to be included in the categories of operation of community college districts.

(2) "Program improvement" means an increase in revenue which is allocated to all districts to fund standards adopted pursuant to subdivision (d). Program improvement also means an increase in revenue allocated to low revenue districts to bring them closer to the statewide average.

(3) "Standard" means the appropriate level of service in a category of operation of the community college districts.

SEC. 21.7. Section 84755 is added to the Education Code, to read:

84755. (a) The Legislature finds and declares that program-based funding, once implemented, will more adequately and accountably fund the costs of providing quality community college education. Given that program-based funding will not be implemented until fiscal year 1991–92, given that community colleges will be entering a period of major reform and incurrence of new state mandates commencing in January 1989, and given that community colleges will be entering this period of reform having lost purchasing power since the 1977–78 fiscal year, the Legislature recognizes the need to create a transitional funding mechanism for program improvement and mandate funding that can operate until program-based funding is implemented.

(b) For the purpose of improving the quality of community college educational programs and services, for the purpose of reimbursing state-mandated local program costs imposed by this act, and for the purposes of initially implementing specified reforms, the board of governors shall, from amounts appropriated for purposes of this section, allocate program improvement revenues to each district on the basis of an amount per unit of average daily attendance generated in the 1987–88 fiscal year. However, this amount shall be increased or decreased to provide for equalization in a manner determined by the Board of Governors, consistent with the provisions of Sections 84703 to 84705, inclusive.

Each community college district shall use its allocation to initially reimburse state-mandated local program costs, and then to implement specified reforms and make authorized program and service improvements as follows:

(1) Developing articulated programs provided for in Section 70 of Assembly Bill 1725 of the 1987–88 Regular Session of the Legislature with school districts and campuses of the University of California and California State University.

(2) Applying minimum qualifications to all newly hired faculty and administrators, including candidates for these positions as required by Section 87356.

(3) Developing and administering a process for waiver of minimum qualifications as required by Section 87359.

(4) Establishing and applying local hiring criteria as required by Section 87360.

(5) Establishing and applying faculty service areas and competency criteria as required by Sections 87743 to 87743.5, inclusive.

(6) Evaluating temporary employees, instituting peer review evaluation, and widely distributing evaluation procedures as required by Section 87663.

(7) Establishing and applying new processes for tenure evaluation required by Section 87610.1.

(8) Establishing and applying the tenure denial grievance procedure required by Section 87610.1.

(9) Establishing and applying a process for moving administrators into faculty positions as required by Sections 87454 to 87458, inclusive.

(10) Publishing and distributing a report on the affirmative action success rate as required by Section 87102.

(11) Improving instruction by reducing the ratio of full-time equivalent students to full-time equivalent instructors.

(12) Improving instruction by increasing the hiring of full-time instructors and limiting the practice of hiring part-time instructors.

(13) Augmenting budgets for college libraries and learning resources.

(14) Augmenting budgets for plant maintenance and operations.

(15) Adding new courses or programs to serve community need.

(16) Making progress towards affirmative action goals and timetables established by the district.

(17) Developing and maintaining programs and services authorized by Section 78212.5.

(18) Augmenting budgets for student services in the areas of greatest need.

(19) Providing for release time for faculty and staff as deemed appropriate by community college district governing boards, to enable faculty and staff participation in implementing reforms.

(c) Except as provided by Section 87482.6, and except as necessary to reimburse the costs of new state mandates, district governing boards shall have full authority to expend program improvement allocations for any or all of the authorized purposes specified in subdivision (b).

(d) As required by the board of governors, the governing board of each community college district shall submit to the board of governors a plan for using the resources allocated pursuant to this section. The board of governors shall review each plan to ensure that proposed expenditures are consistent with the listing of authorized expenditures provided in this section, and the board of governors shall approve all plans to the full extent that expenditures are authorized by this section. To the extent that a community college district expends its program improvement allocation consistent with its plan, the board of governors shall include the district's allocation as part of the district's base budget for subsequent years.

(e) The board of governors, through the annual systemwide budget submitted pursuant to paragraph (5) of subdivision (b) of Section 70901, shall request necessary resources for

the purposes of this section. It is the intent of the Legislature that the appropriation and allocation of program improvement money not otherwise provided pursuant to subdivision (b) of this section shall be accomplished through the annual state budget process beginning with the 1989–90 fiscal year. After June 30, 1991, if Section 84750 is implemented, it is the intent of the Legislature to fund the ongoing operations of community college districts pursuant to the provisions of Section 84750.

SEC. 22. Section 87001 is added to the Education Code, to read:

87001. The board of governors shall adopt regulations defining positions subject to minimum qualifications as set forth in subdivisions (a), (b), and (c). Unless and until amended pursuant to Section 87357, the regulations shall initially establish the definitions as the following:

(a) "Administrator" means any person employed by the governing board of a community college district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Instructional or student services administrator" means an administrator who is employed in a position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Instructional and student services administrators include, but are not limited to, chancellors, presidents, and instructional or student services managers.

(c) "Faculty" means those employees of a community college district who are employed in positions that are not designed as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for hire have been specified in the regulations of the board of governors adopted pursuant to subdivision (a) of Section 87356. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement certification qualifications.

SEC. 23. Section 87102 of the Education Code is amended to read:

87102. (a) The governing board of each community college district shall periodically submit, * * * to the Board of Governors of the California Community Colleges an affirmation of compliance with the provisions of this article. The affirmative action employment program shall have goals that ensure participation in, and commitment to, the program by district personnel, and timetables, for its implementation. The affirmative action plan shall include steps that the district will take in meeting and improving hiring goals for both full-time faculty and part-time faculty pursuant to Section 87482.6, and the development of the plan shall be a condition for receipt of allowances pursuant to that section.

The governing board of each community college district shall be held accountable pursuant to this article and other applicable provisions of law for the success or failure of its affirmative action employment program. The plans shall be a public record within the meaning of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) The governing board of each community college district shall publish and distribute a record of the success rate of measurable progress, with respect to its goals and timetables, in hiring employees through its affirmative action employment program. This publication shall be a public record within the meaning of the California Public Records Act, and shall include data and information specified by the board of governors.

SEC. 24. Section 87104 of the Education Code is amended to read:

87104. (a) The Board of Governors of the California Community Colleges, out of funds appropriated for these purposes, (1) shall provide assistance to local community colleges in adopting and maintaining high-quality affirmative action programs; (2) report to the Legislature * * * regarding the number of districts which have adopted and are maintain-

ing affirmative action programs, including the effectiveness of the programs in meeting the intent of this article; * * * (3) develop and disseminate to public community college districts guidelines to assist these agencies in developing and implementing affirmative action employment programs; and (4) shall establish a technical assistance team to review the affirmative action plan of each community college district which fails to make measurable progress in meeting the goals and timetables of its adopted plan. The technical assistance team shall recommend appropriate actions to assure reasonable progress in improving success rates. The board of governors shall prescribe those conditions necessary to assure reasonable progress and otherwise meet the legal requirements of affirmative action. The conditions may include the withholding of allowances made pursuant to Sections 87482.6 and 87107.

(b) The board of governors shall establish, by July 1, 1989, within the chancellor's office or through other means as deemed necessary, a major service function to assist community college districts in identifying, locating, and recruiting qualified members of underrepresented groups, and in establishing and maintaining effective affirmative action hiring procedures.

(c) The board of governors shall, by March 15, 1989, develop and adopt a systemwide plan for strengthening faculty and staff affirmative action policies and programs in the California Community Colleges.

SEC. 25. Section 87107 is added to the Education Code, to read:

87107. (a) There is hereby created in the State Treasury a fund which shall be known as the Faculty and Staff Diversity Fund. The money in the fund shall be available to the board of governors upon appropriation by the Legislature for the purpose of enabling the California Community Colleges as a system to address the goal that by the year 2005 the system's work force will reflect proportionately the adult population of the state. For the purpose of administering this fund, the board of governors shall develop and apply availability data and factors for measuring district progress in contributing to this goal for the system. Also for the purpose of administering this fund, it is the intent of the Legislature that the board of governors take the steps which are necessary to reach the goal that by fiscal year 1992–93, 30 percent of all new hires in the California Community Colleges as a system will be ethnic minorities.

(b) By December 1, 1993, the board of governors shall report upon and assess the extent to which the California Community Colleges as a system have met or begun to meet the goals specified in this section. The report shall include conclusions regarding any necessary revisions to these goals. Unless provided otherwise by the Legislature by statute, the board of governors may, on or after September 30, 1994, adopt regulations to revise these goals.

(c) The board of governors shall utilize up to 25 percent of the fund to do all of the following:

(1) Reimburse districts for the costs of publishing, distributing, and reporting affirmative action success rates as provided in Section 87102.

(2) Reimburse districts for the cost of preparing and updating affirmative action plans.

(3) Carry out the assistance, service, monitoring, and compliance functions specified in Section 87104.

(d) The remainder of the fund shall be allocated to districts, in accordance with regulations of the board of governors, to provide for extended outreach and recruitment of underrepresented groups, for incentives to hire members of underrepresented groups, for in-service training and for other related staff diversity programs.

(e) It is the intent of the Legislature that the board of governors, in administering this fund, shall, pursuant to the provisions of this article, give funding priority and shall afford flexibility and discretion in the use of these funds to districts which have made or are making reasonable progress in contributing to the achievement of the goals of this fund.

SEC. 26. Article 5 (commencing with Section 87150) is added to Chapter 1 of Part 51 of the Education Code, to read:

Article 5. Community College Faculty and Staff Development Fund

87150. There is hereby created in the State Treasury the Community College Faculty and Staff Development Fund, to be administered by the Board of Governors of the California Community Colleges, the purpose of which is to provide state general funds to community colleges for supporting locally developed and implemented faculty and staff development programs.

87151. The Board of Governors of the California Community Colleges shall annually allocate funds appropriated for the purposes of this article to each community college district whose chief executive officer has submitted to the chancellor an affidavit which includes:

(a) A statement that each campus within the district has an advisory committee, composed of administrators, faculty, and staff representatives, which has assisted in the assessment of the faculty and staff development needs and in the design of the plan to meet those needs.

(b) A campus human development resources plan has been completed for the current and subsequent fiscal years.

(c) A report of the actual expenditures for faculty and staff development for the preceding year.

87152. (a) The initial allocation to each district, from funds appropriated by the Legislature therefor, shall be an amount equivalent to one-half of one percent of the fiscal year revenues, as defined by Section 84700, received by the district, for the 1987–88 fiscal year.

(b) In subsequent fiscal years, no district shall receive an allocation greater than 2 percent of its fiscal year revenues, as defined in Section 84700, for the prior fiscal year.

87153. The authorized uses of funds allocated under this article shall include all of the following:

(a) Improvement of teaching.

(b) Maintenance of current academic and technical knowledge and skills.

(c) In-service training for vocational education and employment preparation programs.

(d) Retraining to meet changing institutional needs.

(e) Intersegmental exchange programs.

(f) Development of innovations in instructional and administrative techniques and program effectiveness.

(g) Computer and technological proficiency programs.

(h) Courses and training implementing affirmative action and upward mobility programs.

(i) Other activities determined to be related to educational and professional development pursuant to criteria established by the Board of Governors of the California Community Colleges, including, but not necessarily limited to, programs designed to develop self-esteem.

87154. This article shall be operative during any fiscal year only if funds are provided therefor in the annual Budget Act for that fiscal year or other legislation.

SEC. 27. Chapter 2 (commencing with Section 87200) of Part 51 of the Education Code is repealed.

SEC. 28. Chapter 2.5 (commencing with Section 87350) is added to Part 51 of the Education Code, to read:

CHAPTER 2.5. QUALIFICATIONS FOR COMMUNITY COLLEGE PERSONNEL

Article 1. General Provisions

87350. The plan for a new mechanism of faculty qualifications being developed by the Chancellor of the California Community Colleges pursuant to Chapter 1465 of the Statutes of 1986 shall include all of the following:

(a) A transition provision which would grandfather existing bargaining unit definitions.

(b) Consideration of projected California demographics.

(c) Consideration of affirmative action policies and programs.

Article 2. Minimum Qualifications and Hiring Criteria

87355. Any person employed under a credential as of June 30, 1990, including an instructor, librarian, counselor, student personnel worker, supervisor, administrator, or chief administrative officer, shall be entitled to serve under the terms of that credential until it terminates, and during the period the credential is effective, shall not be required to meet the minimum qualifications applicable after July 1, 1990. The board of governors shall adopt regulations as necessary to implement this exemption within 120 days of the effective date of this act.

87356. (a) The board of governors shall adopt regulations to establish and maintain the minimum qualifications for hire as a community college faculty member. Unless and until amended pursuant to the process described in Section 87357, the regulations shall establish the minimum qualifications for hire as a community college faculty member teaching any credit course, as any of the following:

(1) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(2) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment and possession of a bachelor's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(3) For faculty assigned to teach courses in disciplines where the master's degree is not generally expected or available, which are, generally, disciplines in specialized technical, trade, or industrial fields, either of the following:

(A) Possession of a bachelor's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment, plus two years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available.

(B) Possession of an associate degree from an accredited institution in a discipline reasonably related to the faculty member's assignment, plus six years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available.

(b) The board of governors shall adopt regulations establishing appropriate minimum qualifications for extended opportunity programs and services workers, pursuant to Section 69648.7.

(c) The board of governors shall adopt regulations establishing appropriate minimum qualifications for handicapped student programs and services workers, pursuant to Section 78440.5.

(d) The board of governors shall adopt regulations to establish and maintain the minimum qualifications for hire as an instructional or student services administrator. Unless and until amended pursuant to the process described in Section 87357, the regulations shall establish the minimum qualifications for hire as an instructional or student services administrator as all of the following:

(1) Possession of a master's degree.

(2) One year of formal training, internship, or leadership experience reasonably related to the administrator's administrative assignment, which may, but need not be, concurrent with the required full-time service.

(e) The Legislature finds and declares that this section does not create a state-mandated local program cost because compensation of faculty will continue to be determined through the collective bargaining process or meet and confer sessions.

87357. (a) In establishing and maintaining minimum qualifications pursuant to Section 87356, the board of governors shall do all of the following:

(1) With regard to minimum qualifications for faculty, consult with, and rely primarily on the advice and judgment of, the statewide Academic Senate, and with regard to minimum qualifications for instructional or student service administrators, consult with, and rely primarily on the advice and judgment of, an appropriate statewide organization of administrators. In either case, the board of governors shall provide a reasonable opportunity for comment by other statewide representative groups.

(2) The board of governors shall establish a process to review at least every three years the continued appropriateness of the minimum qualifications, and the adequacy of the means by which they are administered. The process shall provide for the appointment of a representative group of community college faculty, administrators, students, and trustees to conduct or otherwise assist in the review, including particularly, representatives of academic senates, collective bargaining organizations, and statewide faculty associations. In addition, the group shall be broadly representative of academic and vocational programs in the curriculum from both urban and rural districts, and representative of ethnic minority communities.

(b) The board of governors, relying primarily upon the advice and judgment of the statewide Academic Senate, shall prescribe by regulation a working definition of the term "discipline" and shall prepare and maintain a list of disciplines that are "reasonably related" to one another, as that phrase is used in the minimum qualifications. The initial list shall be distributed to the community college districts by July 1, 1989, for their use in applying the minimum qualifications for hire.

In formulating advice and recommendations to the board of governors regarding the definition of the term "discipline," the statewide Academic Senate shall consult with appropriate statewide organizations representing administrators and faculty collective bargaining agents. The statewide Academic Senate shall incorporate the advice of those groups into its recommendations to the board of governors, particularly as it relates to the practical ramifications of any proposed definition of the term "discipline" on issues of reassignment, transfer, and reduction in force.

The board of governors, relying primarily upon the advice and judgment of the statewide Academic Senate, shall prepare and maintain a list of disciplines in which the master's degree is not generally expected or available. The initial list shall be distributed to the community college districts by July 1, 1989, for their use in applying the minimum qualifications for hire.

87358. The board of governors shall periodically designate a team of community college faculty, administrators, and trustees to review each community college district's application of minimum qualifications to faculty and administrators.

87359. The board of governors shall adopt regulations setting forth a process authorizing local governing boards to employ faculty members, instructional administrators, and student services administrators who do not meet the applicable minimum qualifications specified in the regulations adopted by the board pursuant to Section 87356. Unless and until amended pursuant to the process described in Section 87357, the regulations shall require all of the following:

(a) No one may be hired to serve as a community college faculty member, instructional administrator, or student services administrator under the authority granted by the regulations unless the governing board determines that he or she possesses qualifications that are at least equivalent to the minimum qualifications specified in regulations of the board adopted pursuant to Section 87356. The criteria used by the governing board in making the determination shall be reflected in the governing board's action employing the individual.

(b) The process, as well as criteria and standards by which the governing board reaches its determinations, shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine

that each individual employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualifications specified in regulations adopted by the board of governors. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination; and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(c) Until a joint agreement is reached and approved pursuant to subdivision (b), the district process in existence on January 1, 1989, shall remain in effect.

87359.5. By May 1, 1989, the board of governors shall have reviewed or contracted for review of, the job relevance of the requirements of Sections 87408, 87408.5, 87408.6, and any other physical fitness tests or examinations, and other conditions of employment, applicable to community college personnel.

Article 3. Hiring Criteria

87360. (a) In establishing hiring criteria for faculty and administrators, district governing boards shall, no later than July 1, 1990, develop criteria that include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students.

(b) No later than July 1, 1990, hiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by representatives of the governing board, and the academic senate, and approved by the governing board.

(c) Until a joint agreement is reached and approved pursuant to subdivision (b), the existing district process in existence on January 1, 1989, shall remain in effect.

SEC. 29. Section 87454 of the Education Code is amended to read:

87454. A tenured employee, when assigned from a faculty position to an administrative * * * position, or assigned any special or other type of work, or given special classification or designation * * *, shall retain his or her status as a tenured faculty member.

SEC. 30. Section 87455 of the Education Code is repealed.

SEC. 31. Section 87456 of the Education Code is repealed.

SEC. 32. Section 87457 of the Education Code is amended to read:

87457. Whenever a person employed in an administrative * * * position * * * is assigned to a faculty position, the governing board of the community college district shall give the employee, when requested by him or her, a written statement of the reasons for the transfer.

SEC. 33. Section 87458 of the Education Code is repealed.

SEC. 34. Section 87458 is added to the Education Code, to read:

87458. A person employed in an administrative position that is not part of the classified service, who has not previously acquired tenured status as a faculty member in the same district, shall have the right to become a first year probationary faculty member once his or her administrative assignment expires or is terminated if all of the following apply:

(a) The process by which the governing board reaches the determination shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that the administrator possesses the minimum qualifications for employment as a faculty member. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination; and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(b) Until a joint agreement is reached pursuant to subdivision (a), the district process in existence on January 1, 1989, shall remain in effect.

(c) The administrator has completed at least two years of satisfactory service, including any time previously served as a faculty member, in the district.

(d) The termination of the administrative assignment is for any reason other than dismissal for cause.

SEC. 35. Section 87482.6 is added to the Education Code, to read:

87482.6. (a) Until the provisions of Section 84750 regarding program-based funding are implemented by a standard adopted by the board of governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors, the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors. To this end, community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply a portion of the program improvement allocation received pursuant to Section 84755 as follows:

(1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.

(2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation.

Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.

(b) The board of governors shall adopt regulations for the effective administration of this section. Unless and until amended by the board of governors, the regulations shall provide as follows:

(1) In computing the percentage of hours of credit instruction taught by full-time instructors, the hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(2) A full-time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

(3) The chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district. This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load). If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If this quotient, once applied, will result in the district exceeding the 75 percent standard, the chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

By March 15th of each year, the chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(4) On or before December 31, 1991, the chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to paragraph (3) for the 1989–90 and 1990–91 fiscal years. To the extent that the cumulative number of FTF have not been retained, the chancellor shall reduce the district's base budget for 1991–92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTF.

SEC. 36. Section 87602 of the Education Code is amended to read:

87602. For the purposes of other provisions of law:

(a) A contract employee is a probationary employee.

(b) A regular or tenured employee is a permanent employee.

SEC. 37. Section 87605 of the Education Code is repealed.

SEC. 38. Section 87605 is added to the Education Code, to read:

87605. The governing board of a district shall employ faculty for the first academic year of his or her employment by contract. Any person who, at the time an employment contract is offered to him or her by the district, is neither a tenured employee of the district nor a probationary employee then serving under a second or third contract entered into pursuant to Section 87608 shall be deemed to be employed for "the first academic year of his or her employment." A faculty member shall be deemed to have completed his or her first contract year if he or she provides service for 75 percent of the first academic year.

SEC. 39. Section 87608 of the Education Code is repealed.

SEC. 40. Section 87608 is added to the Education Code, to read:

87608. If a contract employee is working under his or her first contract, the governing board, at its discretion and not subject to judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

(a) Not enter into a contract for the following academic year.

(b) Enter into a contract for the following academic year.

(c) Employ the contract employee as a regular employee for all subsequent academic years.

SEC. 41. Section 87608.5 is added to the Education Code, to read:

87608.5. If a contract employee is working under his or her second contract, the governing board, at its discretion and not subject to judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

(a) Not enter into a contract for the following academic year.

(b) Enter into a contract for the following two academic years.

(c) Employ the contract employee as a regular employee for all subsequent academic years.

SEC. 42. Section 87609 of the Education Code is repealed.

SEC. 43. Section 87609 is added to the Education Code, to read:

87609. If a contract employee is employed under his or her third consecutive contract entered into pursuant to Section 87608.5, the governing board shall elect one of the following alternatives:

(a) Employ the probationary employee as a tenured employee for all subsequent academic years.

(b) Not employ the probationary employee as a tenured employee.

SEC. 44. Section 87610 of the Education Code is repealed.

SEC. 45. Section 87610 is added to the Education Code, to read:

87610. (a) The governing board shall give written notice of its decision under Section 87608 or 87608.5 and the reasons therefor to the employee on or before March 15 of the academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure

to give the notice as required to a contract employee under his or her first or second contract shall be deemed an extension of the existing contract without change for the following academic year.

(b) The governing board shall give written notice of its decision under Section 87609 and the reasons therefor to the employee on or before March 15 of the last academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure to give the notice as required to a contract employee under his or her third consecutive contract shall be deemed a decision to employ him or her as a regular employee for all subsequent academic years.

SEC. 46. Section 87610.1 is added to the Education Code, to read:

87610.1. (a) In those districts where tenure evaluation procedures are collectively bargained pursuant to Section 3543 of the Government Code, the faculty's exclusive representative shall consult with the academic senate prior to engaging in collective bargaining on these procedures.

(b) Allegations that the community college district, in a decision to grant tenure, made a negative decision that to a reasonable person was unreasonable, or violated, misinterpreted, or misapplied, any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. Allegations that the community college district in a decision to reappoint a probationary employee violated, misinterpreted, or misapplied any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. If there is no contractual grievance procedure resulting in arbitration, these allegations shall proceed to hearing in accordance with Section 87740.

Arbitration as used in this section refers to advisory arbitration, as well as final and binding arbitration.

(c) Any grievance brought pursuant to the provisions of subdivision (b) may be filed by an employee on his or her behalf, or by the exclusive bargaining representative on behalf of an employee or a group of employees in accordance with Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. The exclusive representative shall have no duty of fair representation with respect to taking any of these grievances to arbitration, and the employee shall be entitled to pursue a matter to arbitration with or without the representation by the exclusive representative. However, if a case proceeds to arbitration with representation by the exclusive representative, the resulting decision shall not be considered a precedent for purposes of interpreting tenure procedures and policies, or the collective bargaining agreement, but instead shall affect only the result in that particular case. When arbitrations are not initiated by the exclusive representative, the district shall require the employee submitting the grievance to file with the arbitrator or another appropriate party designated in the collective bargaining agreement, adequate security to pay the employee's share of the cost of arbitration.

(d) The arbitrator shall be without power to grant tenure, except for failure to give notice on or before March 15 pursuant to subdivision (b) of Section 87610. The arbitrator may issue an appropriate make-whole remedy, which may include, but need not be limited to, back pay and benefits, reemployment in a probationary position, and reconsideration. Procedures for reconsideration of decisions not to grant tenure shall be agreed to by the governing board and the exclusive representative of faculty pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(e) Any employees who are primarily engaged in faculty or other bargaining unit duties, who perform "supervisory" or "management" duties incidental to their performance of primary professional duties shall not be deemed supervisory or managerial employees as those terms are defined in Section 3540.1 of the Government Code, because of those duties. These duties include, but are not limited to, serving on hiring, selection, promotion, evaluation, budget development, and affirmative action committees, and making effective recommendations in connection with these activities. These employees

whose duties are substantially similar to those of their fellow bargaining unit members shall not be considered supervisory or management employees.

SEC. 47. Section 87611 of the Education Code is repealed.

SEC. 48. Section 87611 is added to the Education Code, to read:

87611. A final decision reached following a grievance or hearing conducted pursuant to subdivision (b) of Section 87610.1 shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

SEC. 49. Section 87615 is added to the Education Code, to read:

87615. Commencing July 1, 1990, the minimum degree requirement for tenure as a community college faculty member shall be a bachelor's degree or equivalent from an accredited institution, or an equivalent foreign degree, as determined by the board of governors, except that in the case of vocational faculty, this requirement shall commence January 1, 1994. The board of governors shall monitor the effects and anticipated effects of this provision upon hiring practices within the districts, analyze the results, and make a report and recommendation to the Legislature no later than January 1, 1993.

The governing board may grant tenure to faculty members who do not meet the minimum degree requirement for tenure specified in this section if both of the following are met:

(a) The governing board determines that rare and compelling reasons exist justifying the action. The reasons for the governing board's determination shall be reflected in its action granting tenure to the individual.

(b) The process by which the governing board reaches the determination has been developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that rare and compelling reasons exist to grant tenure. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination; and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(c) Until a joint agreement is reached pursuant to subdivision (b), the district process in existence on January 1, 1989, shall remain in effect.

SEC. 51. Section 87663 of the Education Code is amended to read:

87663. (a) Contract employees shall be evaluated at least once in each academic year. Regular employees shall be evaluated at least once in every three academic years. Temporary employees shall be evaluated within the first year of employment. Thereafter, evaluation shall be at least once every six regular semesters, or once every nine regular quarters, as applicable.

(b) Whenever an evaluation is required of a certificated employee by a community college district, the evaluation shall be conducted in accordance with the standards and procedures established by the rules and regulations of the governing board of the employing district.

(c) Evaluations shall include, but not be limited to, a peer review process.

(d) The peer review process shall be on a departmental or divisional basis, and shall address the forthcoming demographics of California, and the principles of affirmative action. The process shall require that the peers reviewing are both representative of the diversity of California and sensitive to affirmative action concerns, all without compromising quality and excellence in teaching.

(e) The Legislature recognizes that faculty evaluation procedures may be negotiated as part of the collective bargaining process.

(f) In those districts where faculty evaluation procedures are collectively bargained, the faculty's exclusive representative shall consult with the academic senate prior to engaging in collective bargaining regarding those procedures.

(g) It is the intent of the Legislature that faculty evaluation include, to the extent practicable, student evaluation.

(h) A probationary faculty member shall be accorded the right to be evaluated under clear, fair, and equitable evaluation procedures locally defined through the collective bargaining process where the faculty has chosen to elect an exclusive representative. Those procedures shall ensure good-faith treatment of the probationary faculty member without according him or her de facto tenure rights.

(i) Governing boards shall establish and disseminate written evaluation procedures for administrators. It is the intent of the Legislature that evaluation of administrators include, to the extent possible, faculty evaluation.

SEC. 51.5. Section 87743 of the Education Code is amended to read:

87743. No tenured employee shall be deprived of his or her position for causes other than those specified in Sections 87453, 87467, and 87484, and Sections 87732 to 87739, inclusive, and no probationary employee shall be deprived of his or her position for cause other than as specified in Section 87740 except in accordance with the provisions of Section 87463 and Sections 87743 to 87762, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of the district it shall have become necessary by reason of either of these conditions to decrease the number of tenured employees in the district, the * * * governing board may terminate the services of not more than a corresponding percentage of the * * * employees of the district, tenured as well as probationary, at the close of the school year. However, the services of no tenured employee may be terminated under * * * this section while any probationary employee, or any other employee with less seniority, is retained to render a service in a faculty service area in which the records of the district maintained pursuant to Section 87743.4 reflect that the tenured employee possesses the minimum qualifications prescribed by the board of governors and is competent to serve under district competency criteria.

Notice of the termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 87740 and services of the employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with * * * Sections 87413 and 87414. In the event that a tenured or probationary employee is not given the notices and a right to a hearing as provided for in Section 87740, he or she shall be deemed reemployed for the ensuring school year.

The board shall make assignments and reassignments in * * * a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

SEC. 52. Section 87743.1 is added to the Education Code, to read:

87743.1. As used in this chapter, "faculty service area" means a service or instructional subject area or group of related services or instructional subject areas performed by faculty and established by a community college district.

SEC. 53. Section 87743.2 is added to the Education Code, to read:

87743.2. Not later than July 1, 1990, each community college district shall establish faculty service areas. The establishment of faculty service areas shall be within the scope of meeting and negotiating pursuant to Section 3543.2 of the Government Code. The exclusive representative shall consult with the academic senate in developing its proposals.

SEC. 54. Section 87743.3 is added to the Education Code, to read:

87743.3. Each faculty member shall qualify for one or more faculty service areas at the time of initial employment. A faculty member shall be eligible for qualification in any

faculty service area in which the faculty member has met both minimum qualifications pursuant to Section 87356 and district competency standards. After initial employment, a faculty member may apply to the district to add faculty service areas for which the faculty member qualifies. The application shall be received by the district on or before February 15 in order to be considered in any proceeding pursuant to Section 87743 during the academic year in which the application is received. Any dispute arising from an allegation that a faculty member has been improperly denied a faculty service area shall be classified and procedurally addressed as a grievance. If the district has no grievance procedure, fair and equitable procedures for the resolution of the disputes shall be developed by the academic senate and representatives of the governing board.

SEC. 55. Section 87743.4 is added to the Education Code, to read:

87743.4. Each district shall maintain a permanent record for each faculty member employed by the district of each faculty service area for which the faculty member possesses the minimum qualifications for service and in which he or she has established competency pursuant to district competency standards. The record shall be contained in the faculty member's personnel file.

SEC. 56. Section 87743.5 is added to the Education Code, to read:

87743.5. To determine competency to serve in a faculty service area for the purposes of Section 87743, each community college district shall, not later than July 1, 1990, establish competency criteria for faculty members employed by the district. The development and establishment of such competency criteria shall be within the scope of meeting and negotiating pursuant to Section 3543 of the Government Code.

SEC. 57. The Board of Governors of the California Community Colleges shall conduct a thorough review of all statutes affecting the administration and operation of the California Community Colleges, and recommend to the Legislature the amendment or repeal of those provisions affected by this act. The review shall be submitted to the Legislature no later than January 31, 1989.

SEC. 58. The Board of Governors of the California Community Colleges shall review the Education Employment Relations Act, Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, with regard to the delineation of roles and responsibilities of the academic senate and the faculty bargaining agents, especially in light of proposed changes in the role of faculty concerning hiring, peer review and evaluation, and curricular design. The results of this review including the recommendations of the board of governors shall be submitted to the Legislature no later than January 1, 1993. The board of governors shall convene a committee, for the purpose of conducting the review. The committee shall include representatives from faculty and employee groups, collective bargaining organizations, and academic senates.

This section shall become operative only if funds are specifically appropriated to the board of governors for purposes of this section.

SEC. 59. The California Postsecondary Education Commission and the State Department of Education shall jointly agree on a coordinated research framework to be utilized by each agency in a review of the programs in English as a second language offered through the California Community Colleges, the University of California, the California State University, and adult education programs, and of the future educational needs in this area, and to report its recommendations for programs of effective cooperation between those institutions in this respect. The California Postsecondary Education Commission shall have responsibility for reviewing the programs of the postsecondary segments and the State Department of Education shall have responsibility for reviewing the programs offered by school districts. Both the commission and the State Department of Education shall report the results of their review to the Legislature no later than January 1, 1990. The purpose of the study provided for under this section shall be to assess the ongoing role of the California Community Colleges, in relation to the respective roles of the University of California and the California State University in conducting programs in English as a second language.

This section shall become operative only if funds are specifically appropriated for the purposes of conducting the work specified in this section.

SEC. 60. The Chancellor of the California Community Colleges shall conduct a study, with the participation of one or more community college districts, on the feasibility of establishing, on a pilot basis, "interdisciplinary colleges" within selected community colleges—with a special concern with the integration of vocational and academic study. The study shall include exploration of the possibilities, through the establishment of these colleges, of the integration of work experience and study, and the provision of a more cooperative learning environment as a model for all colleges. On or before January 1, 1990, the chancellor shall submit to the Legislature a report summarizing the findings and recommendations which result from the study conducted pursuant to this section.

This section shall become operative only if funds are specifically appropriated for the purposes of this section.

SEC. 61. The Board of Governors of the California Community Colleges shall, by January 1, 1990, do all of the following:

(a) Develop policies and guidelines for strengthening the role of the academic senate with regard to the determination and administration of academic and professional standards, course approval and curricula, and other academic matters.

(b) In cooperation with community college district and student representatives, develop a plan for encouraging greater student participation in appropriate aspects of campus, district, and statewide governance.

SEC. 62. The Student Aid Commission shall conduct a study of student aid programs which have as their purpose increasing the number of students entering into the teaching profession at the community college level, and shall report the results of this study to the Legislature and to the California Postsecondary Education Commission on or before January 1, 1990. Prior to March 15, 1990, the California Postsecondary Education Commission shall review and comment on this report to the Legislature, and shall propose any recommendations for revisions to improve these programs.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 63. The Board of Governors of the California Community Colleges, on or before January 1, 1990, shall provide ongoing information to community college districts relative to the design and operation of vocational education programs. This information shall include, but is not necessarily limited to, summaries and analyses of current economic trends and employment projections, as indicated by industry groups and other sources, and the curriculum implications of that data.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 64. The Board of Governors of the California Community Colleges and the State Board of Education shall each determine the extent to which students are underrepresented in vocational education programs in the community colleges and in public schools, respectively, on the basis of gender or ethnic origin, and shall jointly undertake to encourage students to enter those vocational education programs in which they are underrepresented. On or before July 1, 1990, the Board of Governors of the California Community Colleges and the State Board of Education jointly shall file a report with the education policy committees of the Legislature on their findings.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 65. (a) The Board of Governors of the California Community Colleges shall develop a pilot program regarding the employment of part-time temporary faculty by option-rollover contracts in selected areas of specialization. The board of governors shall select three community college districts to implement the two-year pilot program. Community college districts eligible to participate in this pilot program shall be those whose proposal for participation has the concurrence of the local exclusive bargaining representative. In districts having no exclusive bargaining representative, the plan must have the concurrence of the local academic senate.

(b) The community college districts participating in the pilot program established pursuant to subdivision (a) shall employ part-time temporary faculty for a duration of two years under an option-rollover contract. At the end of the two-year period, the community college district shall have, under the pilot program, the option of retaining the part-time temporary employee by rolling over the contract an additional two years.

(c) The pilot program shall be reviewed by the full-time faculty, the part-time temporary employees participating in the pilot program, and the students of the community college district.

(d) Upon the completion of the pilot program, the board of governors shall evaluate the review conducted pursuant to subdivision (c) and shall determine whether the pilot program regarding the employment of part-time temporary faculty under option-rollover contracts is beneficial to the community college and its students.

(e) If the pilot program is deemed to be beneficial to the community college and its students, the board of governors, in consultation with the faculty, shall establish policy directed at, and shall develop standards for, employing part-time temporary faculty under option-rollover contracts for periods ranging from two to five years. At the conclusion of the contractual period, the employing community college district shall have the option of retaining the employee for a period equal to the duration of the original contract by rolling over the contract for the stated period.

(f) It is the intent of the Legislature that the development of option-rollover contracts for part-time temporary employees not frustrate the policy of the community colleges to strengthen the core of their full-time faculty, including the recruitment and hiring of full-time faculty members.

(g) The board of governors shall develop standards requiring part-time temporary employees who have contractual status under an option-rollover contract to participate in student advisement and curriculum-related development, in addition to classroom instruction. Part-time temporary employees shall be compensated according to these standards.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 66. (a) The governing board of each district may determine whether it would be beneficial for various community college departments to enter into agreements with the analogous graduate department at the University of California or California State University campus closest in proximity to the community college, to provide part-time temporary teaching positions in the district for advanced university graduate students.

(b) In determining whether the development of part-time temporary teaching positions would be beneficial for the district, the governing board shall consider that the part-time temporary teaching positions, if implemented, would be limited to the following individuals:

(1) Advanced graduate students with prior proven teaching experience.

(2) Advanced graduate students teaching in areas consistent with the subject area of their graduate program.

(3) Advanced graduate students who qualify for employment in positions requiring certification.

(4) Advanced graduate students selected by the pertinent community college department and administrators from among a list of candidates provided by the University of California or the California State University graduate department.

(c) The governing board shall also consider whether the following intended purposes would be served by the development of part-time temporary teaching positions:

(1) Be a form of financial aid to the graduate students, especially for minority and disadvantaged students.

(2) Provide access to graduate students who wish to enter into the teaching profession at the community college level.

(3) Guarantee community college departments one or two part-time positions each year.

(d) In the event that part-time temporary teaching positions are established, graduate students who would teach on a temporary part-time basis shall not displace persons then currently teaching part-time or full-time.

SEC. 67. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 68. On or before January 1, 1990, the Board of Governors of the California Community Colleges shall adopt regulations which substantially incorporate the following policy:

No more than 30 semester units, or 45 quarter units, in course credit may be assigned to any student for remedial coursework, except as to any student who is enrolled in one or more courses in English as a second language or who is identified as having a learning disability. This limit may be waived by the community college district pursuant to regulations of the board of governors, based upon the student's showing of significant, measurable progress toward the development of skills appropriate to his or her enrollment in college level courses. Students needing remedial instruction beyond the course credit restrictions set forth in this section shall be referred to appropriate noncredit adult basic education programs conducted by the community college or an adult school, or to appropriate community services.

The board of governors shall examine and review the effects of the limit under this regulation on the students taking remedial courses, including their success rates, attrition rates, and movement into other programs of study or employment. The review shall include an analysis of the composition by ethnicity and gender of the students reaching this limit, as well as a review of district efforts to use faculty and support service personnel to promote the success rate of students in remedial courses. A report concerning this review shall be delivered to the education policy committees of the Senate and Assembly on or before December 31, 1991.

SEC. 69. Pursuant to paragraph (8) of subdivision (b) of Section 70901 of the Education Code:

(a) The board of governors and the State Board of Education shall jointly assist school districts and community college districts in the development and maintenance of articulated programs that coordinate vocational education over the final two years in high school and two years in community college to effectively meet student and employer needs.

(b) The Board of Governors of the California Community Colleges and the Trustees of the California State University, shall jointly develop and maintain articulated programs that expand upon the articulated programs developed pursuant to subdivision (a) to include the attainment of the baccalaureate degree where appropriate. These programs shall provide for the transfer of students in vocational education programs in community colleges to the California State University.

(c) Plans for the implementation of these programs shall be completed by July 1, 1991.

(d) This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 70. (a) The Legislature finds and declares that the reforms enacted through this act form a mutually dependent and related set of provisions. While some few provisions could be enacted independently, other sections of this act depend upon adequate support for the programs of the community colleges. There is a direct linkage between those sections of this act which constitute the further professionalization of the faculty and the moneys required to enhance the programs of the community colleges for "transitional program improvement," as specified in Section 84755 of the Education Code.

For instance, the elimination of credentials must be accompanied by the establishment of minimum qualifications by the board of governors. Minimum qualifications in turn must be implemented by districts through the establishment of faculty service areas, competency criteria, and various waiver processes. The extension of the tenure probationary period to four years as well as the revisions to layoff procedures also depend upon the establishment of tenure denial grievance processes as well as the establishment of faculty service areas and competency criteria. Similarly, because so many of the reforms call for faculty involvement in the determination and implementation of policy, and because the quality, quantity, and composition of full-time faculty have the most immediate and direct impact on the quality of instruction, overall reform cannot succeed without sufficient members of full-time faculty with sufficient opportunities for continued staff development, and with sufficient opportunity for participation in institutional governance.

The Legislature further finds that, absent resources to reimburse the state-mandated costs of this act, new full-time faculty to replace part-time faculty, and expanded programs for staff development, the viability or success, or both, of many of the reforms in this act will be jeopardized. The Legislature recognizes that due to unanticipated fiscal conditions the State cannot immediately fund all of the reforms contained in this act. The Legislature also recognizes, however, that if minimal funding is not soon provided that it would be inappropriate to proceed with many reforms.

(b) The Legislature finds and declares that the California Community Colleges are entering a period of major reform, but require further assistance in regaining prior purchasing power in order to fully carry out major reforms. The Legislature intends that the reform process be phased in over a reasonable and logical period of time, and that the institution of major reform be based upon the community colleges' ability to deliver enhanced quality in their programs. Pursuant to this act, the Legislature finds and declares that the transitional stage of reform process shall consist of two phases:

(1) "Phase I of transitional program improvement," as used in this section, means a period of reform during which community college programs are improved and enhanced to prepare an appropriate environment for the subsequent professionalization of faculty. In this connection, the Legislature finds and declares that it would be an unsound and wasteful policy to expend moneys to professionalize faculty without first making the program changes necessary to enable that faculty to assume a more effective role in the educational process. It is the intent of the Legislature that those changes, combined in proper sequence with the professional improvement of faculty, will improve the overall quality of education within the system. It is the intent of the Legislature that moneys appropriated during Phase I fully fund any state-mandates created pursuant to this section.

(2) "Phase II of transitional program improvement" means a period of reform following initial program improvement and professionalization of faculty. During that period, the new educational environment created under Phase I, including such reforms as innovative training programs, evaluation procedures, and minimum qualifications, may be utilized to the fullest extent in hiring new full-time faculty. The Legislature finds that this latter step is a major component of successful reform and the eventual attainment of the highest possible quality in the educational programs of the California Community Colleges. It is the intent of the Legislature that moneys appropriated during Phase II fully fund any state-mandate created pursuant to this section.

(c) The Legislature finds and declares that the provisions of subdivisions (d) and (e) address an essential policy issue at the core of the system created by this act. The reforms with delayed operative dates pursuant to subdivisions (d) and (e) will be fiscally and substantively meaningful only if other enumerated reforms, on which the reforms with delayed operative dates depend, are adequately funded as an initial step in the process of improving the structure and quality of the California Community Colleges.

(d) Sections 27 to 34, inclusive, and Sections 51 to 56, inclusive, of this act shall be implemented by the board of governors and be mandatory with regard to implementation by community college districts only if the board of governors certifies in writing to the Governor and to the Legislature that adequate funding has been provided for Phase I of transitional program improvement and for any applicable state mandates, as authorized in

Section 84755 of the Education Code. If the board of governors so certifies, each of these sections shall be implemented on the date of certification, or upon any operative date specified for the particular section in this act, whichever is later. For purposes of this subdivision, "adequate funding" means those moneys required to provide an increased quality of instruction and programs, and to carry out applicable mandates of this act, within the California Community Colleges. Based upon estimates provided by the board of governors and exhaustive review of the community colleges' operations by the Joint Committee for the Review of the Master Plan for Higher Education, the Legislature finds and declares that its estimate of this funding amount is seventy million dollars ($70,000,000).

(e) Sections 21, and 36 to 49, inclusive, of this act shall be implemented by the board of governors and be mandatory with regard to implementation by community college districts only if the board of governors certifies in writing to the Governor and to the Legislature that adequate funding has been provided for Phase II of transitional program improvement and for any applicable state mandates, as authorized in Section 84755. If the board of governors so certifies, each of these sections shall be implemented on the date of certification, or upon any operative date specified for the particular section in this act, whichever is later. For purposes of this subdivision, "adequate funding" means those moneys required to provide an increased quality of instruction and programs, and to carry out applicable state mandates of this act, within the California Community Colleges. Based upon estimates provided by the board of governors and exhaustive review of the community colleges' operations by the Joint Committee for the Review of the Master Plan for Higher Education, the Legislature finds and declares that its estimate of this funding amount is seventy million dollars ($70,000,000), in addition to the seventy million dollars ($70,000,000) estimated under subdivision (d).

(f) Notwithstanding this section, the board of governors, commencing January 1, 1989, may develop criteria and standards, as may be necessary to prepare for implementation of Section 84750 of the Education Code. However, the board of governors may not implement that section until the terms of this section have been met.

SEC. 71. Section 70901.5 of the Education Code, as added by Section 8 of this act, shall become operative on January 1, 1990.

SEC. 72. The sum of seven million two hundred fifty thousand dollars ($7,250,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for expenditure pursuant to this act in the 1988–89 fiscal year in accordance with the following schedule:

(a) For expenditure pursuant to Article 5 (commencing with Section 87150) of Chapter 1 of Part 51 of the Education Code. Notwithstanding subdivision (a) of Section 87152, the board of governors shall allocate these funds to community college districts on a per average daily attendance (ADA) basis, using the funded ADA levels for the 1987–88 fiscal year, so that seven dollars ($7) per ADA, or as near thereto as possible, is allocated, and so that each district receives at least five thousand dollars ($5,000). Before computing the per ADA amount the board of governors may set aside up to 2 percent of the allocation of this subdivision for statewide administration	$5,000,000
(b) For expenditure pursuant to Section 87107 of the Education Code	$1,000,000
(c) For purposes of the administration of this act, including the administration of Section 84755 of the Education Code, the adoption of regulations as required by Sections 70901.5, 87356, 87359, 87107, and 87482.6 of the Education Code and Section 69 of this act, the development of a list of disciplines, as required by Section 87357 of the Education Code, and the review required by Section 87359.5 of the Education Code	$ 300,000
(d) For purposes of commencing implementation of Section 84750 of the Education Code, during the period of January 1, 1989, through June 30, 1990	$ 300,000
(e) For purposes of subdivision (b) of Section 87104 of the Education Code	$ 300,000

(f) For purposes of Section 71020.5 of the Education Code ..... $ 150,000
(g) To the Community College Fund for instructional improvement pursuant to Section 84381 of the Education Code ..... $ 200,000

CHAPTER 1514

An act to amend Sections 260 and 262 of, and to add Sections 262.1, 262.2, 262.3, and 265 to, the Education Code, relating to education.

[Approved by Governor September 28, 1988. Filed with Secretary of State September 29, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 260 of the Education Code is amended to read:

260. The governing board of a school district shall have the primary responsibility for ensuring that school district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability, and for monitoring compliance with any and all rules and regulations promulgated pursuant to Section 11138 of the Government Code.

SEC. 2. Section 262 of the Education Code is amended to read:

262. (a) The governing board of a community college district shall have the primary responsibility for ensuring that community college district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for monitoring the compliance of each district with any and all regulations promulgated pursuant to Section 11138 of the Government Code.

SEC. 3. Section 262.1 is added to the Education Code, to read:

262.1. The Chancellor of the California State University and the president of each California State University campus shall have the primary responsibility for ensuring that campus programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

SEC. 4. Section 262.2 is added to the Education Code, to read:

262.2. The President of the University of California and the chancellor of each University of California campus shall have primary responsibility for ensuring that campus programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

SEC. 5. Section 262.3 is added to the Education Code, to read:

262.3. A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a school district, the governing board of a community college district, the president of a campus of the California State University, or the chancellor of a campus of the University of California, pursuant to

this article, to the State Department of Education, the Chancellor of the California Community Colleges, the Chancellor of the California State University, or the President of the University of California, as applicable.

SEC. 6. Section 265 is added to the Education Code, to read:

265. Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other orders may also be available to the complainants. The educational institution shall make this information available by publication in appropriate informational materials.

SEC. 7. It is the intent of the Legislature that Section 264 of the Education Code, relative to the applicability of Chapter 2 (commencing with Section 200) of Part 1 of the Education Code to the University of California, apply to the sections of the Education Code amended and added by this act.

CHAPTER 1372

An act to amend Sections 40, 41, 52, 92, 262.3, 1043, 1240, 1245, 1246, 1250, 1252, 1253, 1260, 1262, 1271, 1294, 1297, 1298, 1330, 1340, 1400, 1500, 1510, 1602, 1606, 1700, 1721, 1831, 1946, 4002, 4003, 7000, 8006, 8008, 8070, 8080, 8081, 8084, 8092, 8207, 8225, 8285.5, 8320, 8322, 8328, 8329, 8362, 8394, 8510, 8534, 8760, 8761, 8762, 8763, 8764, 8765, 8771, 10407, 10504, 10900, 10901, 10907, 10910, 10912, 10913, 10914, 11001, 12020, 12220, 12302, 12400, 12401, 12402, 12405, 14000, 15100, 15106, 15140, 15141, 15142, 15147, 15252, 15254, 15502, 15520, 15527, 15528, 15541, 15551, 15570, 15574, 15701, 15718, 15735, 15745, 15752, 15794, 16042, 16045, 16080, 16100, 16105, 16165, 16195, 16197, 16200, 16214, 17302, 17313, 17900, 17901, 17902, 17903, 18100, 18101, 18102, 18103, 18110, 18111, 18120, 18121, 18122, 18131, 18132, 18134, 18137, 18138, 18139, 18170, 18171, 18172, 19901, 22200, 22504, 24806, 24923, 24924, 32033, 32300, 32371, 32372, 33031, 33113, 33117, 33117.5, 35501, 39214.5, 39308, 39383, 39830, 41303, 41332, 44849, 44850, 44854, 51875.7, 52152, 52154, 52302.3, 52342, 52512, 62001, 66010, 66011, 66017, 66021, 66700, 68011, 68012, 68016, 68022, 68023, 68040, 68041, 68051, 68070, 68071, 68072, 68073, 68100, 69510, 69511.5, 69537, 69640, 69641, 69641.5, 69642, 69643, 69648, 69648.5, 69649, 69653, 69655, 71004, 71020, 71040, 71046, 71050, 71090, 71092, 71093, 72000, 72023.5, 72027, 72031, 72102, 72122, 72241, 72247, 72423, 72500, 72506, 72530, 74000, 74001, 74104, 74105, 74106, 74107, 74109, 74110, 74132, 74134, 74135, 74136, 74139, 74140, 74153, 74154, 74155, 74158, 74159, 74202, 74270, 74290, 76000, 76001, 76020, 76403, 76407, 78031, 78032, 78211.5, 78213, 78216, 78217, 78230, 78249, 78300, 78401, 78900, 78907, 79020, 79021, 79154, 79155, 81033, 81130, 81130.5, 81133, 81160, 81177, 81179, 81805, 81807, 81820, 81822, 81836, 81837, 81901, 81908, 81947, 82321, 82537, 82542, 84030, 84040.6, 84207, 84320, 84328, 84362, 84381, 84382, 84383, 84384, 84660, 84890, and 85230 of, to amend and repeal Section 32033 of, to add Sections 8323, 71025, 71028, 72013, 72014, 72015, 72243, 72249, 72253.3, 72253.5, 72253.7, 78034, 84001, 84700.3, 85266.5, 87448, and 88020.5 to, to add Chapter 1.5 (commencing with Section 78100) to Part 48 of, to repeal Sections 91, 265, 1255, 7001, 7002, 8085, 8329.5, 8511, 8513, 8514, 8515, 8516, 12210, 12404, 14020, 14021, 15000, 32200, 44971, 66101, 66102, 66200, 66700.5, 66902.5, 67007, 68010, 68013, 68019, 68020, 68021, 68090, 69644, 69645, 69646, 69647, 69648.7, 69657, 71005, 71027.5, 71033, 71034, 71038, 71039, 71041, 71042, 71047, 71048, 71095, 71096, 71097, 72001, 72002, 72020, 72021, 72023.7, 72024, 72025, 72028, 72029, 72030, 72032, 72033, 72035, 72120, 72125, 72126, 72132, 72200, 72202, 72203, 72204, 72208, 72231, 72237, 72241.5, 72244, 72247.1, 72248, 72255, 72256, 72408, 72409, 72412, 72413, 72419, 72419.5, 72420, 72421, 72422, 72531, 72532, 74010, 74011, 74271, 74282, 74283, 74291, 74292, 74293, 74294, 74295, 76001.5, 76002, 76006, 76021, 76142, 76160, 76400, 76405, 76408, 76409, 76470, 78001, 78002, 78003, 78004, 78005, 78006, 78007, 78010, 78011, 78012, 78220, 78221, 78222, 78240, 78241, 78242, 78243, 78244, 78245, 78246, 78247, 78248, 78250, 78270, 78272, 78301, 78302, 78303, 78304, 78305, 78402, 78403, 78405, 78407, 78409, 78412, 78440, 78440.5, 78441,

78442, 78902, 78903, 78904, 78905, 78906, 79022, 79023, 79024, 79025, 79026, 79027, 79027.5, 79028, 79029, 79031, 79032, 79121, 79122, 79123, 79124, 79153, 81000, 81005, 81006, 81008, 81009, 81033.5, 81035, 81036, 81038, 81039, 81131, 81131.5, 81131.6, 81132, 81134, 81135, 81136, 81137, 81140, 81164, 81165, 81176, 81801, 81802, 81803, 81804, 81806, 81809, 81810, 81821.5, 81830, 81831, 81833, 81838, 81900, 81903, 81906, 81910, 81911, 81912, 81913, 81914, 81915, 81916, 81917, 81918, 81919, 81920, 81921, 81922, 81923, 81924, 81931, 81948, 81953, 81954, 81957, 81958, 81959, 81967, 82305, 82305.5, 82321.1, 82360, 82362, 82363, 82364, 82365, 82530, 82531, 82532, 82533, 82535, 82536, 82538, 82539, 82540, 82541, 82543, 84004, 84005, 84031, 84035, 84040.3, 84040.7, 84041, 84043, 84044, 84045, 84046, 84200, 84201, 84206, 84300, 84322, 84324, 84325, 84327, 84329, 84330, 84331, 84332, 84360, 84363, 84380, 84384.1, 84385, 84386, 84387, 84661, 84662, 84735, 84850.5, 84891, 84892, 84893, 84894, 84895, 85210, and 85430 of, to repeal Article 2 (commencing with Section 8020) of Chapter 1 of Part 6 of, Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of, Article 3 (commencing with Section 71060) of Chapter 1 of Part 44 of, Article 3 (commencing with Section 72280) of, and Article 5 (commencing with Section 72320) of Chapter 3 of, Article 1 (commencing with Section 72600) of, Article 4 (commencing with Section 72640) of, and Article 5 (commencing with Section 72650) of, Chapter 6 of Part 45 of, Article 8 (commencing with Section 76130) of Chapter 1 of, Chapter 2 (commencing with Section 76300) of, Article 2 (commencing with Section 76420) of, and Article 4 (commencing with Section 76450) of Chapter 3 of Part 47 of, Article 2.5 (commencing with Section 78040) of, and Article 3 (commencing with Section 78050) of Chapter 1 of, Article 1 (commencing with Section 78200.5) of, and Article 6 (commencing with Section 78280) of Chapter 2 of, Article 2 (commencing with Section 78430) of, and Article 5 (commencing with Section 78460) of Chapter 3 of, Article 2 (commencing with Section 78920) of, and Article 3 (commencing with Section 78930) of Chapter 7 of, Article 1 (commencing with Section 79000) of, and Article 2 (commencing with Section 79010) of Chapter 8 of Part 48 of, Article 1 (commencing with Section 82500) of Chapter 8 of Part 49 of, Article 3 (commencing with Section 84050) of Chapter 1 of, Article 6 (commencing with Section 84370) of, and Article 8 (commencing with Section 84390) of Chapter 3 of, Article 5 (commencing with Section 84801) of Chapter 5 of, Article 1 (commencing with Section 85200) of Chapter 8 of, Article 1 (commencing with Section 85400) of Chapter 9 of, and Article 3 (commencing with Section 85420) of Chapter 9 of Part 50, to repeal Chapter 5.5 (commencing with Section 84900) of, Chapter 6 (commencing with Section 85000) of, and, Chapter 7 (commencing with Section 85100) of Part 50, to repeal and add Section 84040 of, and to repeal and add Chapter 4 (commencing with Section 84500) of Part 50 of, the Education Code, to amend Section 16417 of the Government Code, and to add Section 20660 to the Public Contract Code, relating to community colleges.

[Approved by Governor September 26, 1990. Filed with Secretary of State September 28, 1990.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature hereby finds and declares that numerous provisions of the Education Code, including those provisions listed in subdivision (b), authorizing community colleges to conduct various activities are unnecessary in light of Section 14 of Article IX of the California Constitution. Section 14 of Article IX of the California Constitution authorizes community college districts to initiate and carry out any activity which is not in conflict with, or inconsistent with, or preempted by any law, and which is not in conflict with the purposes for which community college districts are established.

(b) The Legislature finds and declares that the purpose of this act is to repeal or make inapplicable to the community colleges numerous Education Code provisions which are no longer necessary in light of the authority of Section 14 of Article IX of the Constitution. In repealing or making inapplicable these provisions, the Legislature finds and declares that under the general authority of Section 14 of Article IX, community college districts shall continue to have the authority provided in the provisions that are repealed. The Legislature specifically declares this finding with regard to, but not limited to, the following Education Code sections which are repealed or amended by this act:

Sections 8080, 8081, 8084, 8085, 8091, 8322, 8329, 8760, 8761, 8762, 8763, 8764, 10504, 12400, 12401, 12402, 12404, 12405, 18110, 18111, 18120, 18131, 18134, 32371, 32372, 72241.5, 72244, 72320, 72321, 72412, 72419, 72419.5, 72420, 72421, 72422, 76400, 76470, 78001, 78010, 78011, 78050, 78051, 78208, 78230, 78240, 78270, 78280, 78281, 78286, 78302, 78303, 78409, 78440, 79022, 79028, 79032, 79121, 81009, 81839, 81931, 81953, 81954, 81957, 82305, 82305.5, 82500, 82501, 82535, 82541, 84035, 84050, 85201, 85260.5, 85266, 85267, 85410, 85420, and 85430, the second sentence of Section 32033, the second and third sentences of Section 76403, the first sentence of Section 78442, and the second and third sentences of Section 84041.

SEC. 3. Section 40 of the Education Code is amended to read:

40. (a) It is the policy of the state that elementary and secondary school classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the student enrolled in such classes and courses.

(b) No school district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student, except a class subject to Section 51550.

(c) No school district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or

aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 48980, in advance of career counseling and course selection commencing with course selection for the seventh grade so that they may participate in the counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

SEC. 4. Section 41 of the Education Code is amended to read:

41. (a) The Legislature finds and declares that female students are not accorded opportunities for participation in school-sponsored athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in athletics be provided equally to male and female students.

(b) Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a school district governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(c) Nothing in this section shall be construed to require a school district to require competition between male and female students in school-sponsored athletic programs.

SEC. 5. Section 52 of the Education Code is amended to read:

52. The secondary schools of the state are designated as high schools, technical schools, and adult schools.

SEC. 6. Section 91 of the Education Code is repealed.

SEC. 7. Section 92 of the Education Code is amended to read:

92. "County" or "counties" as used in Sections 2300, 12300 to 12307, inclusive, 41000 to 41964, inclusive, 42100 to 42128, inclusive, 46000 to 46392, inclusive, 84000 to 84850.5, inclusive, and 85000 to 85430, inclusive, whichever are in effect, includes a city and county.

SEC. 9. Section 262.3 of the Education Code is amended to read:

262.3. (a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a school district, the governing board of a community college district, the president of a campus of the California State University,

from determination of the total membership constituting the governing board.

SEC. 287.5. Section 72001 of the Education Code is repealed.

SEC. 288. Section 72002 of the Education Code is repealed.

SEC. 288.5. Section 72013 is added to the Education Code, to read:

72013. With respect to access to community college district services, classes, and programs, and with respect to all references within this division, "handicap" and "disability" shall have the same meaning.

SEC. 289. Section 72014 is added to the Education Code, to read:

72014. No funds under the control of a community college district shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual officer or employee of the district as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

SEC. 289.5. Section 72015 is added to the Education Code, to read:

72015. (a) It is the policy of the state that community college classes and courses, including nonacademic and elective classes and courses, shall be conducted without regard to the sex of the student enrolled in these classes and courses.

(b) No community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student.

(c) No community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

(f) The Legislature finds and declares that female students are not accorded opportunities for participation in community college athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in

community college athletics be provided equally to male and female students and on an equitable basis to all students.

(g) Insofar as practicable, in apportioning public funds, community college district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs. Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of the governing board of a community college district, or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and opportunities for participation shall include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(h) It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports. Nothing in this section shall be construed to require a community college to require competition between male and female students in school-sponsored athletic programs.

SEC. 290. Section 72020 of the Education Code is repealed.

SEC. 291. Section 72021 of the Education Code is repealed.

SEC. 292. Section 72023.5 of the Education Code is amended to read:

72023.5. (a) The governing board of each community college district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, one or more nonvoting students who are residents of the district. These students shall have the right to attend each and all meetings of the governing board, except that student members shall not have the right, or be afforded the opportunity, to attend executive sessions of the governing board.

The students selected to serve on the governing board, in addition to being residents of the district, shall be enrolled in a community college of the district and shall be chosen, and shall be recalled, by the students enrolled in the community colleges of the district in accordance with procedures prescribed by the governing board. A student member shall be required throughout the term of his or her appointment to be enrolled in a community college of the district for at least five semester units, or its equivalent, and shall meet and maintain the minimum standards of scholarship for community college students prescribed by the community college district. The term of the student members shall be one year commencing on June 1 of each year.

The nonvoting student members appointed pursuant to this section shall be entitled to the mileage allowance prescribed by

Chapter 1 of Part 48 of the Education Code is repealed.

SEC. 458. Article 3 (commencing with Section 78050) of Chapter 1 of Part 48 of the Education Code is repealed.

SEC. 459. Chapter 1.5 (commencing with Section 78100) is added to Part 48 of the Education Code, to read:

CHAPTER 1.5. LIBRARY SERVICES

78100. The governing board of each community college district shall provide school library services for the students and faculty of the district by establishing and maintaining community college libraries or by contractual arrangements with another public agency.

78101. The board of governors shall adopt standards, rules, and regulations for community college library services.

78103. The libraries shall be open for the use of the faculty and the students of the community college district during the schoolday. In addition, the libraries may be open at other hours, including evenings and Saturdays, as the governing board may determine. Libraries open to serve students during evening and Saturday hours shall be under the supervision of certificated personnel or those employed pursuant to minimum standards adopted by the board of governors.

SEC. 459.5. Article 1 (commencing with Section 78200.5) of Chapter 2 of Part 48 of the Education Code is repealed.

SEC. 460. Section 78211.5 of the Education Code is amended to read:

78211.5. (a) The Board of Governors of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for this purpose allow.

(b) Because of the need to develop and evaluate data on a standard statewide basis concerning the implementation and effectiveness of the matriculation services described in this article, any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article. The obligations of the college or district under the agreement shall include, but not be limited to, the expenditure of funds received pursuant to this article for only those matriculation services approved by the board of governors and the contribution toward the purposes of this article of matching funds as the board of governors may require pursuant to Section 78216.

SEC. 461. Section 78213 of the Education Code is amended to read:

78213. (a) No district or college may use any assessment instrument for the purposes of this article without the authorization of the board of governors. The board of governors may adopt a list of authorized assessment instruments pursuant to the policies and procedures developed pursuant to this section and the intent of this

article. The board of governors may waive this requirement as to any assessment instrument pending evaluation.

(b) The board of governors shall review all assessment instruments to ensure that they meet all of the following requirements:

(1) Assessment instruments shall be sensitive to cultural and language differences between students.

(2) Assessment instruments shall be used as an advisory tool to assist students in the selection of an educational program.

(3) Assessment instruments shall not be used to exclude students from admission to community colleges.

(c) The board of governors shall establish an advisory committee to review and make recommendations concerning all assessment instruments used by districts and colleges pursuant to this article.

SEC. 462. Section 78216 of the Education Code is amended to read:

78216. (a) The Legislature recognizes that community college districts are currently funding various components of student matriculation through existing counseling, assessment, and other student services, but that adequate student matriculation cannot be realized without supplemental funding support.

(b) The board of governors shall develop a formula for funding student matriculation services at community colleges. The formula shall include the requirement that the districts or colleges contribute matching funds in an amount to be established by the board of governors in each case, and shall reflect, but not be limited to, all of the following considerations:

(1) The number of students to receive matriculation services at each college.

(2) The levels of support for matriculation services provided at each college prior to July 1, 1985, and the need for funding assistance in the implementation of the program set forth in this article.

(3) The relative needs for matriculation services, based on special student populations such as low-income students, students with language differences, students with physical and learning disabilities, and students in need of remedial instruction.

(4) The requirement that funds for matriculation services be expended only for services approved by the board of governors.

(5) The requirement that any district or college receiving funding pursuant to this section agree to implement this article during the period in which it receives that funding.

(6) The need for computer hardware and software to provide approved matriculation services, and for institutional research personnel for ongoing evaluation.

(c) The board of governors shall require participating colleges to develop a plan for student matriculation that reflects all of the following:

(1) A method for providing the services specified in Section 78212.

(2) The college budget for the matriculation services pursuant to

Sections 78212 and 78214.

(3) The development and training of staff and faculty to implement the matriculation services.

(4) In multicampus districts, the coordination of the college matriculation plan with other college plans.

(5) Computerized information services and institutional research and evaluation necessary for implementation of this article.

(d) The board of governors may allocate up to 5 percent of the total funds appropriated for student matriculation for state administrative operations to carry out the intent of this article, subject to the review of the annual budget process.

SEC. 463. Section 78217 of the Education Code is amended to read:

78217. (a) By no later than January 30, 1987, and prior to the allocation of any funding for purposes of this article to local districts, the board of governors shall provide the Department of Finance, Legislative Analyst, California Postsecondary Education Commission, and the education policy committees and the fiscal committees of the Legislature with a comprehensive management plan for implementation of matriculation programs pursuant to this article.

(b) On or before March 15, 1989, the board of governors shall submit a report to the Legislature evaluating the effectiveness of those community college matriculation programs receiving funding under this article for the 1986–87 academic year. The report shall cover operation of the programs during the 1986–87 and 1987–88 fiscal years, and shall include the board of governors' recommendations regarding the improvement of student matriculation, the continued operation of student matriculation services, and the funding of those services. The board of governors shall include in the report information on the success rate of students who enroll in courses contrary to the recommendations and advice of college advisement staff.

(c) On or before March 15 of each year thereafter, the board of governors shall provide a progress report to the Legislature on the implementation of this article. The board of governors may require participating districts or colleges to provide data for the completion of these reports.

(d) No later than January 1, 1986, the board of governors shall appoint an advisory committee to assist in the development of the evaluation required by this section; however, the Legislature recognizes that to promote the effective implementation of this program, the board of governors may wish to appoint the advisory committee prior to that date.

(e) On or before April 1, 1988, the board of governors shall submit a report to the Legislature evaluating the comparative utility of matriculation services to students with differing educational objectives.

SEC. 464. Section 78220 of the Education Code is repealed.

rules and regulations.

For purposes of this chapter, the board of governors shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.

SEC. 567. Section 81806 of the Education Code is repealed.

SEC. 568. Section 81807 of the Education Code is amended to read:

81807. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the Board of Governors of the California Community Colleges, and by warrants of the Controller issued pursuant thereto.

SEC. 569. Section 81809 of the Education Code is repealed.

SEC. 570. Section 81810 of the Education Code is repealed.

SEC. 571. Section 81820 of the Education Code is amended to read:

81820. The governing board of each community college district shall prepare and submit to the Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

SEC. 572. Section 81821.5 of the Education Code is repealed.

SEC. 573. Section 81822 of the Education Code is amended to read:

81822. The board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of the review and evaluation, make the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made. The board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.

SEC. 574. Section 81830 of the Education Code is repealed.

SEC. 575. Section 81831 of the Education Code is repealed.

SEC. 576. Section 81833 of the Education Code is repealed.

SEC. 577. Section 81836 of the Education Code is amended to

Accordingly, the Board of Governors of the California Community Colleges shall continue its review of the Education Code related to the administration and operation of the California Community Colleges and shall recommend to the Legislature the amendment or repeal of those provisions affected by Chapter 973 of the Statutes of 1988 which have not been accomplished in this act.

SEC. 714. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1667

An act to amend Sections 52301.5, 52302, 52519, 78015, and 78016 of the Education Code, and to amend Sections 14002.5, 15340, 15341, 15342, and 15344, and the heading of Article 3.5 (commencing with Section 15340) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of, and to repeal Sections 15340.1 and 15343 of, the Government Code, to add Section 4638.5 to the Labor Code, and to amend Sections 1611, 9614, 10510, 10521, 10527, 15002, 15026, 15037, 15038.5, 15064, 15075, 15076, 15077, 15077.5, 15079, and 15082, and the heading of Chapter 7.5 (commencing with Section 15075) of Division 8 of, to repeal and add Section 15078 of, to add Sections 10525, 15075.1, and 15076.5 to, to add Article 3 (commencing with Section 10530) to Chapter 4.5 of Division 3 of, and to repeal Sections 15038.51, 15057.5 and 15086 of, the Unemployment Insurance Code, relating to displaced workers, and making an appropriation therefor.

in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for the adults enrolled in the proposed program justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the high school or unified school district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the high school district or unified school district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092.

SEC. 4. Section 78015 of the Education Code is amended to read:

78015. (a) The governing board of a community college district shall, prior to establishing a vocational or occupational training program, conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State-Local Cooperative Labor Market Information Program established in Section 10533, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092.

SEC. 4.5. Section 78016 of the Education Code is amended to read:

78016. (a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each

program, as demonstrated by the California Occupational Information System, including the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) This section shall apply to each program commenced subsequent to July 28, 1983.

SEC. 5. Section 14002.5 of the Government Code is amended to read:

14002.5. As used in this part, unless the context otherwise requires:

(a) "Department" means the Department of Transportation.

(b) "Director" means the Director of Transportation.

(c) "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

(d) "Board" or "commission" means the California Transportation Commission.

(e) "Displaced worker" means individuals eligible for assistance pursuant to Section 15076 of the Unemployment Insurance Code.

SEC. 6. The heading of Article 3.5 (commencing with Section 15340) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code is amended to read:

Article 3.5. Economic Adjustment

SEC. 7. Section 15340 of the Government Code is amended to read:

15340. The Legislature declares the following:

(a) The state must meet the competitive challenges of the 1990's and provide sufficient employment opportunities for its population, and the mature sectors of the state's industrial base must be revitalized.

(b) In some instances, the revitalization process has entailed, and will continue to entail, the closure of some plants and the attendant severe economic dislocations for displaced workers, their families,

(b) Service delivery areas may provide, to the extent permitted by federal law, needs-related payments to eligible dislocated workers who do not qualify for, or have exhausted, unemployment insurance benefits, in order to enable these workers to participate in job training and education programs authorized by this chapter.

SEC. 34. Section 15082 of the Unemployment Insurance Code is amended to read:

15082. Federal and state funds to be transferred to the Consolidated Work Program Fund shall include all of the following:

(a) That portion of the federal employment and training funds received by the state that is designated for the purpose of local delivery of employment and training services, except for those funds designated for employment activities under Title IV-A and IV-C of the federal Social Security Act (42 U.S.C. Sec. 601, et seq. and Sec. 630, et seq.) and the Food Stamp Act (7 U.S.C. Sec. 2011, et seq.).

(b) Reinvestment of a portion of state public assistance grant savings reasonably attributable to the operation of this program. The Governor's Budget shall annually identify the savings resulting from the prior fiscal year's program operations and recommend the portion, if any, to be applied toward program funding during the budget year.

(c) Federal funds received by the state pursuant to Section 202 (b) and Title III of the federal Job Training Partnership Act. However, these funds shall be allocated pursuant to subdivision (e) of Section 15037 and Section 15078.

SEC. 35. Section 15086 of the Unemployment Insurance Code is repealed.

SEC. 36. Section 13 of this bill incorporates amendments to Section 1611 of the Unemployment Insurance Code proposed by both this bill and AB 2694. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1991, (2) each bill amends Section 1611 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 2694, in which case Section 12.5 of this bill shall not become operative.

CHAPTER 1038

An act to amend Sections 69643, 72000, 72411, 78100, 78103, 78300, 84001, 84713, and 87003 of, to amend and renumber the heading of Article 2.5 (commencing with Section 84750) of Chapter 5 of Part 50 of, to add Sections 81663, 84501, 84810.5, and 87482.7 to, to repeal Article 1 (commencing with Section 84700) of Chapter 5 of Part 50 of, and to repeal and add Sections 72253.3 and 87487 of, the Education Code, to add Section 15814.21 to the Government Code, and to repeal Sections 6 and 7 of Chapter 565 of the Statutes of 1983, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

SEC. 12.3. Section 87482.7 is added to the Education Code, to read:

87482.7. (a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notice by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Faculty and Staff Diversity Fund pursuant to Section 87107.

SEC. 12.5. Section 87487 of the Education Code is repealed.

SEC. 12.7. Section 87487 is added to the Education Code, to read:

87487. (a) The governing board of any community college district may establish a faculty internship program pursuant to regulations adopted by the Board of Governors of the California

Community Colleges and may employ, as faculty interns within the program, graduate students enrolled in the California State University, the University of California, or any other accredited institution of higher education subject to Chapter 3 (commencing with Section 94300) of Part 59.

(b) A student employed as a faculty intern shall be employed as a temporary faculty member under Section 87482.5 and shall meet the minimum qualifications set forth in paragraphs (1) to (3), inclusive. Unless and until the Board of Governors of the California Community Colleges adopts regulations pursuant to paragraph (1) of subdivision (a) of Section 87357, the board of governors shall adopt regulations that include all of the following:

(1) Faculty interns shall be enrolled in a master's or doctoral program at the University of California, the California State University, or any other accredited institution of higher education subject to Chapter 3 (commencing with Section 94300) of Part 59 and shall have completed at least one-half of the coursework for the master's or doctorate degree, or the equivalent, in that graduate program.

(2) Faculty interns may only be assigned to teach or to serve in a discipline in which they would be legally qualified to teach or render service upon completion of their graduate studies. A faculty intern shall be limited to two years of participation in the program.

(3) Each faculty intern shall serve under the direct supervision of a mentor who is legally qualified to teach the course or render the service that the faculty intern is providing. The district governing boards shall ensure that faculty mentors provide substantial direct in-class supervision and evaluation of interns' teaching capabilities. The mentor shall have no other regularly assigned duties during the time that the faculty intern is teaching or rendering service. The mentor is responsible for providing direct monitoring and systematic contact with the faculty intern.

CHAPTER 1188

An act to amend Section 66202 of, to add Section 66202.5 to, to add an article heading to Chapter 9.2 (commencing with Section 66720) of, and to add Article 2 (commencing with Section 66730) to Chapter 9.2 of Part 40 of, the Education Code, relating to education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) A viable and effective student transfer system is one of the

accommodated. It is the intent of the Legislature to fund programs designed to accomplish the purposes of this subdivision through appropriations made in the Budget Act to the public institutions of higher education, and the annual Budget shall contain appropriations necessary to accommodate all students from all of the categories designated in subdivision (a) of Section 66202.

The segments may, in implementing these enrollment plans and admissions practice priorities, consider the overall needs of students in maintaining a balanced program and a quality curriculum, and are expected to consider the state's goals of educational equity and racial and ethnic diversity of students and faculty in the planning and management of their admissions practices. It is further the intent of the Legislature that campus enrollment planning processes provide for the equitable treatment of the following: (1) all eligible entering freshmen; (2) continuing students in good standing; and (3) eligible community college transfer students with regard to accommodation in majors.

This part shall supersede any other law which conflicts with this part.

SEC. 4. An article heading is added to Chapter 9.2 (commencing with Section 66720) of Part 40 of the Education Code, to read:

Article 1. Transfer System

SEC. 5. Article 2 (commencing with Section 66730) is added to Chapter 9.2 of Part 40 of the Education Code, to read:

Article 2. Transfer Functions

66730. (a) The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges shall have as a fundamental policy the maintenance of a healthy and expanded student transfer system. Both the University of California and the California State University shall have as a basic enrollment policy the maintenance of upper division enrollment, which are students who have attained upper division status, at 60 percent of total undergraduate enrollment. This goal shall be met through programs aimed at increasing the numbers of qualified transfer students from the community colleges without denying eligible freshmen applicants.

(1) The California State University shall maintain its upper division enrollment, which are students who have attained upper division status, at approximately 60 percent of total undergraduate enrollment. Its planning documents shall reflect this policy.

(2) Commencing in the 1991–92 academic year, the University of California shall progressively increase the percentage that upper division enrollment systemwide is of total undergraduate enrollment through the 1995 –96 academic year until that percentage reaches

approximately 60 percent. This shall be accomplished through increases in the numbers of community college transfer students admitted to upper division standing at the university without denying eligible freshmen applicants. Planning documents shall reflect these expected increases.

(b) The governing board of each segment shall ensure that individual university and college campus enrollment plans include adequate upper division places for community college transfer students in all undergraduate colleges or schools, and that each undergraduate college or school on each campus participates in developing articulation and transfer agreement programs with community colleges. The governing boards shall meet this goal within their respective general statewide planning framework used to attain and maintain the state's goal of a 60/40 ratio of upper to lower division students, their segmental enrollment planning processes, and campus planning regarding program balance, educational quality, and other relevant goals.

66731. Student matriculation from community colleges through the University of California and the California State University shall be recognized by the Governor, Legislature, and the governing boards of each of California's public postsecondary education segments as a central institutional priority of all segments of higher education.

66732. The governing boards of each segment shall declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. The governing boards of each segment shall design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University.

66734. The Board of Governors of the California Community Colleges shall have the authority and responsibility to guarantee that all community college students have access to courses that meet the lower division baccalaureate degree requirements of the California public universities. The Board of Governors of the California Community Colleges, with the cooperation of the Regents of the University of California and the Trustees of the California State University, shall ensure that all students are clearly and fully informed as to which community college courses and units are transferable and meet the general education and lower division major requirements at the California State University and the University of California.

66736. Each community college district governing board shall ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college

transfer students.

All policies and procedures shall give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations.

66737. The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are expected to develop new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education to facilitate the successful transfer of students between the community colleges and the universities. Every community college student who successfully completes the transfer agreement programs, as defined in Section 66738, in a community college shall have an appropriate place in an upper division university program.

66738. (a) The governing board of each public postsecondary education segment shall be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function.

(b) The elements in a comprehensive transfer system shall include, but not be limited to, the following:

(1) Enrollment and resource planning; intersegmental faculty curricular efforts.

(2) Coordinated counseling.

(3) Financial aid and transfer services.

(4) Transfer articulation agreements and programs.

(5) Specific efforts to improve diversity.

(6) Early outreach activities.

(7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses.

(8) Centers.

(c) The governing board of each segment shall expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available; and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus.

66740. Each department, school, and major in the University of California and California State University shall develop, in conjunction with community college faculty in appropriate and associated departments, discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. Faculty from the community colleges and university campuses shall participate in discipline-specific

curriculum development to coordinate course content and expected levels of student competency.

Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major.

Community college districts, in conjunction with the California State University and the University of California, shall develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses. The development of these agreements shall be the mutual responsibility of all three segments, and no one segment should bear the organizational or financial responsibility for accomplishing these goals.

The Chancellor of the California Community Colleges and the President of the University of California shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to the University of California. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

The Chancellor of the California Community Colleges and the Chancellor of the California State University system shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to California State Universities. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

66741. As a result of systemwide and interinstitutional

agreements, each community college student shall be assured of the opportunity to enter into a transfer agreement program enabling a student to receive high priority consideration, attain equivalent special treatment, or enter into a contract when applying for university admission at the advanced standing level. It is recognized that eligibility for transfer agreement programs will require completion of certain requirements as defined in interinstitutional agreements. It is also recognized that access to majors of choice will, in most cases, require completion of additional requirements, such as specialized coursework and attainment of a specialized grade point average.

Transfer agreement programs also shall carry high priority access to majors of choice. The University of California and the California State University shall require that continuing undergraduate students and community college transfer students are assessed against a common set of criteria for upper division standing to a specific major. However, generally speaking, access to these programs shall require completion of specialized coursework and attainment of a grade point average above the minimums defined in general admission requirements, such as those used in supplementary admission criteria for impacted or over-subscribed programs.

Alternatively, students may also, by meeting the University of California or California State University requirements for admission at the advanced standing level, simply wish to apply as required. All students meeting these admission requirements shall be guaranteed a place somewhere in the University of California or California State University system, as appropriate.

66742. The governing boards of the three public segments of higher education shall present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature. The reports shall include recent statistics on student enrollments by campus, segment, gender, ethnicity, and the ratio of upper division to lower division, including information on both freshman and transfer student access to the system. These reports should include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus. For transfer students, this data shall indicate the segment of origin for all students. In addition, data shall be separately identified for transfer students from California Community Colleges, and shall identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group. The reports shall describe the number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, the number of California Community College transfer students denied either admission to the student's first choice of a particular campus of the California State University or the University of California or

the student's first choice of a major field of study, and, among those students, the number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California. The reports shall also include information by sex and ethnicity on retention and degree completion for transfer students as well as for native students, and the number and percentage of baccalaureate degree recipients who transferred from a community college.

66743. The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:

(a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.

(b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.

(c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes.

No later than April 1994, the California Postsecondary Education Commission shall report to the Governor and the Legislature on the overall success of this chapter in expediting the goals of transfer, including recommendations about a common definition of transfer rates, including the identification of campuses and positions of employment that prevent progress toward a more effective transfer program, with specific recommendations about resource, program, or other incentives to encourage an effective intersegmental transfer program. /The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to implement

reform, to achieve the 60/40 ratio by the designated dates, or to significantly improve the transfer rate of historically underrepresented groups, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met.

66744. No provision of this article shall apply to the University of California except to the extent that the Regents of the University of California, by resolution, make that provision applicable.

SEC. 6. The Board of Regents of the University of California, the Board of Trustees of the California State University, and the Board of Governors of the California Community Colleges, are requested to each prepare a plan for the implementation of Article 2 (commencing with Section 66730) of Chapter 9.2 of Part 40 of the Education Code. These plans shall be submitted to the policy and fiscal committees of the Legislature by January 15, 1992.

It is the intent of the Legislature that each plan shall include a timetable for implementation of this act, including identification of additional resources that may be required. The Legislature acknowledges that some sections of Article 2 (commencing with Section 66730) of Chapter 9.2 of Part 40 of the Education Code, such as Section 66740, will require a phase in process and the full implementation of those sections will depend on the availability of resources.

The institutions are requested further to identify those additional resources required for faculty time associated with course articulation, and those that are associated with counseling, student advising and outreach to community college students. Any request for augmentation of a four-year segment's resources should further include an estimate of the resources currently being used for community college purposes as well as for analogous activities with high schools and high school students.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1198

An act to amend Sections 66010, 66014.5, and 66201 of, to add Sections 66010.1, 66010.2, 66010.3, 66010.5, 66010.7, 66024, 66201.5, 66204, 66205, 66207, 66722, and 66722.5 to, to add an article heading immediately preceding Section 66010 of, to add an article heading immediately preceding Section 66010.1 of, to add an article heading immediately preceding Section 66011 of, to add Chapter 1.5 (commencing with Section 66002) to Part 40 of, to add Article 4 (commencing with Section 66030) to Chapter 2 of Part 40 of, to add Article 5 (commencing with Section 66050) to Chapter 2 of Part 40 of, to add Chapter 11.5 (commencing with Section 66950) to Part 40 of, to add Chapter 16 (commencing with Section 67400) to Part 40 of, to repeal Sections 66020 and 66301 of, the Education Code, relating to postsecondary education.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 1.5 (commencing with Section 66002) is added to Part 40 of the Education Code, to read:

CHAPTER 1.5. LEGISLATIVE FINDINGS

66002. The Legislature finds and declares all of the following:

(a) The Master Plan for Higher Education in California, 1960–75, was originally prepared in 1959, and its recommendations were approved in principle by the affected governing boards of the higher education segments. Subsequently, legislation necessary to implement certain of the master plan's provisions was enacted, including this part. A need to differentiate the functions of the segments of higher education and rapidly increasing enrollments were primary factors that motivated the creation of the master plan.

(b) Pursuant to Resolution Chapter 285 of the Statutes of 1970, and Resolution Chapter 232 of the Statutes of 1971, a joint committee of the Legislature issued its report in 1973, entitled "Report of the Joint Committee on the Master Plan for Higher Education," which reaffirmed the principles of the original master plan and emphasized a need for the segments of higher education to improve access and educational equity, coordination and planning, governance, and diversity within the entire system. As in the 1960's, legislation necessary to implement certain of the joint committee's recommendations was enacted, largely through amendments to this part.

(c) Pursuant to Chapter 1507 of the Statutes of 1984, the Commission for the Review of the Master Plan for Higher Education conducted public hearings and deliberations; in 1987, it issued its

SEC. 4.1. Section 66010.1 is added to the Education Code, to read:

66010.1. The purpose of this article is to identify common educational missions shared by educational institutions in California and to differentiate more specific missions and functions between the various educational segments.

SEC. 4.2. Section 66010.2 is added to the Education Code, to read:

66010.2. The public elementary and secondary schools, the California Community Colleges, the California State University, the University of California, and independent institutions of higher education share goals designed to provide educational opportunity and success to the broadest possible range of our citizens, and shall provide the following:

(a) Access to education, and the opportunity for educational success, for all qualified Californians. Particular efforts should be made with regard to those who are historically and currently underrepresented in both their graduation rates from secondary institutions and in their attendance at California higher educational institutions.

(b) Quality teaching and programs of excellence for their students. This commitment to academic excellence shall provide all students the opportunity to address issues, including ethical issues, that are central to their full development as responsible citizens.

(c) Educational equity not only through a diverse and representative student body and faculty but also through educational environments in which each person, regardless of race, gender, age,

disability, or economic circumstances, has a reasonable chance to fully develop his or her potential.

SEC. 4.3. Section 66010.3 is added to the Education Code, to read:

66010.3. The public elementary and secondary schools shall be responsible for academic and general vocational instruction from kindergarten and grades 1 to 12, inclusive, including preparation of pupils for postsecondary instruction, future participation in California's economy and society, and adult instruction to the extent of state support.

SEC. 4.4. Section 66010.5 is added to the Education Code, to read:

66010.5. The mission of the public segments of higher education shall also include a broad responsibility to the public interest, and independent segments of higher education are encouraged to assume a broad responsibility to the public interest. As part of this responsibility, the public and independent segments are encouraged to support programs of public service and to involve faculty and students in these programs.

SEC. 4.5. Section 66010.7 is added to the Education Code, to read:

66010.7. (a) The Legislature, through the enactment of this section, expresses its commitment to encourage and support collaboration and coordination among all segments of education.

(b) Within the differentiation of segmental functions outlined in this article, the institutions of higher education shall undertake intersegmental collaboration and coordination particularly when it can do any of the following:

(1) Enhance the achievement of the institutional missions shared by the segments.

(2) Provide more effective planning of postsecondary education on a statewide basis.

(3) Facilitate achievement of the goals of educational equity.

(4) Enable public and independent higher education to meet more effectively the educational needs of a geographic region.

(5) Facilitate student progress from one segment to another, particularly with regard to preparation of students for higher education as well as the transfer from the California Community Colleges to four-year institutions.

(c) The leaders responsible for public and independent institutions of higher education and the Superintendent of Public Instruction shall work together to promote and facilitate the development of intersegmental programs and other cooperative efforts aimed at improving the progress of students through the educational systems and at strengthening the teaching profession at all levels.

(d) The California Postsecondary Education Commission shall have responsibility for reviewing and evaluating the effectiveness of intersegmental activities in accomplishing the established goals, and shall report its findings to the Governor and Legislature biennially.

SEC. 5. An article heading is added immediately preceding Section 66011 of the Education Code, to read:

Article 3. General Provisions

SEC. 6. Section 66014.5 of the Education Code is amended to read:

66014.5. (a) It is the intent of the Legislature to recognize the role of independent, regionally accredited postsecondary education in California postsecondary education. Statewide planning, policy coordination, and review of postsecondary education shall include attention to the contributions of the independent institutions in meeting the state's goals of access, quality, educational equity, economic development, and student aid.

(b) The Legislature hereby finds and declares that there is a need of providing students with economic and academic freedom of choice in selecting a college or university they wish to attend. The Legislature further finds that an important means of meeting this need is through offering financial assistance to students who wish to attend public or independent colleges and universities and who have demonstrated financial need.

SEC. 7. Section 66020 of the Education Code is repealed.

SEC. 8. Section 66024 is added to the Education Code, to read:

66024. The Legislature hereby affirms its commitment to the continuing quality and development of graduate and professional programs of the University of California, the California State University, and the independent institutions of higher education in this state.

It is the intent of the Legislature that each governing board of an institution of higher education periodically review the quality of the graduate and professional programs operated by the institution, and the need to add, discontinue, or enhance graduate and professional programs, including programs leading to the joint doctorate degree.

It is further the intent of the Legislature that the development of joint doctoral programs operated by the California State University and the University of California or one or more accredited independent institutions of higher education be established and expedited.

All graduate and professional programs, including joint doctoral programs, are expected to undergo careful evaluation and be approved only when it has been demonstrated that these programs meet the needs of students and the state.

SEC. 9. Article 4 (commencing with Section 66030) is added to Chapter 2 of Part 40 of the Education Code, to read:

Article 4. Educational Equity for Students

66030. (a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments which give each Californian, regardless of ethnic origin, race, gender, age, disability, or economic circumstance, a reasonable opportunity to develop fully his or her potential.

their responsibilities in preparing students for college.

SEC. 14. Section 66205 is added to the Education Code, to read:

66205. (a) In determining the standards and criteria for undergraduate and graduate admissions to the University of California and the California State University, it is the intent of the Legislature that the governing boards do all of the following:

(1) Develop processes which strive to be fair and are easily understandable.

(2) Consider the use of criteria and procedures that allow students to enroll who are otherwise fully eligible and admissible but who have course deficiencies due to circumstances beyond their control, and, when appropriate, provide that the admission requires the student to make up the deficiency.

(3) Consult broadly with California's diverse ethnic and cultural communities.

(b) It is the intent of the Legislature that the University of California and the California State University, pursuant to Section 66201.5, seek to enroll a student body that meets high academic standards and reflects the cultural, racial, geographic, economic, and social diversity of California.

SEC. 15. Section 66207 is added to the Education Code, to read:

66207. This chapter shall supersede any other law which conflicts with this part.

SEC. 16. Section 66301 of the Education Code is repealed.

SEC. 17. Section 66722 is added to the Education Code, to read:

66722. It is the intent of the Legislature that the transfer function shall be a central institutional priority of all segments of higher education in California, and that the segments shall have as a fundamental policy and practice the maintenance of an effective transfer system.

SEC. 18. Section 66722.5 is added to the Education Code, to read:

66722.5. It is the intent of the Legislature that the segments of higher education shall pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments.

SEC. 19. Chapter 11.5 (commencing with Section 66950) is added to Part 40 of the Education Code, to read:

CHAPTER 11.5. HIGHER EDUCATION ASSESSMENT ACT OF 1990

66950. The Legislature finds and declares all of the following:

(a) The primary goal of every higher educational institution should be to provide a collegiate experience which gives each student the skills of communication and problemsolving, the ideas and principles underlying the major areas of modern knowledge, the ability to consider critical issues thoughtfully, the understanding that

learning is a continuous lifelong process, and the knowledge of democracy necessary for good citizenship.

(b) To improve performance, educational institutions are encouraged to use effective assessment mechanisms based on positive reinforcement, incentives, and cooperation.

66951. In enacting this chapter, it is the intent of the Legislature to urge the continued development and implementation of assessment processes whereby institutions of higher education establish mechanisms, through program review and improvement, for the assessment of their performance in attempting to improve student learning and comprehension and achieving the expressed state policy goals for higher education of quality, educational equity, employee diversity, student transfer, and student retention. The primary purposes of assessment shall be to improve teaching and learning as well as academic advising. Assessment programs shall be focused on activities that are campus-based, faculty-centered, and student-responsive. Faculty, students, and academic administrators are encouraged to work together in developing assessment programs.

66952. It is the intent of the Legislature to monitor the performance of the University of California, the California State University, and the community colleges in the following areas:

(a) Diversification of student bodies.

(b) Improved student transfer rates.

(c) Improved student retention rates.

(d) Diversification of faculty, nonfaculty academic staff, and administrative positions.

(e) As a part of program review, enhanced student learning, as demonstrated through mechanisms designed to explore improvements in knowledge, skills, and abilities.

SEC. 20. Chapter 16 (commencing with Section 67400) is added to Part 40 of the Education Code, to read:

CHAPTER 16. APPLICABILITY TO UNIVERSITY OF CALIFORNIA

67400. No provision of this part shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

SEC. 21. Nothing in this act shall be interpreted to expand or diminish the rights, responsibilities, and duties provided for in Chapters 10.7 (commencing with Section 3540) and 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code.

SEC. 22. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000),

reimbursement shall be made from the State Mandate Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 493

An act to add Section 71027 to the Education Code, relating to postsecondary education.

[Approved by Governor October 1, 1995. Filed with Secretary of State October 2, 1995.]

I am signing Senate Bill No. 450, but I am deleting Sections 3, 4 and 5.

This bill would require the Board of Governors of the California Community Colleges to develop a general common course numbering system. It also would have appropriated $5 million from a bond if the authorization for the bond was enacted by January 1, 1996 and subsequently approved by the voters.

The provisions of the bill which would develop a common course numbering system are sensible. The $5 million appropriation, however, is inappropriate and also inoperable under its own terms. Capital outlay decisions are part of the annual budget, and should remain so. For these reasons I object to Sections 3, 4 and 5 and am striking them from the bill.

PETE WILSON, Governor

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares, as follows:

(a) Many California community college students desire to, and do, attend more than one community college in the state during their educational career.

(b) Often community colleges, even those within the same district, have different numbering systems for the same courses of instruction. As a result, much confusion and many delays occur when students complete graduation requirements, transfer between

community colleges, and matriculate to four-year colleges and universities.

(c) The inconsistencies described in subdivision (a) cost the students, colleges, and state a substantial amount of money, as unnecessary duplication of coursework is occurring.

(d) A first start to enhancing the quality, while limiting extra cost, of education is to ensure a common course numbering system within California's largest postsecondary education system, the California Community Colleges.

(e) It is the intent of the Legislature that the implementation of the common course numbering system pursuant to this section coincide with any regularly scheduled changes in administrative documents and other college publications in order to minimize the costs to community college districts of implementing the system and thereby reducing state-mandated local costs.

SEC. 2. Section 71027 is added to the Education Code, to read:

71027. (a) The Board of Governors of the California Community Colleges shall develop, maintain, and disseminate a general common course numbering system for use by the community college districts.

(b) The office of the Chancellor of the California Community Colleges shall absorb the costs of developing, maintaining, and disseminating a general common course numbering system pursuant to this section within the office's existing resources.

(c) The board of governors shall report to the Legislature by January 1, 1998, on its progress in implementing this common course numbering system.

SEC. 3. Of the funds derived from the issuance and sale of bonds and deposited in the 1996 Higher Education Capital Outlay Bond Fund, the amount of five million dollars ($5,000,000) is allocated for development of the San Joaquin campus of the University of California.

SEC. 4. Sections 3 and 5 of this act shall become operative only if the Public Education Facilities Bond Act of 1996 is chaptered on or before January 1, 1996, and approved by the voters.

SEC. 5. If the funds allocated pursuant to Section 3 are not encumbered by January 1, 2000, those funds shall revert to the 1996 Higher Education Capital Outlay Bond Fund for use by the University of California system.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

BILL NUMBER: AB 446 CHAPTERED 10/11/95

CHAPTER 758
FILED WITH SECRETARY OF STATE OCTOBER 11, 1995
APPROVED BY GOVERNOR OCTOBER 10, 1995
PASSED THE SENATE SEPTEMBER 15, 1995
PASSED THE ASSEMBLY SEPTEMBER 15, 1995
AMENDED IN SENATE SEPTEMBER 7, 1995
AMENDED IN SENATE AUGUST 21, 1995
AMENDED IN SENATE JULY 19, 1995
AMENDED IN SENATE JUNE 12, 1995
AMENDED IN ASSEMBLY MARCH 27, 1995

INTRODUCED BY Assembly Committee on Higher Education

FEBRUARY 16, 1995

An act to amend, repeal, and add Sections 28, 1247.6, 2902, 4939, 4980.40, and 18629 of the Business and Professions Code, to amend, repeal, and add Section 1812.501 of the Civil Code, to amend, repeal, and add Section 10251 of the Corporations Code, to amend Sections 1510, 8152, 12050, 12052, 12053, 12400, 66010, 66015, 66022, 66023, 66202.5, 66743, 66753.5, 66903, 66903.3, 67385, 67500, 68011, 68133, 69509, 69613, 69615.2, 69634, 69900, 69908, 71000, 71020.5, 71090.5, 72023.5, 72411.5, 72425, 72620, 74270, 76000, 76140, 76210, 76225, 76231, 76232, 76240, 76245, 76330, 76330.1, 76355, 76370, 76380, 76391, 78015, 78217, 79121, 81033, 81130.5, 81141, 81162, 81177, 81314, 81345, 81348, 81401, 81530, 81551, 81661, 81821, 84362, 84501, 84751, 84810.5, 84820, 85223, 85233, 85267, 87008, 87017, 87411, 87413, 87414, 87418, 87419, 87420, 87423, 87448, 87451, 87453, 87460, 87464, 87468, 87469, 87470, 87483, 87487, 87603, 87604, 87622, 87672, 87673, 87675, 87676, 87677, 87701, 87715, 87732, 87734, 87740, 87744, 87745, 87746, 87762, 87764, 87768.5, 87770, 87774, 87780, 87781, 87787, 87790, 87832, 88000, 88001, 88002, 88003, 88004.5, 88010, 88013, 88014, 88015, 88020, 88023, 88024, 88030, 88033, 88036, 88050, 88051, 88053, 88054, 88057, 88063.5, 88076, 88083, 88086.5, 88092, 88093, 88097, 88098, 88104, 88105, 88107, 88120, 88125, 88126, 88128, 88132, 88136, 88164, 88165, 88167, 88168, 88185, 88191, 88192, 88194, 88195, 88196, 88197, 88198, 88203, 88205, 88205.5, 88206, 88207, 88227, 88245, 88263, 89002, 89036, 89046, 89047, 89300, 89310, 89537, 92620, 99100, 99103, 99105, and 99106 of, to amend the heading of Article 1 (commencing with Section 10000) of Chapter 1 of Part 7 of, to amend the heading of Article 13 (commencing with Section 69760) of Chapter 2 of Part 42 of, to amend and renumber the heading of Part 43.5 (commencing with Section 70900) of, to amend, repeal, and add Sections 8092, 8092.5, 44227, 49073, 66170, 69509.5, 94050, and 94355 of, to add Sections 67359.9, 84756, 84757, and 84758 to, to add an article heading immediately preceding Section 92020 of, to add Article 12 (commencing with Section 44390) to Chapter 2 of Part 25 of, Article 6 (commencing with Section 66060) and Article 7 (commencing with Section 66070) to Chapter 2 of Part 40 of, and Article 6 (commencing with Section 89250) to Chapter 2 of Part 55 of, to add Chapter 11.3 (commencing with Section 66940) to Part 40 of, and Chapter 7 (commencing with Section 94700) to Part 59 of, to repeal Sections 8081, 8084, 12051, 12061, 66207, 66211, 66605.5, 66723, 66744, 66903.4, 66903.6, 67321, 67386, 67392, 69507.7, 69534, 69534.2, 69534.5, 69534.6, 69639, 69766.1, 72410, 76320, 76392, 78217, 78310, 87012, 87018, 87461, 87772, 87773, 87778, 88032, 88035.5, 88079.1, 89003, 89004, 89009, 89032, 89033, 89040, 89070.45, 89081, 89082, 89083, 89211, 89241, 89242, 89703, 92010, 92610, and

specified in the redirection agreement, the approved transfer program or written agreements, unless these majors have been declared "impacted." For impacted majors, students shall be given the opportunity to have access to the major when spaces become available, and new freshmen shall be admitted to the major in a controlled manner to ensure that all transfer students described in paragraph (2) of subdivision (a) of Section 66202 have an equitable chance of being accommodated. It is the intent of the Legislature to fund programs designed to accomplish the purposes of this subdivision through appropriations made in the Budget Act to the public institutions of higher education, and the annual Budget shall contain appropriations necessary to accommodate all students from all of the categories designated in subdivision (a) of Section 66202.

The segments may, in implementing these enrollment plans and admissions practice priorities, consider the overall needs of students in maintaining a balanced program and a quality curriculum, and are expected to consider the state's goals of educational equity and racial and ethnic diversity of students and faculty in the planning and management of their admissions practices. It is further the intent of the Legislature that campus enrollment planning processes provide for the equitable treatment of the following: (1) all eligible entering freshmen; (2) continuing students in good standing; and (3) eligible community college transfer students with regard to accommodation in majors.

SEC. 35. Section 66207 of the Education Code is repealed.

SEC. 35.5. Section 66211 of the Education Code is repealed.

SEC. 36. Chapter 7 (commencing with Section 66501) of Part 40 of the Education Code is repealed.

SEC. 37. Section 66605.5 of the Education Code is repealed.

SEC. 37.5. Section 66723 of the Education Code is repealed.

SEC. 38. Section 66743 of the Education Code is amended to read:

66743. The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:

(a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.

(b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.

(c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes.

The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to implement reform, to achieve the /40 ratio by the designated dates, or to improve the transfer rate of historically underrepresented groups significantly, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met.

SEC. 38.5. Section 66744 of the Education Code is repealed.

SEC. 38.7. Section 66753.5 of the Education Code is amended to read:

66753.5. The enrollment of a student at a host campus pursuant to this chapter shall not be counted in the calculation of headcount or full-time equivalent student enrollment at the host campus. The home campus may count in the calculation of headcount or full-time equivalent student enrollment only those units for which the student is enrolled at the home campus.

SEC. 39. Section 66900 of the Education Code is repealed.

SEC. 40. Section 66900 is added to the Education Code, to read:

66900. (a) It is the intent of the Legislature that the California Postsecondary Education Commission (CPEC) be responsible for coordinating public, independent, and private postsecondary education in California and providing independent policy analyses and recommendations to the Legislature and the Governor on postsecondary education issues. In this respect, the Legislature finds as follows:

(1) California, in its adoption of the 1960 Master Plan for Higher Education, established the Coordinating Council for Higher Education, the commission's predecessor as the statewide coordinating and planning board for higher education.

(2) In 1973, the Legislature's Joint Committee on Higher Education eviewed the 1960 Master Plan for Higher Education and ultimately advanced a report that included recommendations for strengthening California's higher education plan. The committee's work resulted in the disestablishment of the Coordinating Council for Higher Education and the establishment of the California Postsecondary Education Commission.

(3) Assembly Bill 770 (Chapter 1187 of the Statutes of 1973) strengthened the membership of the commission by having a majority of its members represent the general public. That bill also increased the commission's responsibilities with respect to advising the Legislature and the Governor on issues related to governance, operation, and financing of higher education in California.

(4) Since 1974, the commission has served as the state's independent planning and coordination agency for postsecondary education policy, responsible for providing analyses and recommendations to the Legislature and the Governor related to long-range planning for public postsecondary education and the state policy and programs involving independent and private postsecondary education sectors.

(5) In 1990, Senate Bill 1570 (Chapter 1587 of the Statutes of 1990) codified the commission's mission statement developed by the 1989 Joint Committee for the Review of the Master Plan for Higher Education.

(6) The commission has administered specifically designated federal programs and in July 1993, it was named the state's designated agency to administer the new federal state postsecondary review entity (SPRE).

(b) It is the intent of the Legislature that the commission maintain the essential role it plays in coordinating all sectors of

regulations of the board of governors.

SEC. 102. Section 76391 of the Education Code is amended to read:

76391. Notwithstanding Section 76360, the governing board of the Santa Monica Community College District or the Glendale Community College District, or both, may require payment of a parking fee at a campus in excess of the limits set forth in subdivision (a) of Section 76360 for the purpose of funding the construction of oncampus parking facilities if both of the following conditions exist at the campus:

(a) The full-time equivalent students (FTES) per parking space on the campus exceeds the statewide average FTES per parking space on community college campuses.

(b) The market price per square foot of land adjacent to the campus exceeds the statewide average market price per square foot of land adjacent to community college campuses.

If the governing board requires payment of a parking fee in excess of the limits set forth in subdivision (a) of Section 76360, the fee may not exceed the actual cost of constructing oncampus parking facilities or sixty dollars ($60) per semester, whichever is less. Students who receive financial assistance pursuant to any of the programs described in subdivision (g) of Section 76300 shall be exempt from parking fees imposed pursuant to this section that exceed twenty dollars ($20) per semester.

SEC. 103. Section 76392 of the Education Code is repealed.

SEC. 104. Section 78015 of the Education Code is amended to read:

78015. (a) The governing board of a community college district, prior to establishing a vocational or occupational training program, shall conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall determine, by resolution, whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092.

SEC. 105. Section 78217 of the Education Code is amended to read:

78217. On or before March 15 of each year, the board of governors shall provide a progress report to the Legislature on the implementation of this article. The board of governors may require participating districts or colleges to provide data for the completion of these reports.

SEC. 106. Article 2.5 (commencing with Section 78230) of Chapter 2

lease or a lease-purchase agreement into which neither students nor teachers are required to enter and which would be excluded from the meaning of "school building" in Section 81160 shall not be considered to be a "school building" within the meaning of Section 81130.5.

SEC. 119. Section 81551 of the Education Code is amended to read:

81551. Before a lease or lease-purchase agreement may be entered into, the lessee shall comply with all applicable provisions for bids and contracts prescribed by Article 3 (commencing with Section 81641) of Chapter 3 and by Section 20651 of the Public Contract Code.

Each contract shall show the total price for an outright purchase of any item and also its total cost for the entire specified term of the contract.

SEC. 120. Section 81661 of the Education Code is amended to read:

81661. In determining the lowest responsible bidder for an energy management system pursuant to Section 20651 of the Public Contract Code, the governing board of any community college district shall consider the net cost or savings of each system. For the purposes of this section, "net cost or savings" means the cost of the system to the district, if any, less the projected energy savings to be realized from the energy management system. The governing board may require an independent evaluation of the projected energy savings.

SEC. 121. Section 81821 of the Education Code is amended to read:

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors.

SEC. 122. Section 84362 of the Education Code is amended to read:

84362. (a) As used in this section, "salaries of classroom instructors" means:

(1) The salary paid to each instructor employed by the district whose duties require that the full time for which the instructor is

adjunct instructor and the employing unit enter a written contract with the following provisions:

(1) That any federal or state income tax liability shall be the responsibility of the party providing the services.

(2) That no disability insurance coverage is provided under the contract.

(3) That the party performing the services certifies that he or she is doing so as a secondary occupation or as a supplemental source of income.

(b) This section shall not apply to services performed under a collective bargaining agreement.

(c) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 293.5. Section 633 is added to the Unemployment Insurance Code, to read:

633. (a) For purposes of coverage under Part 2 (commencing with Section 2601) of Division 1, "employment" does not include services performed as an intermittent or adjunct instructor at a postsecondary educational institution which meets the requirements of Article 4 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code if the intermittent or adjunct instructor and the employing unit enter a written contract with the following provisions:

(1) That any federal or state income tax liability shall be the responsibility of the party providing the services.

(2) That no disability insurance coverage is provided under the contract.

(3) That the party performing the services certifies that he or she is doing so as a secondary occupation or as a supplemental source of income.

(b) This section shall not apply to services performed under a collective bargaining agreement.

(c) This section shall become operative on January 1, 1997.

SEC. 294. Section 282 of this act shall become operative on January 1, 1997.

SEC. 295. (a) Except as provided in subdivision (b), any section of any act enacted by the Legislature during the 1995 calendar year that takes effect on or before January 1, 1996, and that amends, amends and renumbers, adds, repeals and adds, or repeals a provision amended, repealed, or added by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

(b) Subdivision (a) does not apply to any of the following:

(1) Section 2902 of the Business and Professions Code, as amended by Chapter 279 of the Statutes of 1995.

(2) Section 4980.40 of the Business and Professions Code, as amended by Chapter 327 of the Statutes of 1995.

(3) Section 72023.5 of the Education Code, as amended by Chapter 82 of the Statutes of 1995.

BILL NUMBER: AB 2214 CHAPTERED 08/24/98

CHAPTER 365
FILED WITH SECRETARY OF STATE AUGUST 24, 1998
APPROVED BY GOVERNOR AUGUST 24, 1998
PASSED THE SENATE AUGUST 6, 1998
PASSED THE ASSEMBLY APRIL 30, 1998
AMENDED IN ASSEMBLY MARCH 24, 1998

INTRODUCED BY Assembly Member Aguiar

FEBRUARY 19, 1998

An act to amend Sections 78015 and 78016 of the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2214, Aguiar. Community colleges: vocational and occupational training programs.

(1) Existing law requires the governing board of a community college district, prior to establishing a vocational or occupational training program, to conduct a job market study, as defined, of the labor market area, as defined, in which it proposes to establish the program.

This bill would require the governing board of the community college district to make these job market studies available to the public.

(2) Existing law requires that every vocational or occupational training program offered by a community college district be reviewed every 2 years by the governing board of the district to ensure that each program meets certain conditions.

This bill would impose a state-mandated local program by requiring that a written summary of the findings of each review be made available to the public.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 78015 of the Education Code is amended to read:

78015. (a) (1) The governing board of a community college district, prior to establishing a vocational or occupational training program, shall conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State-Local

Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(2) The governing board of the community college district shall make copies of each job market study available to the public.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall determine, by resolution, whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092.

SEC. 2. Section 78016 of the Education Code is amended to read:

78016. (a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to ensure that each program, as demonstrated by the California Occupational Information System, including the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

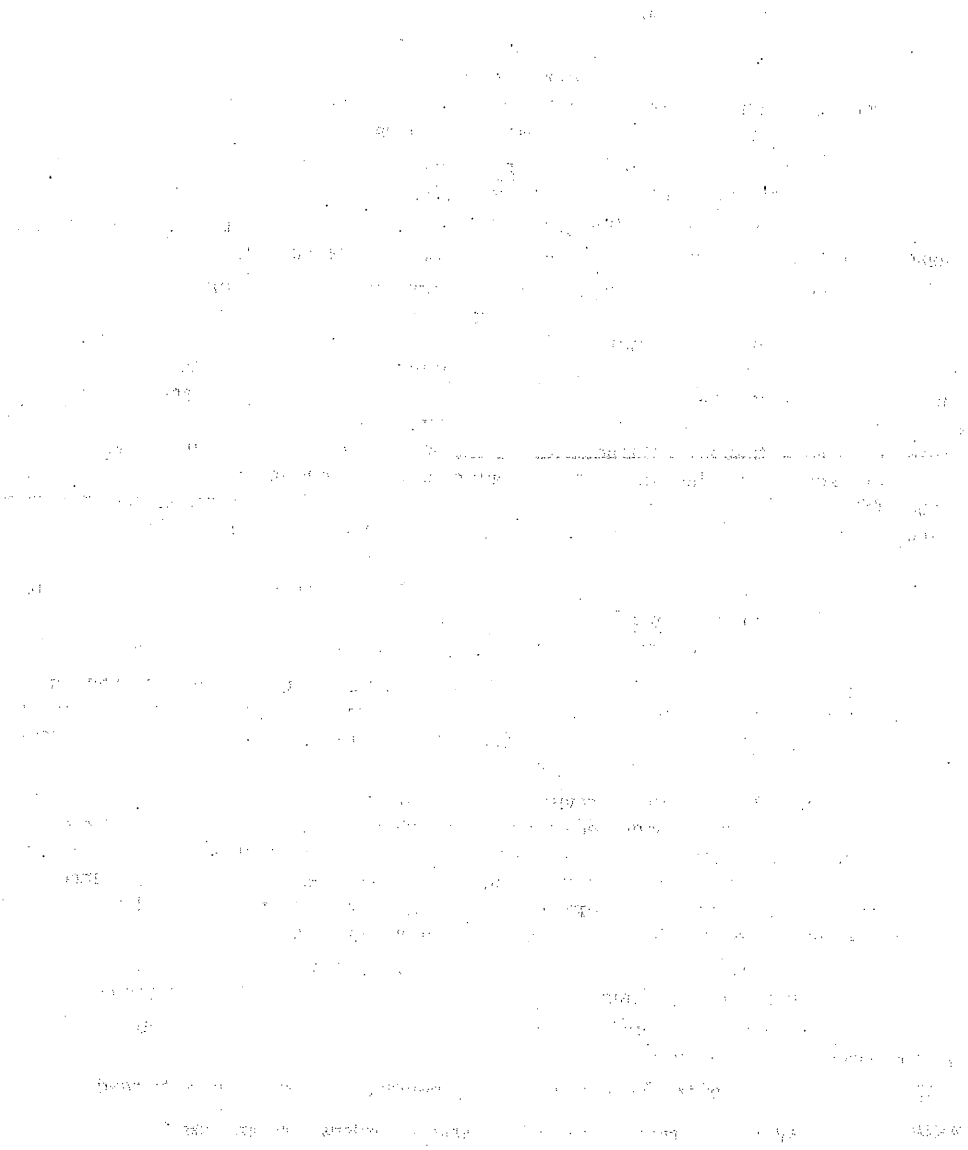
(d) This section shall apply to each program commenced subsequent to July 28, 1983.

(e) A written summary of the findings of each review shall be made available to the public.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.



The people of the State of California do enact as follows:

SECTION 1. The heading of Article 4 (commencing with Section 40) of Chapter 1 of Part 1 of the Education Code is repealed.

SEC. 2. Section 40 of the Education Code is amended and renumbered to read:

221.5. (a) It is the policy of the state that elementary and secondary school classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the pupil enrolled in these classes and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 51550.

(c) No school district shall require pupils of one sex to enroll in a particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex that is different from that offered to pupils of the opposite sex or, in counseling pupils, differentiate career, vocational, or higher education opportunities on the basis of the sex of the pupil counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 48980, in advance of career counseling and course selection commencing with course selection for grade * * * 7 so that they may participate in the counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex.

SEC. 3. Section 41 of the Education Code is amended and renumbered to read:

221.7. (a) The Legislature finds and declares that female pupils are not accorded opportunities for participation in school-sponsored athletic programs equal to those accorded male pupils. It is the intent of the Legislature that opportunities for participation in athletics be provided equally to male and female pupils.

(b) Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a school district governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(c) Nothing in this section shall be construed to require a school district to require competition between male and female pupils in school-sponsored athletic programs.

SEC. 4. The heading of Article 4.5 (commencing with Section 45) of Chapter 1 of Part 1 of the Education Code is repealed.

SEC. 5. Section 45 of the Education Code is amended and renumbered to read:

SEC. 7. Section 200 of the Education Code is amended to read:

200. (a) It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 8. Section 210 is added to the Education Code, to read:

210. The definitions in this article shall govern the use of the terms defined for purposes of this chapter.

SEC. 9. Section 210 of the Education Code is amended and renumbered to read:

210.1. * * * "Educational institution" means a public or private preschool, elementary, or secondary school or institution; * * * the governing board of a school district; * * * or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.

SEC. 10. Section 211 of the Education Code is amended to read:

211. * * * "Governing board" means the governing board of a school * * * district.

SEC. 11. Section 212 of the Education Code is amended to read:

212. * * * "Sex" means the biological condition or quality of being a male or female human being.

SEC. 12. Section 212.5 of the Education Code is amended to read:

212.5. * * * "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

SEC. 13. Section 212.6 of the Education Code is amended and renumbered to read:

231.5. (a) It is the policy of the State of California, pursuant to Section 200, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the educational institutions of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

SEC. 14. Section 213 of the Education Code is amended to read:

213. * * * (a) "State financial assistance" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any pupils admitted to the educational institution.

(b) State financial assistance shall include, but not be limited to, all of the following:

(1) Grants of state property, or any interest therein.

(2) Provision of the services of state personnel.

(3) Funds provided by contract, tax rebate, appropriation, allocation, or formula.

SEC. 15. Section 214 of the Education Code is amended to read:

214. * * * "State student financial aid" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution. State student financial aid shall include, but not be limited to, scholarships, loans, grants, or wages.

SEC. 34. Section 262 of the Education Code is amended and renumbered to read:

66292. (a) The governing board of a community college district shall have the primary responsibility for ensuring that community college district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for monitoring the compliance of each district with any and all regulations adopted pursuant to Section 11138 of the Government Code

SEC. 49. Chapter 4.5 (commencing with Section 66250) is added to Part 40 of the Education Code, to read:

CHAPTER 4.5. SEX EQUITY IN EDUCATION ACT

Article 1. Title and Declaration of Purpose

66250. This chapter shall be known, and may be cited, as the Sex Equity in Education Act.

66251. It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

66252. (a) All students have the right to participate fully in the educational process, free from discrimination and harassment.

(b) California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

(c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.

(d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.

(e) There is an urgent need to teach and inform students in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase students' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in postsecondary educational institutions and in society as a means of responding to potential harassment and hate violence.

(f) It is the intent of the Legislature that each postsecondary educational institution undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of students to equal educational opportunity.

(g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), the federal

Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

Article 2. Definitions

66260. The definitions in this article shall govern the use of the terms defined for purposes of this chapter.

66261. "Governing board" means the governing board of a community college.

66261.5. "Postsecondary educational institution" means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University.

66262. "Sex" has the same meaning as defined in Section 212.

66262.5. "Sexual harassment" has the same meaning as defined in Section 212.5.

66263. "State financial assistance" has the same meaning as defined in Section 213.

66264. "State student financial aid" has the same meaning as defined in Section 214.

Article 3. Prohibition of Discrimination

66270. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

66271. This chapter shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

66271.1. The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, and the Regents of the University of California may, adopt regulations as required by law to implement this chapter.

Article 4. Sex Equity in Education

66271.5. The provisions of this article are supplemental to any provision in the Constitution or laws of the United States or laws of the State of California, relating to discrimination.

66273. This article shall not apply to the membership practices of a social fraternity or social sorority, exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose active membership consists primarily of students in attendance at a postsecondary educational institution.

66281.5. (a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each postsecondary educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The postsecondary educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the postsecondary educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the postsecondary educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the postsecondary educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the postsecondary educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

Article 5. Compliance and Enforcement

66290. Prior to receipt of any state financial assistance or state student financial aid, a postsecondary educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the postsecondary educational institution will be conducted in compliance with this chapter and all other applicable provisions of state law prohibiting discrimination on the basis of sex. A single assurance, not more than one page in length and signed by an appropriate responsible official of the postsecondary educational institution, may be provided for all the programs and activities conducted by a postsecondary educational institution.

66291. (a) A community college district shall submit timely, complete, and accurate compliance reports to the chancellor's office, as that entity may require.

(b) All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours.

66292.3. (a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a community college district or the president of a campus of the California State University, pursuant to this article, to the Board of Governors of the California Community Colleges or the Chancellor of the California State University, as applicable.

(b) Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders, may also be available to complainants. The educational institution shall make this information available by publication in appropriate informational materials.

(c) Nothing in this chapter shall be construed to require an exhaustion of the appeal to the Board of Governors of the California Community Colleges or to the Chancellor of the California State University pursuant to subdivision (a), before civil law remedies may be purchased.

(d) Notwithstanding any other provision of law, a person who alleges that he or she is a victim of discrimination may not seek civil remedies pursuant to this section until at least 90 days have elapsed from the filing of a discrimination complaint with the local educational agency. The 90-day moratorium imposed by this subdivision does not apply to injunctive relief and is applicable only if the local educational agency has appropriately, and in a timely manner, apprised the complainant of his or her right to file a complaint.

66292.4. This chapter may be enforced through a civil action.

CHAPTER 1525

An act to amend Sections 190, 5719, 20054, 20055, 20056, 20058, 20065, 20066, 20067, 20075, 20076, 20077, 20078, 20079, 20080, 20081, 20082, 20084, 20210, 20211, 20755, and 25515.5 of, to add Sections 192.5, 6079, 20053.5, and 25543 to, to repeal Section 200.10 of, and to repeal Article 1.5 (commencing with Section 25543) of Chapter 5 of Division 18.5 of, the Education Code, and to add Section 16352.5 to the Government Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor November 16, 1971. Filed with Secretary of State November 16, 1971.]

SEC. 13. Section 20066 of the Education Code is amended to read:

20066. The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the board of governors.

(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors.

CHAPTER 182

An act to add Chapter 5 (commencing with Section 91) to Division 1 of the Education Code, relating to public schools.

[Approved by Governor April 25, 1974. Filed with Secretary of State April 25, 1974.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 5 (commencing with Section 91) is added to Division 1 of the Education Code, to read:

CHAPTER 5. INSTRUCTION WITHOUT REGARD TO THE SEX OF PUPILS

91. (a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the pupils enrolled in such classes and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 8506.

(c) No school district shall require pupils of one sex to enroll in a

4 1466 9 10345 1101

particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex which is different from that offered to pupils of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the pupil counseled.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations, or responsibilities imposed on local government by this act.

CHAPTER 280

An act to amend Sections 20065 and 20067 of the Education Code, relating to community colleges.

[Approved by Governor May 28, 1974. Filed with Secretary of State May 28, 1974.]

The people of the State of California do enact as follows:

SECTION 1. Section 20065 of the Education Code is amended to read:

20065. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of November in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

SEC. 2. Section 20067 of the Education Code is amended to read:

20067. The chancellor shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the

41665 61 5315 198

elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

CHAPTER 1526

An act to add Section 22504.7 to the Education Code, relating to public higher education athletic programs, and making an appropriation therefor.

[Approved by Governor September 27, 1974. Filed with Secretary of State September 27, 1974.]

The people of the State of California do enact as follows:

SECTION 1. Section 22504.7 is added to the Education Code, to read:

22504.7. It is the intent of the Legislature that opportunities for participation in intercollegiate athletic programs in the community colleges, in the campuses of the California State University and Colleges, and in the campuses of the University of California be provided on as equal a basis as is practicable to male and female students. The costs of providing these equal opportunities may vary according to the type of sports contained within the respective men's and women's athletic programs. Additional sources of revenue should be determined to provide additional funds for these equal opportunity programs.

SEC. 2. In order to determine the scope and cost of augmenting intercollegiate athletic programs pursuant to Section 22504.7 of the Education Code the California Postsecondary Education Commission is hereby directed to conduct a study of intercollegiate athletic programs in institutions of public higher education, as defined pursuant to Section 22500 of the Education Code. The study shall include, but not necessarily be limited to, the following:

(a) An evaluation of existing programs and policies, as well as recommendations for necessary staffing, equipment, and facilities to implement Section 22504.7 of the Education Code; and

(b) A determination of financing required for recommended program levels, with an evaluation of current means of financing, and recommendations of funding sources.

The California Postsecondary Education Commission shall submit a final report of its findings to the Legislature within six months of the effective date of this act, including any other recommendations it may have for implementing Section 22504.7 of the Education Code.

SEC. 3. There is hereby appropriated from the General Fund in the State Treasury to the California Postsecondary Education Commission the sum of two thousand five hundred forty-five dollars ($2,545) for the purpose of financing the study prescribed by Section 2 of this act.

03651 646170 3109

CHAPTER 802

An act to add Section 92 to the Education Code, relating to public schools.

[Approved by Governor September 16, 1975. Filed with Secretary of State September 16, 1975.]

The people of the State of California do enact as follows:

SECTION 1. Section 92 is added to the Education Code, to read:

92. (a) The Legislature finds and declares that female students are not accorded opportunities for participation in school-sponsored athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in athletics be provided equally to male and female students.

(b) Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a school district governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(c) Nothing in this section shall be construed to require a school district to require competition between male and female students in school-sponsored athletic programs.

64—3166

4 1213 28 8300 23

CHAPTER 275

An act to amend Sections 17303.6, 17402, and 17407 of, to add Sections 18151, 25502.1, and 25506.5 to, and to repeal Section 18151 of, the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

077 2875 394

SEC. 7. Section 25502.1 is added to the Education Code, to read:

25502.1. Every community college district shall provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

This act is not intended, and shall not be construed, to supersede any portion of Item 366 of the Budget Act of 1976, except for paragraphs (2), (3), (4), and (5) of subdivision (b) thereof.

Paragraph (1) of subdivision (b) of Item 366 of the Budget Act of 1976 shall supersede subdivision (a) of Section 17303.6 of the Education Code, as amended by this act, for the 1976–77 fiscal year.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that funds appropriated for handicapped students attending community college may be more effectively utilized for the 1975–76 school year, which commenced July 1, 1975, it is essential that this act go into effect immediately.

CHAPTER 783

An act to amend Sections 20065, 20067, 20076, and 20078 of the Education Code, relating to community colleges.

[Approved by Governor September 6, 1976. Filed with Secretary of State September 7, 1976.]

The people of the State of California do enact as follows:

SECTION 1. Section 20065 of the Education Code is amended to read:

20065. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes.

SEC. 2. Section 20067 of the Education Code is amended to read:

20067. The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of May. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

SEC. 3. Section 20076 of the Education Code is amended to read:

20076. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 20066, and if approved after review by the Board of Governors of the California Community Colleges, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and May 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

SEC. 4. Section 20078 of the Education Code is amended to read:

20078. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 20075 prior to February 1st of each year shall be finally acted upon

by the chancellor pursuant to Section 20076 on or before the next succeeding first day of April 1968, and May 1st of each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 20076, shall be finally acted upon by the department pursuant to Section 20077 on or before the first day of July 1968, and each year thereafter.

CHAPTER 1176

An act to amend Section 91 of the Education Code, relating to public schools.

[Approved by Governor September 21, 1976. Filed with Secretary of State September 22, 1976.]

The people of the State of California do enact as follows:

SECTION 1. Section 91 of the Education Code is amended to read:

91. (a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the pupils enrolled in such classes and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 8506.

(c) No school district shall require pupils of one sex to enroll in a particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor, teacher, administrator, or aide shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex which is different from that offered to pupils of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the pupil counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with such pupil the possibility of careers, or courses leading to such careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 10921, in advance of career counseling and course selection commencing with course selection for the seventh grade so that they may participate in such counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part

of their normal operating procedures.

CHAPTER 36

An act to amend Sections 40, 1042, 1330, 1891, 1904, 1908, 2104, 2502, 4200, 4210, 4321, 4364, 5012, 5016, 5018, 5204, 5454, 8203, 8210, 8211, 8212, 8240, 8242, 8245, 8246, 8248, 8250, 8250.1, 8251, 8252, 8254, 8321, 8326, 8327, 8329, 8330, 8360, 8361, 8362, 8363, 8364, 8365, 8366, 8367, 8368, 8369, 8383, 8395, 8500, 10101, 10103, 10104, 10106, 10601, 10602, 10603, 10604, 10606, 12516, 14002, 14003, 14020, 15104, 16035, 16040, 16044, 16057, 16058, 16063, 16192, 16250, 16310, 16343, 18383, 18535, 19422, 19423, 19424, 19510, 19511, 19512, 19515, 19521, 19522, 21107, 21108, 21110, 21111, 21112, 21180, 21183, 21189, 21192, 22112, 22114, 22122, 22127, 22142, 22401, 22716, 22802, 22809, 23006, 23100, 23108, 23401, 23506, 23702, 23703, 23704, 23800, 23803, 23804, 23811, 23900, 23903, 23909, 23910, 23918, 23919, 23920, 23921, 24100, 24200, 24203, 24600, 33332, 35041.5, 35101, 35174, 35214, 35300, 35330, 35511, 35512, 35515, 35518, 35704, 35705, 37220, 37228, 39002, 39140, 39143, 39149, 39210, 39214, 39227, 39230, 39321, 39363.5, 39440, 39602, 39651, 39674, 39830, 40000, 40013, 41015, 41020, 41201, 41301, 41372, 41601, 41700, 41718, 41761, 41762, 41840, 41856, 41857, 41859, 41863, 41886, 41888, 41915, 42238, 42244, 42245, 42603, 42631, 42633, 42635, 42636, 42639, 42643, 42831, 44008, 44009, 44228, 44263, 44274, 44335, 44346, 44853, 44909, 45023.5, 45057, 45203, 45205, 45207, 45250, 46010, 46111, 46300, 48011, 48200, 48265, 48412, 48414, 48938, 48980, 49061, 49063, 49065, 49068, 49069, 49070, 49075, 49076, 49077, 51226, 51767, 51872, 52002, 52012, 52015, 52113, 52309, 52315, 52317, 52321, 52324, 52372, 52500, 52506, 52517, 52570, 52612, 54002, 54006, 54123, 54125, 54665, 54666, 54669, 56336, 56601, 56717, 56811, 56829, 60014, 60101, 60201, 60202, 60204, 60222, 60223, 60261, 60640, 60643, 60664, 66602, 68014, 69273, 69274, 69511, 69532, 69536, 69538, 69565, 69566, 69582, 69583, 69584,

18102.6, 18102.9, 18151, 18258, 19576, 19578, 19581, 19584.4, 19589, 19590, 19594, 19601.5, 19682.5, 19699.9, 19700.51, 19700.78, 19700.608, 19700.695, 20065, 20067, 20076, 20078, 20110, 20204, 20212, 20213, 20450.5, 20452, 20456.4, 20803, 20905, 20905.55, 20906, 20906.1, 20906.2, 20906.3, 20906.4, 20906.5 as added by Chapter 323 of the Statutes of 1976, 20906.5 as added by Chapter 397 of the Statutes of 1976, 20907, 20935, 20935.1, 20935.15, 20935.2, 20954, 21102, 21104, 21106, 21107, 21107.6, 21109, 21113, 21118, 21119, 21352, 21702.2, 22601, 22712.5, 22712.6, 22712.7, 22809, 22855.5, 22856.5, 22859.6, 23583.22, 23604.5, 23802, 23805, 24054, 24055, 24204, 24217, 24317, 25393, 25411.5, 25411.7, 25424.3, 25425, 25430.1, 25430.3, 25430.4, 25430.5, 25430.7, 25430.8, 25430.9, 25430.10, 25430.12, 25430.14, 25430.15, 25430.16, 25457.5, 25502.1, 25505.4, 25505.8, 25505.20, 25506.5, 25515.3, 25515.7, 27803, 27804, 27805, 27901, 27902, 27902.1, 27903, 27952, 27953, 28204, 28455.1, 28455.2, 28456, 29042, 30303, 30313, 30320, 30321.5, 30328, 30329, 31026, 31058, 31059, 31061, 31062, 31063, 31151, 31154, 31160, 31163, 31913, 31913.5, 40201, 40402, 40405, 40406, 40406.5, 41006, 41007, 41201.1, 41202, 41203, 41402, 41403.1, 41404, 41801, 41803, 42200, 42401, 43003, 43203, 45000, and 45022 of, to repeal Article 2.5 (commencing with Section 27) of Chapter 1 of Division 1, Article 7 (commencing with Section 490) of Chapter 3 of Division 2, Article 9.5 (commencing with Section 1084) of Chapter 3 of Division 4, Article 14.5 (commencing with Section 1900) of Chapter 6 of Part 2 of Division 1 of Title 1, Chapter 5.76 (commencing with Section 5767) of Division 6, Article 1.5 (commencing with Section 12930) of Chapter 1 of Division 10, Article 2 (commencing with Section 15051) of Chapter 1 of Division 11, Division 12.4 (commencing with Section 16690), Article 8.2 (commencing with Section 17971) of Chapter 3 and Chapter 3.9 (commencing with Section 20940) of Division 14, Chapter 1.2 (commencing with Section 22509) and Chapter 4.5 (commencing with Section 22670) of Division 16.5, Article 3 (commencing with Section 24320) of Chapter 9 of Division 18, Article 11.5 (commencing with Section 28520) of Chapter 6 of Division 20, Chapter 1.5 (commencing with Section 29090) of Division 21, and Article 1 (commencing with Section 40100) of Chapter 1 of Division 25 of, and to repeal the headings of Chapter 4 (commencing with Section 16760) of Division 12.5, and Article 4 (commencing with Section 27901) of Chapter 5 of Division 20 of, the Education Code as enacted by Chapter 2 of the Statutes of 1959, relating to education law and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 29, 1977. Filed with Secretary of State April 29, 1977.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the 1977 Education Code Supplemental Act.

SEC. 1.5. Section 40 of the Education Code as enacted by Chapter

1010 of the Statutes of 1976 is amended to read:

40. (a) It is the policy of the state that elementary and secondary school and community college classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the student enrolled in such classes and courses.

(b) No school district or community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student, except a class subject to Section 51550.

(c) No school district or community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with such pupil the possibility of careers, or courses leading to such careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 48980, in advance of career counseling and course selection commencing with course selection for the seventh grade so that they may participate in such counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

SEC. 2. Section 1042 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

1042. County boards of education may:

(a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

(b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before such annual itemized estimate is filed with the auditor as required by Section 29040 of the Government Code and make such revisions, reductions or additions therein that it deems advisable and proper. No such itemized estimate shall be filed by the county superintendent of schools or be approved by the board of supervisors until it has first been so reviewed and approved by the county board of education.

(c) In the name by which the board of education is designated, acquire, hold and convey real property for the purpose of housing the offices and the services of the county superintendent of schools, except that this subdivision shall only apply to such county boards of education to which all the duties and functions of the county board of supervisors have been transferred pursuant to Section 1080.

(d) Contract with and employ any persons for the furnishing to the

SEC. 326. Section 81602 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81602. The governing board of a community college district may, by resolution, establish a fund or funds for losses, including but not limited to, district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies or losses due to noninsured perils. In the fund or funds shall be placed such sums, to be provided in the budget of the district, as will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the district from such losses on the deductible amount under deductible types of insurance policies or losses due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against such losses to district property partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 81601. A district may contract for claims adjustment and related services. The cost of such services is an appropriate charge against the appropriate fund.

The fund or funds shall be considered as separate and apart from all other funds of the district, and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets.

Warrants shall not be drawn on or transfers made from the fund or funds so created, except to reimburse or indemnify the community college district for losses as herein specified, and only upon resolution duly adopted by the board of education.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the district, in securities which are legal investments for surplus county funds in this state. The income derived from such investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund.

SEC. 327. Section 81651 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81651. The governing board of any community college district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

SEC. 328. Section 81820 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81820. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction

for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes.

SEC. 329. Section 81822 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81822. The chancellor shall review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of May. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

SEC. 330. Section 81831 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if approved after review by the Board of Governors of the California Community Colleges, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and May 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

SEC. 331. Section 81833 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding first day of April 1968, and May 1st of each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 81831, shall be finally acted upon by the

instances, however, the student may be considered for a loan or employment aid to the extent that such are available on the basis of the resources of the student and the student's spouse, if any.

69508. The provisions of this article shall apply only to grants to be awarded for the 1978–79 academic year.

This article shall be operative only until June 30, 1978, or until completion of the processing of applications for the 1978–79 academic year, whichever is later, and as of that date is repealed.

SEC. 504. Section 69538.5 is added to the Education Code as enacted by Chapter 1010 of the Statutes of 1976, to read:

69538.5. It is the intent of the Legislature that the Student Aid Commission shall experiment with awarding Cal Grants to students in proprietary schools. The Student Aid Commission shall report to the Legislature no later than July 1 of each year as to the extent which this intent is met within the provisions of Sections 69536 and 69538 and the following information on students attending proprietary postsecondary educational institutions:

(a) The number of students receiving Cal Grants.

(b) The names of the institutions attended by these students.

(c) The attrition rate of these students compared to students attending two- and four-year colleges or universities.

(d) The primary fields of study offered by these proprietary postsecondary educational institutions.

(e) A representative sampling of the family income of students.

This section shall remain in effect only until June 30, 1980, and as of that date is repealed.

SEC. 505. Section 71094 is added to the Education Code as enacted by Chapter 1010 of the Statutes of 1976, to read:

71094. The chancellor's office of the California Community Colleges shall prepare and distribute by April 1, 1977, and thereafter maintain, a detailed handbook for use by the local educational agencies and regional councils established pursuant to Section 8020. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

SEC. 506. Section 71095 is added to the Education Code as enacted by Chapter 1010 of the Statutes of 1976, to read:

71095. Effective July 1, 1977, the chancellor's office of the California Community Colleges shall monitor and review courses and programs which were approved under the provisions of Section 78200 for compliance with applicable statutes and regulations on a periodic basis. Any courses or programs determined to be in noncompliance shall not receive any apportionment of state funds for attendance or average daily attendance relating to these courses or programs.

SEC. 507. Section 72013 is added to the Education Code as enacted by Chapter 1010 of the Statutes of 1976, to read:

72013. Every community college district shall provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

incorporate the changes made in the Education Code, in 1976, into the Education Code as enacted by Chapter 1010 of the Statutes of 1976. It is not the intent of the Legislature to make any substantive change in the law.

SEC. 1136. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The new reorganized Education Code, enacted by Chapter 1010 of the Statutes of 1976, will become operative on April 30, 1977, which is long before the effective date of ordinary statutes enacted in 1977 in the 1977–78 Regular Session of the Legislature. Other 1976 education legislation was directed to the Education Code as enacted by Chapter 2 of the Statutes of 1959. This bill would adapt such other education legislation enacted in 1976 to the reorganized Education Code as enacted by Chapter 1010 of the Statutes of 1976. In order that statutory continuity may be maintained and that administrative confusion may be avoided, such adaptation must become operative on the operative date of the new Education Code. It is, therefore, necessary that this act take effect immediately as an urgency statute.

CHAPTER 967

An act to add Sections 81823 and 81824 to the Education Code, relating to community colleges.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

The people of the State of California do enact as follows:

SECTION 1. Section 81823 is added to the Education Code, to read:

81823. (a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program, or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of:

(1) The justification and documentation for so doing, including

enrollment projections for individual campuses and centers; and

(2) The plan as thus submitted.

(d) The board of governors shall adopt rules and regulations to implement the provisions of subdivision (a) of this section.

SEC. 2. Section 81824 is added to the Education Code, to read:

81824. As used in Section 81823, an "educational center" is an off-campus location established and administered by an existing college or district which: (1) is scheduled to operate for three or more years; (2) is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operation; (3) has on-site administrative personnel; and (4) offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

CHAPTER 797

An act to amend Sections 1243, 1244, 1245, 1604, 1710, 4312, 4320, 8007, 8100, 14042, 15701, 15704, 15705, 15706, 15711, 15712, 15713, 15719, 15721, 15723, 15724, 15727, 15737, 15746, 15749, 16002, 16003, 16007, 16009, 16014, 16022, 16023, 16029, 16034, 16036, 16042, 16044, 16051, 16051.5, 16067, 16082, 16314, 16319, 16330.5, 16331, 16335, 16336, 66804, 71001, 71026, 71027, 71041, 71091, 71092, 72233, 72409, 72640, 74015, 76140, 76160, 76320, 76321, 78005, 78010, 78011, 78409, 78442, 78920, 79010, 79013, 81005, 81363, 81400, 81820, 81831, 81833, 84327, 84330, 84384, 84385, 85241, 85260, 87200, 87214, 87228, 87408, 87412, 87422, and 87768 of, to amend and renumber Section 85264 of, to add Sections 81800.1 and 81831.5 to, to repeal Sections 8035, 10405, 16055, 71029, 71030, 71031, 71032, 71035, 71036, 71037, 71043, 71065, 71067, 71074, 71077, 72293, 72305, 76310, 76332, 76342, 76442, 76455, 78220, 78221, 78270, 81004, 81101, 81102, 81145, 84032, 84321, 84323, 84326, 84333, 84341, 84503, 84532, 85261, 85262, 85263, 87216, 87270, 87294, 87332, 87425, 87433, 87434, 87710, and 87713 of, and to repeal Chapter 3 (commencing with Section 10200) of Part 7 of, Article 10 (commencing with Section 16380) of Chapter 8 of Part 10 of, Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of, Chapter 4 (commencing with Section 78600) of Part 48 of, Chapter 5 (commencing with Section 78700) of Part 48 of, Chapter 6 (commencing with Section 78800) of Part 48 of, Article 3 (commencing with Section 79140) of Chapter 9 of Part 48 of, Article 4 (commencing with Section 79150) of Chapter 9 of Part 48 of, Article 3 (commencing with Section 81050) of Chapter 1 of Part 49 of, Chapter 6 (commencing with Section 82100) of Part 49 of, Article 4 (commencing with Section 84560) of Chapter 4 of Part 50 of, Article 6 (commencing with Section 84781) of Chapter 5 of Part 50 of, Article 9 (commencing with Section 84810) of Chapter 5 of Part 50 of, Article 10 (commencing with Section 84830) of Chapter 5 of Part 50 of, Article 12 (commencing with Section 84860) of Chapter 5 of Part 50 of, and Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of, the Education Code, relating to community colleges.

[Approved by Governor September 19, 1979. Filed with Secretary of State September 19, 1979.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to update and technically clarify provisions of law which establish powers and duties of the Board of Governors of the California Community Colleges and the Chancellor of the California Community Colleges. This act repeals numerous Education Code provisions relating to the board of governors and the chancellor's office which are outdated or redundant. It also repeals certain Education Code provisions which were mistakenly made applicable

SEC. 106. Article 3 (commencing with Section 81050) of Chapter 1 of Part 49 of the Education Code is repealed.

SEC. 107. Section 81101 of the Education Code is repealed.

SEC. 108. Section 81102 of the Education Code is repealed.

SEC. 109. Section 81145 of the Education Code is repealed.

SEC. 110. Section 81363 of the Education Code is amended to read:

81363. The funds derived from the sale or from a lease with an option to purchase shall be used for capital outlay; provided, however, that the proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 81363.5 may be deposited in the general fund of the district if, prior to such sale or lease, the community college district governing board has determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease.

SEC. 111. Section 81400 of the Education Code is amended to read:

81400. After considering all proposals submitted, the governing board of the community college district shall have the authority, subject to the provisions of Section 81401, to select the plan or proposal which best meets the needs of the district and to enter into a contract incorporating that plan or proposal either as submitted or as revised by the district's governing board.

The governing board shall require any person, firm or corporation with whom it enters into a lease or agreement pursuant to this article to file a bond, executed by either two or more good and sufficient sureties or by a corporate surety, for the performance of such lease or agreement.

SEC. 112. Section 81800.1 is added to the Education Code, to read:

81800.1. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state and the education of community college students is a joint obligation and function of both the state and community college districts.

In adopting this chapter, the Legislature considers that the greatest need is to provide community college facilities that will be required to house the great increase of community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

SEC. 113. Section 81820 of the Education Code is amended to read:

81820. The governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of

funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes.

SEC. 114. Section 81831 of the Education Code is amended to read:

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if approved after review by the Board of Governors of the California Community Colleges, shall transmit the approved proposed project to the Department of Finance not later than May 1st of each year. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

SEC. 115. Section 81831.5 is added to the Education Code, to read:

81831.5. The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities and sites or major additions to existing facilities shall report to the chancellor's office on plans to achieve (a) a greater use of any joint or contiguous recreation and park facilities by the district and (b) possible use by the total community of such facilities and sites and recreation and park facilities.

SEC. 116. Section 81833 of the Education Code is amended to read:

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding May 1st of each year. A proposed project submitted to the Department of Finance pursuant to Section 81831, shall be finally acted upon by the department pursuant to Section 81832 on or before the first day of July each year.

SEC. 117. Chapter 6 (commencing with Section 82100) of Part 49 of the Education Code is repealed.

SEC. 118. Section 84032 of the Education Code is repealed.

SEC. 119. Section 84321 of the Education Code is repealed.

teaching position who has rendered service to the district for at least six consecutive years preceding the granting of the leave, but not more than one such leave of absence shall be granted in each six-year period. The governing board granting the leave of absence may prescribe the standards of service which shall entitle the employee to the leave of absence. No absence from the service of the district under a leave of absence, other than a leave of absence granted pursuant to Section 87767, granted by the governing board of the district shall be deemed a break in the continuity of service required by this section, and the period of such absence shall not be included as service in computing the six consecutive years of service required by this section. Service under a national recognized fellowship or foundation approved by the board of governors, for a period of not more than one year, for research, teaching or lecturing shall not be deemed a break in continuity of service, and the period of such absence shall be included in computing the six consecutive years of service required by this section.

SEC. 157. Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of the Education Code is repealed.

SEC. 158. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and Taxation Code. Moreover, no claim shall be considered with respect to this act by the State Board of Control pursuant to Section 905.2 of the Government Code or Section 2250 of the Revenue and Taxation Code, and the Department of Finance shall not review or report on this act pursuant to Section 2246 of the Revenue and Taxation Code.

CHAPTER 977

An act to amend Sections 8092 and 52302 of, and to add Sections 52301.5, 52302.3, 52519, 52520, 78015, and 78016 to, the Education Code, relating to vocational education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1979. Filed with Secretary of State September 22, 1979.]

unified school district shall, prior to establishing a vocational or occupational training program, conduct a job market study of the standard metropolitan statistical area in which it proposes to establish the program. To the extent possible, the study shall use the California Occupational Information System and other available sources of labor market information. The study shall be conducted in cooperation with the Employment Development Department, prospective employers, and the district's advisory committee on vocational education. The Employment Development Department may cooperate in the study, to the extent possible, within existing resources. The study shall include an analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to insure that the anticipated employment demand for the adults enrolled in the proposed program justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the high school or unified school district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the high school district or unified school district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to the provisions of Section 8092.

SEC. 6. Section 52520 is added to the Education Code, to read:

52520. (a) Every vocational or occupational training program for adults offered by any high school district or unified school district shall be reviewed every two years by the governing board to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 7. Section 78015 is added to the Education Code, to read:

78015. (a) The governing board of a community college district shall, prior to establishing a vocational or occupational training program, conduct a job market study of the standard metropolitan statistical area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. To the extent possible, the study shall use the California Occupational Information System, as defined

in Section 52301.5, and other available sources of labor market information. The study shall be conducted in cooperation with the Employment Development Department, prospective employers, and the district's advisory committee on vocational education. The Employment Development Department may cooperate in the study, to the extent possible, within existing resources. The study shall include an analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to insure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to the provisions of Section 8092.

SEC. 8. Section 78016 is added to the Education Code, to read:

78016. (a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the provisions of this act be implemented as soon as possible and that the training to be provided under this act be made available to students as soon as possible, it is necessary that this act take effect immediately. In addition, this bill would diminish the constitutional cloud over existing vocational education contracts.

CHAPTER 910

An act to repeal, add, and repeal Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 81800) is added to Part 49 of the Education Code, to read:

CHAPTER 4. COMMUNITY COLLEGE CONSTRUCTION ACT OF 1980

Article 1. Definitions and General Provisions

81800. (a) This chapter shall be known and may be cited as the Community College Construction Act of 1980.

(b) The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state, and the education of community college students is a joint obligation and function of both the state and community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be

required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

81801. As used in this chapter, "community college" means grades 13 and 14 of a community college; and "community college district" means any community college district.

81802. (a) As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, and basic food service facilities; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities; and the initial acquisition of equipment.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The chancellor's office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Legislature as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

81803. As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

81804. As used in this chapter, "chancellor" means the Chancellor of the California Community Colleges.

81805. This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.

81806. Any action of the chancellor in administering this chapter may be appealed to the board of governors by the governing board of an affected community college district. The appeal shall be placed on the agenda of the board in accordance with the general agenda practices of the board. The decision of the board on such appeals shall be final.

81807. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.

81808. In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the project and the sources of the funds expended.

81810. As used in this chapter, "educational center" means an off campus location established and administered by an existing college or district which:

(a) Is scheduled to operate for three or more years;

(b) Is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operations;

(c) Has onsite administrative personnel; and

(d) Offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

Article 2. Plans for Capital Construction

81820. On or before February 1, 1981, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for

community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

81821.5. The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities and sites or major additions to existing facilities shall report to the chancellor's office on plans to achieve: (a) a greater use of any joint or contiguous recreation and park facilities by the district; and (b) possible use by the total community of such facilities and sites and recreation and park facilities.

81822. The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes

therein as are appropriate, and approve or disapprove the plan. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after such approval or disapproval, notify the governing board of each community college district of the content of the district's plan for capital construction.

81823. (a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.

Article 3. Project Proposals

81830. Any community college district may submit a proposed project to the chancellor for review and approval or disapproval. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 81821.

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821. Such review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable

under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available therefor, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by Section 81838, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district matching share for the cost of the project or one or more of its phases, computed pursuant to Section 81838, the district shall provide the moneys available, as defined by the board of governors, and state funds may be requested to provide the balance of funds required.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis, if the district has funds pursuant to Section 81838, by the state and the district, the total state funds required by appropriation, and the state funds required to be provided for the project or one or more of its phases.

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding April 1st of each year.

81836. The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the chancellor's office for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the chancellor for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to Section 81831, the chancellor's office shall charge a reasonable fee as established by the

10 065

board of governors.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred thousand dollars ($100,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

81838. In determining a community college district's matching share, the chancellor's office shall do the following:

(a) Determine the average statewide ending balance per weekly student contact hour according to the following procedure:

(1) For each district divide the total prior year's net ending balance of all budget funds established and maintained, minus excluded funds as defined by subdivision (c), by that district's annual weekly student contact hours for the same fiscal year.

(2) Compute the mean average district ending balance per weekly student contact hour for the prior fiscal year by dividing the total of ending balances statewide by the total statewide weekly student contact hours for the same fiscal year.

(b) Determine the state-local matching shares for each community college district according to the following procedure:

(1) For each district compute a factor by dividing the amount calculated in paragraph (1) of subdivision (a) by the statewide average district ending balance per weekly student contact hour computed pursuant to paragraph (2) of subdivision (a).

(2) The distict local matching share shall be equal to 50 percent of the project cost multiplied by the factor.

(c) As used in this chapter, "excluded funds" means any of the following:

(1) Moneys designated for specific projects included in the district's five-year plan, which were included in the Budget Act of 1980 or a prior Budget Act.

(2) Moneys designated for 100 percent locally funded projects which were approved by the chancellor's office prior to July 1, 1981.

(3) Restricted and committed revenues such as those moneys collected for community service programs, student health activities, food services, book stores, parking, district self-insurance, California State Teachers' Retirement System, Public Employees' Retirement System, and others as certified to by the district governing board and approved by the chancellor's office.

81839. The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state.

81840. This chapter shall remain in effect only until July 1, 1982, and as of such date is repealed unless a statute which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 3. (a) There is hereby appropriated from the Capital Outlay Fund for Public Higher Education to the Board of Governors of the California Community Colleges the sum of four million four hundred seventy-three thousand two hundred fifty dollars ($4,473,250) to be allocated, subject to the prior approval of the State Public Works Board, by the Board of Governors of the California Community Colleges to community college districts for expenditure by such districts as set forth in the schedule below:

Imperial Community College District,	
Imperial Valley College:	
(1) Working drawings and construct removal of architectural barriers	135,700
Los Angeles Community College District,	
East Los Angeles College:	
(2) Working drawings and construct removal of architectural barriers	55,300
(2.5) Replacement of air conditioning system in the existing library provided that the district provides equivalent matching funds prior to the State Public Works Board allocation	80,500
Los Angeles Harbor College:	
(3) Working drawings and construct removal of architectural barriers	62,500

CHAPTER 911

An act to amend Section 15432 of the Government Code, and Section 436.2 of the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

CHAPTER 470

An act to amend Sections 1256, 1257, 1264, 1265, 1330, 2400, 2509, 10401, 10407, 32020, 32030, 32040, 32044, 32211, 66803, 71060, 72002, 72020, 72030, 72122, 72126, 72129, 72237, 72280, 72300, 72330, 72331, 72332, 72400, 72401, 72408, 72533, 72601, 72602, 72670, 72673, 72682, 76000, 76001, 76002, 76130, 76160, 78005, 78008, 78030, 78031, 78032, 78033, 78204, 78409, 78907, 79000, 79020, 79021, 79022, 79023, 79024, 79025, 79026, 79027.5, 79028, 79030, 79031, 81000, 81006, 81031, 81033, 81033.5, 81035, 81036, 81038, 81144, 81179, 81452, 81457, 81640, 81648, 81657, 81658, 81821, 82530, 82531, 82535, 82536, 82537, 82538, 82541, 82542, 82543, 82544, 84300, 84362, 84370, 84373, 84500, 84520, 84528, 85000, 85003, 85022, 85200, 85201, 85266, 85442, 87032, 87036, 87039, 87212, 87274, 87408.5, 87409, 87422, 87423, 87424, 87428, 87454, 87455, 87456, 87457, 87458, 87484, 87708, 87732, 87733, 87735, 87744, 87745, 87801, 87808, 87828, 88000, 88240, and 88242 of, to amend the heading of Chapter 8 (commencing with Section 79000) of Part 48 of, to add Sections 8085, 71029, 78002, 78200.5, 78270, 78460, 81130.5, 87406.5, 87408.6, 88008, and 88010.5 to, to add Article 2 (commencing with

10 05

Section 78220) and Article 8 (commencing with Section 78310) to Chapter 2 of, and Chapter 4 (commencing with Section 78600) to, Part 48 of, to add an article heading to Chapter 3 of Part 51 of, to repeal Sections 2501, 10402, 10404, 10406, 66905, 66920, 68081, 68083, 68132, 71094, 71095, 72034, 72100, 72101.5, 72105, 72124, 72130, 72131, 72205, 72209, 72210, 72234, 72236, 72240, 72240.5, 72252, 72300.5, 72301, 72303, 72333, 72334, 72402, 72403, 72414, 72416, 72417, 72418, 72504, 72507, 72509, 72511, 72539, 72604, 72642, 74011.5, 74032, 74103, 76003, 76004, 76005, 76006, 76131, 76141, 76406, 76423, 76424, 76425, 76456, 76482, 78009, 78013, 78014, 78034, 78209, 78273, 78404, 78410, 78411, 78464, 78465, 78931, 78932, 78933, 79002, 79003, 79011, 81003, 81007, 81032, 81034, 81037, 81043, 81131.4, 81178, 81180.5, 81182, 81184, 81333, 81337, 81338, 81339, 81340, 81341, 81342, 81342.5, 81343, 81352, 81353, 81354, 81360.5, 81383, 81610, 81612, 81614, 81615, 81616, 81650, 81652, 81654, 82302, 82303, 82306, 82307, 82502, 82503, 82504, 82505, 82506, 82507, 82545, 82546, 82547, 84006, 84007, 84009, 84070, 84071, 84202, 84203, 84204, 84205, 84301, 84302, 84303, 84374, 84501, 84529, 85001, 85002, 87030, 87045, 87065, 87210, 87211, 87212.5, 87213, 87215, 87337, 87338, 87343, 87344, 87345, 87346, 87347, 87403, 87404, 87407, 87426, 87427, 87429, 87430, 87431, 87435, 87437, 87439, 87450, 87452, 87465, 87703, 87704, 87705, 87707, 87709, 87711, 87712, 87738, 87800, 87805, 87811, 87826, 87827, and 87830 of, to repeal Chapter 8 (commencing with Section 2100) of Part 2 of, Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of, Article 1 (commencing with Section 14200) of Chapter 2 of Part 9 of, Article 5 (commencing with Section 76100) of Chapter 1, Article 3 (commencing with Section 76440) of Chapter 3, and Article 7 (commencing with Section 76490) of Chapter 6, of Part 47 of, Article 4 (commencing with Section 78451) of Chapter 3, Article 2 (commencing with Section 79130), and Article 5 (commencing with Section 79160), of Chapter 9, of Part 48 of, Article 4 (commencing with Section 81060), Article 5 (commencing with Section 81080), and Article 6 (commencing with Section 81100), of Chapter 1 of, Article 2 (commencing with Section 81630) of Chapter 3 of, Chapter 5 (commencing with Section 81900) of, Article 2 (commencing with Section 82320) of Chapter 7 of, Part 49 of, and Article 4 (commencing with Section 84340) of Chapter 3 of, and Chapter 7 (commencing with Section 85100) of, Part 50 of, to repeal the article heading of Article 2 of Chapter 2 of Part 48 of, to amend and repeal Section 72035 of, to repeal and add Sections 72422, 72506, 76400, 76401, 78930, 79001, 81160, 87401, and 87714 of, and to repeal and add Article 2 (commencing with Section 72010) of Chapter 1 of Part 45 of, Article 3 (commencing with Section 76030) of Chapter 1 of, Chapter 2 (commencing with Section 76300) of, and Article 4 (commencing with Section 76450) of Chapter 3 of, Part 47 of, the Education Code, relating to education.

[Approved by Governor September 14, 1981. Filed with Secretary of State September 14, 1981.]

SEC. 41. Section 71060 of the Education Code is amended to read:

71060. By enacting this article the Legislature declares its intent to more specifically delineate the powers, duties, and functions of the Board of Governors of the California Community Colleges and the powers, duties, and functions of the local district governing boards operating community colleges.

SEC. 42. Section 71094 of the Education Code is repealed.

SEC. 43. Section 71095 of the Education Code is repealed.

SEC. 44. Section 72002 of the Education Code is amended to read:

72002. Whenever a petition is presented to the governing board of a community college district, signed by at least 15 qualified electors of any community college district, asking that the name of the district be changed, the governing board shall designate a day upon which it will act upon the petition, which shall not be less than 10 days nor more than 40 days after the receipt of the petition.

The clerk of the governing board shall give notice to all parties interested by sending a notice of the time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for hearing. At the hearing the board shall by resolution either grant or deny the petition, and, if granted, the clerk shall notify the county superintendent of the change of the name of the district.

SEC. 45. Article 2 (commencing with Section 72010) of Chapter 1 of Part 45 of the Education Code is repealed.

SEC. 46. Article 2 (commencing with Section 72010) is added to Chapter 1 of Part 45 of the Education Code, to read:

Article 2. Nondiscrimination

72010. The provisions of this article are supplemental to any provision in the Constitution or laws of the United States or Constitution or laws of the State of California, relating to discrimination.

72011. Every community college district shall provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

72012. Every community college shall comply with the provisions of Sections 40, 41, and 66016, relating to sex discrimination.

SEC. 47. Section 72020 of the Education Code is amended to read:

72020. In any community college district coterminous with a unified district, the governing board of the unified district shall, except as provided in this section or in Section 74126, constitute the community college board and after organizing as a community college board shall have the management and control of the community college in the district. If the district is divided into two or more unified districts, or if any territory is included within the boundaries of such community college district by annexation thereto or by change of boundaries thereof, which territory is not included within the unified district, such community college district shall be governed by a board of five members who shall be elected in the

dollars ($250) per transaction for work done, compensation for employees or consultants, and purchases of equipment, supplies, or materials. Ratification by the governing board shall not be required with respect to transactions entered into pursuant to this section. In the event of malfeasance in office, the district official invested by the governing board with authority to act under this section shall be personally liable for any and all moneys of the district paid out as a result of such malfeasance.

SEC. 255. Section 81658 of the Education Code is amended to read:

81658. If any change or alteration of a contract governed by the provisions of this article is ordered by the governing board of the community college district, such change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of:

(a) The amount specified in Section 81640 or 81649, whichever is applicable to the original contract; or

(b) Ten percent of the original contract price.

SEC. 256. Section 81821 of the Education Code is amended to read:

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

SEC. 257. Chapter 5 (commencing with Section 81900) of Part 49 of the Education Code is repealed.

SEC. 258. Section 82302 of the Education Code is repealed.

SEC. 259. Section 82303 of the Education Code is repealed.

SEC. 260. Section 82306 of the Education Code is repealed.

SEC. 261. Section 82307 of the Education Code is repealed.

SEC. 262. Article 2 (commencing with Section 82320) of Chapter 7 of Part 49 of the Education Code is repealed.

SEC. 263. Section 82502 of the Education Code is repealed.

SEC. 264. Section 82503 of the Education Code is repealed.

SEC. 265. Section 82504 of the Education Code is repealed.

SEC. 266. Section 82505 of the Education Code is repealed.

SEC. 267. Section 82506 of the Education Code is repealed.

SEC. 268. Section 82507 of the Education Code is repealed.

SEC. 269. Section 82530 of the Education Code is amended to read:

82530. The governing board of any community college district may grant the use of college facilities or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article.

The governing board of any community college district may grant the use of college facilities or grounds to any church or religious organization for the conduct of religious services for temporary periods where such church or organization has no suitable meeting place for the conduct of such services upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article. Notwithstanding the provisions of Section 82542, the governing board shall charge the church or religious organization using such property for the conduct of religious services an amount at least sufficient to pay the cost to the district of supplies, utilities and salaries paid college district employees necessitated by such use of such property.

SEC. 270. Section 82531 of the Education Code is amended to read:

82531. No use shall be inconsistent with the use of the buildings or grounds for college purposes, or interfere with the regular conduct of instruction.

SEC. 271. Section 82535 of the Education Code is amended to read:

82535. The governing board of a community college district may grant the use of college facilities, grounds, and equipment without charge to public agencies for the purpose of holding examinations for the selection of personnel, and for the instruction of precinct board members.

10 05

are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 891

An act to amend Sections 81809, 81821, 81822, 81831, 81833, and 81837 of, and to repeal Section 81840 of, the Education Code, relating to community colleges.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

The people of the State of California do enact as follows:

SECTION 1. Section 81809 of the Education Code is amended to read:

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the project and the sources of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.

SEC. 2. Section 81821 of the Education Code is amended to read:

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction

needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

SEC. 3. Section 81822 of the Education Code is amended to read:

81822. The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.

SEC. 4. Section 81831 of the Education Code is amended to read:

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821. Such review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available therefor, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by Section 81838, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to Section 81838, the district shall provide the moneys available, as defined by the board of governors, and state funds may be requested to provide the balance of funds required.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

SEC. 5. Section 81833 of the Education Code is amended to read:

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding May 1st of each year.

SEC. 6. Section 81837 of the Education Code is amended to read:

81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred fifty thousand dollars ($150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

SEC. 7. Section 81840 of the Education Code is repealed.

CHAPTER 1117

An act to add Chapter 2 (commencing with Section 200) to Part 1 of Division 1 of Title 1 of the Education Code, relating to discrimination.

[Approved by Governor September 16, 1982. Filed with Secretary of State September 17, 1982.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 2 (commencing with Section 200) is added to Part 1 of Division 1 of Title 1 of the Education Code, to read:

CHAPTER 2. PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX

Article 1. Declaration of Purpose

200. It is the policy of the State of California to afford all persons, regardless of their sex, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

Article 2. Definitions

210. For purposes of this chapter, "educational institution" means a public or private preschool, elementary, or secondary school or institution; a public or private institution of vocational, professional, or postsecondary education; the governing board of a school district; the governing board of a community college district; the Regents of the University of California; the Trustees of the California State University, or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.

211. For purposes of this chapter, "governing board" means the governing board of a school district or the governing board of a community college district.

212. For purposes of this chapter, "sex" means the biological condition or quality of being a male or female human being.

213. For purposes of this chapter, "state financial assistance" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any students admitted to the educational institution.

State financial assistance shall include, but not be limited to, all of the following:

(a) Grants of state property, or any interest therein.

(b) Provision of the services of state personnel.

(c) Funds provided by contract, tax rebate, appropriation, allocation, or formula.

214. For purposes of this chapter, "state student financial aid" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution. State student financial aid shall include, but not be limited to, scholarships, loans, grants, or wages.

Article 3. Prohibition of Sex Discrimination

220. No person shall be subjected to discrimination on the basis of sex in any program or activity conducted by an educational institution which receives or benefits from state financial assistance or enrolls students who receive state student financial aid.

221. This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

222. This article shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.

223. This article shall not apply to the membership practices of any of the following:

(a) A social fraternity or social sorority which is exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose active membership consists primarily of students in attendance at an institution of higher education.

(b) The Young Men's Christian Association, Young Women's Christian Association, girl scouts, boy scouts, camp fire girls, or voluntary youth service organizations which are exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose membership has traditionally been limited to persons of one sex, and principally to persons of less than 19 years of age.

224. This article shall not apply to any of the following:

(a) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference.

(b) Any program or activity of any secondary educational institution specifically for any of the following purposes:

(1) The promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference.

(2) The selection of students to attend any of those conferences.

225. This article shall not preclude father-son or mother-daughter activities at an educational institution, provided that if such activities

are offered for students of one sex, opportunities for reasonably comparable activities are offered for students of the other sex.

226. This article shall not apply to any scholarship or other financial assistance awarded by a postsecondary educational institution to any individual upon the basis of a combination of factors related to the individual's personal appearance, poise, and talent as an award in any pageant in which participation is limited exclusively to individuals of one sex, provided that the pageant complies with other nondiscrimination provisions of state and federal law.

227. In regard to admissions to educational institutions, this article shall apply only to institutions of vocational, professional, or postgraduate education, and to public postsecondary education institutions.

228. In regard to admissions to educational institutions, this article shall not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

229. Nothing contained in this article shall be construed to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in, or receiving the benefits of, any state supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, district, or other area. However, this section shall not be construed to prevent the consideration in any hearing or proceeding under this article of statistical evidence which tends to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any state-supported program or activity by the members of one sex.

230. For purposes of this chapter, discrimination on the basis of sex shall include, but not be limited to, the following practices:

(a) On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection to discrimination in any academic, extracurricular, research, occupational training, or other program or activity.

(b) On the basis of sex, provision of different amounts or types of student financial aid, limitation of eligibility for student financial aid, or the application of different criteria to applicants for student financial aid or for participation in the provision of student financial aid by others. Nothing in this subdivision shall be construed to prohibit an educational institution from administering, or assisting in the administration of, scholarships, fellowships, or other forms of student financial aid, established pursuant to domestic or foreign wills, bequests, trusts, or similar legal instruments or by acts of a foreign government, which require that awards be made to members of a particular sex; provided, that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of student financial aid does not discriminate on the basis of

sex.

(c) On the basis of sex, exclusion from participation in or denial of equivalent opportunity in athletic programs. For purposes of this subdivision, "equivalent" means equal or equal in effect.

(d) On the basis of sex, discrimination among persons, including, but not limited to, students and nonstudents, or academic and nonacademic personnel, in employment and the conditions thereof, except as it relates to a bona fide occupational qualification.

(e) On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions.

231. Nothing herein shall be construed to prohibit any educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes, so long as comparable facilities are provided.

232. The State Board of Education, the Board of Governors of the California Community Colleges, and the Trustees of the California State University shall issue rules, regulations, or orders to implement the provisions of this chapter.

The Regents of the University of California may issue rules, regulations, or orders to implement the provisions of this chapter.

Article 4. Instructional Materials

240. Governing boards of school districts shall adopt instructional materials in accordance with the provisions of Section 60040.

Article 5. Compliance

250. Prior to receipt of any state financial assistance or state student financial aid, an educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the educational institution will be conducted in compliance with the provisions of this chapter and all other applicable provisions of state law prohibiting discrimination on the basis of sex. A single assurance, not more than one page in length and signed by an appropriate responsible official of the educational institution, may be provided for all the programs and activities conducted by an educational institution.

251. A school district or a community college district shall submit timely, complete, and accurate compliance reports to the State Department of Education or to the chancellor's office, as those entities may require.

All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours.

Article 6. Enforcement

260. The governing board of a school district shall have the responsibility for ensuring that district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability, and for monitoring compliance with any and all rules and regulations promulgated pursuant to Section 11138 of the Government Code.

261. The provisions of this chapter shall be implemented pursuant to existing regulations and procedures promulgated pursuant to Section 11138 of the Government Code, governing the filing and handling of written complaints of prohibited discrimination.

262. (a) The governing board of a community college district shall have the primary responsibility for ensuring that district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for all of the following:

(1) Reviewing original complaints of alleged unlawful discrimination filed pursuant to Section 59328 of Title 5 of the California Administrative Code.

(2) Reviewing reports of the nature and extent of the investigation of each complaint conducted by the district.

(3) Reviewing reports of any actions taken by the district to resolve each complaint.

(4) Monitoring the compliance of each district with any and all regulations promulgated pursuant to Section 11138 of the Government Code.

263. The California Postsecondary Education Commission shall report to the Legislature and Governor on the representation and utilization of ethnic minorities and women among academic, administrative, and other employees at the commmunity colleges, the California State University, and the University of California, pursuant to Sections 66903.1 and 66903.3.

264. No provision of this chapter shall be applicable to the University of California unless the Regents of the University of California, by resolution, make the provision applicable.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 3. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by

that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1329

An act to amend Sections 52302.3, 52520, and 78016 of, and to add Section 8285.5 to, the Education Code, to add Division 8 (commencing with Section 15000) to, to repeal Section 10524 of, and to repeal Chapter 3 (commencing with Section 10000) of Part 1 of Division 3 of, the Unemployment Insurance Code, and to amend Section 11200 of, and to repeal and add Section 11205 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 22, 1982. Filed with Secretary of State September 23, 1982.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to modify provisions relating to public social services programs.

SEC. 2. Section 8285.5 is added to the Education Code, to read:

8285.5. (a) Notwithstanding any other provision of this chapter, at such times as the Superintendent of Public Instruction proposes to expand child care and development services either within an existing facility or within a newly established child care and development facility, he or she shall submit a written proposal to the county private industry council, established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, for each county wherein the proposed expansion is to occur.

(b) The written proposal shall describe the proposed number of additional children to be served, the proposed location of these

services, the amount of additional funding to be allocated within the county, and any other pertinent information the superintendent may deem useful and necessary.

(c) Following the review of the written proposal by the county private industry council, the Superintendent of Public Instruction shall receive comments submitted by each county's private industry council, and shall, to the maximum extent feasible, incorporate the findings and recommendations of each county council into the actual planned expansion of child care services to be implemented within the county.

(d) Nothing herein shall be construed to preclude the Superintendent of Public Instruction from contacting a county's private industry council prior to the development of any expansion proposal in order to obtain the council's advice and recommendations relating to child care and development services needs occurring within the county.

(e) For the purposes of this section, the term "expansion of child care and development services" means any increase during a calendar year in a county's aggregate average daily enrollment of children receiving subsidized child care services pursuant to the provisions of this chapter above the aggregate average daily enrollment which exists in a county on January 1 of that year.

SEC. 3. Section 52302.3 of the Education Code is amended to read:

52302.3. (a) Every vocational course or program offered by a school district or community college district or districts or county superintendent or superintendents sponsoring a regional occupational center or program shall be reviewed every two years by the appropriate governing body to assure that each such course or program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any course or program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing body shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the county private industry council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each course or program commenced subsequent to the effective date of this section.

SEC. 4. Section 52520 of the Education Code is amended to read:

52520. (a) Every vocational or occupational training program for adults offered by any high school district or unified school district shall be reviewed every two years by the governing board to assure

that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the County Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 5. Section 78016 of the Education Code is amended to read:

78016. (a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the County Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 6. Chapter 3 (commencing with Section 10000) of Part 1 of Division 3 of the Unemployment Insurance Code is repealed.

SEC. 7. Section 10524 of the Unemployment Insurance Code is repealed.

SEC. 8. Division 8 (commencing with Section 15000) is added to the Unemployment Insurance Code, to read:

DIVISION 8. FAMILY ECONOMIC SECURITY: JOB PREPARATION AND TRAINING SERVICES

CHAPTER 1. GENERAL PROVISIONS

15000. The Legislature finds and declares that many

recommendations shall discuss methods by which a portion of the program savings achieved from the provisions contained in this act could be utilized to improve and expand existing child care services. The recommendations required by this section shall be completed and submitted to the State Department of Social Services for inclusion in the report required under Section 12.

SEC. 14. It is the intent of the Legislature that resources and personnel necessary for the implementation of this act be drawn from existing resources and personnel within the State Department of Social Services and the Employment Development Department, except to the extent that federal funds are available to defray the costs of the activities mandated under Section 12.

SEC. 15. The Employment Development Department and the State Department of Social Services shall seek such waivers as are necessary from the federal government for purposes of implementation of this act.

SEC. 16. If any provision of this act or the application thereof to any person or circumstance is held invalid by reason of the federal government's unwillingness to grant the waivers necessary to implement that provision, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and in this respect the provisions of this act are severable. If any provision held invalid because of failure to receive necessary federal waivers, the program shall be operated as consistently as feasible with the legislative intent related to that provision within the requirements of federal law.

SEC. 17. The Family Economic Security Program: Job Preparation and Training Services shall be in effect in all counties of this state by December 31, 1983.

SEC. 18. The Legislature presumes that Congress will enact federal employment and training funding legislation consistent with the provisions contained herein. Unless and until the legislation is enacted, and for so long as the federal Comprehensive Employment and Training Act of 1973, as amended, remains in effect, the provisions of this act shall remain inoperative.

SEC. 19. Nothing in this act shall be construed so as to hold counties liable for the costs of implementing any new duty or higher level of service provided for under this act.

CHAPTER 143

An act to amend Section 2902 of the Business and Professions Code, to amend Section 2080.9 of the Civil Code, to amend Sections 8080, 8081, 8084, 10000, 10001, 10003, 10101, 10103, 10105, 12090, 22509, 23918, 23921, 32220, 32221, 32320, 33031, 33113, 33115, 39363.5, 44212, 44315, 44521, 44522, 44525, 44528, 44529, 44531, 44534, 44574, 44585, 44857, 52342, 54405, 54632, 59006, 59143, 59211, 60313, 66010, 66011, 66016, 66102, 66202, 66203, 66300, 66500, 66601, 66605, 66606, 66607, 66609, 66901, 66903.1, 66904, 67003, 67124, 67146, 68011, 68012, 68022, 68040, 68121, 68123, 68124, 68133, 69271, 69534.3, 69620, 69621, 69622, 69624, 69625, 69626, 69627, 70022, 78001, 81363.5, 84500, 87463, 89001, 89004, 89006, 89030, 89031, 89032, 89033, 89034, 89036, 89037, 89038, 89040, 89041, 89044, 89045, 89046, 89047, 89060, 89063, 89064, 89080, 89082, 89084, 89200, 89210, 89211, 89222, 89230, 89301, 89302, 89304, 89330, 89333, 89400, 89502, 89503, 89508, 89515, 89520, 89530, 89542.5, 89545, 89550, 89552, 89560, 89561, 89701, 89702, 89703, 89704, 89706, 89707, 89708, 89710, 89722, 89723, 89724, 89725, 89750, 89753, 89756, 89758, 89901, 89902, 89903, 89905, 90002, 90011, 90073, 90074, 90075, 90077, 90078, 90100, 90101, 90126, 90400, 90401, 90420, 90510, and 94302 of, to amend the heading of Article 4 (commencing with Section 37050) of Chapter 1 of Part 22 of, to amend the heading of Chapter 8 (commencing with Section 66600) of Part 40 of, to amend the heading of Article 7 (commencing with Section 69620) of Chapter 2 of Part 42 of, to amend the heading of Division 8 (commencing with Section 89000) of, to amend the heading of Part 55 (commencing with Section 89000) of, and to amend the heading of Article 3 (commencing with Section 89560) of Chapter 5 of Part 55 of, the Education Code, to amend Section 12041 of the Food and Agricultural Code, to amend Sections 7.6, 3202, 3560, 3561, 3562, 3569.5, 3572, 3586, 3592, 4451, 4475, 8832, 11121.5, 11126, 14903, 15854.5, 15861, 16304.6a, 16315, 20023.4, 20023.5, 20815, 22816.5, 50330, and 50330.4 of the Government Code, to amend Section 551 of the Health and Safety Code, to amend Section 10203.1 of the Insurance Code, to amend Section 1720.3 of the Labor Code, to amend Sections 602.10,

10 010

SEC. 44. Section 66010 of the Education Code is amended to rea

66010. Public higher education consists of (a) all publi community colleges, (b) the California State University, and eac campus, branch, and function thereof, (c) each campus, branch, an function of the University of California, and (d) the Californi Maritime Academy.

SEC. 45. Section 66011 of the Education Code is amended to rea

66011. It is hereby declared to be the policy of the Legislatur that all resident applicants to California institutions of public highe education, who are determined to be qualified by law or by admission standards established by the respective governing boards should be admitted to either (1) the public community colleges, (2) the California State University, or (3) the University of California

SEC. 46. Section 66016 of the Education Code is amended to read

66016. It is the intent of the Legislature that opportunities fo participation in intercollegiate athletic programs in the community colleges, in the campuses of the California State University, and in the campuses of the University of California be provided on as equa a basis as is practicable to male and female students.

The costs of providing these equal opportunities may vary according to the type of sports contained within the respective men's and women's athletic programs. Therefore it is also the intent of the Legislature that additional sources of revenue should be determined to provide additional funds for these equal opportunity programs.

SEC. 47. Section 66102 of the Education Code is amended to read:

66102. For purposes of this chapter, "public higher education" shall consist of (a) all public community colleges, (b) the California State University, and each campus, branch, and function thereof, (c) each campus, branch, and function of the University of California, and (d) the California Maritime Academy.

SEC. 48. Section 66202 of the Education Code is amended to read:

66202. It is further the intent of the Legislature that the following categories be established, insofar as practicable in the following order, for the purpose of enrollment planning and admission priority practice at the undergraduate resident student level for the California State University and the University of California:

(1) Continuing undergraduate students in good standing.

(2) California residents who have successfully completed the first two years of their baccalaureate program.

(3) California residents entering at the freshman or sophomore levels.

It is further the intent of the Legislature that within each of the preceding enrollment categories, the following groups of applicants receive priority consideration in admissions practice in the following order:

(a) Residents of California who are recently released veterans of the armed forces of the United States.

(b) Transfers from California public community colleges.

(c) Applicants who have been previously enrolled at the campus

during the 1983 calendar year, which takes effect on or before January 1, 1983, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

CHAPTER 537

An act to amend Sections 8285.5, 52302.3, 52520, and 78016 of the Education Code, to amend Section 14999.1 of the Government Code, to amend Sections 15001, 15010, 15011, 15020, 15021, 15022, 15023, 15024, 15025, 15026, 15027, 15028, 15029, 15030, 15031, 15032, 15036, 15040, 15041, 15042, 15043, 15044, 15045, 15046, 15050, 15051, 15052, 15053, 15055, 15056, 15057, 15058, 15063, 15070, 15071, 15072, 15073, 15080, 15081, 15082, and 15087 of, to amend the headings of Chapter 3 (commencing with Section 15020) and Chapter 5 (commencing with Section 15040) of Division 8 of, to add Chapter 1.5 (commencing with Section 15005) and Chapter 7.5 (commencing with Section 15075) to Division 8 of, to add Sections 15009, 15029.5, 15034.5, and 15037.3 to, and to repeal Sections 15032.5 and 15047 of, the Unemployment Insurance Code, and to amend Sections 12, 17, and 19 of Chapter 1329 of the Statutes of 1982, relating to economic development and job training, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 28, 1983. Filed with Secretary of State July 28, 1983.]

The people of the State of California do enact as follows:

SECTION 1. Section 8285.5 of the Education Code is amended to read:

8285.5. (a) Notwithstanding any other provision of this chapter,

body shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local private industry council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each course or program commenced subsequent to the effective date of this section.

SEC. 3. Section 52520 of the Education Code is amended to read:

52520. (a) Every vocational or occupational training program for adults offered by any high school district or unified school district shall be reviewed every two years by the governing board to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 4. Section 78016 of the Education Code is amended to read:

78016. (a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each such program does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to the effective date of this section.

SEC. 4.5. Section 14999.1 of the Government Code is amended to

delivery areas of this state by October 1, 1983.

SEC. 52. Section 19 of Chapter 1329 of the Statutes of 1982 is amended to read:

Sec. 19. Nothing in this act shall be construed so as to hold local units of government liable for the costs of implementing any new duty or higher level of service provided for under this act.

SEC. 53. It is the intent of the Legislature that state personnel and resources presently supporting programs specified in Section 15082 of the Unemployment Insurance Code, as amended by this act, be organized into a single administrative entity either as a major division within an existing state department or as a new state department. The purposes of the reorganization are to:

(1) Promote the intent and purposes of the Family Economic Security Program: Job Preparation and Training Services,

(2) Achieve integration of, and response to policies and direction provided by the state Job Training Coordinating Council,

(3) Assure the investment in job training programs results in a more skilled work force, and

(4) Produce cost savings through administrative efficiencies.

SEC. 54. The Governor shall conduct a study to determine the appropriate state organizational structure required to achieve the Legislature's intent and purposes. On the basis of findings from the study, the Governor is hereby authorized to submit to the Legislature a reorganization plan, pursuant to Article 7.5 (commencing with Section 12080) of Chapter 1 of Part 2 of Division 3 of Title 2 of the Government Code, which accomplishes the intent and purposes of this section. The Governor's reorganization plan shall be submitted to the Legislature by January 1, 1986. In the event the Governor determines that no reorganizational changes should be undertaken, he shall, by that same date, submit to the Legislature a report which describes the findings and conclusions supporting the determination.

SEC. 55. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the state to meet the requirements of the federal Job Training Partnership Act of 1982 and to conform with the requirements of federal law at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1371

An act to amend Section 230 of, and to add Section 212.5 to, the Education Code, relating to education.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

The people of the State of California do enact as follows:

SECTION 1. Section 212.5 is added to the Education Code, to read:

212.5. For purposes of this chapter, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

SEC. 2. Section 230 of the Education Code is amended to read:

230. For purposes of this chapter, harassment and other discrimination on the basis of sex include, but are not limited to, the following practices:

(a) On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection to harassment or other discrimination in, any academic, extracurricular, research, occupational training, or other program or activity.

(b) On the basis of sex, provision of different amounts or types of student financial aid, limitation of eligibility for student financial aid, or the application of different criteria to applicants for student financial aid or for participation in the provision of student financial aid by others. Nothing in this subdivision shall be construed to prohibit an educational institution from administering, or assisting in the administration of, scholarships, fellowships, or other forms of student financial aid, established pursuant to domestic or foreign wills, bequests, trusts, or similar legal instruments or by acts of a foreign government, which require that awards be made to

members of a particular sex; provided, that the overall effect of the award of these sex-restricted scholarships, fellowships, and other forms of student financial aid does not discriminate on the basis of sex.

(c) On the basis of sex, exclusion from participation in, or denial of equivalent opportunity in, athletic programs. For purposes of this subdivision, "equivalent" means equal or equal in effect.

(d) On the basis of sex, harassment or other discrimination among persons, including, but not limited to, students and nonstudents, or academic and nonacademic personnel, in employment and the conditions thereof, except as it relates to a bona fide occupational qualification.

(e) On the basis of sex, the application of any rule concerning the actual or potential parental, family, or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1467

An act to add Article 1.5 (commencing with Section 78210) to Chapter 2 of Part 48 of the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am reducing the appropriation contained in Section 2(a) of Assembly Bill No. 3 from $55,196,000 to $6,151,000.

The reductions are reflected as follows:

Section 2(1) I eliminate this appropriation

Section 2(2) $34,296,000 to $6,151,000.

The reduction has two effects:

1. It will eliminate the one-half-year funding provided in the bill for matriculation.

2. It will provide, after taking into consideration the fiscal impact of AB 216 which I have previously signed, one-half of full funding for community colleges with declining average daily attendance.

When the 1987–88 legislative session convenes, it is my intention to seek full funding for the matriculation (which was funded for one-half-year only) and the remaining one-half of the declining average daily attendance provisions. I support full funding of the matriculation program which was added to my Budget and the declining average daily attendance provisions which I included in my Budget. However, because of the Legislature's failure to complete their own budget process, I am obligated to make these reductions in order to protect California's fiscal integrity. When the Legislature sent me their budget in June, they relied upon an additional $302 million in income. I set aside funding for these programs, awaiting the necessary legislation implementing the Legislature's budget action. Unfortunately, the Legislature has failed to send me a bill fully funding these programs, thus requiring this action.

With this reduction, I approve Assembly Bill No. 3.

GEORGE DEUKMEJIAN, Governor

152550

The people of the State of California do enact as follows:

SECTION 1. Article 1.5 (commencing with Section 78210) is added to Chapter 2 of Part 48 of the Education Code, to read:

Article 1.5. Student Matriculation

78210. This article shall be known and may be cited as the Seymour-Campbell Matriculation Act of 1986.

78211. It is the intent of the Legislature to do all of the following:

(a) Ensure equal education opportunity for all Californians.

(b) Ensure that students receive the educational services necessary to optimize their opportunities for success.

(c) Provide students with the information to establish realistic educational goals, and ensure that the matriculation process does not exclude students from receiving appropriate educational services at community colleges.

78211.5. (a) The Chancellor of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for this purpose allow.

(b) Because of the need to develop and evaluate data on a standard statewide basis concerning the implementation and effectiveness of the matriculation services described in this article, any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article. The obligations of the college or district under the agreement shall include, but not be limited to, the expenditure of funds received pursuant to this article for only those matriculation services approved by the chancellor and the contribution toward the purposes of this article of such matching funds as the chancellor may require pursuant to Section 78216.

78212. (a) For purposes of this article, "matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational objectives. The agreement involves the responsibilities of both parties to attain those objectives through the college's established programs, policies, and requirements.

The student's responsibilities under the agreement include the expression of at least a broad educational intent upon enrollment, the declaration of a specific educational objective within a reasonable period after enrollment, diligence in class attendance and completion of assigned coursework, and the completion of courses and maintenance of progress toward an educational goal according to standards established by the college, the district, and the state.

(b) Matriculation services to be made available by the colleges shall include, but are not limited to, all of the following:

(1) Processing of the application for admission.

(2) Orientation and preorientation services designed to provide to students, on a timely basis, information concerning campus procedures, academic expectations, financial assistance, and any other matters the college or district finds appropriate.

(3) Assessment and counseling upon enrollment, which shall include, but not be limited to, all of the following:

(A) Administration of assessment instruments to determine student competency in computational and language skills.

(B) Assistance to students in the identification of aptitudes, interests and educational objectives, including, but not limited to, associate of arts degrees, transfer for baccalaureate degrees, and vocational certificates and licenses.

(C) Evaluation of student study and learning skills.

(D) Referral to specialized support services as needed, including, but not limited to, federal, state, and local financial assistance; health services; campus employment placement services; extended opportunity programs and services provided pursuant to Article 8 (commencing with Section 69640) of Chapter 2 of Part 42; campus child care services provided pursuant to Article 4 (commencing with Section 8225) of Chapter 2 of Part 6; programs that teach English as a second language; and disabled student services provided pursuant to Chapter 14 (commencing with Section 67300) of Part 40.

(E) Advisement concerning course selection.

(4) Postenrollment evaluation of each student's progress, and required advisement or counseling for students who are enrolled in remedial courses, who have not declared an educational objective as required, or who are on academic probation, as defined by standards adopted by the Board of Governors of the California Community Colleges and community college districts.

78213. (a) No district or college may use any assessment instrument for the purposes of this article without the authorization of the chancellor. The chancellor may adopt a list of authorized assessment instruments pursuant to the policies and procedures developed pursuant to this section and the intent of this article. The chancellor may waive this requirement as to any assessment instrument pending evaluation.

(b) The chancellor shall review all assessment instruments to ensure that they meet all of the following requirements:

(1) Assessment instruments shall be sensitive to cultural and language differences between students.

(2) Assessment instruments shall be used as an advisory tool to assist students in the selection of an educational program.

(3) Assessment instruments shall not be used to exclude students from admission to community colleges.

(c) The chancellor shall establish an advisory committee to review and make recommendations concerning all assessment instruments used by districts and colleges pursuant to this article.

78214. (a) All participating districts shall, with the assistance of the chancellor, establish and maintain institutional research to

evaluate the effectiveness of the matriculation services described by this article and of programs and services designed to remedy students' skills deficiencies.

(b) The data base for this research shall include, but not be limited to:

(1) Prior educational experience, including transcripts when appropriate, as determined by the chancellor.

(2) Educational objectives.

(3) Criteria for exemption from assessment or required counseling or advisement, if applicable.

(4) Need for financial assistance.

(5) Ethnicity, sex, and age.

(6) Academic performance.

(7) Any additional information that the chancellor finds appropriate.

(c) The evaluation provided for by this section shall include an assessment of the effectiveness of the programs and services in attaining at least the following objectives:

(1) Helping students to define their educational goals.

(2) Assisting institutions in the assessment of students' educational needs.

(3) Matching institutional resources with students' educational needs.

(4) Providing students with specialized support services as referred to in subdivision (b) of Section 78212.

78215. The Board of Governors of the California Community Colleges shall establish criteria for exempting students from participation in orientation, assessment testing, or required counseling or advisement under this article.

78216. (a) The Legislature recognizes that community college districts are currently funding various components of student matriculation through existing counseling, assessment, and other student services, but that adequate student matriculation cannot be realized without supplemental funding support.

(b) The chancellor shall develop a formula for funding student matriculation services at community colleges. The formula shall include the requirement that the districts or colleges contribute matching funds in an amount to be established by the chancellor in each case, and shall reflect, but not be limited to, all of the following considerations:

(1) The number of students to receive matriculation services at each college.

(2) The levels of support for matriculation services provided at each college prior to July 1, 1985, and the need for funding assistance in the implementation of the program set forth in this article.

(3) The relative needs for matriculation services, based on special student populations such as low-income students, students with language differences, students with physical and learning disabilities, and students in need of remedial instruction.

(4) The requirement that funds for matriculation services be expended only for services approved by the chancellor.

(5) The requirement that any district or college receiving funding pursuant to this section agree to implement this article during the period in which it receives that funding.

(6) The need for computer hardware and software to provide approved matriculation services, and for institutional research personnel for ongoing evaluation.

(c) The chancellor shall require participating colleges to develop a plan for student matriculation that reflects all of the following:

(1) A method for providing the services specified in Section 78212.

(2) The college budget for the matriculation services pursuant to Sections 78212 and 78214.

(3) The development and training of staff and faculty to implement the matriculation services.

(4) In multicampus districts, the coordination of the college matriculation plan with other college plans.

(5) Computerized information services and institutional research and evaluation necessary for implementation of this article.

(d) The chancellor may allocate up to 5 percent of the total funds appropriated for student matriculation for state administrative operations to carry out the intent of this article, subject to the review of the annual budget process.

78217. (a) By no later than January 30, 1987 and prior to the allocation of any funding for purposes of this article to local districts, the chancellor shall provide the Department of Finance, Legislative Analyst, California Postsecondary Education Commission, and the education policy committees and the fiscal committees of the Legislature with a comprehensive management plan for implementation of matriculation programs pursuant to the provisions of this article.

(b) On or before March 15, 1989, the chancellor shall submit a report to the Legislature evaluating the effectiveness of those community college matriculation programs receiving funding under this article for the 1986–87 academic year. The report shall cover operation of the programs during the 1986–87 and 1987–88 fiscal years, and shall include the chancellor's recommendations regarding the improvement of student matriculation, the continued operation of student matriculation services, and the funding of those services. The chancellor shall include in the report information on the success rate of students who enroll in courses contrary to the recommendations and advice of college advisement staff.

(c) On or before March 15 of each year thereafter, the chancellor shall provide a progress report to the Legislature on the implementation of this article. The chancellor may require participating districts or colleges to provide data for the completion of these reports.

(d) No later than January 1, 1986, the chancellor shall appoint an advisory committee to assist in the development of the evaluation

required by this section; however, the Legislature recognizes that to promote the effective implementation of this program, the chancellor may wish to appoint the advisory committee prior to that date.

(e) On or before April 1, 1988, the chancellor shall submit a report to the Legislature evaluating the comparative utility of matriculation services to students with differing educational objectives.

78218. In the 1986–87 fiscal year and each fiscal year thereafter, this article shall be operative only if funds are specifically appropriated for the purposes of this article.

SEC. 2. (a) The sum of fifty-five million one hundred ninety-six thousand dollars ($55,196,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for local assistance as follows:

(1) Twenty-one million dollars ($21,000,000) for matriculation purposes pursuant to Article 1.5 (commencing with Section 78210) of Chapter 2 of Part 48 of the Education Code.

(2) Thirty-four million one hundred ninety-six thousand dollars ($34,196,000) for the purposes of augmenting category A of Item 6870-101-001 of Section 2.00 of the 1986 Budget Act (Chapter 186 of the Statutes of 1986) for community colleges with declining average daily attendance.

(b) The Legislature declares that funds appropriated by this act for matriculation purposes are for half year costs in the 1986–87 fiscal year.

EXHIBIT 3

COPIES OF CODE SECTIONS CITED

§ 212. Sex

"Sex" means the biological condition or quality of being a male or female human being.

(Added by Stats.1982, c. 1117, p. 4037, § 1. Amended by Stats.1998, c. 914 (A.B.499), § 11.)

§ 212.5. Sexual harassment

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

(a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

(Added by Stats.1984, c. 1371, § 1. Amended by Stats.1998, c. 914 (A.B.499), § 12.)

§ 213. State financial assistance

(a) "State financial assistance" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any pupils admitted to the educational institution.

(b) State financial assistance shall include, but not be limited to, all of the following:

(1) Grants of state property, or any interest therein.

(2) Provision of the services of state personnel.

(3) Funds provided by contract, tax rebate, appropriation, allocation, or formula.

(Added by Stats.1982, c. 1117, p. 4037, § 1. Amended by Stats.1998, c. 914 (A.B.499), § 14.)

§ 214. State student financial aid

"State student financial aid" means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution. State student financial aid shall include, but not be limited to, scholarships, loans, grants, or wages.

(Added by Stats.1982, c. 1117, p. 4038, § 1. Amended by Stats.1998, c. 914 (A.B.499), § 15.)

§ 221.5. Policy of State; prohibited discrimination

(a) It is the policy of the state that elementary and secondary school classes and courses, including nonacademic and elective classes and courses, be conducted, without regard to the sex of the pupil enrolled in these classes and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 51550.

(c) No school district shall require pupils of one sex to enroll in a particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex that is different from that offered to pupils of the opposite sex or, in counseling pupils, differentiate career, vocational, or higher education opportunities on the basis of the sex of the pupil counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 48980, in advance of career counseling and course selection commencing with course selection for grade 7 so that they may participate in the counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex.

(Formerly § 40, added by Stats.1976, c. 1010, § 2, operative April 30, 1997. Amended by Stats.1997, c. 36, § 1.5, eff. April 29, 1997; Stats.1990, c. 1372 (S.B.1854),§ 3. Renumbered § 221.5 and amended by Stats.1998, c. 914 (A.B.499), § 2.)

§ 221.7. School-sponsored athletic programs; prohibited sex discrimination

(a) The Legislature finds and declares that female pupils are not accorded opportunities for participation in school-sponsored athletic programs equal to those accorded male pupils. It is the intent of the Legislature that opportunities for participation in athletics be provided equally to male and female pupils.

(b) Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a school district governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(c) Nothing in this section shall be construed to require a school district to require competition between male and female pupils in school-sponsored athletic programs.

(Formerly § 41, added by Stats.1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats.1990, c. 1372 (S.B.1854), § 4. Renumbered § 221.7 and amended by Stats. 1998, c. 914 (A.B.499), § 3.)

§ 66010.2. Goals

The public elementary and secondary schools, the California Community Colleges, the California State University, the University of California, and independent institutions of higher education share goals designed to provide educational opportunity and success to the broadest possible range of our citizens, and shall provide the following:

(a) Access to education, and the opportunity for educational success, for all qualified Californians. Particular efforts should be made with regard to those who are historically and currently underrepresented in both their graduation rates from secondary institutions and in their attendance at California higher educational institutions.

(b) Quality teaching and programs of excellence for their students. This commitment to academic excellence shall provide all students the opportunity to address issues, including ethical issues, that are central to their full development as responsible citizens.

(c) Educational equity not only through a diverse and representative student body and faculty but also through educational environments in which each person, regardless of race, gender, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential.

(Added by Stats.1991, c. 1198 (A.B.617), § 4.2.)

§ 66010.7. Intersegmental collaboration and coordination

(a) The Legislature, through the enactment of this section, expresses its commitment to encourage and support collaboration and coordination among all segments of education.

(b) Within the differentiation of segmental functions outlined in this article, the institutions of higher education shall undertake intersegmental collaboration and coordination particularly when it can do any of the following:

(1) Enhance the achievement of the institutional missions shared by the segments.

(2) Provide more effective planning of postsecondary education on a statewide basis.

(3) Facilitate achievement of the goals of educational equity.

(4) Enable public and independent higher education to meet more effectively the educational needs of a geographic region.

(5) Facilitate student progress from one segment to another, particularly with regard to preparation of students for higher education as well as the transfer from the California Community Colleges to four-year institutions.

(c) The leaders responsible for public and independent institutions of higher education and the Superintendent of Public Instruction shall work together to promote and facilitate the development of intersegmental programs and other cooperative efforts aimed at improving the progress of students through the educational systems and at strengthening the teaching profession at all levels.

(d) The California Postsecondary Education Commission shall have responsibility for reviewing and evaluating the effectiveness of intersegmental activities in accomplishing the established goals, and shall report its findings to the Governor and Legislature biennially.

(Added by Stats.1991, c. 1198 (A.B.617), § 4.5.)

§ 66016. Equal opportunity; participation in athletics

It is the intent of the Legislature that opportunities for participation in intercollegiate athletic programs in the community colleges, in the campuses of the California State University, and in the campuses of the University of California be provided on as equal a basis as is practicable to male and female students.

The costs of providing these equal opportunities may vary according to the type of sports contained within the respective men's and women's athletic programs. Therefore it is also the intent of the Legislature that additional sources of revenue should be determined to provide additional funds for these equal opportunity programs.

(Stats.1976, c. 1010, § 2, operative April 30, 1977. Amended by Stats.1983, c. 143, § 46.)

§ 66030. Higher education; legislative intent; responsibility of governing boards

(a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments which give each Californian, regardless of ethnic origin, race, gender, age, disability, or economic circumstance, a reasonable opportunity to develop fully his or her potential.

(b) It is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law.

(Added by Stats.1991, c. 1198 (A.B.617), § 9.)

§ 66251. Policy; purpose

It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, * * * mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

(Added by Stats.1998, c. 914 (A.B.499), § 49. Amended by Stats.1999, c. 587 (A.B.537), § 7.)

§ 66252. Legislative findings and intent

(a) All students have the right to participate fully in the educational process, free from discrimination and harassment.

(b) California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

(c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.

(d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.

(e) There is an urgent need to teach and inform students in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase students' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in postsecondary educational institutions and in society as a means of responding to potential harassment and hate violence.

(f) It is the intent of the Legislature that each postsecondary educational institution undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of students to equal educational opportunity.

(g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66260. **Definitions governing chapter**

The definitions in this article shall govern the use of the terms defined for purposes of this chapter.
(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66261. Governing board

"Governing board" means the governing board of a community college.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66261.5. Postsecondary educational institution

"Postsecondary educational institution" means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66262. Sex

"Sex" has the same meaning as defined in Section 212.
(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66262.5. Sexual harassment

"Sexual harassment" has the same meaning as defined in Section 212.5.
(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66263. State financial assistance

"State financial assistance" has the same meaning as defined in Section 213.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66264. State student financial aid

"State student financial aid" has the same meaning as defined in Section 214.
(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66270. **Prohibited discrimination**

No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

(Added by Stats.1998, c. 914 (A.B.499), § 49. Amended by Stats.1999, c. 587 (A.B.537), § 8.)

§ 66271.1. Regulations

The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, and the Regents of the University of California may, adopt regulations as required by law to implement this chapter.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66271.7. Community colleges

(a) It is the policy of the state that community college classes and courses, including nonacademic and elective classes and courses, shall be conducted without regard to the sex of the student enrolled in these classes and courses.

(b) No community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student.

(c) No community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

(f) The Legislature finds and declares that female students are not accorded opportunities for participation in community college athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in community college athletics be provided equally to male and female students and on an equitable basis to all students.

(g) Insofar as practicable, in apportioning public funds, community college district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs. Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of the governing board of a community college district, or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and opportunities for participation shall include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(h) It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports. Nothing in this section shall be construed to require a community college to require competition between male and female students in school-sponsored athletic programs.

(Formerly § 72015, added by Stats.1990, c. 1372, (S.B.1834), § 289.5. Renumbered § 66271.7 and amended by Stats.1998, c. 914 (A.B.499), § 51.)

§ 66281.5. State policy; institution's written policy

(a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each postsecondary educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The postsecondary educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the postsecondary educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the postsecondary educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the postsecondary educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the postsecondary educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66290. **State financial assistance or student financial aid; prerequisite institutional assurance of compliance**

Prior to receipt of any state financial assistance or state student financial aid, a postsecondary educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the postsecondary educational institution will be conducted in compliance with this chapter and all other applicable provisions of state law prohibiting discrimination on the basis of sex. A single assurance, not more than one page in length and signed by an appropriate responsible official of the postsecondary educational institution, may be provided for all the programs and activities conducted by a postsecondary educational institution.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66291. **Community college compliance reports**

(a) A community college district shall submit timely, complete, and accurate compliance reports to the chancellor's office, as that entity may require.

(b) All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66292.3. Appeal; notice of remedies; civil remedy timing

(a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a community college district or the president of a campus of the California State University, pursuant to this article, to the Board of Governors of the California Community Colleges or the Chancellor of the California State University, as applicable.

(b) Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders, may also be available to complainants. The educational institution shall make this information available by publication in appropriate informational materials.

(c) Nothing in this chapter shall be construed to require an exhaustion of the appeal to the Board of Governors of the California Community Colleges or to the Chancellor of the California State University pursuant to subdivision (a), before civil law remedies may be purchased.

(d) Notwithstanding any other provision of law, a person who alleges that he or she is a victim of discrimination may not seek civil remedies pursuant to this section until at least 90 days have elapsed from the filing of a discrimination complaint with the local educational agency. The 90–day moratorium imposed by this subdivision does not apply to injunctive relief and is applicable only if the local educational agency has appropriately, and in a timely manner, apprised the complainant of his or her right to file a complaint.

(Added by Stats.1998, c. 914 (A.B.499), § 49.)

§ 66720. Transfer core curriculum; development, etc.; effect of completion

The Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University, with appropriate consultation with the Academic Senates of the respective segments, shall jointly develop, maintain, and disseminate a common core curriculum in general education courses for the purposes of transfer. Any person who has successfully completed the transfer core curriculum, shall be deemed to have thereby completed all lower division general education requirements for the University of California and the California State University.

(Added by Stats.1988, c. 973, § 7.)

§ 66721. Transfer core curriculum; publication and distribution

Upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University shall jointly cause the curriculum to be published and distributed to each public school in this state that provides instruction in any of the grades 7 to 12, inclusive, and to each community college in this state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities. In addition, the Board of Governors shall distribute that transfer core curriculum to the State Board of Education, which shall apply that information to ensure, through its curriculum development activities, that public school pupils enrolled in any of the grades 9 to 12, inclusive, are aware of the academic requirements for preparation for higher education and may receive any necessary academic remediation in a timely manner.

(Added by Stats.1988, c. 973, § 7.)

§ 66721.5. Current transfer core curriculum; copies provided to students; availability

(a)(1) The governing board of each community college district shall direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum.

(2) As used in this section, "transfer core curriculum" means the lower-division, general education transfer curriculum that, pursuant to Section 66720, is fully articulated between the California Community Colleges and the California State University and University of California.

(b) A copy of the current transfer core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution.

(c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule for each academic term. Copies of the transfer core curriculum may also be made available in other locations on each campus, including, but not necessarily limited to, all of the following:

(1) The admissions office.

(2) The bookstore.

(3) The career counseling center.

(4) The veteran's affairs office.

(d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:

(1) During the registration process.

(2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.

(3) During the issuance of student identification cards.

(4) During student orientation programs.

(e) Nothing in this section shall be construed to limit the distribution of the transfer core curriculum to community college students.

(Added by Stats.2000, c. 187 (A.B.1918), § 3.)

§ 66722. **Transfer function; central institutional priority**

It is the intent of the Legislature that the transfer function shall be a central institutional priority of all segments of higher education in California, and that the segments shall have as a fundamental policy and practice the maintenance of an effective transfer system.

(Added by Stats.1991, c. 1198 (A.B.617), § 17.)

§ 66722.5. **Transfer agreement programs**

It is the intent of the Legislature that the segments of higher education shall pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments.

(Added by Stats.1991, c. 1198 (A.B.617), § 18.)

§ 66730. **Upper division enrollment percentage of total undergraduate enrollment; programs to increase transfer students from community colleges**

(a) The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges shall have as a fundamental policy the maintenance of a healthy and expanded student transfer system. Both the University of California and the California State University shall have as a basic enrollment policy the maintenance of upper division enrollment, which are students who have attained upper division status, at 60 percent of total undergraduate enrollment. This goal shall be met through programs aimed at increasing the numbers of qualified transfer students from the community colleges without denying eligible freshmen applicants.

(1) The California State University shall maintain its upper division enrollment, which are students who have attained upper division status, at approximately 60 percent of total undergraduate enrollment. Its planning documents shall reflect this policy.

(2) Commencing in the 1991–92 academic year, the University of California shall progressively increase the percentage that upper division enrollment systemwide is of total undergraduate enrollment through the 1995–96 academic year until that percentage reaches approximately 60 percent. This shall be accomplished through increases in the numbers of community college transfer students admitted to upper division standing at the university without denying eligible freshmen applicants. Planning documents shall reflect these expected increases.

(b) The governing board of each segment shall ensure that individual university and college campus enrollment plans include adequate upper division places for community college transfer students in all undergraduate colleges or schools, and that each undergraduate college or school on each campus participates in developing articulation and transfer agreement programs with community colleges. The governing boards shall meet this goal within their respective general statewide planning framework used to attain and maintain the state's goal of a 60/40 ratio of upper to lower division students, their segmental enrollment planning processes, and campus planning regarding program balance, educational quality, and other relevant goals.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66731. **Student matriculation from community colleges to upper division enrollment as central institutional priority**

Student matriculation from community colleges through the University of California and the California State University shall be recognized by the Governor, Legislature, and the governing boards of each of California's public postsecondary education segments as a central institutional priority of all segments of higher education.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66732. Governing boards to design, adopt and implement policies to facilitate movement of students from community colleges through University of California and California State University

The governing boards of each segment shall declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. The governing boards of each segment shall design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66736. Counseling services; preference for students from economically disadvantaged families and underrepresented minorities

Each community college district governing board shall ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students.

All policies and procedures shall give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66737. **Programs of outreach, recruitment, and cooperation between and among community colleges and universities; place in upper division university program on completion of transfer agreement programs**

The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are expected to develop new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education to facilitate the successful transfer of students between the community colleges and the universities. Every community college student who successfully completes the transfer agreement programs, as defined in Section 66738, in a community college shall have an appropriate place in an upper division university program.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66738. **Development and implementation of formal systemwide articulation agreements and transfer agreement programs; elements of comprehensive transfer system; concurrent enrollment**

(a) The governing board of each public postsecondary education segment shall be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function.

(b) The elements in a comprehensive transfer system shall include, but not be limited to, the following:

(1) Enrollment and resource planning; intersegmental faculty curricular efforts.

(2) Coordinated counseling.

(3) Financial aid and transfer services.

(4) Transfer articulation agreements and programs.

(5) Specific efforts to improve diversity.

(6) Early outreach activities.

(7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses.

(8) Centers.

(c) The governing board of each segment shall expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available; and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66740. **Discipline-specific articulation and transfer program agreements for majors with lower division prerequisites; priority list of community colleges**

Each department, school, and major in the University of California and California State University shall develop, in conjunction with community college faculty in appropriate and associated departments, discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. Faculty from the community colleges and university campuses shall participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency.

Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major.

Community college districts, in conjunction with the California State University and the University of California, shall develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses. The development of these agreements shall be the mutual responsibility of all three segments, and no one segment should bear the organizational or financial responsibility for accomplishing these goals.

The Chancellor of the California Community Colleges and the President of the University of California shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to the University of California. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

The Chancellor of the California Community Colleges and the Chancellor of the California State University system shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to California State Universities. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66741. Opportunity of community college student to enter transfer agreement program; application for admission at advanced standing level

As a result of systemwide and interinstitutional agreements, each community college student shall be assured of the opportunity to enter into a transfer agreement program enabling a student to receive high priority consideration, attain equivalent special treatment, or enter into a contract when applying for university admission at the advanced standing level. It is recognized that eligibility for transfer agreement programs will require completion of certain requirements as defined in interinstitutional agreements. It is also recognized that access to majors of choice will, in most cases, require completion of additional requirements, such as specialized coursework and attainment of a specialized grade point average.

Transfer agreement programs also shall carry high priority access to majors of choice. The University of California and the California State University shall require that continuing undergraduate students and community college transfer students are assessed against a common set of criteria for upper division standing to a specific major. However, generally speaking, access to these programs shall require completion of specialized coursework and attainment of a grade point average above the minimums defined in general admission requirements, such as those used in supplementary admission criteria for impacted or over-subscribed programs.

Alternatively, students may also, by meeting the University of California or California State University requirements for admission at the advanced standing level, simply wish to apply as required. All students meeting these admission requirements shall be guaranteed a place somewhere in the University of California or California State University system, as appropriate.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66742. Annual statistical reports on transfer patterns

The governing boards of the three public segments of higher education shall present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature. The reports shall include recent statistics on student enrollments by campus, segment, gender, ethnicity, and the ratio of upper division to lower division, including information on both freshman and transfer student access to the system. These reports should include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus. For transfer students, this data shall indicate the segment of origin for all students. In addition, data shall be separately identified for transfer students from California Community Colleges, and shall identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group. The reports shall describe the number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, the number of California Community College transfer students denied either admission to the student's first choice of a particular campus of the California State University or the University of California or the student's first choice of a major field of study, and, among those students, the number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California. The reports shall also include information by sex and ethnicity on retention and degree completion for transfer students as well as for native students, and the number and percentage of baccalaureate degree recipients who transferred from a community college.

(Added by Stats.1991, c. 1188 (S.B.121), § 5.)

§ 66743. Intersegmental advisory committee on transfer access and performance; biennial report; report on overall success; legislative hearings

The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:

(a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.

(b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.

(c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes.

* * * The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to implement reform, to achieve the 60/40 ratio by the designated dates, or to * * * improve the transfer rate of historically underrepresented groups significantly, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met.

(Added by Stats.1991, c. 1188 (S.B.121), § 5. Amended by Stats.1995, c. 758 (A.B.446), § 38.)

§ 70901. **Board of governors; duties; rules and regulations; delegation; consultation**

(a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective

element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

§ 70901.5. Rules and regulations

(a) The board of governors shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

(1) Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(3) The board of governors shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority," "clarity," "consistency,"

"reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.

(4) Prior to the adoption of regulations, the board of governors shall consider and respond to all written and oral comments received during the comment period.

(5) The effective date for a regulation shall be suspended if, within 30 days after adoption by the board of governors, at least two-thirds of all governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the board of governors shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

(B) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly adopted regulation, and shall go into effect in accordance with those procedures.

(C) Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed necessary to clarify the intent of the original regulation. If the board of governors decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any further appeal within the California Community Colleges.

(6) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the board of governors shall not adopt the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.

(7) Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the board of governors, the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the board of governors.

(Added by Stats.1988, c. 973, § 8, operative Jan. 1, 1990.)

Operative Jan. 1, 1990

§ 70902. Governing boards; rules and regulations; duties; authority; delegation

(a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of the provisions of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

§ 70902

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right to participate effectively in district and college governance, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision (b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate; provided, however, that the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

(Added by Stats.1988, c. 973, § 8.)

§ 71027. General common course numbering system; development, maintenance and dissemination

(a) The Board of Governors of the California Community Colleges shall develop, maintain, and disseminate a general common course numbering system for use by the community college districts.

(b) The office of the Chancellor of the California Community Colleges shall absorb the costs of developing, maintaining, and disseminating a general common course numbering system pursuant to this section within the office's existing resources.

(c) The board of governors shall report to the Legislature by January 1, 1998, on its progress in implementing this common course numbering system.

(Added by Stats.1995, c. 493 (S.B.450), § 2.)

§ 72011. Access to services, classes and programs

Every community college district shall provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

(Added by Stats.1981, c. 470, p. 1742, § 46.)

§ 72012. Sex discrimination

Every community college shall comply with * * *Sections 221.5, 221.7, and 66016, relating to sex discrimination.

(Amended by Stats.1998, c. 914 (A.B.499), § 50.)

§ 72013. "Handicap" and "disability"

With respect to access to community college district services, classes, and programs, and with respect to all references within this division, "handicap" and "disability" shall have the same meaning.

(Added by Stats.1990, c. 1372 (S.B.1854), § 288.5.)

§ 72014. **Organizations with discriminatory membership practices; district funds**

No funds under the control of a community college district shall ever be used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. This section does not apply to any public funds which have been paid to an individual officer or employee of the district as salary, or to any funds which are used directly or indirectly for the benefit of student organizations.

(Added by Stats.1990, c. 1372 (S.B.1854), § 289.)

§ 78015. Job market study; area; scope

(a)(1) The governing board of a community college district, prior to establishing a vocational or occupational training program, shall conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State–Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(2) The governing board of the community college district shall make copies of each job market study available to the public.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall determine, by resolution, whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092.

(Amended by Stats.1990, c. 1667 (S.B.1033), § 4; Stats.1995, c. 758 (A.B.446), § 104; Stats.1998, c. 365 (A.B.2214), § 1.)

§ 78016. Review of program; termination

(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to ensure that each program, as demonstrated by the California Occupational Information System, including the State–Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) This section shall apply to each program commenced subsequent to July 28, 1983.

(e) A written summary of the findings of each review shall be made available to the public.

(Amended by Stats.1990, c. 1667 (S.B.1033), § 4.5; Stats.1998, c. 365 (A.B.2214), § 2.)

§ 78210. Short title

This article shall be known and may be cited as the Seymour-Campbell Matriculation Act of 1986.

(Added by Stats.1986, c. 1467, § 1.)

§ 78211. Legislative intent

It is the intent of the Legislature to do all of the following:

(a) Ensure equal education opportunity for all Californians.

(b) Ensure that students receive the educational services necessary to optimize their opportunities for success.

(c) Provide students with the information to establish realistic educational goals, and ensure that the matriculation process does not exclude students from receiving appropriate educational services at community colleges.

(Added by Stats.1986, c. 1467, § 1.)

§ 78211.5. **Matriculation services; establishment in community colleges; agreement by college or district; enforcement during funding**

(a) The * * * Board of Governors of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for this purpose allow.

(b) Because of the need to develop and evaluate data on a standard statewide basis concerning the implementation and effectiveness of the matriculation services described in this article, any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article. The obligations of the college or district under the agreement shall include, but not be limited to, the expenditure of funds received pursuant to this article for only those matriculation services approved by the * * * board of governors and the contribution toward the purposes of this article of matching funds as the * * * board of governors may require pursuant to Section 78216.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 460.)

§ 78212. Matriculation defined; matriculation services

(a) For purposes of this article, "matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational objectives. The agreement involves the responsibilities of both parties to attain those objectives through the college's established programs, policies, and requirements.

The student's responsibilities under the agreement include the expression of at least a broad educational intent upon enrollment, the declaration of a specific educational objective within a reasonable period after enrollment, diligence in class attendance and completion of assigned coursework, and the completion of courses and maintenance of progress toward an educational goal according to standards established by the college, the district, and the state.

(b) Matriculation services to be made available by the colleges shall include, but are not limited to, all of the following:

(1) Processing of the application for admission.

(2) Orientation and preorientation services designed to provide to students, on a timely basis, information concerning campus procedures, academic expectations, financial assistance, and any other matters the college or district finds appropriate.

(3) Assessment and counseling upon enrollment, which shall include, but not be limited to, all of the following:

(A) Administration of assessment instruments to determine student competency in computational and language skills.

(B) Assistance to students in the identification of aptitudes, interests and educational objectives, including, but not limited to, associate of arts degrees, transfer for baccalaureate degrees, and vocational certificates and licenses.

(C) Evaluation of student study and learning skills.

(D) Referral to specialized support services as needed, including, but not limited to, federal, state, and local financial assistance; health services; campus employment placement services; extended opportunity programs and services provided pursuant to Article 8 (commencing with Section 69640) of Chapter 2 of Part 42; campus child care services provided pursuant to Article 4 (commencing with Section 8225) of Chapter 2 of Part 6; programs that teach English as a second language; and disabled student services provided pursuant to Chapter 14 (commencing with Section 67300) of Part 40.

(E) Advisement concerning course selection.

(4) Postenrollment evaluation of each student's progress, and required advisement or counseling for students who are enrolled in remedial courses, who have not declared an educational objective as required, or who are on academic probation, as defined by standards adopted by the Board of Governors of the California Community Colleges and community college districts.

(Added by Stats.1986, c. 1467, § 1.)

§ 78212.5. Authorized district programs

Each community college district may develop and maintain all of the following within each community college in the district:

(a) Career resource and placement centers having the purposes of maintaining information on vocational, technological and educational opportunities, and facilitating career employment.

(b) Programs to instruct appropriate staff and faculty members in the performance of matriculation services.

(c) Orientation programs designed to explain to new students academic requirements and other regulations of the community college, and the available student support services.

(d) A publicity program designed to inform the community served by the community college that the purposes of the mandatory matriculation process are intended to facilitate, rather than restrict, student access to community college instruction, and to enhance each student's awareness of his or her abilities, skills, and potential.

(e) A publicity program designed to inform high schools in the community served by the community college, through orientation programs and other means, of student skill levels, and of available student support services.

(Added by Stats.1988, c. 973, § 18.)

§ 78213. Assessment instruments

(a) No district or college may use any assessment instrument for the purposes of this article without the authorization of the * * * board of governors. The * * * board of governors may adopt a list of authorized assessment instruments pursuant to the policies and procedures developed pursuant to this section and the intent of this article. The * * * board of governors may waive this requirement as to any assessment instrument pending evaluation.

(b) The * * * board of governors shall review all assessment instruments to ensure that they meet all of the following requirements:

(1) Assessment instruments shall be sensitive to cultural and language differences between students.

(2) Assessment instruments shall be used as an advisory tool to assist students in the selection of an educational program.

(3) Assessment instruments shall not be used to exclude students from admission to community colleges.

(c) The * * * board of governors shall establish an advisory committee to review and make recommendations concerning all assessment instruments used by districts and colleges pursuant to this article.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 461.)

§ 78214. Institutional research to evaluate; data base; fulfillment of objectives

(a) All participating districts shall, with the assistance of the chancellor, establish and maintain institutional research to evaluate the effectiveness of the matriculation services described by this article and of programs and services designed to remedy students' skills deficiencies.

(b) The data base for this research shall include, but not be limited to:

(1) Prior educational experience, including transcripts when appropriate, as determined by the chancellor.

(2) Educational objectives.

(3) Criteria for exemption from assessment or required counseling or advisement, if applicable.

(4) Need for financial assistance.

(5) Ethnicity, sex, and age.

(6) Academic performance.

(7) Any additional information that the chancellor finds appropriate.

(c) The evaluation provided for by this section shall include an assessment of the effectiveness of the programs and services in attaining at least the following objectives:

(1) Helping students to define their educational goals.

(2) Assisting institutions in the assessment of students' educational needs.

(3) Matching institutional resources with students' educational needs.

(4) Providing students with specialized support services as referred to in subdivision (b) of Section 78212.

(Added by Stats.1986, c. 1467, § 1.)

§ 78215. Criteria for exemptions

The Board of Governors of the California Community Colleges shall establish criteria for exempting students from participation in orientation, assessment testing, or required counseling or advisement under this article.

(Added by Stats.1986, c. 1467, § 1.)

§ 78216. Student matriculation; funding of services; formula; considerations; plan by participating colleges

(a) The Legislature recognizes that community college districts are currently funding various components of student matriculation through existing counseling, assessment, and other student services, but that adequate student matriculation cannot be realized without supplemental funding support.

(b) The * * * board of governors shall develop a formula for funding student matriculation services at community colleges. The formula shall include the requirement that the districts or colleges contribute matching funds in an amount to be established by the * * * board of governors in each case, and shall reflect, but not be limited to, all of the following considerations:

(1) The number of students to receive matriculation services at each college.

(2) The levels of support for matriculation services provided at each college prior to July 1, 1985, and the need for funding assistance in the implementation of the program set forth in this article.

(3) The relative needs for matriculation services, based on special student populations such as low-income students, students with language differences, students with physical and learning disabilities, and students in need of remedial instruction.

(4) The requirement that funds for matriculation services be expended only for services approved by the * * * board of governors.

(5) The requirement that any district or college receiving funding pursuant to this section agree to implement this article during the period in which it receives that funding.

(6) The need for computer hardware and software to provide approved matriculation services, and for institutional research personnel for ongoing evaluation.

(c) The * * * board of governors shall require participating colleges to develop a plan for student matriculation that reflects all of the following:

(1) A method for providing the services specified in Section 78212.

(2) The college budget for the matriculation services pursuant to Sections 78212 and 78214.

(3) The development and training of staff and faculty to implement the matriculation services.

(4) In multicampus districts, the coordination of the college matriculation plan with other college plans.

(5) Computerized information services and institutional research and evaluation necessary for implementation of this article.

(d) The * * * board of governors may allocate up to 5 percent of the total funds appropriated for student matriculation for state administrative operations to carry out the intent of this article, subject to the review of the annual budget process.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 462.)

§ 78218. Article operative only in fiscal years specifically funded

In the 1986–87 fiscal year and each fiscal year thereafter, this article shall be operative only if funds are specifically appropriated for the purposes of this article.

(Added by Stats.1986, c. 1467, § 1.)

§ 81820. **Preparation and submission; continuing review**

* * * The governing board of each community college district shall prepare and submit to the * * * Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the * * * board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 571.)

§ 81821. Contents of plan

The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to * * * regulations adopted by the board of governors.

(Amended by Stats.1995, c. 758 (A.B.446), § 121.)

§ 81822. **Review, evaluation, and revision**

The * * * board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of the review and evaluation, make the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made * * *. The * * * board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 573.)

§ 81823. Submission of plan based on each college of district

(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.

(Added by Stats.1980, c. 910, p. 2875, § 2, eff. Sept. 17, 1980.)

§ 87100. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) In fulfilling its mission within California's system of public higher education, the California Community Colleges are committed to academic excellence and to providing all students with the opportunity to succeed in their chosen educational pursuits.

(b) Academic excellence can best be sustained in a climate of acceptance and with the inclusion of persons from a wide variety of backgrounds and preparations to provide service to an increasingly diverse student population.

(c) A workforce that is continually responsive to the needs of a diverse student population may be achieved by ensuring that all persons receive an equal opportunity to compete for employment and promotion within the community college districts and by eliminating barriers to equal employment opportunity.

(d) It is the intent of the Legislature to establish and maintain, within the California Community College districts, a policy of equal opportunity in employment for all persons, and to prohibit discrimination or preferential treatment based on ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry, or sexual orientation. Every aspect of personnel policy and practice in the community college districts should advance the realization of inclusion through a continuing program of equal employment opportunity.

(e) The Legislature recognizes that it is not enough to proclaim that community college districts must not discriminate and must not grant preferential treatment on impermissible bases. The Legislature declares that efforts must also be made to build a community in which nondiscrimination and equal opportunity are realized. It is the intent of the Legislature to require community college districts to adopt and implement programs and plans for ensuring equal employment opportunity in their employment practices.

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87101. Purposes

For the purposes of this article:

(a) "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and fully enjoy the benefits of employment by a community college district. Ensuring equal employment opportunity is advanced in an inclusive environment that fosters cooperation, acceptance, democracy, and the free expression of ideas. An inclusive environment is welcoming to men and women, persons with disabilities, individuals from all ethnic groups, and individuals from all other groups protected from discrimination by this article.

(b) "Equal employment opportunity plan" means a document that includes specific procedures for achieving equal employment opportunity.

(c) "Equal employment opportunity program" means all the various methods by which equal employment opportunity is ensured. These methods include, but are not necessarily limited to, actively recruiting, using nondiscriminatory employment practices, and monitoring employment practices to ensure equality of opportunity. Each district employer shall commit to sustained action to devise recruiting, training, and advancement opportunities that will result in equal employment opportunities for all qualified applicants and employees.

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87102. Affirmation of compliance with this article; equal employment opportunity plans

(a) As a condition for the receipt of funds pursuant to Section 87107, the governing board of community college district that opts to participate under the article shall periodically submit to the board of governors an affirmation of compliance with this article. Each participating district's equal employment opportunity program shall ensure participation in, and commitment to, the program by district personnel. Each participating district's equal employment opportunity plan shall include steps that the district will take in eliminating improper discrimination or preferences in its hiring and employment practices. Each plan shall address how the district will make progress in achieving the ratio of full-time to part-time faculty hiring, as indicated in Section 87482.6, while still ensuring equal employment opportunity.

(b) Each participating district's equal employment opportunity plan is a public record within the meaning of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87103. Assistance by board of governors

The board of governors shall render assistance in developing and implementing equal employment opportunity programs in the community college districts.

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87105. Adoption of regulations

The board of governors shall adopt all necessary regulations to carry out the intent of this article and to ensure that each participating community college district implements processes for ensuring equal employment opportunities. Nothing in this act shall be construed to require any community college to incur any costs in excess of the funds allocated by the state for the purposes of this act.

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87106. Systemwide strategies; model equal employment opportunity plan

(a) The board of governors shall develop systemwide strategies for encouraging community college students to become qualified for, and seek, employment as community college faculty or administrators.

(b) The board of governors shall develop and disseminate to community college districts a model equal employment opportunity plan that accomplishes at least all of the following:

(1) Compliance with the regulations adopted by the board of governors to implement this article.

(2) Compliance with the other applicable state and federal nondiscrimination statutes.

(3) Implementation of the best practices for improving the equality of opportunity.

(4) Encouragement of districts to take steps reasonably calculated to inform their students about the opportunity to participate in the Graduate Assumption Program of Loans for Education authorized by Article 5.5 (commencing with Section 69618) of Chapter 2 of Part 42 and to participate in other programs developed by the board of governors pursuant to subdivision (a).

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87107. **Employment Opportunity Fund; establishment; administration**

In order to support the activities required and authorized by this article, the Employment Opportunity Fund is hereby established. The fund shall include moneys appropriated in the annual Budget Act or provided, pursuant to Section 87482.7, through transfer. The moneys in the fund shall be administered by the board of governors for the purpose of promoting equal employment opportunities in hiring and promotion at community college districts.

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87108. **Regulations for use of fund; technical assistance; clearinghouse**

(a) The board of governors shall adopt regulations for the use of the fund. Those uses may include, but need not be limited to, all of the following:

(1) Activities designed to encourage community college students to become qualified for, and seek, employment as community college faculty or administrators.

(2) Outreach and recruitment.

(3) In-service training on equal employment opportunities.

(4) Accommodations for applicants and employees with disabilities.

(5) Activities to promote equal employment opportunities and implement the requirements of this article.

(b) The Board of Governors of the California Community Colleges may use not more than 25 percent of the revenues in the fund to provide technical assistance, service, monitoring, and compliance functions. Service functions under this subdivision may include, but are not necessarily limited to, the provision of a clearinghouse for advertising community college district job opportunities and for allowing persons seeking jobs to make known their interest in community college employment. This clearinghouse shall include a special emphasis on faculty internship employment opportunities and on reaching students who are qualified for faculty internship programs. The remaining balance in the fund may be allocated to the individual community college districts as prescribed by the board of governors.

(Added by Stats.2002, c. 1169 (S.B.2028), § 2.)

§ 87482.6. Districts having less than 75 percent of credit instruction taught by full-time instructors; allocation of funds; regulations; contents

(a) Until the provisions of Section 84750 regarding program-based funding are implemented by a standard adopted by the board of governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors, the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors. To this end, community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply a portion of the program improvement allocation received pursuant to Section 84755 as follows:

(1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.

(2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation.

Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.

(b) The board of governors shall adopt regulations for the effective administration of this section. Unless and until amended by the board of governors, the regulations shall provide as follows:

(1) In computing the percentage of hours of credit instruction taught by full-time instructors, the hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(2) A full-time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

(3) The chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district. This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load). If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If this quotient, once applied, will result in the district exceeding the 75 percent standard, the chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

By March 15th of each year, the chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(4) On or before December 31, 1991, the chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to paragraph (3) for the 1989–90 and 1990–91 fiscal years. To the extent that the cumulative number of FTF have not been retained, the chancellor shall reduce the district's base budget for 1991–92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTF.

(Added by Stats.1988, c. 973, § 35.)

§ 87482.7. **Minimum standards for percentage of hours of credit instruction to be taught by full-time instructors; regulations**

(a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notification by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the * * * Employment Opportunity Fund pursuant to Section 87107.

(Amended by Stats.2002, c. 1169 (S.B.2028), § 3.)

EXHIBIT 4

COPIES OF REGULATIONS CITED

ignated Employees	*Disclosure Categories*
ucational Services and Economic Development Division	1, 4
ce Chancellor	1
inistrator/Academic Planning and Development	1
inistrator/Vocational Education	2
Specialist/Library Planning and Development	2
Specialist/Academic Planning and Development	2
Specialist/Information Systems and Analysis	2
Specialist/General Vocational Education	2
Specialist/Criminal Justice	2
Telecommunications Systems Manager I (Specialist)	2
Consultants*	2
rnal Operations Division	1, 4
Director	3
Accounting Administrator I	3
Senior Accounting Officer (Supervisor)	3
Business Services Officer I (Specialist)	1
Business Services Assistant	3
Staff Services Manager I	2
Consultants*	

*Note: With respect to consultants, the Chancellor, however, may determine in riting that a particular consultant, although a "designated person," is hired to per- rm a range of duties that are limited in scope and thus is not required to comply ith the disclosure requirements described in this category. Such determination all include a description of the consultant's duties and, based upon that descrip- n, a statement of the extent of disclosure requirements. The Chancellor's deter- nation is a public record and shall be retained for public inspection in the same nner and location as this conflict of interest code. Nothing herein excuses any ch consultant from any other provision of the Conflict of Interest Code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) Any interest in real property;

(b) Investments and business positions in, and income from, any busi- ess entity engaged in publishing, manufacturing, selling, or leasing: (1) structional materials, (2) equipment, or (3) services, when such materi- ls, equipment or services are of the type utilized by community college istricts or the Board of Governors or Chancellor's Office, or (4) real es- hich is utilized by community college districts or the Board of Gov- s or Chancellor's Office.

2. Designated employees in Category 2 must report any investments nd business positions in, and income from, any business entity engaged publishing, manufacturing, selling or leasing:

(a) Instructional materials;

(b) Equipment; or

(c) Services; when such materials, equipment or services are of the ype utilized by community college districts or the Board of Governors r Chancellor's Office.

3. Designated employees in Category 3 must report any investments nd business positions in, and income from, any business entity engaged in publishing, manufacturing, selling or leasing:

(a) Instructional materials;

(b) Equipment; or,

(c) Services; when such materials, equipment or services are of the type utilized by the Board of Governors or Chancellor's Office.

4. Designated employees in Category 4 must report any investments and business positions in, and income from, any entity that provides edu- cation, training, or experience to persons toward meeting minimum qual- ifications for employment in a Community College district.

Subchapter 3. Committees

HISTORY

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

HISTORY

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

HISTORY

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

HISTORY

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt a resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Equal Employment Opportunity.

The governing board of a community college district shall:

(a) adopt a district policy which describes its equal employment opportunity program and meets the requirements of section 53002;

(b) develop and adopt a district equal employment opportunity plan which meets the requirements of section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by section 53004;

(d) ensure that a program of recruitment is carried out as required by section 53021;

(e) ensure that screening and selection procedures are developed and used in accordance with section 53024;

(f) ensure that, where necessary, additional steps are taken consistent with the requirements of section 53006;

(g) ensure that the pattern of hiring and retention, when viewed over time, is consistent with the objectives established in the district's equal employment opportunity plan; and

(h) substantially comply with the other provisions of subchapter 1 (commencing with section 53000) of chapter 4.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–111139.5, Government Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).
5. New subsection (f), subsection relettering and amendment of newly designated subsection (g) and NOTE filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
6. Amendment of section heading, section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

) The provisions of Subchapter 11 (commencing with Section 25) of Chapter 6 shall govern the approval of new colleges and educa-al centers.

TE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Ref- ections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Sec-)) of Chapter 4, Part 49, Education Code.

HISTORY

mendment filed 3–4–91 by Board of Governors of California Community Col- ges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Sub- itted to OAL for printing only pursuant to Education Code Section 0901.5(b).

mendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing nly pursuant to Education Code section 70901.5 (Register 94, No. 38).

Editorial correction of HISTORY 1 (Register 95, No. 15).

1016. Accreditation.

Each community college within a district shall be an accredited institu-n. The Accrediting Commission for Community and Junior Colleges ll determine accreditation.

TE: Authority cited: Sections 66700 and 70901, Education Code. Reference: tion 70901, Education Code.

HISTORY

mendment filed 3–4–91 by Board of Governors of California Community Col- ges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Sub- itted to OAL for printing only pursuant to Education Code Section 0901.5(b).

mendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing nly pursuant to Education Code section 70901.5 (Register 94, No. 38).

Editorial correction of HISTORY 1 (Register 95, No. 15).

1018. Counseling Programs.

a) The governing board of a community college district shall adopt gulations and procedures consistent with the provisions of this section. copy of district regulations and procedures, as well as any amend-nts, shall be filed with the Chancellor's Office.

b) The governing board of a community college district shall provide olicize an organized and functioning counseling program in each ge within the district. Counseling programs shall include, but not be ited to, the following:

(1) academic counseling, in which the student is assisted in assessing, nning, and implementing his or her immediate and long–range aca-nic goals;

(2) career counseling, in which the student is assisted in assessing his er aptitudes, abilities, and interests, and is advised concerning the rent and future employment trends;

(3) personal counseling, in which the student is assisted with personal, nily, or other social concerns, when that assistance is related to the stu-nt's education; and

(4) coordination with the counseling aspects of other services to stu-nts which may exist on the campus, including, but not limited to, those rvices provided in programs for students with special needs, skills test-g programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) all be provided to first–time students enrolled for more than six units, idents enrolled provisionally, and students on academic or progress obation.

OTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: ctions 70901 and 72620, Education Code.

HISTORY

Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Editorial correction of HISTORY 1 (Register 95, No. 15).

20. Objectives.

ach community college shall have stated objectives for its instruc-ional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sections 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under Section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer–employee relations. Nothing in this Section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

(c) Nothing in this Section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to Sections 53200–53204, and Section 51023.7, respectively.

(d) The governing board of a community college district shall comply substantially with the provisions of this Section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).
3. Amendment of subsections (a)(1), (a)(3), (a)(5), (a)(7), (b), (c) and (d) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations, the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this Section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this Section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration,and staff.

(d) Nothing in this Section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to

they will consult, collaborate, share or delegate among themselves responsibilities that are or may be delegated to academic senates pursant to the regulations on academic senates contained in Sections 00–53206.

e governing board of a community college district shall comply ually with policies and procedures adopted in accordance with Section.

E: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

ew section filed 3–12–91 by Board of Governors of California Community olleges with the Secretary of State; operative 4–5–91. Submitted to OAL for rinting only pursuant to Education Code section 70901.5(b) (Register 91, No. 3).

ditorial correction of printing errors in subsections (a) and (b) and HISTORY 1 egister 91, No. 43).

mendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9–6–94; perative 10–6–94. Submitted to OAL for printing only pursuant to Education ode section 70901.5 (Register 94, No. 38).

1024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required der Section 55510;

(b) evaluate its matriculation program and participate in statewide aluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with ctions 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its triculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 ommencing with Section 55500) of Chapter 6 of this Division.

OTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: ections 78210–78218, Education Code.

HISTORY

section filed 6–5–90 by the Board of Governors, California Community ges, with the Secretary of State; operative 7–5–90. Submitted to OAL for nting only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Amendment of first paragraph and subsection (e) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

51025. Full–Time/Part–Time Faculty.

This Section relates to and should be read in conjunction with Subapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) If a district's full–time faculty percentage, as calculated pursuant Section 53308, is less than 75 percent, the following shall apply:

(1) For growth revenues received related to increases in credit FTES rsuant to Section 58774, the district shall increase the base full–time culty obligation (as defined in Section 53311), subject to Subsection (e) low, by the Fall term of the succeeding fiscal year, by the product of eir base full–time faculty obligation multiplied by the percentage ange in funded credit FTES, rounded down to the nearest whole number.

In computing the district's full–time faculty obligation for the cceeding fiscal year, the base obligation will be increased by the lower f the projected fundable growth at the time of the budget enactment or e actual percentage change in funded credit FTES. For the second cceeding Fall term the obligation will be adjusted to the actual percentge change in funded credit FTES.

(2) Districts which, as determined from their base data, had a full–time aculty percentage of 67 percent or greater, but less than 75 percent shall pply up to 33 percent of their program improvement allocation pursuant o Subsection (b) of Section 58775, as necessary to reach the 75 percent ard pursuant to Subsection (a)(4) below.

Districts which, as determined from their base data, had a full–time aculty percentage of less than 67 percent shall apply up to 40 percent of heir program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(4) For program improvement funds identified in Subsection (a)(2) or (3), as appropriate, the district shall increase the number of full–time faculty, by the Fall term of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full–time faculty derived in Subsections (a)(1) and (4) result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part–time faculty times the statewide average full–time teaching load.

(c) On or before January 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by the Fall term of that year, has maintained or hired the number of additional full–time faculty determined pursuant to Subsection (a) for the prior fiscal year. To the extent that the number of full–time faculty has not been maintained or additional full–time faculty have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equal to the average replacement cost for the prior fiscal year times the deficiency in the number of full–time faculty. To the extent a district hires the additional full–time faculty in subsequent fiscal years, the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to Subsection (c), shall be made available on a one–time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code, Section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost–of–living funds have been provided to allow full or partial implementation of the provisions of Subsection (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full–time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7–3–91 and submitted to OAL on 7–12–91 for printing only pursuant to Education Code section 70901.5; operative 8–3–91 (Register 91, No. 46).
2. New first paragraph, amendment of subsections (a)–(a)(4) and (c) and NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment of subsections (a)–(a)(4), (b) and (c) filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).
5. Amendment filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 51026. Student Equity.

In accordance with the provisions of Section 54220, the governing board of a community college district shall adopt a student equity plan.

HISTORY

1. New section filed 1–12–98; operative 2–11–98. Submitted to OAL for printing only (Register 98, No. 3).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African–American, Chicano/Latino, American Indian, disabled, low–income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a transfer center plan describing the activities of the transfer center and the services to be provided to students, in-

corporating the provisions established in the standards outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants baccalaureate institutions from ıe populations, including specific targets for increasing the transfer plications of underrepresented students among transfer students. Plans shall be developed in consultation with baccalaureate college and university personnel as available.

Plan components shall include, but not be limited to: services to be provided to students; facilities; staffing; advisory committee; and evaluation and reporting.

(1) Required Services. Districts shall:

(A) Identify, contact, and provide transfer support services to targeted student populations as identified in the transfer center plan, with a priority emphasis placed on African–American, Chicano/Latino, American Indian, disabled, low–income, and other underrepresented students. These

[The next page is 307.]

activities shall be developed and implemented in cooperation with student services departments and with faculty.

(B) Ensure the provision of academic planning for transfer, the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and the development and use of course–to–course and major articulation agreements. Academic planning and articulation activities shall be provided in cooperation with student services, with faculty, and with baccalaureate institution personnel as available.

(C) Ensure that students receive accurate and up–to–date academic and transfer information through coordinated transfer counseling services.

(D) Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan.

(E) Support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, counseling, and to other instructional and student services on campus as appropriate.

(F) Assist students in the transition process, including timely completion and submittal of necessary forms and applications.

(G) In cooperation with baccalaureate institution personnel as available, develop and implement a schedule of services for transfer students to be provided by baccalaureate institution staff.

(H) Provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to baccalaureate institutions, and related transfer information.

(2) Facilities. Each district governing board shall provide space and facilities adequate to support the transfer center and its activities. Each district shall designate a particular location on campus as the focal point of transfer functions. This location should be readily identifiable and accessible to students, faculty, and staff.

(3) Staffing. Each district governing board shall provide clerical support for the transfer center and assign college staff to coordinate the activities of the transfer center; to coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on campus; and to work with baccalaureate institution personnel.

(4) Advisory Committee. Each district shall designate an advisory committee to plan the development, implementation, and ongoing operations of the transfer center. Membership shall be representative of campus departments and services. Baccalaureate institution personnel shall be included as available.

(5) Evaluation and Reporting. Each district governing board shall include in its transfer center plan a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan.

Each community college district shall submit an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of transfer center plan targets and goals, and expenditures supporting transfer center operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66010.4 and 70901, Education Code.

HISTORY

1. New section filed 7–22–91; operative 8–21–91 (Register 92, No. 4).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) At least once each seven years, and at such other times as he or she deems necessary, the Chancellor shall review each community college to determine whether it has met the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51102. Enforcement.

(a) If any review pursuant to Section 51100 discloses that a college is not in compliance with the provisions of Subchapter 1 (commencing with Section 51100) of Chapter 2, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) accept in whole or part the district's response regarding noncompliance;

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to Subsection (b) of this Section, provided that, in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3[216z (Sections 51200 and 51201) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300–51319, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 13)

Action by the Chancellor.

NOTE: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 13).

52311. Special Revocation.

NOTE: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 13).

Subarticle 3. Administrative Hearing Procedure

52320. Administrative Hearing.

NOTE: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 11503 and 11504, Government Code.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subchapter 2. Validation of Service Without a Credential

52400. Application.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

52401. Approval.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

52402. Verification.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

52403. Investigation and Recommendation.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87278, 87281, 87284 and 87295, Education Code.

HISTORY

Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Chapter 4. Employees

Subchapter 1. Equal Employment Opportunity Programs

Article 1. General

§ 53000. Scope and Intent.

(a) This subchapter implements and should be read in conjunction with Government Code sections 11135–11139.5, Education Code sections 66010.2, 66030, and Chapter 4.5 of Part 40 of Title 3, commencing with section 66250; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101). Nothing in this subchapter shall be construed to conflict with or be inconsistent with the provisions of article 1, section 31 of the California Constitution or to authorize conduct that is in conflict with or is inconsistent with such provisions.

(b) The regulations in this subchapter require steps to promote faculty and staff equal employment opportunity which are in addition to and consistent with the nondiscrimination requirements of state or federal law. Therefore, compliance with these regulations or approval of the district's equal employment opportunity plan pursuant to section 53003 does not imply and should not be construed to mean that a district has necessarily complied with its obligations under any other applicable laws or regulations. The Chancellor shall assist districts in identifying other applicable state or federal laws which may affect district equal employment opportunity or nondiscrimination policies.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; Sections 11135–11139.5, Government Code; Title 20, United States Code, Section 1681; Title 29, United States Code, Section 794; and Title 42, United States Code, Sections 2000d, 6101 and 12100, et seq.

HISTORY

1. New chapter 1 (sections 53000–53004) filed 7–19–77; effective thirtieth day thereafter (Register 77, No. 30).
2. Repealer of chapter 1 (subchapter 1, sections 53000–53004) and new chapter 1 (subchapters 1–4, sections 53000–53052, not consecutive) filed 2–1–82; effective thirtieth day thereafter (Register 82, No. 6).
3. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
4. Amendment of subsection (a) and NOTE filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
5. Amendment of subchapter heading, section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53001. Definitions.

As used in this subchapter:

(a) Adverse Impact. "Adverse impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnic group identification, gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if the numbers involved are too small to permit a meaningful comparison.

(b) Business Necessity. "Business necessity" means circumstances which justify an exception to the requirements of section 53021 because compliance with that section would result in substantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than does mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

(c) Equal Employment Opportunity. "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity

to compete for hiring and promotion and to enjoy the benefits of employment with the district. Equal employment opportunity should exist at all levels and in all job categories listed in section 53004(a). Ensuring equal employment opportunity also involves creating an environment which fosters cooperation, acceptance, democracy, and free expression of ideas and is welcoming to men and women, persons with disabilities, and individuals from all ethnic and other groups protected from discrimination by this subchapter.

(d) Equal Employment Opportunity Plan. An "equal employment opportunity plan" is a written document in which a district's work force is analyzed and specific plans and procedures are set forth for ensuring equal employment opportunity.

(e) Equal Employment Opportunity Programs. "Equal employment opportunity programs" means all the various methods by which equal employment opportunity is ensured. Such methods include, but are not limited to, using nondiscriminatory employment practices, actively recruiting, monitoring and taking additional steps consistent with the requirements of section 53006.

(f)(1) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks/African–Americans, and Hispanics/Latinos.

(2) Ethnic Group Identification. "Ethnic group identification" means an individual's identification in one or more of the ethnic groups reported to the Chancellor pursuant to section 53004. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

(g) Goals for Persons with Disabilities. "Goals for persons with disabilities" means a statement that the district will strive to attract and hire additional qualified persons with a disability in order to achieve the level of projected representation for that group by a target date established by taking into account the expected turnover in the work force and the availability of persons with disabilities who are qualified to perform a particular job. Goals are not "quotas" or rigid proportions.

(h) In–house or Promotional Only Hiring. "In–house or promotional only" hiring means that only existing district employees are allowed to apply for a position.

(i) Monitored Group. "Monitored group" means those groups identified in section 53004(b) for which monitoring and reporting is required pursuant to section 53004(a).

(j) Person with a Disability. "Person with a disability" means any person who (1) has a physical or mental impairment as defined in Government Code section 12926 which limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "limited" if the condition makes the achievement of the major life activity difficult.

(k) Projected Representation. "Projected representation" means the percentage of persons from a monitored group determined by the Chancellor to be available and qualified to perform the work in question.

(*l*) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the district to remove artificial or real barriers which prevent or limit the employment and upward mobility of persons with disabilities. "Reasonable accommodations" may include the items designated in section 53025.

(m) Screening or Selection Procedure. "Screening or selection procedure" means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

(n) Significantly Underrepresented Group. "Significantly underrepresented group" means any monitored group for which the percentage of persons from that group employed by the district in any job category listed in section 53004(a) is below eighty percent (80%) of the projected representation for that group in the job category in question.

(o) Target Date. "Target date" means a point in time by which the district plans to meet an established goal for persons with disabilities and thereby achieve projected representation in a particular job category.

(p) Timetable. "Timetable" means a set of specific annual hiring objectives that will lead to meeting a goal for persons with a disability by a projected target date.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; Sections 11135–11139.5, 11092 and 12926, Government Code; 29 C.F.R. 1602.48 (1981); 29 C.F.R. 1607, 29 U.S.C. 793; 41 C.F.R. 60–741–2 (1980).

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsections (a), (b)(1)–(b)–(3), (c), (k) and (m) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (a), (b), (e), (f), (h), (j) and (m), new subsections (m)(1)–(q)(3), and amendment of NOTE filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53002. Policy Statement.

The governing board of each community college district shall adopt a policy statement setting forth the district's commitment to an equal employment opportunity program. This statement may also incorporate the nondiscrimination policy statement required pursuant to section 59300 and other similar nondiscrimination or equal employment opportunity statements which may be required under other provisions of state and federal law.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.1, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment filed 2–7–2001; operative 3–9–2001. Submitted to OAL for printing only (Register 2001, No. 6).
4. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53003. District Plan.

(a) The governing board of each community college district shall develop and adopt a district–wide written equal employment opportunity plan to implement its equal employment opportunity program. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the Chancellor's Office for approval. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its plan.

(c) In particular, the plan shall include all of the following:

(1) the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this subchapter pursuant to section 53020;

(2) the procedure for filing complaints pursuant to section 53026 and the person with whom such complaints are to be filed;

(3) a process for notifying all district employees of the provisions of the plan and the policy statement required under section 53002;

(4) a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this subchapter and of state and federal nondiscrimination laws;

(5) a process for providing annual written notice to appropriate community–based and professional organizations concerning the district's plan and the need for assistance from the community and such organizations in identifying qualified applicants;

(6) an analysis of the number of persons from monitored groups who e employed in the district's work force and those who have applied for np' ·t in each of the job categories listed in section 53004(a);
(7 lysis of the degree to which monitored groups are underrep- s an comparison to the numbers of persons from such groups ho.. ..e Chancellor determines to be available and qualified to perform e work required for each such job category and whether or not the un- rrepresentation is significant;
(8) methods for addressing any underrepresentation identified pur- ant to subparagraph (7)
(9) additional steps consistent with section 53006 to remedy any sig- icant underrepresentation identified in the plan; and
(10) any other measures necessary to further equal employment op- rtunity throughout the district.
(d) The plan shall include any goals for hiring persons with disabilities at are required by section 53025.
(e) The plans submitted to the Chancellor shall be public records.
(f) Each community college district shall make a continuous good faith fort to comply with the requirements of the plan required under this sec- n.
(g) In developing the availability data called for in subsection (c)(7), e Chancellor shall work through the established Consultation Process.

OTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and ction 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Sec- n 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and ctions 11135–11139.5, Government Code.

HISTORY

Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
Amendment of subsections (c)(4) and (7) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
Amendment of subsections (b), (c) and (c)(7), new subsections (c)(8)–(9) and su' n renumbering, amendment of newly designated subsection (c)(10) a ubsection (f) filed 5–31–96; operative 6–30–96. Submitted to OAL f .g only (Register 96, No. 23).
ıment of section and NOTE filed 7–12–2002; operative 8–11–2002. Sub- to OAL for printing only (Register 2002, No. 35).

53004. District Evaluation and Report to Chancellor.

(a) Each district shall annually survey its employees and shall monitor pplicants for employment on an ongoing basis in order to evaluate the mplementation of its equal employment opportunity plan and to provide ata needed for the analyses required by sections 53003, 53006, 53023, nd 53024. Each district shall annually report to the Chancellor, in a man- er prescribed by the Chancellor, the results of its annual survey of em- loyees at each college in the district. Each employee shall be reported o that he or she may be identified as belonging to one of the following even job categories:
(1) executive/administrative/managerial;
(2) faculty and other instructional staff;
(3) professional nonfaculty;
(4) secretarial/clerical;
(5) technical and paraprofessional;
(6) skilled crafts; and
(7) service and maintenance.
(b) For purposes of the survey and report required pursuant to subsec- on (a) of this section, each applicant or employee shall be afforded the pportunity to identify his or her gender, ethnic group identification and, f applicable, his or her disability. A person may designate multiple eth- ic groups with which he or she identifies, but shall be counted in only one ethnic group for reporting purposes. Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are to be counted and reported as part o' ian/Pacific Islander group as well as in separate subcategories. H , in determining whether additional steps are necessary to en- at monitored groups have not been excluded on an impermissible b. ., analysis of the separate subgroups is not necessary.

NOTE: Authority cited: Sections 66271.1, 66700, 70901 and 87105, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 8310.5 and 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsections (a) and (b) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of subsections (a) and (b) and amendment of NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53005. Advisory Committee.

Each community college district shall establish an Equal Employment Opportunity Advisory Committee to assist the district in developing and implementing the plan required under section 53003. This advisory committee shall include a diverse membership whenever possible.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53006. Additional Steps to Ensure Equal Employment Opportunity.

(a) If a district determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the district shall take additional steps consistent with this section. At a minimum, the district shall:
(1) review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group;
(2) consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account, and implement any such techniques which are determined to be feasible and potentially effective;
(3) determine whether the group is still significantly underrepresented in the category or categories in question after the measures described in (1) and (2) have been in place a reasonable period of time; and
(4) if significant underrepresentation persists, the staffing rate for the significantly underrepresented group in the specified job category or categories shall be monitored on an ongoing basis until the projected representation has been achieved for that group in the category or categories in question.
(b) If a reasonable period of time passes and significant underrepresentation persists for a particular group in the job category in question, the district shall:
(1) review each locally established "required," "desired" or "preferred" qualification being used to screen applicants for positions in the job category to determine if it is job–related and consistent with business necessity through a process meeting the requirements of federal law or is among those qualifications which the Board of Governors has found to be job–related and consistent with business necessity throughout the community college system;
(2) discontinue the use of any locally established qualification that has not been found to satisfy the requirements set forth in paragraph (1) of this subdivision; and
(3) continue using qualification standards meeting the requirements of paragraph (1) only where no alternative qualification standard is reasonably available which would select for the same characteristics, meet the requirements of paragraph (1) and be expected to have a less exclusionary effect.
(c) For purposes of this section, "a reasonable period of time" means three years, or such longer period as the Chancellor may approve, upon the request of the equal employment opportunity advisory committee and the chief executive officer, where the district has not filled enough positions to appreciably affect its work force in the job category in question.

(d) Nothing in this subchapter shall be construed to prohibit a district from taking any other steps it concludes are necessary to ensure equal employment opportunity, provided that such actions are consistent with the requirements of federal and state constitutional and statutory nondiscrimination law.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. New section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
2. Amendment of section heading, section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53010. Assistance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87103, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53011. Report.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87104, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53012. Periodic Evaluation.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87102, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 2. Other Specific Responsibilities of Community College Districts

§ 53020. Responsibility; Delegation of Authority; Complaints.

(a) The governing board of each community college district is ultimately responsible for proper implementation of this subchapter at all levels of district and college operation and for making measurable progress toward equal employment opportunity by the methods described in the district's equal employment opportunity plan. In carrying out this responsibility, the governing board, upon the recommendation of the chief executive officer, shall ensure that an equal employment opportunity officer is designated to oversee the day–to–day implementation of the requirements set forth in this subchapter.

(b) The administrative structure created by any delegation of authority to the equal employment opportunity officer or others shall be described in the district's equal employment opportunity plan submitted pursuant to section 53003 and shall be designed in such a manner so as to ensure prompt and effective implementation of the requirements of this subchapter. The plan shall also designate a single officer, who may be the equal employment opportunity officer, who shall be given authority and responsibility for receiving complaints filed pursuant to section 53026, for ensuring that such complaints are promptly and impartially investigated, and ensuring that selection procedures and the applicant pool are properly monitored as required by sections 53023 and 53024.

(c) Any organization or individual, whether or not an employee of the district, who acts on behalf of the governing board with regard to the recruitment and screening of personnel is an agent of the district and is subject to all of the requirements of this subchapter.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsections (a) and (c) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53021. Recruitment.

(a) Except as otherwise provided in this section, community college districts shall actively recruit from both within and outside the district work force to attract qualified applicants for all new openings. This shall include outreach designed to ensure that all persons, including persons from monitored groups, are provided the opportunity to seek employment with the district. The requirement of open recruitment shall apply to all new full–time and part–time openings in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer, and all other executive/administrative/managerial positions. Recruitment for full–time faculty and educational administrator positions shall be at least statewide and, at a minimum, shall include seeking qualified applicants listed in the California Community Colleges Equal Employment Opportunity Registry. Recruitment for part–time faculty positions may be conducted separately for each new opening or by annually establishing a pool of eligible candidates, but in either case full and open recruitment is required consistent with this section.

(b) "In–house or promotional only" recruitment shall not be used to fill any new opening except when the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceed one year in duration. The Chancellor may approve an extension of up to one additional year if the district demonstrates "business necessity" as defined in section 53001(b).

(c) If a district believes justification exists for use of the exception listed in subsection (b), it shall so notify the Equal Employment Opportunity Advisory Committee established pursuant to section 53005 and the Chancellor at least ten (10) working days prior to offering the position to a candidate.

(d) Even where in–house or promotional only recruitment is permitted pursuant to subsection (b), the district shall comply with its established hiring procedures and all qualified district employees shall be afforded the opportunity to apply.

(e) For purposes of this section, a new opening is not created when:

(1) there is a reorganization or series of lateral transfers that do not result in a net increase in the number of employees;

(2) a position which is currently occupied by an incumbent is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;

(3) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term;

(4) the position is filled by a temporary, short–term, or substitute employee appointed pursuant to Education Code sections 87422, 87480, 87482.5(b) 88003, 88106 or 88109; or

(5) a part–time faculty member is assigned to teach the same or fewer hours he or she has previously taught in the same discipline without a substantial break in service. For purposes of this section, "a substantial break in service" means more than one calendar year or such different period as may be defined by a collective bargaining agreement.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment subsections (b) and (d)–(e)(2) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (a) and (b)(1)–(b)(2), repealer of subsection (b)(3), amendment of subsections (c), (d) and (e)(1)–(e)(4) and new subsection (e)(5) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).

Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

53' **Job Announcements and Qualifications.**

J' ...ncements shall state clearly job specifications setting forth ... ledge, skills, and abilities necessary to job performance. For ...ulty and administrative positions, job requirements shall include a ...sitivity to and understanding of the diverse academic, socioeconomic, ...ural, disability, and ethnic backgrounds of community college students. Job specifications, including any "required," "desired" or "pre-...red" qualifications beyond the state minimum qualifications (set forth ...ubchapter 4, commencing with section 53400 of this chapter) which ... district wishes to utilize, shall be reviewed before the position is an-...nced, to ensure conformity with the requirements of this subchapter ...d state and federal nondiscrimination laws.

...TE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and ...tion 11138, Government Code. Reference: Statutes of 1988, Chapter 973, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and ...tions 11135–11139.5, Government Code.

HISTORY

...epealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

...mendment of section heading, section and NOTE filed 7–12–2002; operative ...–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

...3023. Applicant Pool.

(a) The application for employment shall afford each applicant an op...tunity to voluntarily identify his or her gender, ethnic group identifi...ion and, if applicable, his or her disability. This information shall be ...pt confidential and shall be used only in research, validation, monitor..., evaluating the effectiveness of the district's equal employment op...rtunity program, or any other purpose specifically authorized in this ...chapter, or by any applicable statute or regulation.

(b) After the application deadline has passed, the composition of the ...icant pool shall be analyzed to ensure that any failure to obtain ...presentation for any monitored group is not due to discrimi... recruitment procedures. If necessary, the application deadline ...e extended and additional recruitment shall be conducted that ...minates discriminatory recruitment procedures and ensures that re...itment efforts provide a full and fair opportunity for participation to ...wide diversity of potential applicants. When recruitment efforts have ...ered an opportunity for participation to a wide diversity of potential ...plicants or further recruitment efforts would be futile, applications ...all be screened to determine which candidates satisfy job specifica...ns set forth in the job announcement.

(c) Before the selection process continues, the composition of the qu...ified applicant pool shall be analyzed to ensure that no monitored group ... adversely impacted pursuant to section 53001(a). If adverse impact is ...und to exist, the chief executive officer or his or her designee shall take ...ffective steps to address the adverse impact before the selection process ...ntinues. Such steps may include, but are not limited to:

(1) extending the deadline and undertaking inclusive outreach efforts ... ensure that members of the adversely impacted group have equal op...rtunity to seek employment with the district;

(2) including all applicants who were screened out on the basis of any ...cally established qualifications beyond state minimum qualifications ...hich have not been specifically demonstrated to be job–related and consistent with business necessity through a process meeting the require...ents of federal law or which are not among those which the Board of ...overnors has found to be job–related and consistent with business ...ecessity throughout the community college system.

(d) If adverse impact persists after taking steps required under subdivi...on (c), the selection process may proceed only if:

(1) the job announcement does not require qualifications beyond the st... ...e minimum qualifications; or

... ...lly established qualifications beyond state minimum qualifica...s, if any, are demonstrated to be job–related and consistent with busi... ...ecessity through a process meeting the requirements of federal law ...nd suitable alternative selection procedures to reduce the adverse impact were unavailable; or

(3) the particular qualification beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job–related and consistent with business necessity throughout the community college system.

(e) The district may not advertise or utilize in future hiring processes for the same position or a substantially similar position any locally established qualifications beyond state minimum qualifications that the district was unable to verify under subsection (b)(2) unless such qualifications are so verified in advance of commencing any such future hiring process.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code

HISTORY

1. New section filed 2–26–82; designated effective 2–28–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 9).
2. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment of subsections (a) and (b), repealer of subsection (b)(2) and subsection renumbering, and amendment of subsection (c)(2) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53024. Screening or Selection Procedures.

(a) All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, shall be:

(1) provided to the Chancellor upon request;

(2) designed to ensure that for faculty and administrative positions, meaningful consideration is given to the extent to which applicants demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;

(3) based solely on job–related criteria; and

(4) designed to avoid an adverse impact, as defined in section 53001(a), and monitored by means consistent with this section to detect and address any adverse impact which does occur for any monitored group.

(b) If monitoring pursuant to subsection (a)(4) reveals that any selection technique or procedure has adversely impacted any such group, the chief executive officer or his/her designee shall suspend the selection process and timely and effective steps shall be taken to remedy the problem before the selection process resumes. The equal employment opportunity officer, or other official charged with responsibility for monitoring selection procedures, may assist the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures which have produced an adverse impact, provided that confidential information about individual candidates is not disclosed. If adverse impact results from locally established qualifications beyond state minimum qualifications that have not been verified as described in section 53023(c)(2) or replaced with suitable alternatives having a lesser adverse impact, the use of such qualifications shall be immediately discontinued and any applicant eliminated on the basis of that qualification shall be continued in the hiring process. Where necessary, the position may be re–opened at any time and a new selection process initiated in a way designed to avoid adverse impact.

(c) A district may not designate or set aside particular positions to be filled by members of any group defined in terms of ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry or sexual orientation, or engage in any other practice which would result in discriminatory or preferential treatment prohibited by state or federal law. Nor may a district apply the district's equal employment opportunity plan in a rigid manner which has the purpose or effect of so discriminating.

(d) Seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion, and is included in the job announcement consistent with the requirements of section 53022.

(e) Selection testing for employees shall follow procedures as outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures."

(f) Whenever possible, screening committees shall include a diverse membership which will bring a variety of perspectives to the assessment of applicant qualifications.

(g) Notwithstanding any other provision of this division, the governing board or its designee shall have the authority to make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee. This includes the right to reject all candidates and to order further review by the screening committee or to reopen the position where necessary to further achievement of the objectives of the equal employment opportunity plan or to ensure equal employment opportunity. However, a consistent pattern of not hiring qualified candidates from a monitored group who are recommended by screening committees may give rise to an inference that the selections are not consistent with the objectives of equal employment opportunity that are required by this subchapter.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsections (a)(2)–(c), (e) and (g) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53025. Persons with Disabilities.

(a) Districts shall ensure that applicants and employees with disabilities receive reasonable accommodations consistent with the requirements of Government Code sections 11135 et seq. and 12940(m), section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. Such accommodations may include, but are not limited to, job site modifications, job restructuring, part–time work schedules, flexible scheduling, reassignment to a reasonably equivalent vacant position, adaptive equipment, and auxiliary aids such as readers, interpreters, and notetakers. Such accommodations may be paid for with funds provided pursuant to article 3 (commencing with section 53030) of this subchapter.

(b) If a district established a goal for persons with disabilities prior to the effective date of this subsection and if significant underrepresentation still exists, it shall update that goal, set a new target date for achieving projected representation in the category or categories in question, and concurrently comply with subsections (a)(1), (a)(2) and (b) of section 53006 with respect to persons with disabilities.

(c) Where persons with disabilities are found to be significantly underrepresented, measures required under subsections (a)(1) and (a)(2) of section 53006 shall be implemented concurrently with setting a goal with a target date for achieving projected representation for persons with a disability in each job category where the underrepresentation was found to exist. Goals shall remain in effect only until projected representation has been achieved for that group in the category or categories in question. Until the Chancellor's Office provides data regarding the availability of persons with disabilities by job category, an aggregate labor force availability rate shall be utilized for setting goals for hiring persons with disabilities with respect to the total district work force. The district may also concurrently take other additional steps which take disability into account, so long as such measures are discontinued when projected representation is achieved for persons with disabilities in the category or categories in question.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code; 29 U.S.C. 794, and 42 U.S.C. Sections 12101, et seq.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Repealer of subsections (a) and (b) and deletion of subsection designator filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53026. Complaints.

Each community college district shall establish a process permitting any person to file a complaint alleging that the requirements of this subchapter have been violated. A copy of the complaint shall immediately be forwarded to the Chancellor who may require that the district provide a written investigative report within ninety (90) days. Complaints which also allege discrimination prohibited by Government Code sections 11135 et seq. shall be processed according to the procedures set forth in subchapter 5 (commencing with section 59300) of chapter 10 of this division.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53027. Applicability to Districts Operating on the Merit System.

Nothing in this subchapter shall be construed to conflict with or be inconsistent with the provisions of article 3 (commencing with section 88060) of chapter 4 of part 51 of the Education Code which apply to districts operating a merit system for classified employees.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270, 87360 and 88060 et seq., Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53028. Affirmative Action Commitment.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53029. Handicapped.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code; Section 11135, Government Code; 29 U.S.C. 705 and 706.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 3. Faculty and Staff Diversity Fund

§ 53030. Equal Employment Opportunity Fund Allocation.

Resources provided to the Board of Governors for the purpose of promoting equal employment opportunity in hiring and promotion within the system shall be placed in an Equal Employment Opportunity Fund and shall be allocated consistent with the following;

(a) A portion of the fund, but not more than 25 percent, shall be set aside to provide technical assistance, service, monitoring, and compliance functions.

(b) That portion of the funds not allocated pursuant to subsection (a) may be allocated to the districts in the following categories:

(1) an amount proportional to the full–time equivalent students of each strict to the total full–time equivalent students for all districts;
(2) equal dollar amount to each district;
(3) ount related to success in promoting equal employment op-
or ultiple methods of measuring success shall be identified by
e cellor working through the established Consultation Process.
(c) funds provided pursuant to this section may be used for:
(1) outreach and recruitment;
(2) in–service training on equal employment opportunity;
(3) accommodations for applicants and employees with disabilities
rsuant to section 53025; and
(4) other activities to promote equal employment opportunity.

OTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and ction 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Sec-n 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; d Sections 11135–11139.5, Government Code.

HISTORY

Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
Amendment of subsections (b) and (b)(3) and repealer of subsections (b)(4) and (b)(5) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
Amendment of section heading, section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

53031. Success.

OTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: ection 87107, Education Code.

HISTORY

New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
F of section filed 5–31–96; operative 6–30–96. Submitted to OAL for p ly (Register 96, No. 23).

2. Point Factors.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Repealer of section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53033. Failure to Report.

Any district failing to provide the data required under Section 53004 is not in compliance with this subchapter. Equal Employment Opportunity funds for any given fiscal year, other than those under section 53030(a), shall not be granted unless the district provides the data no later than March 31st of the preceding fiscal year or receives an extension of the deadline from the Chancellor.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53034. Required Report.

Districts shall submit a report on the use of Equal Employment Opportu funds to the Chancellor's Office no later than September 30th of t year following the use of the funds. Until such time as a data e to calculate the staffing rate of persons with disabilities has been ated into the report required under section 53004, districts will report that rate by a separate survey conducted, as directed by the Chancellor's Office.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53040. Governing Board's Affirmative Action Employment Policy Statement.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Section 87101, Education Code; Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980); 20 U.S.C. 793; 41 C.F.R. 60–741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60–250.1–.9, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53041. Affirmative Action Responsibilities and Duties.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53042. Affirmative Action Officer.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53043. Internal Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53044. External Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53045. Complaint Procedure.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53046. Work Force Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Editorial correction of section heading (Register 94, No. 38).

§ 53049. Utilization Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53050. Corrective Action.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53051. Goals and Timetables.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 1.6. Evaluation of Academic Employees

Availability of Rules and Regulations for Evaluation of Performance.

ne governing board of a community college district shall adopt and e to be printed and made available to each academic employee of the ict reasonable rules and regulations providing for the evaluation of erformance of academic employees in their assigned duties.

TE: Authority cited: Sections 66700 and 70901, Education Code. Reference: ion 70901, Education Code.

HISTORY

ew section filed 3–4–91 by the Board of Governors of California Community olleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). ubmitted to OAL for printing only pursuant to Education Code Section 0901.5(b).

ew article 1.6 heading filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

ditorial correction of HISTORY 1 (Register 95, No. 19).

Article 2. Academic Senates

3200. Definitions.

For the purpose of this Subchapter:

(a) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.

(b) "Academic senate," "faculty council," and "faculty senate" means an organization formed in accordance with the provisions of this Subchapter whose primary function, as the representative of the faculty, is to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this Subchapter, reference to the term "academic senate" also constitutes reference to "faculty council" or "faculty senate."

(c) "Academic and professional matters" means the following policy development and implementation matters:

(1) curriculum, including establishing prerequisites and placing courses within disciplines;

(2) degree and certificate requirements;

(3) grading policies;

(4) educational program development;

(5) standards or policies regarding student preparation and success;

(6) district and college governance structures, as related to faculty roles;

[The next page is 325.]

(7) faculty roles and involvement in accreditation processes, including self-study and annual reports;

(8) policies for faculty professional development activities;

(9) processes for program review;

(10) processes for institutional planning and budget development; and

(11) other academic and professional matters as are mutually agreed upon between the governing board and the academic senate.

(d) "Consult collegially" means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

(1) relying primarily upon the advice and judgment of the academic senate; or

(2) agreeing that the district governing board, or such representatives as it may designate, and the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
4. Relocation of article 2 heading filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
5. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate:

(a) The full-time faculty of a community college shall vote by secret ballot to form an academic senate.

(b) In multi-college districts, the full-time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of a district shall recognize the academic senate and authorize the faculty to:

(1) Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate.

(d) The full-time faculty may provide for the membership and participation of part-time faculty members in the academic senate.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203. Powers.

(a) The governing board of a community college district shall adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other Board of Governors regulations.

(b) In adopting the policies and procedures described in Subsection (a), the governing board or its designees shall consult collegially with representatives of the academic senate.

(c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or to appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) in instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) in instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to Subsection (a).

(f) The appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this Subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53204. Scope of Regulations.

Nothing in this Subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing

ds. It is the intent of the Board of Governors to respect agreements veen academic senates and collective bargaining representatives as ow they will consult, collaborate, share, or delegate among them- es the responsibilities that are or may be delegated to academic sen- ruant to these regulations.

Authority cited: Sections 66700 and 70901 Education Code. Reference: tions 70901 and 70902, Education Code.

HISTORY

pealer and new section filed 10–30–90 with Secretary of State by Board of overnors, California Community Colleges; operative 11–30–90 (Register 90, . 49). Submitted to OAL for printing only pursuant to Education Code section 901.5(b). For prior history, see Register 83, No.18.

nendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing ly pursuant to Education Code section 70901.5 (Register 94, No. 38).

205. Duties Assigned by Administration and Governing Board.

E: Authority cited: Sections 66700, 71020, 71062 and 71079, Education .. Reference: Sections 71079 and 72292, Education Code.

HISTORY

nendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No.

nendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 3, No.18).

epealer filed 10–30–90 with Secretary of State by Board of Governors, Cali- fornia Community Colleges; operative 11–30–90 (Register 90, No. 49). Sub- mitted to OAL for printing only pursuant to Education Code section 70901.5(b).

3206. Academic Senate for California Community Colleges.

a) An Academic Senate for the California Community Colleges has n established through ratification by local academic senates or faculty ncils so that the community college faculty of California may have ormal and effective procedure for participating in the formation of e policies on academic and professional matters.

b) The Board of Governors recognizes the Academic Senate of the ifornia Community Colleges as the representative of community col- ademic senates or faculty councils before the Board of Governors ancellor's Office.

TE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Ref- nce: Sections 70901 and 70902, Education Code.

HISTORY

New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).

Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Amendment filed 3–4–91 by Board of Governors of California Community Col- leges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Sub- mitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Editorial correction of HISTORY 3 (Register 95, No. 19).

53207. Reimbursement for Release or Reassigned Time.

(a) Except as provided in subdivisions (d) and (e), the faculty members ected to serve as president and vice president of the Academic Senate f the California Community Colleges (ASCCC) shall be granted release r reassigned time from their local responsibilities by the districts by hich they are employed during their terms of office.

(b) The amount of release or reassigned time required will be deter- ined by the ASCCC and reported to the district employing the person ected ASCCC president by May 1st and to the district employing the erson elected ASCC vice president by June 1st of the year in which these dividuals will assume office, unless the election has not been con- ucted by those dates, in which case the information will be reported im- ediately upon completion of the election.

(c) The districts employing the president and the vice president of the SCCC will be reimbursed by February 1 from the state appropriation e ASCCC for the release or reassigned time at the part–time replace- cost identified by the district prior to September of each year. If the lease or reassigned time need identified is 100 percent and the position to be filled is in a hard to replace discipline area, the district shall so certify to the Chancellor of the California Community Colleges by August 1. If the Chancellor confirms the district certification, the district shall be reimbursed at the full–time temporary replacement cost. In addition, districts shall be reimbursed by the ASCCC for reasonable and documented administrative costs associated with hiring faculty to replace the faculty serving as president and vice president of the ASCCC.

(d) A local district will not be required to grant release or reassigned time for the president or vice president of the ASCCC if it certifies by August 1 to the Chancellor, and he or she confirms, that the faculty member is in a position for which a qualified part–time or full–time temporary replacement cannot be found to meet the needs of the students.

(e) No district shall be required to grant release or reassigned time for an individual serving as president or vice president of the ASCCC for a period exceeding four years.

(f) This section shall only be operative during any fiscal year in which sufficient funds are provided therefore to the ASCCC in the annual Budget Act for that fiscal year or other legislation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–2003; operative 4–11–2003. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 2003, No. 18).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51025 concerning the proportion of full–time and part–time faculty to be employed by community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).

§ 53301. Part–Time Faculty.

The term "part–time faculty" includes any faculty member, as defined in Section 53402(c), who is not a regular employee or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5, or 87609 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750, 87482.7, 87601, 87605, 87608, 87608.5 and 87609, Education Code.

HISTORY

1. New section filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53302. Full–Time Faculty.

For purposes of this Chapter the term "full–time faculty" means any faculty member, as defined in Section 53402(c), who is a regular or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5 or 87609 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750, 87482.6, 87601, 87605, 87608, 87608.5 and 87609, Education Code.

HISTORY

New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment of section heading and section filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).
5. Amendment of section and NOTE filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53308. Full–Time Faculty Percentage.

For purposes of this Subchapter and Section 51025, a district's full–time faculty percentage is determined as follows:

(a) Using the rules set forth in Section 53309, calculate the district's full–time equivalent faculty (FTEF) attributable to full–time faculty, as defined in Section 53302.

(b) Determine the district's total FTEF by adding together:

(1) FTEF attributable to full–time faculty, using the rules set forth in Section 53309; and

(2) FTEF attributable to part–time faculty, calculated using the rules set forth in Section 53310.

(c) To obtain the full–time faculty percentage, divide the figure from subdivision (a) (FTEF attributable to full–time faculty) by the figure from subdivision (b) (total FTEF).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53309. Rules for Calculating Full–Time Equivalent Faculty (FTEF) Attributable to Full–Time Faculty.

In calculating full–time equivalent faculty (FTEF) attributable to full–time faculty, the following rules shall be applicable:

(a) With respect to instruction, FTEF shall be calculated based on the percentage of instructional hours per week considered a full–time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments.

(b) With respect to non–instructional activities, FTEF shall be calculated based on the percentage of working hours per week considered a full–time assignment for regular non–instructional employees having comparable duties.

[The next page is 327.]

(c) Regular Assignment. Include the regular assignment of full–time faculty as defined in Section 53302.

(d) Overload. Exclude full–time faculty overload from the calculation of FTEF.

(e) Sabbatical. Include full–time faculty sabbatical FTEF, whether paid or unpaid, and exclude the FTEF of replacement faculty, whether full–time or part–time, from the computation to determine the full–time faculty percentage pursuant to Section 53308.

(f) Released/Reassigned Time. Include FTEF for full–time faculty who are released or reassigned. The FTEF of a full–time faculty member on released or reassigned time shall be counted as if the faculty member was teaching/working full–time and had not been provided released or reassigned time. The FTEF of replacement faculty, whether full–time or part–time, shall be excluded from the computation to determine the full–time faculty percentage pursuant to Section 53308.

(g) Unpaid Leave. Include unpaid leave FTEF for a faculty member on unpaid leave. The FTEF of a full–time faculty member on unpaid leave shall be counted as if the faculty member was teaching/working full–time and had not been provided with unpaid leave. The FTEF of replacement faculty, whether full–time or part–time, shall be excluded from the computation to determine the full–time faculty percentage pursuant to Section 53308.

(h) Teaching by Others. Include credit instruction FTEF taught by classified staff or administrators who are appropriately qualified to teach, under the following conditions:

(1) Only the actual hours of teaching by such individuals shall be included in determining the FTEF; and

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(i) Late Retirement. The FTEF of a faculty member who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full–time faculty member by the current Fall primary term, shall be included. The FTEF of replacement faculty, whether full–time or part–time, shall be excluded from the computation to determine the full–time faculty percentage pursuant to Section 53308.

Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term or the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025. If the number of late retirees exceeds 15% of the district's total number of full–time faculty, and the district's governing board and academic senate jointly agree, a district may file a request with the Chancellor's Office for a one–year extension to fulfill its hiring obligation to replace those retirees.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).
2. Amendment of subsection (i) filed 10–16–2001; operative 11–15–2001. Submitted to OAL for printing only (Register 2001, No. 43).

Article 2. Proportions of Full–Time and Part–Time Faculty, Computation and Reports

§ 53310. Rules for Calculating Full–Time Equivalent Faculty (FTEF) Attributable to Part–Time Faculty.

In calculating full–time equivalent faculty (FTEF) attributable to part–time faculty, the following rules shall be applicable:

(a) With respect to instruction, FTEF shall be calculated based on the percentage of instructional hours per week considered a full–time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments.

(b) With respect to non–instructional activities, FTEF shall be calculated based on the percentage of working hours per week considered a full–time assignment for regular non–instructional employees having comparable duties.

(c) All instructional and noninstructional activities of part–time faculty shall be included, except the following:

(1) FTEF attributable to part–time faculty who replace full–time faculty on sabbatical leave.

(2) FTEF attributable to part–time faculty who replace full–time faculty on released or reassigned time.

(3) FTEF of part–time faculty replacing full–time faculty on unpaid leave.

(4) FTEF of part–time faculty replacing full–time faculty who resigned or retired late as defined in section 53309(i).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).
3. New subsections (f)–(h) and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
4. Amendment of subsection (h) filed 2–4–93; operative 3–6–93 (Register 93, No. 6).
5. Amendment of subsections (d), (e), (g) and (h) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment of section heading and section filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).
7. Repealer and new section filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).
8. New subsection (c)(4) filed 10–16–2001; operative 11–15–2001. Submitted to OAL for printing only (Register 2001, No. 43).

§ 53311. Base Data.

For purposes of this Subchapter, "base data" means both the district's base full–time faculty percentage and its base full–time faculty obligation (the number of full–time faculty the district is required to maintain or the number of additional full–time faculty to be hired by the Fall term of the subsequent year.) The data necessary to calculate the base full–time faculty percentage shall be determined from the current year's Fall management information system staff data submission to the Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of section heading, text and NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).
5. Amendment filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53312. Additional Full–Time Faculty Positions.

(a) The Chancellor shall compute the number of full–time faculty which each district is to secure in accordance with Sections 51025 and 53308, as the result of applying additional FTES growth and program improvement revenue allotments.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for

part–time instructors times the statewide average full–time teaching load).

(c) If the quotient determined in paragraph (b) is not a whole number, t quotient shall be rounded down to the nearest whole number. If ent, once applied, will result in the district exceeding the 75 per- standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

(d) The computation for the funded growth in full–time equivalent student workload obligation to secure additional full–time faculty shall, when required pursuant to the provisions of Section 51025(a)(1) and (e), be made by multiplying the percentage of funded credit FTES growth times the base number of full–time faculty that were to be in place by Fall of the current year.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NOTE and new subsection (d) filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment of subsection (a) filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53314. Report to Districts.

By the Spring term of each year, the Chancellor shall report to districts the estimated number of full–time faculty each district must secure by the following Fall term based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors' action pursuant to Section 51025(e).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

ection filed 6–5–90 by the Board of Governors, California Community ges, with the Secretary of State; operative 7–5–90. Submitted to OAL for nting only pursuant to Education Code section 70901.5(b) (Register 90, No.).
2. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

Article 3. Enforcement

§ 53320. Funding Reductions.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
3. Repealer filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This Subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87359 concerning minimum qualifications for community e faculty and administrators. The provisions of this subchapter are ective July 1, 1990.

OTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
3. Amendment filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53401. Applicability to Community Services and Contract Classes.

Community service or contract classes which do not award college credit and are not supported by state apportionment are not subject to the provisions of this Subchapter. Contract classes which award college credit are subject to this Subchapter, even if they are not supported by state apportionment.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 78020 through 78023 and 78300, Education Code.

HISTORY

1. New section filed 6–26–92; operative 7–27–92 (Register 92, No. 26).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service are specified in Section 53410–53414 or other provisions of this division. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

NOTE: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 53403. Applicability of Amendments.

Notwithstanding changes that may be made to the minimum qualifications established in this division, or to the implementing discipline lists adopted by the Board of Governors, the governing board of a community college district may continue to employ a person to teach in a discipline or render a service subject to minimum qualifications, if he or she, at the time of initial hire by the district, was qualified to teach in that discipline or render that service under the minimum qualifications or disciplines lists then in effect.

Every person authorized to serve under a credential shall retain the right to serve under the terms of that credential, and, for that purpose, shall be deemed to possess the minimum qualifications specified for every discipline or service covered by the credential until the expiration of that credential. However, a credential shall be invalid when the holder has been convicted of any crime that, under former law, would have been

HISTORY

w section filed 3–4–91 by the Board of Governors of California Community lleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). bmitted to OAL for printing only pursuant to Education Code Section 5(b).

ment of third and fifth paragraphs filed 10–25–91; operative 11–24–91 gister 92, No. 9).

itorial correction of HISTORY 1 (Register 95, No. 19).

nendment of section and NOTE filed 11–6–97; operative 12–6–97. Submitted OAL for printing only (Register 97, No. 46).

Subchapter 4. Student Equity

4220. Student Equity Plans.

a) In order to promote student success for all students, the governing rd of each community college district shall adopt, by July 1, 1993, a dent equity plan which includes for each college in the district:

(1) Campus–based research as to the extent of student equity in the five as described in paragraph (2) and the determination of what activities most likely to be effective;

2) Goals for access, retention, degree and certificate completion, ESL basic skills completion, and transfer; for the overall student popula- and for each population group of students, as appropriate. Where sig- cant underrepresentation is found to exist in accordance with stan- ds adopted by the Board of Governors, the plan shall include –neutral measures for addressing the disparity, and, when legally ap- priate, race–conscious measures for addressing the disparity;

3) Implementation activities designed to attain the goals, including a eans of coordinating existing student equity related programs;

(4) Sources of funds for the activities in the plan;

(5) Schedule and process for evaluation; and

(6) An executive summary that includes, at a minimum, the groups for hom goals have been set, the goals, the initiatives that the college or dis- ct will undertake to achieve these goals, the resources that have been d for that purpose, and the district official to contact for further h ation.

(b) These plans should be developed with the active involvement of groups on campus as required by law, and with the involvement of ap- priate people from the community.

(c) The Board–adopted plan shall be submitted to the Office of the ancellor, which shall publish all executive summaries, sending copies very college and district, the chair of each consultation group that so uests, and such additional individuals and organizations as deemed propriate.

(d) For the purposes of this section, "each population group of stu- nts" means American Indians or Alaskan natives, Asians or Pacific Is- nders, Blacks, Hispanics, Whites, men, women, and persons with dis- bilities. A person shall be included in the group with which he or she ntifies as his or her group.

TE: Authority cited: Section 70901, Education Code. Reference: Sections 10.2, 66010.7, 66030 and 70901, Education Code.

HISTORY

New subchapter 4 and section filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

Amendment of subsections (a)(1), (a)(2) and (b), repealer of subsections d)–(d)(2), and new subsection (d) filed 1–12–98; operative 2–11–98. Submitted to OAL for printing only (Register 98, No. 3).

Subchapter 4.5. Electronic Submissions

54300. Electronic Applications and Digital Signatures.

Community college districts may authorize the electronic submission any form or document and the use of digital signatures on any docu- nts requiring a signature. Residency questionnaires submitted elec- ally must include a digital signature. Where a digital signature is ed, it shall use the technology, criteria, and procedures for digital gnatures approved by the Secretary of State, and contained in Title 2, alifornia Code of Regulations, Section 22000 et. seq. Prior to the elec- tronic submission of any information, districts will inform applicants of the relative security of the information they submit electronically.

NOTE: Authority cited: Sections 70901 and 70901.1, Education Code. Reference: Section 70901.1, Education Code; and Section 16.5, Government Code.

HISTORY

1. New subchapter 4.5 (section 54300) and section filed 5–13–99; operative 6–14–99 (Register 99, No. 20).

Subchapter 5. Commercial Solicitation on Campus

§ 54400. Student Credit Card Solicitations.

By December 31, 2003, the governing board of each community college district shall adopt policies regulating the solicitation practices used on campuses by credit card companies marketing "student credit cards" as defined in Civil Code section 1747.02(m).

NOTE: Authority cited: Section 99030, Education Code. Reference: Section 99030, Education Code; and Section 1747.02(m), Civil Code.

HISTORY

1. Amendment of subchapter heading and new subchapter 5 (section 54400) and section filed 2–14–2003; operative 3–16–2003. Submitted to OAL for printing only pursuant to Education Code section 70901(b) (Register 2003, No. 15). For prior history, see Register 82, No. 31.

Subchapter 6. Student Records

§ 54600. Purpose.

This chapter is adopted pursuant to and for implementation of Chapter 1.5 (commencing with Section 76200), Part 47 of Division 7 of the Education Code regarding Student Records. The provisions of this Chapter should be read and interpreted in conjunction with the provisions of Chapter 1.5.

NOTE: Authority cited: Sections 76220, 76225 and 76246, Education Code. Reference: Chapter 1.5 (commencing with Section 76200), Part 47, Division 7, Education Code; and 20 USC 1232(g).

HISTORY

1. New Chapter 6 Articles 1–7, (Sections 54600–54662, not consecutive) filed 3–5–76; effective thirtieth day thereafter (Register 76, No. 10).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of article heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54602. Construction.

HISTORY

1. Amendment filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54604. Policy.

Community College districts may establish and maintain only such information on students relevant to admission, registration, academic history, career, student benefits or services, extracurricular activities, counseling and guidance, discipline or matters relating to student conduct, and shall establish and maintain such information required by law.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76210, Education Code; and 20 USC 1232(g).

HISTORY

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54606. Definitions.

(a) "Student" as used in this Chapter means a currently enrolled or formerly enrolled student.

(b) "Access" means a personal inspection and review of a record, an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, or a request to release a copy of any record. The student shall be permitted to select the means of access.

(c) "Student Record" means any item of information directly related to an identifiable student maintained by a Community College or required to be maintained by an employee in the performance of the em-

HISTORY

New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).

ent filed 3–4–91 by Board of Governors of California Community Col-
the Secretary of State; operative 4–5–91 (Register 91, No. 23). Sub-
o OAL for printing only pursuant to Education Code Section
.5(b).

Editorial correction of HISTORY 2 (Register 95, No. 20).

54803. Termination of Fee.

(a) Any student representation fee that has been instituted pursuant to e procedures enumerated in section 54801 may be terminated by a ma-rity of the students voting in an election called in one of the following o manners:

(1) By placing the issue on the ballot for the next regular associated udent body election. The issue shall be placed on the ballot upon receipt a petition indicating an interest in the termination of the representation e signed by a majority of the number of students who voted in the elec-on establishing the fee.

(2) Pursuant to procedures pre-established by the student body associ-tion for calling such an election. Such procedures shall be available for ublic inspection during regular business hours.

(b) The elections shall be conducted in accordance with the procedures stablished pursuant to section 54801.

NOTE: Authority cited: Section 66700, 70901 and 76060.5, Education Code. Ref-erence: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

l correction of HISTORY 2 (Register 95, No. 20).

§ 54805. Collection of the Fee.

District governing boards shall include in the materials given to each student at registration, information pertaining to the representation fee. The form used by a college for the purpose of collecting the fee shall contain, at a minimum, the following:

(a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;

(b) the amount of the fee;

(c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

NOTE: Authority cited: Sections 66700, 70901 and 76060.5, Education Code. References: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54912. Residence Questionnaires.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Ref-: Sections 68044 and 68062, Education Code.

HISTORY

mendment of section submitted to OAL for printing only pursuant to Govern-ent Code section 11343.8 (Register 91, No. 23).

2. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Chapter 6. Curriculum and Instruction

Subchapter 1. Programs, Courses and Classes

Article 1. Program, Course and Class Classification and Standards

§ 55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer of chapter 1 (subchapters 1–3, sections 55000–55144, not consecutive) and new chapter 1 (articles 1–2, sections 55000–55180, not consecutive) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55000.5. Handbook; Monitoring and Review of Approved Courses and Programs.

(a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) liberal arts and sciences education:

(A) baccalaureate oriented/transfer programs and courses

(B) associate degree programs and courses

(C) developmental programs and courses

1. compensatory programs and courses

2. adult elementary and secondary basic skills programs and courses

(D) community education programs and courses

1. personal development and survival courses

2. parenting and family support courses

3. community and civic development courses

4. general and cultural courses

(2) occupational education:

(A) vocational/technical transfer programs and courses

(B) vocational/technical associate degree and certificate programs and courses

(C) continuing education vocational/technical certificates, programs and courses

(b) The community services (Non FTES generating) of community colleges include:

(1) community services classes:

(A) avocational classes

(B) recreational classes

(C) seminars, lecture series, forum series, workshops, and conferences

(D) professional and occupational in–service classes

(2) community services activities:

(A) Civic Center Act activities

(B) cultural activities

(C) community development activities

(D) recreational activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in Subsections (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:

(1) the unique static course identifier and the course title for all credit and noncredit courses;

(2) the classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor;

(3) whether the course is offered as credit or noncredit;

(4) whether the course transfers to the California State University or the University of California or both;

(5) the number of community services classes in each category, and the number of participants; and

(6) the number of community services activities in each category and the number of participants.

(d) For courses, classes, and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by Subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes, and activities.

NOTE: Authority cited: Sections 66700, 70901, and 78401, Education Code. Reference: Sections 66701, 70901, 70902, 78300, and 78401, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of Section 55805.5, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

(1) Curriculum Committee. The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

[The next page is 343.]

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course for associate degree credit if it meets the following standards:

\) Grading Policy. The course provides for measurement of student ormance in terms of the stated course objectives and culminates in formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays, or, in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course also requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short–term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity that requires students to study independently outside of class time.

(D) Prerequisites and Corequisites. When the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course, then the course shall require prerequisites or corequisites that are established, reviewed, and applied in accordance with the requirements of Article 2.5 (commencing with Section 55200) of this Subchapter.

(E) Basic Skills Requirements. If success in the course is dependent upon communication or computation skills, then the course shall require, consistent with the provisions of Article 2.5 (commencing with Section 55200) of this Subchapter, as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary that the curriculum committee deems appropriate for a college course.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside–of–class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Conduct of Course. Each section of the course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Chapter 2 (commencing with Section 51000), sections 55761–55763 and 58161 of this Division.

(b) Nondegree Credit Course. A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this Section) and is approved by the district governing board and falls within one of the categories described in Subdivision (1) of this Subsection.

(1) Types of Courses. Nondegree applicable credit courses are:

(A) precollegiate basic skills courses as defined in Section 55502(d) of this Division;

(B) courses designed to enable students to succeed in college–level work (including, but not limited to, college orientation and guidance courses, and discipline–specific preparatory courses such as biology, history, or electronics) that integrate basic skills instruction throughout and assign grades partly upon the demonstrated mastery of those skills;

(C) precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college–level occupational courses or programs;

(D) essential occupational instruction for which meeting the standards of Section 55002(a) is neither necessary nor required.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the standards which follow. In order to be eligible for state apportionment, such courses must be approved (as courses not part of programs) by the Chancellor's Office as provided by Section 55100 of this Division.

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in the subject matter and the ability to demonstrate that proficiency, at least in part, by means of written expression that may include essays, or, in courses where the curriculum committee deems them to be appropriate, by problemsolving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course requires a minimum of three hours of student work per week, per unit, including class time and/or demonstrated competency, for each unit of credit, prorated for short–term, laboratory, and activity courses.

(C) Intensity. The course provides instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college–level work upon completion of the required sequence of such courses.

(D) Prerequisites and corequisites. When the college and/or district curriculum committee deems appropriate, the course may require prerequisites or corequisites for the course that are established, reviewed, and applied in accordance with Article 2.5 (commencing with Section 55200) of this Subchapter.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside–of–class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students. Taken together, these course specifications shall be such as to typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives.

(4) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Division 2 (commencing with Section 51000). Sections 55761–55763 and 58161 of this Division.

(c) Noncredit Course. A noncredit course is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this Section) and approved by the district governing board as a course meeting the needs of enrolled students.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and stan-

dards of attendance and achievement that the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in Education Code Section 84711 and must be approved by the Chancellor's Office as noted in Title 5, Section 55150.

(2) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class that meets the following minimum requirements:

(1) is approved by the local district governing board;

(2) is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein;

(3) provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students;

(4) is conducted in accordance with a predetermined strategy or plan;

(5) is open to all members of the community; and

(6) may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5–18–84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
6. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
7. Editorial correction of HISTORY 4 (Register 95, No. 20).

§ 55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four–year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit–no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in second paragraph (Register 91, No. 43).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Editorial correction of HISTORY 1 (Register 95, No. 20).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55101. Chancellor's Report.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five–year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55150. Approval of Noncredit Courses and Programs.

(a) Courses or programs offered for noncredit shall be approved by the Chancellor in accordance with section 55100 on forms provided by the Chancellor's Office.

(b) Course outlines for all noncredit courses shall be on file in the community college offering the course.

(c) Authorities of each community college maintaining noncredit courses shall keep such current records and reports as may be required by the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55160. Approval of Community Service Classes.

(a) Districts are authorized in accordance with the provisions of article 7 (commencing with section 78300) of chapter 2, part 48 of the Education Code to approve and conduct community services classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with section 55001.

(b) Community services classes shall not be referred to as noncredit classes.

Note: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Sections 70901 and 78300, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55170. Contract Classes.

(a) Notwithstanding subdivision (c) of section 55000, "contract classes" means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association, or other body or person.

(b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 8092, 70902 and Article 1.5 (commencing with Section 78020) of Chapter 1, Part 48, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55180. Chancellor's Report.

Note: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 71091, 78200, and 78401, Education Code.

History

1. Repealer filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55182. Reinstatement of Deleted Courses.

The governing board of a community college district may reinstate any course which was deleted from the credit or noncredit curriculum during the 1982–83 fiscal year, in response to provision Number 11 of Item 6870–101–001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982); provided that the following criteria and procedures shall be applied in conjunction with such reinstatement:

(a) The governing board of the district shall only reinstate such courses in a manner which is consistent with the policy of the Board of Governors that offerings which are primarily avocational, or recreational shall be offered as community services classes, and not as credit or noncredit courses;

The governing board of the district shall determine that the course meets the criteria and standards for courses specified in section 55002;

(c) The governing board may act to reinstate a course only after it has been reviewed through the college's or district's established procedure for the approval of new courses;

(d) The governing board must submit the course to the Chancellor for approval, or report approval of the course, depending on the requirements of section 55100. A separate designation shall be used to distinguish reinstated courses from new courses; and

(e) The governing board must determine that reinstatement of the course maintains or improves the curriculum balance of the district in accordance with the mission of the community college and local needs.

(f) Any category of courses restored to the curriculum pursuant to a separate authorization of the Board of Governors shall be exempt from the requirements of this section.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

HISTORY

1. New section filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

Article 2.5. Prerequisites, Corequisites, and Recommended Preparation

55200. Definitions.

For the purposes of this Division, the following definitions apply:

(a) "Prerequisite" means a condition of enrollment that a student is required to meet in order to demonstrate current readiness for enrollment in a course or educational program.

(b) "Corequisite" means a condition of enrollment consisting of a course that a student is required to simultaneously take in order to enroll in another course.

(c) "Advisory on recommended preparation" means a condition of enrollment that a student is advised, but not required, to meet before or in conjunction with enrollment in a course or educational program.

(d) "Satisfactory grade" means that, for the course in question, the student's academic record has been annotated with the symbol A, B, C or "CR" as those symbols are defined in Section 55758 of this Division.

(e) "Necessary and appropriate" means that a strong rational basis exists for concluding that a prerequisite or corequisite is reasonably needed to achieve the purpose that it purports to serve. This standard does not require absolute necessity.

(f) "content review" means a rigorous, systematic process developed in accordance with Sections 53200 to 53204, approved by the Chancellor as part of the district matriculation plan required under Section 55510, and is conducted by faculty to identify the necessary and appropriate body of knowledge or skills students need to possess prior to enrolling in a course, or which students need to acquire through concurrent enrollment in a corequisite course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New article 2.5 and section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
2. Editorial correction of Article heading (Register 95, No. 20).

55201. Policies for Prerequisites, Corequisites, and Advisories on Recommended Preparation.

(a) The governing board of a community college district may establish prerequisites, corequisites, and advisories on recommended preparation, but must do so in accordance with the provisions of this Article. Nothing in this subchapter shall be construed to require a district to establish prerequisites, corequisites, or advisories on recommended preparation; provided however, that a prerequisite or corequisite shall be required if the course is to be offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E).

(b) A governing board choosing to establish prerequisites, corequisites, or advisories on recommended preparation shall, in accordance with the provisions of Sections 53200–53204 of this Division, adopt policies for the following:

(1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation. Such policies shall provide that in order to establish a prerequisite or corequisite, the prerequisite or corequisite must be determined to be necessary and appropriate for achieving the purpose for which it is being established. District policies shall also specify the level of scrutiny that shall be required in order to establish different types of prerequisites, corequisites, and advisories on recommended preparation. At a minimum, prerequisites, corequisites, and advisories on recommended preparation shall be based on content review, with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite being established. The policy shall provide that the types of prerequisites described in Subsection (e) may be established only on the basis of data collected using sound research practices. Determinations about prerequisites and corequisites shall be made on a course–by–course or program–by–program basis.

(2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline particularly those aspects of the course outline that are the basis for justifying the establishment of the prerequisite or corequisite.

(3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. These processes shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. These processes shall also provide for the periodic review of advisories on recommended preparation.

(4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite.

(c) Prerequisites or corequisites may be established only for any of the following purposes:

(1) the prerequisite or corequisite is expressly required or expressly authorized by statute or regulation; or

(2) the prerequisite will assure, consistent with Section 55002(a)(2)(D), that a student has the skills, concepts, and/or information that is presupposed in terms of the course or program for which it is being established, such that a student who has not met the prerequisite is highly unlikely to receive a satisfactory grade in the course (or at least one course within the program) for which the prerequisite is being established; or

(3) the corequisite course will assure, consistent with Section 55002(a)(2)(D), that a student acquires the necessary skills, concepts, and/or information, such that a student who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established; or

(4) the prerequisite or corequisite is necessary to protect the health and safety of a student or the health and safety of others.

(d) Except as provided in this Subsection, no prerequisite or corequisite may be established or renewed pursuant to Subsection (b)(3) unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established. A prerequisite or corequisite need not be so scrutinized until it is reviewed pursuant to Subsection (b)(3) if:

(1) it was established prior to July 6, 1990, and is part of a sequence of degree–applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of ›gulation, in accordance with regulations in effect during this period ...ne; or

(3) it is required by statute or regulation; or

(4) it is part of a closely–related lecture–laboratory course pairing within a discipline; or

(5) it is required by four–year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 55002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then, despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or corequisite have been met. The requirements of this subdivision related to collection of data shall not apply when:

(1) four–year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

(2) the prerequisite or corequisite is required for enrollment in a program, that program is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

(A) colleges in at least six different districts have previously satisfied the data collection requirements of this subdivision with respect to the same prerequisite or corequisite for the same program; and

(B) the district establishing the prerequisite or corequisite conducts an ...aluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall be resolved in a timely manner and, if the challenge is upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established ...rsuant to this Section, advise the student that he or she may file a formal ...mplaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

NOTE: Authority cited: Section 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
2. Amendment of subsection (e), new subsections (e)(1)–(e)(2)(B) and amendment of NOTE filed 2–9–98; operative 3–11–98. Submitted to OAL for printing only (Register 98, No. 7).

§ 55202. Additional Rules.

The following additional rules apply to the establishment of prerequisites and corequisites:

(a) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established.

(b) Prerequisites establishing communication or computational skill requirements may not be established across the entire curriculum unless established on a course–by–course basis.

(c) The determination of whether a student meets a prerequisite shall be based on successful completion of an appropriate course or on an assessment using multiple measures. Any assessment instrument used shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

(d) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district shall ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course.

(e) Whenever a corequisite course is established, sufficient sections shall be offered to reasonably accommodate all students who are required to take the corequisite. A Corequisite shall be waived as to any student for whom space in the corequisite course is not available.

(f) No exit test may be required to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring the prerequisite, provided, however, that enrollment may be permitted pending verification that the student has met the prerequisite or corequisite. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or to the student code of conduct.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Article 3. Distance Education

§ 55205. Definition and Application.

Distance education means instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology. All distance education is subject to the general requirements of this chapter as well as the specific requirements of this article. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the Americans with Disabili-

ies Act (42 U.S.C. Sec. 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794d).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

w article 3 (sections 55205–55219) and section filed 5–20–2002; operative 19–2002. Submitted to OAL for printing only (Register 2002, No. 26). For prior history of article 3 (section 55225), see Register 95, No. 20.

§ 55207. Course Quality Standards.

The same standards of course quality shall be applied to distance education as are applied to traditional classroom courses, in regard to the course quality judgments made pursuant to the requirements of section 55002 of this part, and in regard to any local course quality determination or review process.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

. New section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55209. Course Quality Determinations.

Determinations and judgments about the quality of distance education nder the course quality standards referred to in section 55207, shall be ade with the full involvement of faculty in accordance with the provions of subchapter 2 (commencing with section 53200) of chapter 2 of vision 4 of this part.

OTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: ections 70901 and 70902, Education Code.

HISTORY

. New section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55211. Instructor Contact.

In addition to the requirements of section 55002 and any locally established requirements applicable to all courses, district governing boards ll ensure that:

(a) All approved courses offered as distance education include regular effective contact between instructor and students, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, telephone contact, correspondence, voice mail, e–mail, or other activities.

(b) All distance education courses are delivered consistent with guidelines issued by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors. Regular effective contact is an academic and professional matter pursuant to title 5, section 53200.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55213. Separate Course Approval.

Each proposed or existing course, if delivered by distance education, shall be separately reviewed and approved according to the district's certified course approval procedures.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55215. Faculty Selection.

Instructors of sections delivered via distance education technology shall be selected by the same procedures used to determine all instructional assignments. Instructors shall possess the minimum qualifications the discipline into which the course's subject matter most appropriately falls, in accordance with article 2 of chapter 4 of division 4 of this part (commencing with section 53410), and with the list of disciplinary definitions and requirements adopted by the Board of Governors to implement that article, as such list may be amended from time to time.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55217. Number of Students.

The number of students assigned to any one course section offered by distance education shall be determined by and be consistent with other district procedures related to faculty assignment. Procedures for determining the number of students assigned to a course section offered by distance education may include a review by the curriculum committee established pursuant to section 55002(a)(1).

Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55219. Ongoing Responsibility of Districts.

Any district conducting courses under section 55316.5 shall:

(a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses,

(b) Provide to the local governing board, no later than August 31st of each year, a report on all distance education activity,

(c) Provide other information consistent with reporting guidelines developed by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

Subchapter 2. Programs and Classes Outside of District

NOTE: Authority cited: Section 72012, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 55200–55204) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Register 77, No. 45.
2. Amendment of subchapter 2 heading filed 5–15–93; operative 6–14–93 (Register 93, No. 25).

§ 55230. Classes, Property and Buildings Outside of District.

The governing board of a community college district may conduct community college classes and acquire the necessary property and erect the necessary buildings therefor, outside of the boundaries of the district if all of the following conditions exist:

(a) The proposed location is within the state.

(b) the activities, trades, businesses, or work to be carried on at the proposed location is such as to offer educational opportunities to students who are residents of the district in the subject or all of the subjects proposed to be taught at that location, and facilities for such instruction are not available either at the location of the principal buildings of the community college, or elsewhere within the district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

contact hours counted for a student shall not exceed the maximum number of Cooperative Work Experience Education units for which the student may be granted credit as described in section 55253.

(b) The learning experience and the identified on–the–job learning objectives shall be sufficient to support the units to be awarded.

(c) The following formula will be used to determine the number of units to be awarded:

(1) Each 75 hours of paid work equals one semester credit or 50 hours equals one quarter credit.

(2) Each 60 hours of non–paid work equals one semester credit or 40 hours equals one quarter credit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 9–29–78; designated effective 1–2–79 (Register 78, No. 39).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 20).

§ 55257. Job Learning Stations.

Job learning stations shall meet the following criteria:

(a) Employers or designated representatives agree with the intent and purposes of Cooperative Work Experience Education for students and are given a copy of each student's approved on–the–job learning objectives.

(b) Job learning stations offer a reasonable probability of continuous work experience for students during the current work experience enrollment term.

(c) Employers or designated representatives agree to provide adequate supervision, facilities, equipment, and materials at the learning stations to achieve on–the–job learning objectives.

(d) Employers as required by law agree to comply with all appropriate federal and state employment regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78249, Education Code.

HISTORY

1. Amendment filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment filed 9–29–78; designated effective 1–2–79 (Register 78, No. 39).
3. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 20).

Subchapter 4. Courses and Programs Conducted As Independent Study

Article 1. General Provision and Requirements

§ 55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 58051 and 58003.1 in relation to attendance in approved courses and programs designed and conducted as independent study.

Approved courses conducted as independent study shall be reported to the Chancellor in accordance with specified procedures as required by law.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78310, Education Code.

HISTORY

1. Repealer of chapter 4 (sections 55300–55344, not consecutive) and new chapter 4 (articles 1–5; sections 55300–55360, not consecutive) filed 12–18–78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.
2. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).
3. Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section 55300 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. New article heading filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
6. Editorial correction of HISTORY 4 (Register 95, No. 20).

§ 55302. Definitions.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).
2. Repealer of article 2 heading filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 20).

§ 55312. Transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55314. Faculty and Student Participation.

NOTE: Authority cited: Sections 66700, 70901 and 78301, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316. Criteria.

Courses offered pursuant to this Chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Be recognized by an institution of the University of California or the California State University upon transfer to that institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment of opening statement, subsection (b) and NOTE filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
Editorial correction of HISTORY 2 (Register 95, No. 20).

55316.5. Additional Courses.

Notwithstanding any other provision of law, after June 1, 1994, the following additional types of courses may be offered as independent study if conducted by distance education consistent with the requirements of article 3 of subchapter 1 (commencing with section 55205) of this chapter and the guidelines developed by the Chancellor:

(a) Nontransferable courses designed to meet the requirements of sections 55805.5, 55806, and 55002(a) or (b);

(b) Noncredit courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of last paragraph and NOTE filed 8–31–98; operative 9–30–98. Submitted to OAL for printing only (Register 98, No. 36).
3. Amendment of subsection (b) filed 12–3–2001; operative 1–2–2002. Submitted to OAL for printing only (Register 2001, No. 50).
4. Amendment of section and NOTE filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55317. Ongoing Responsibilities of Districts.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of subsection (b), last paragraph and NOTE filed 8–31–98; operative 9–30–98. Submitted to OAL for printing only (Register 98, No. 36).
3. Amendment of subsections (b)–(c) filed 12–3–2001; operative 1–2–2002. Submitted to OAL for printing only (Register 2001, No. 50).
4. Repealer filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55318. Written Record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 3 heading filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this Chapter, the course must be reported as required by this Chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of section and NOTE filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55352. Number of Students.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer and new section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18). For prior history, see Register 91, No. 23.
2. Repealer filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer of Article 5 heading and Section 55360 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Distance Education

§ 55370. Definition and Application.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment of article heading and section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
3. Repealer of article 2 (sections 55370–55380) and repealer of section filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55372. Course Quality Standards.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
3. Repealer filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55374. Course Quality Determinations.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
3. Repealer filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55376. Instructor Contact.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment of section heading and text filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
3. Amendment filed 8–31–98; operative 9–30–98. Submitted to OAL for printing only (Register 98, No. 36).
4. Repealer filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55378. Separate Course Approval.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
3. Repealer filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55380. Faculty Selection.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
3. Repealer filed 5–20–2002; operative 6–19–2002. Submitted to OAL for printing only (Register 2002, No. 26).

Subchapter 5. Educational Master Plans

§ 55400. Definitions.

The definitions provided in the Student Attendance Accounting Manual issued by the Chancellor shall apply to the provisions of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New chapter 5 (sections 55400 through 55405) filed 7–1–71; effective thirtieth day thereafter (Register 71, No. 27).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Amendment of section filed 6–11–91; operative 7–11–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 45).
5. Amendment of NOTE filed 6–11–91; operative 7–11–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 92, No. 1).
6. Editorial correction of HISTORY 3 (Register 95, No. 20).

§ 55401. Current and Long Range Plans.

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

§ 55402. Educational Master Plans.

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

§ 55403. Form.

Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

§ 55404. Contents.

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

§ 55405. Review and Approval.

The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, the Chancellor shall send a copy of the approval of it to the superintendent of each district.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

§ 55450. Excursions or Field Trips.

The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school–related social, educational, cultural, athletic, or college band activities to and from places in the state, or any other state, the District of Columbia, or a foreign country for students enrolled in a college. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for the students.

(b) Engage instructors, supervisors, and other personnel who desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where the excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, the liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(d) Provide supervision of students involved in field trips or excursions by academic employees of the district.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out–of–state field trips or excursions and all parents or guardians of students taking out–of–state field trips or excursions shall sign a statement waiving such claims.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in section heading and subsection (e) (Register 91, No. 43).
3. Amendment of subsection (d) and repealer of subsection (e) filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55451. Provision for Medical or Hospital Service for Students.

The governing board of any community college district conducting excursions and field trips pursuant to these regulations shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from an authorized insurer, for students of the district injured while participating in the excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership may be paid from the funds of the district, or by the insured student, or his or her parent or guardian.

The insurance may be purchased from, or the membership may be taken in, only companies or corporations that are authorized to do business in this state.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of section heading and text filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
3. Editorial correction of HISTORY 1 (Register 95, No. 20).

Subchapter 6. Matriculation Programs

Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour–Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code Sections 78210, et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code Section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code Section 71020.5.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 71020.5 and 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

2. Amendment of subsection (a) and repealer of subsection (c) filed 4–3–92; operative 5–4–92 (Register 92, No. 17).

§ 55502. Definitions.

For purposes of this Chapter, the following definitions shall apply:

(a) "Matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements. This agreement is to be implemented by means of the student's individual educational plan developed pursuant to Section 55525.

(b) "Assessment" means the process of gathering information about individual students to facilitate student success. Assessment shall include, but is not limited to, information regarding the student's study skills, English language proficiency, computational skills, aptitudes, goals, learning skills, career aspirations, academic performance, and need for special services. Assessment involves the collection of such information at any time before or after enrollment, except that the process of assigning a grade by an instructor shall not be considered part of the assessment process. Once a grade has been assigned and recorded in a student's transcript, it can be used in the assessment process.

(c) "Assessment instruments, methods, or procedures" means one or more assessment instruments, assessment methods, or assessment procedures, or any combination thereof. These include, but are not limited to, interviews, standardized tests, holistic scoring processes, attitude surveys, vocational or career aptitude and interest inventories, high school or college transcripts, specialized certificates or licenses, educational histories and other measures of performance. The term "assessment instruments, methods, or procedures" also includes assessment procedures such as the identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment sessions are conducted, manner in which assessment results are made available, and the length of time required before such results are available.

(d) "Pre–collegiate basic skills courses" are those courses in reading, writing, computation, and English as a Second Language which are designated by the community college district as nondegree credit courses pursuant to Section 55002(b).

(e) "Disproportionate impact" occurs when the percentage of persons from a particular racial, ethnic, gender, age or disability group who are directed to a particular service or placement based on an assessment instrument, method, or procedure is significantly different from the representation of that group in the population of persons being assessed, and that discrepancy is not justified by empirical evidence demonstrating that the assessment instrument, method or procedure is a valid and reliable predictor of performance in the relevant educational setting.

(f) "Exemption" means waiving or deferring a student's participation in orientation, assessment, counseling, or advisement required pursuant to Subsections (b),(c), and (f) of Section 55520.

(g) "Matriculation services" are those services listed in Section 55520.

(h) "Matriculation practices" means one or more instruments, methods, or procedures, or any combination thereof, used in providing any of the matriculation services listed in Section 55520.

(i) "Student" means a person enrolled in at lease one credit course.

(j) "Orientation" is a process which acquaints students and potential students with college programs, services, facilities and grounds, academic expectations, and institutional procedures.

(k) "Student follow–up" is the process of monitoring a student's progress toward his or her educational goals and providing the student with appropriate advice based on the results of such monitoring.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78212 and 78213, Education Code.

HISTORY

1. Amendment of subsection (a) and (b) and new subsections (g), (h), (i), (j) and (k) filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsections (a) and (c)–(k) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 2. Planning and Administration

§ 55510. Matriculation Plans.

(a) Each community college district shall adopt a matriculation plan describing the services to be provided to its students. The plan shall include, but not be limited to:

(1) a description of the methods by which required services will be delivered;

(2) the district's budget for matriculation;

(3) plans for faculty and staff development;

(4) computerized information services and institutional research and evaluation necessary to implement this Chapter;

(5) criteria for exempting students from participation in the matriculation process;

(6) procedures for establishing and periodically reviewing prerequisites pursuant to Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division;

(7) procedures for considering student challenges to prerequisites established pursuant to Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division; and

(8) in districts with more than one college, arrangements for coordination by the district of the matriculation plans of its various colleges.

(b) The plan shall be developed through consultation with representatives of the academic senate, students, and staff with appropriate expertise, pursuant to Section 51023 et seq.

(c) Such plans shall conform to the requirements of this Chapter and shall be submitted to the Chancellor for review and approval. Plans submitted prior to the effective date of this Section need not be revised or resubmitted if the Chancellor finds that they meet the requirements of this Chapter. Regardless of when plans are initially submitted, the Chancellor may require periodic updates of such plans.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (a)(6), new subsection (a)(7) and subsection renumbering filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55512. Evaluation and Audits.

(a) Each community college district shall establish a program of institutional research for ongoing evaluation of its matriculation process to ensure compliance with the requirements of this chapter.

As part of this evaluation, all assessment instruments, methods or procedures shall be evaluated to ensure that they minimize or eliminate cultural or linguistic bias and are being used in a valid manner. Based on this evaluation, districts shall determine whether any assessment instrument, method or procedure has a disproportionate impact on particular groups of students described in terms of ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact. The evaluation shall include, but not be limited to, an analysis of the degree to which the matriculation program:

(1) impacts on particular courses, programs, and facilities;

(2) helps students to define their educational goals;

(3) promotes student success, as evidenced by outcome and retention data such as student persistence, goal attainment, skill improvement, and grades;

(4) assists the district in the assessment of students' educational needs;

(5) matches district resources with students' educational needs; and

(6) provides students with the support services described in section 545520(g).

(b) Each district shall also, as part of its annual financial audit, provide for a review of the revenue and expenditures of the matriculation program.

(c) The Chancellor shall establish a system for evaluation of the matriculation program on a statewide basis, including procedures for monitoring compliance with the requirements of this chapter.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: section 78214 and 78217, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55514. Data Collection.

Each community college district shall submit an annual report describing the district's efforts to implement its matriculation plan and expenditures made for that purpose. In this report, or through the established management information system or otherwise, the data to be collected for evaluation purposes pursuant to Education Code section 78214 and section 55512 of this part. Such data shall specifically include, but is not limited to, the information necessary to permit the Chancellor to determine the following:

(a) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who are placed in pre–collegiate, associate–degree applicable, or transfer level courses in reading, writing, computation or English as a Second Language.

(b) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who enter and complete pre–collegiate basic skills courses.

(c) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, completing pre–collegiate basic skills courses who subsequently enter and complete courses applicable to the associate degree;

[The next page is 355.]

(d) outcome and retention data, as described in section 55512(a), indicating the effectiveness of matriculation;

(e) the basis on which the use of particular assessment instruments, ethods or procedures was validated by a district;

(f) the numbers of students exempted, pursuant to section 55532, from participation in the district's matriculation program, by category of exemption;

(g) the number of students filing complaints pursuant to 55534 and the bases of those complaints;

(h) the particular matriculation services, as listed in section 55520, which each student received; and

(i) any other matter the Chancellor, after consultation with community college districts, deems necessary for the effective evaluation of matriculation programs.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78214, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55516. Training and Staff Development.

Each community college district shall develop and implement a program for providing all faculty and staff with training appropriate to their needs on the provision of matriculation services, including but not limited to, the proper purpose, design, evaluation, and use of assessment instruments, methods or procedures, as well as their limitations and possible misuse.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55518. Funding.

(a) The Chancellor shall adopt a funding formula, consistent with the requirements of this section, for allocating matriculation funds to community college districts complying with the requirements of this chapter.(b) Each dollar of state matriculation funding shall be matched by three dollars of other district resources devoted to the matriculation program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 3. Matriculation Services

§ 55520. Required Services.

At a minimum, each community college district shall provide students, except as exempted pursuant to section 55532, with all of the following matriculation services:

(a) the processing of applications for admission;

(b) orientation and pre–orientation services designed to provide nonexempt students and potential students, on a timely basis, information concerning college procedures and course scheduling, academic expectations, financial assistance, and any other matters the college or district finds appropriate;

(c) assessment for all nonexempt students pursuant to section 55524;

(d) counseling or advisement for nonexempt students pursuant to section 55523;

(e) assistance in developing a student educational plan pursuant to section 55525, which identifies the student's educational objectives and the courses, services, and programs to be used to achieve them;

(f) post enrollment evaluation, pursuant to section 55526, of each student's progress; and

(g) referral of students to:

(1) support services which may be available, including, but not limited to, counseling, financial aid, health services, campus employment placement services, Extended Opportunity Programs and Services, campus child care services, tutorial services, and Disabled Students Programs and Services; and

(2) specialized curriculum offerings including but not limited to, pre–collegiate basic skills courses and programs in English as a Second Language.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55521. Prohibited Practices.

(a) In implementing matriculation services, community college districts shall not, except as provided in subdivision (b), do any of the following:

(1) use an assessment instrument which has not been approved by the Chancellor pursuant to Section 55524, except that the Chancellor may permit limited field–testing, under specified conditions, of new or alternative assessment instruments, where such instruments are not used for placement and are evaluated only in order to determine whether they should be added to the list of approved instruments;

(2) use any assessment instrument in a manner or for a purpose other than that for which it was developed or has been otherwise validated;

(3) use any single assessment instrument, method or procedure, by itself, for placement, required referral to appropriate services, or subsequent evaluation of any student; provided however that, in the case of assessment instruments, the use of two or more highly correlated instruments does not satisfy the requirement for use of multiple measures;

(4) use any assessment instrument, method or procedure to exclude any person from admission to a community college;

(5) use any assessment instrument, method or procedure for mandatory placement of a student in or exclusion from any particular course or educational program, except that districts may establish appropriate prerequisites pursuant to Sections 55002 and 58106 of Division 9 of this Part; or

(6) use any matriculation practice which has the purpose or effect of subjecting any person to unlawful discrimination prohibited by Chapter 5 (commencing with Section 59300) of Division 10 of this Part.

(b) Notwithstanding the provisions of subdivisions (a)(1) and (2), assessment instruments approved by the Secretary of the United States Department of Education may be used to determine "ability to benefit" in the process of establishing a student's eligibility for federal financial aid pursuant to subdivision (d) of Section 1091 of Title 20 of the United States Code.

NOTE: Authority cited: Section 11138, Government Code; and Sections 66700 and 70901, Education Code. Reference: Section 11135, Government Code; and Sections 72011, 78211 and 78213, Education Code.

HISTORY

1. Amendment of subsections (d), (e) and (f) filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (a) and redesignating following subsections (1)–(6), adoption of subsection (b) and amendment of NOTE filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 55522. Special Accommodations.

Matriculation services for ethnic and language minority students and students with disabilities, shall be appropriate to their needs, and community college districts shall, where necessary, make modifications in the matriculation process or use alternative instruments, methods or procedures to accommodate the needs of such students. Districts may require students requesting such accommodations to provide proof of need. Ex-

tended Opportunity Programs and Services (EOPS) and Disabled Students Programs and Services (DSPS) are authorized, consistent with the provisions of chapter 1 (commencing with section 56000) and chapter 2.5 (commencing with section 56200) of division 7 of this part, to provide specialized matriculation services and modified or alternative matriculation services to their respective student populations. Notwithstanding such authorization, participation in the EOPS and DSPS programs is voluntary and no student may be denied necessary accommodations in the assessment process because he or she chooses not to use specialized matriculation services provided by these programs. Modified or alternative matriculation services for limited or non–English–speaking students may be provided in English as a Second Language programs.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55523. Counseling and Advisement.

(a) If not already required to do so by the minimum standards for counseling services set forth in section 51018 of division 1 of this Part, each community college district shall do all of the following:

(1) make reasonable efforts to ensure that all nonexempt students who are on probation participate in counseling as provided in section 55759 of this Part;

(2) make reasonable efforts to ensure that all nonexempt students who have not declared a specific educational goal participate in counseling to assist them in the process of selecting a specified educational goal pursuant to section 55525;

(3) make reasonable efforts to ensure that all nonexempt students who are enrolled in pre–collegiate basic skills courses participate in counseling or advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational plan as required by section 55525.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by Section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by Section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to Subsection (b) shall be recorded in written or electronic form. The plan and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this Section, the student may file a complaint pursuant to Section 55534 (a).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).
2. Amendment of subsections (a), (c) and (d) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55526. Student Follow–up.

Each community college district shall establish a student follow–up process to assist the student in achieving his/her educational goal. The follow–up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre–collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this Subchapter shall be construed to interfere with the right of a student admitted to a community college in accord with district admission policies adopted pursuant to Education Code Section 76000, et seq. to enroll in any course for which he or she can meet necessary and appropriate prerequisites, if any, which have been established pursuant to the requirements of Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division.

(b) Community college districts shall take steps to ensure that information is available in written form to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under this Chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to void additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Section 55521(a)(6), the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation

not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) "Eligible costs" means all direct and indirect related instructional costs but does not include expenditures for capital outlay (6000 category in the California Community Colleges Budget and Accounting Manual).

Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New chapter 7 (sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
6. Editorial correction of HISTORY 4 (Register 95, No. 22).

§ 55601. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representative of the general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25). For prior history, see Register 83, No. 18.

§ 55602. Authority to Contract.

Any community college district or districts may contract with a private post secondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300) of part 59 of the Education Code and which has been in operation not less than two full calendar years prior to the effective date of such contract to provide vocational skill training authorized by the Education Code. Any community college district may contract with an activity center, work activity center, or sheltered work shop to provide vocational skill training authorized by the Education Code in any adult education program for substantially handicapped persons operated pursuant to subdivision (e) of section 41976 of the Education Code.

All contracts between a community college district and a private postsecondary school entered into pursuant to this section, or an activity center, work center, or sheltered workshop shall do all of the following:

(1) Be approved by the Chancellor.

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the community colleges or the tuition the private postsecondary school charges its private students, whichever is lower.

(3) Provide that the community college students receiving training in a private postsecondary school, or an activity center, work activity center, or sheltered workshop pursuant to that contract may not be charged additional tuition for any training included in the contract. The attendance of those students pursuant to a contract authorized by this section shall be credited to the community college district for the purposes of apportionments from the State School Fund.

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education, or is a course of study for adult schools approved by the Department of Education under section 51056 of the Education Code.

The students who attend a private postsecondary school or an activity center, work activity center or sheltered workshop pursuant to a contract under this section shall be enrollees of the community college and the vocational instruction provided pursuant to that contract shall be under the exclusive control and management of the governing body of the contracting community college district. The Chancellor may audit the accounts of both the district and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55602.5. Contracts for Vocational Education for Students with Impaired Physical Capacity.

Notwithstanding any provision in the Education Code to the contrary, the governing board of a community college district and a proprietary or nonprofit organization, a public entity, or a proprietary or nonprofit private corporation may enter into a contract for the education of community college students whose capacity to function is impaired by physical deficiency or injury in vocational education classes to be conducted for such students by the proprietary or nonprofit organization, the public entity, or the proprietary or nonprofit private corporation maintaining the vocational education classes. All instruction pursuant to this Section shall be approved of and supervised by the governing board of the community college district and shall be conducted by academic employees. The full-time equivalent student of such community college students attending classes under the provisions of this Section shall be credited to the community college district, and college credit may be granted to students who satisfactorily complete the course of instruction in such classes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§5605. Contract Approval and Limitations.

Vocational education contracts entered into pursuant to section 55602 shall:

(a) Not exceed one year;

(b) Be approved by the Chancellor;

(c) Include such details to explain and justify intended offerings.

(d) Be maintained in conformity with applicable provisions of the Education Code, Title 5 of the California Code of Regulations, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education; and

(e) Be organized and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

NOTE: Authority cited: Sections 8092, 66700, 70901, 70902 and 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 22).

§ 55606. Administration.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55607. Reporting.

Each Community College district that has entered into a contract with a contractor pursuant to Education Code section 55602, shall submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract shall be made available for audit by the state or federal government and will be retained for five (5) years or one year after audited, whichever comes first.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 22).

§ 55608. Accounting Procedure.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Contracting Standards

§ 55620. Standards.

The following conditions shall be used to determine the appropriateness of vocational education contracts with contractors:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(e) Eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private students, whichever is lower.

(f) The community college student may not be charged additional tuition for any training included in the contract.

(g) Each student eligible for enrollment under a contract between a community college district and a contractor must: (1) have reached his or her sixteenth birthday and (2) be enrolled in a community college.

(h) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 22).

Article 3. Contract Provisions

§ 55630. Terms and Conditions.

Each contract shall expressly include but not be limited to, the following provisions:

(a) The governing board of the community college district has determined, by resolution, the appropriateness of offering the program through a contract with a contractor pursuant to Education Code section 78015.

(b) Methods for identifying eligible costs and payment procedures for compliance with section 55602 subdivisions 2 and 3.

(c) Procedures, terms and conditions relating to (1) enrollment period; (2) transfer of students between the community college district and contractor; (3) number of class hours sufficient to meet the stated performance objectives; (4) supervision and evaluation of students; and (5) withdrawal of students prior to completion of a course or program.

(d) The contractor and the community college district will insure that ancillary and support services are provided for the students including, but not limited to (1) counseling and guidance, and (2) placement assistance.

(e) Instruction provided under the immediate supervision and control of qualified faculty of the district.

(f) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(g) Designation of responsibility to the contractor for maintaining records of student attendance and achievement. Such records shall be available for review at all times and submitted on a schedule developed by the community college district.

(h) Terms and conditions relating to cancellation and termination of the contract.

(i) The contractor is in compliance with the Civil Rights Act of 1964, title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable), and all applicable state and federal health and safety regulations.

(j) The contractor provides, when required by law and at the contractor's own expense, workers' compensation insurance coverage for any student.

(k) The contractor provides indemnity and defense for the state and the community college district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage

arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

NOTE: Authority cited: Sections 8090, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55631. Terms and Conditions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (d) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 4. Regional Adult and Vocational Education Councils

§ 55650. Regulations Reference.

NOTE: Authority cited: Section 8023, Education Code. Reference: Article 2, Chapter 1 (commencing with Section 8020), Division 1, Education Code.

HISTORY

1. New subchapter 2 (section 55650) filed 4–22–76; effective thirtieth day thereafter (Register 76, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Redesignation of subchapter 2 (section 55650) to article 4 (section 55650) filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 22).

Article 5. Calculation and Payment of Excess Costs of Apprenticeship Classes

§ 55675. Regulations Reference.

Pursuant to the authority vested by section 3074 of the Labor Code, the State Board of Education, the Board of Governors of the California Community Colleges and the Division of Apprenticeship Standards have jointly issued regulations regarding excess costs to be borne by program sponsors. These regulations are set forth in article 11 (commencing with section 235) of chapter 2, part 1 of title 8, California Administrative Code, and shall govern the calculation and payment of excess costs of apprenticeship classes which are maintained in connection with Community Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 3074, Labor Code.

HISTORY

1. New subchapter 3 (section 55675) filed 7–8–76; effective thirtieth day thereafter (Register 76, No. 28).
2. Editorial correction replacing text inadvertently omitted during printing (Register 80, No. 9).
3. Redesignation of subchapter 3 (section 55675) to article 5 (section 55675) and amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Editorial correction of first paragraph (Register 91, No. 31).

Subchapter 8. Academic Calendar

Article 1. 175–Day Minimum Academic Calendar

§ 55700. Scope.

The provisions of this article pertain to changes made on or after July 1, 1982, to any traditional academic year calendar consisting of at least 175 days of instruction and evaluation. The conversion to a flexible calendar operation is not addressed by the provisions of this article; rather, the provisions of article 2 (commencing with section 55720) govern the flexible calendar option.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New chapter 8, articles 1–4 (sections 55700–55731, not consecutive) filed 5–7–76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment of NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 8 (articles 1–4, sections 55700–55731, not consecutive) and new chapter 8 (articles 1 and 2, sections 55700–55732, not consecutive) filed 7–26–82; designated effective 7–30–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 31). For prior history, see Register 80, No. 11.
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 22).

§ 55700.1. Studies on a Quarter System, Trimester Basis or Flexible Calendar.

At the request of a community college district, the Chancellor may approve a program of studies on a quarter system or a trimester basis, or a flexible calendar.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55701. College and Academic Year.

The "college year" begins on the first day of July and ends on the last day of June. The "academic year" means that portion of the college year during which the community college is maintained, which period shall include not less than the number of days required by regulations adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 55702. Approval of Changes.

(a) Prior to any change in academic year configuration, including the addition, deletion, shortening or lengthening of any term, the governing board of a district shall obtain the approval of the Chancellor.

(b) Requests for approval shall be made on a form provided by the Chancellor, and shall address:

(1) A complete description of the calendar configuration;

(2) The district's ability to comply with the 175–Day Rule as provided in section 58142; and

(3) The educational implications, positive and negative, of the proposed change.

(c) The Chancellor shall approve a requested change in academic year terms if it is found that:

§ 55728. Flexible Calendar Attendance Reporting.

(a) On forms provided by the Chancellor, districts with approved flexible calendar operations shall report at least the following:

(1) the total hours of classroom assignments (teaching time) which instructors specified in the district's approved plan were required to teach;

(2) of the total in Subsection (a)(1), the total faculty contact hours of instruction for which staff, student, and instructional improvement activities are being substituted. This total of faculty contact hours shall further be reported in terms of credit and noncredit faculty contact hours of instruction; and

(3) the number of faculty contact hours of instruction for which instruction during the designated days is being substituted. Such instruction during the designated days meeting the attendance accounting standards may be claimed for apportionment; and the faculty contact hours shall not be eligible for adjustment pursuant to Section 55729.

(b) Districts with approved flexible calendar operations shall also report such additional data as deemed necessary by the Chancellor including any data necessary to compute the FTES adjustment specified in Section 55729.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. New section filed 11–10–82; effective thirtieth day thereafter (Register 82, No. 46).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
3. Amendment of subsections (a)(1), (a)(3), (b) and NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Amendment of subsections (a)(2)–(b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55729. Full–time Equivalent Student (FTES) Units; Adjustments to Reflect Activities; Computation by Multiplier Factor.

(a) The Chancellor's Office shall adjust the actual units of full–time equivalent student of a district operating under a plan approved in accordance with Sections 55720–32 to reflect the conduct of staff, student, and instructional improvement activities in lieu of scheduled instruction during flexible time. The adjusted units of full–time equivalent student shall be computed by multiplying the actual units of full–time equivalent student in the academic year, exclusive of any intersessions, computed pursuant to Section 58003.1, by a factor which does not change the full–time equivalent student which would have otherwise been generated if the time for the improvement activities had not been permitted and scheduled instruction had instead taken place.

(b) For courses other than those described in Subsection (b) of Section 58003.1, the multiplier factor shall equal the sum of the following:

(1) 1.0; and

(2) the total of all the actual hours of flexible time of all instructors pursuant to Section 55720 in the fiscal year, divided by the total of all the actual hours of classroom instruction of all instructors in the academic year, exclusive of any intersessions.

(c) For those courses described in Subsection (b) of Section 58003.1, this multiplier factor shall equal the maximum term length multiplier set forth in that Subsection.

(d) The Chancellor shall also withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
2. Amendment of section heading and text filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

55730. Ongoing Responsibilities of Districts.

A district conducting an approved flexible calendar shall do all of the following to ensure effective use of resources during flex days:

(a) conduct and annually update a survey of the most critical staff, student, and instructional improvement needs in the district;

(b) develop and carry out a plan of activities to address the critical needs;

(c) maintain records on the description, type and number of activities scheduled and the number of district employees and students participating in these activities;

(d) evaluate annually the effectiveness of conducted activities and update the plan to reflect needed changes;

(e) appoint and hold regular meetings of an advisory committee composed of faculty, students, administrators and other interested persons to make recommendations on staff, student, and instructional improvement activities; and

(f) provide, upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of section 55729 of this Part;

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond; and

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) failed to conduct its flexible calendar operation in a manner consistent with its approved request;

(2) failed to carry out the responsibilities specified in section 55726; or

(3) failed to meet its ongoing responsibilities as specified in section 55730.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
2. Amendment filed 5–15–93; operative 6–14–93 (Register 93, No. 25).

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board of each community college district shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this Subchapter.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The nature and content of the examination shall be determined solely by faculty in the discipline that normally teaches the course for which credit is to be granted in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002. The faculty shall determine that the examination adequately measures mastery of the course content as set forth in the outline of record. The faculty may accept an examination conducted at a location other than the community college for this purpose.

(d) A separate examination shall be conducted for each course for which credit is to be granted. Credit may be awarded for prior experience or prior learning only in terms of individually identified courses for which examinations are conducted pursuant to this section.

(e) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(f) Grading shall be according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit–no credit option if that option is ordinarily available for the course.

(g) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.5. Articulation of High School Courses.

(a) For purposes of this section, the term "articulated high school course" means a high school course or courses that the faculty in the appropriate discipline, using policies and procedures approved by the curriculum committee established pursuant to Section 55002, have determined to be comparable to a specific community college course.

(b) The governing board of a community college district may adopt policies to permit articulated high school courses to be applied to community college requirements in accordance with this Section. Articulated high school courses may be accepted in lieu of comparable community college courses to partially satisfy:

(1) requirements for a certificate program, including the total number of units required for the certificate; or,

(2) the major requirements in a degree program.

(c) Articulated high school courses used to partially satisfy certificate or major requirements shall be clearly noted as such on the student's academic record. Notations of community college course credit shall be made only if community college courses are successfully completed or if credit is earned via credit by examination.

(d) Except through credit by examination, as defined in Section 55753, high school courses may not be used to satisfy:

(1) the requirement of Section 55806 that students complete at least 60 semester or 90 quarter units in order to receive an associate degree; or,

(2) any general education requirement for the associate degree established by the district.

(e) All community college district–high school articulation agreements shall be subject to the provisions of this Section. However, any student who, prior to the date this Section takes effect, has successfully completed a high school course articulated under the terms of a previous agreement shall be permitted to apply the credit so earned according to the terms of the previous agreement.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

HISTORY

1. New section filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.7. Advanced Placement Examinations.

The governing board of a community college district may adopt policies to grant credit for satisfactory completion of advanced placement examinations typically recognized by colleges and universities as measuring competencies comparable to those achieved in baccalaureate level courses.

The faculty in the appropriate discipline must approve advanced placement examinations, scores deemed to constitute satisfactory performance, courses offered by the college for which credit will be granted, and requirements that may be met by such examinations in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002.

The student's academic record shall be clearly annotated to reflect that credit was earned through an advanced placement examination.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

HISTORY

1. New section filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 5[illegible] Standards for Probation.

[illegible]ademic probation. A student who has attempted at least 12 se[illegible]mi[illegible]or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 5[illegible]. Removal from Probation.

[illegible] student on academic probation for a grade point deficiency shall b[illegible]oved from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

[illegible] student who is on academic probation shall be subject to dismiss[illegible]r[illegible]e student earned a cumulative grade point average of less than 1.75 [illegible]nits attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols, except as provided in subsections (b) and (c):

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board of a community college district may use "plus" and "minus" designations in combination with letter grades, except that the grade of C minus shall not be used. If pluses and minuses are used, the grade point value of a plus shall be computed by adding 0.3 to the value assigned to the letter grade with which it is combined, and the grade point value of a minus shall be computed by subtracting 0.3 from the value assigned to the letter grade with which it is combined, except that no grade point value shall be less than 0 or greater than 4.0.

(c) Regardless of whether the governing board elects to use plus and minus grading, it may provide for the use of the "FW" grade symbol to indicate that a student has both ceased participating in a course some time after the last day to officially withdraw from the course without having achieved a final passing grade, and that the student has not received district authorization to withdraw from the course under extenuating circumstances. The "FW" symbol may not be used if a student has qualified for and been granted military withdrawal. If "FW" is used, its grade point value shall be zero (0).

(d) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) or subsections (a) and (b) (if pluses and minuses are used) in the catalog or catalogs of that community college district as a part of its grading practices. In the event the governing board chooses to use the "FW" described in subsection (c), it shall be included in the grading scale and point equivalencies published in the catalog.

(e) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in this Section other than a "W."

Symbol	*Definition*
	The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student.
	No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made.
	Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty.
	Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W."
	For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer.
	The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in Sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures.
	Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs.
	A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.
MW	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following:
	"Military Withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s. In no case would a military withdrawal result in a student being assigned an "FW" grade.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of subsection (c) filed 5–20–91 and submitted to OAL on 5–24–91 for printing only pursuant to Education Code section 10901.5; operative 6–19–91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).
6. Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE filed 1–12–98; operative 2–11–98. Submitted to OAL for printing only (Register 98, No. 3).
7. Amendment of subsection (a), new subsection (c), subsection relettering, and amendment of newly designated subsections (d) and (e) filed 12–8–2000; operative 1–7–2001. Submitted to OAL for printing only (Register 2000, No. 50).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(e) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(f) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(g) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Repealer of subsection (d), subsection relettering, and amendment of NOTE filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded.

(b) Except as provided in Subsection (c), repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition. Grades awarded for courses repeated under the provisions of this subsection shall not be counted in calculating a student's grade point average.

(c) If a district permits repetition of courses where substandard work has not been recorded, repetition shall be permitted, without petition, in instances when such repetition is necessary for a student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment. Such courses must conform to all attendance accounting, course approval, and other requirements imposed by applicable provisions of law. Such courses may be repeated for credit any number of times, regardless of whether or not substandard work was previously recorded, and the grade received each time shall be included for purposes of calculating the student's grade point average. The governing board of a district may establish policies and procedures requiring students to certify or document that course repetition is necessary to complete legally mandated training pursuant to this subsection.

(d) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment of section and NOTE filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of

[The next page is 360.4(c).]

grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55800.5. Minimum Credit Hours for Graduation from Two–Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculum.

The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55805. Philosophy and Criteria for Associate Degree and General Education.

(a) The governing board of a community college district shall adopt policy which states its specific philosophy on General Education. In developing this policy governing boards shall consider the following policy ...e Board of Governors:

...he awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights. Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self–understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by the various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture, and the society in which they live. Most importantly, General Education should lead to better self–understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a reg...r basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55805.5. Types of Courses Appropriate to the Associate Degree.

The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in section 55002(a) and that fall into the following categories to be offered for associate degree credit:

(a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.

(b) Courses that apply to the major in non–baccalaureate occupational fields.

(c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.

(d) All mathematics courses above and including Elementary Algebra.

(e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the courses specified in subsections (c) and (d) above.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55806. Minimum Requirements for the Associate Degree (Applicable July 1, 1983).

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). It must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each part of (D). The remainder of the unit requirement is also to be selected from among these four divisions of learning or as determined by local option:

(A) Natural Sciences. Courses in the natural sciences are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This

category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Editorial correction of subsection (b)(1)(A) filed 7–19–83; designated effective 8–12–83 (Register 83, No. 29).
2. New section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of printing error in NOTE (Register 91, No. 43).
5. Editorial correction of HISTORY 3 (Register 95, No. 22).

§ 55807. Conversion to Credit.

Upon student petition to and certification by a governing board of credit–level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 78405, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (sections 55805 and 55806).

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

History

1. New chapter 11 (sections 55825–55831, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of printing error (Register 91, No. 43).
4. Editorial correction of History 2 (Register 95, No. 22).

§ 55827. Definitions.

(a) College. As used in this Chapter, "college" means a degree–granting institution intended to provide instruction through the second year of college, including but not limited, to one or more of the following categories:

(1) standard collegiate courses for transfer to higher institutions;

(2) vocational and technical fields leading to employment; or

(3) general or liberal arts courses for which institution the district intends to obtain accreditation.

(b) Educational Center. As used in this Chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 FTES by the third year of operation. The center typically has an on–site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 66700, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of subsections (a), (a)(3) and (b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of History 1 (Register 95, No. 22).

§ 55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off–campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community college district and the Postsecondary Education Commission for use in planning activities.

(b) The Chancellor's Office shall develop procedures to identify and review plans for new colleges and new educational centers within the district's Five–Year Academic and Capital Outlay Master Plans.

(c) Community college districts shall prepare and submit to the Chancellor's Office proposals for new colleges and new educational centers as defined in this chapter. These proposals should contain at least the following elements:

(1) Assessment of Needs and Preferences (section 55829),

(2) Identification of Objectives (section 55830), and

(3) Analysis of Alternative Delivery Systems (section 55831).

(d) The Chancellor's Office shall review each proposed new college and new educational center and shall recommend approval or disapproval to the Board of Governors. The Chancellor's Office analysis of these proposals shall stress inter–district concerns and evaluation of the delivery system proposed.

(e) The Board of Governors shall approve or disapprove each new college or educational center and transmit its findings to the community college district initiating the proposal and to the California Postsecondary Education Commission.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

§ 55829. Assessment of Needs and Preferences.

(a) The community area and characteristics of individuals to be served must be identified adequately.

(b) Projections of potential enrollment demand in the service area must demonstrate significant unmet need, taking into account plans of nearby secondary and postsecondary institutions.

(c) Significant community support must be evident and possible community opposition must be identified.

(d) Preferences for community college programs and services on the part of individuals in the service area must be identified.

(e) Insofar as possible, present and future labor market requirements must be identified for the proposed service area, a broader adjacent region, and the state.

(f) Projected labor market requirements and community program preferences must be reconciled, if possible.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

§ 55830. Identification of Objectives.

(a) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served.

(b) Objectives of the proposed programs and services must be sufficiently specific that the district board may evaluate the success with which needs and preferences are met.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

§ 55831. Analysis of Alternative Delivery Systems.

(a) The proposed operation must be the most effective and equitable of feasible delivery system alternatives for providing intended programs and services.

(b) Criteria for selecting the proposed delivery system must include:

(1) accessibility of programs and services to individuals in the service area,

(2) content and quality of programs and services, and

(3) cost of programs and services.

(c) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include, but need not be limited to:

(1) increased utilization of existing district resources,

(2) forming a new college, educational center, and/or outreach locations, and

(3) use of media such as television, computer–assisted instruction or programmed learning packages.

Alternative delivery systems considered must be adequately described, generally mutually exclusive, and limited to a manageable number to facilitate analysis and review.

(d) Proposed sources of funding for needed resources must be identified for both short and long–term operations.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Editorial correction of History 1 (Register 95, No. 22).

Subchapter 12. Libraries

§ 55840. Appointment and Qualification of District Librarian.

The governing board of a community college district maintaining its own library or libraries may appoint a librarian who shall meet minimum qualifications established pursuant to chapter 4 (commencing with section 53400) of division 4 of this part.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. New subchapter 12 heading filed 5–15–93; operative 6–14–93 (Register 93, No. 25).
3. Editorial correction of History 1 (Register 95, No. 22).

§ 55841. Annual Report by Governing Board to Department of Education.

The governing board of a district shall, on or before August 31st, in each year, report to the Chancellor on the condition of district libraries, for the year ending June 30th preceding. The report shall, in addition to other matters deemed expedient by the governing board or the librarians, contain such statistical and other information as is deemed desirable by the Chancellor. For this purpose the Chancellor may send to the districts instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

Chapter 7. Special Programs

Subchapter 1. Disabled Student Programs and Services

Article 1. General Provisions and Definitions

§ 56000. Scope of Chapter.

This subchapter applies to community college districts offering support services, or instruction through Disabled Student Programs and Services (DSPS), on and/or off campus, to students with disabilities pursuant to Education Code Sections 67310–12 and 84850.

Programs receiving funds allocated pursuant to Education Code Section 84850 shall meet the requirements of this subchapter. Any support services or instruction funded, in whole or in part, under the authority of this subchapter must:

(a) not duplicate services or instruction which are otherwise available to all students;

(b) be directly related to the educational limitations of the verified disabilities of the students to be served;

(c) be directly related to the students' participation in the educational process;

(d) promote the maximum independence and integration of students with disabilities; and

(e) support participation of students with disabilities in educational activities consistent with the mission of the community colleges as set forth in Education Code Section 66701.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 66701, 67310–12 and 84850, Education Code.

History

1. Repealer of chapter 1 (sections 56000–56062) and new chapter 1 (sections 56000–56088, not consecutive) filed 12–17–76 as an emergency; effective upon filing. Designated inoperative 90 days after filing (Register 76, No. 51). For prior history, see Register 73, No. 44.
2. Repealer of chapter 1 (sections 56000–56088, not consecutive) and new chapter 1 (sections 56000–56088) filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment of section and Note filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
4. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
5. Repealer of chapter 1 (sections 56000–56088, not consecutive) and new chapter 1 (sections 56000–56088, not consecutive) filed 3–29–88; operative 4–28–99 (Register 88, No. 16).
6. Amendment of first and second paragraphs, repealer of subsections (a) and (f), amendment of newly designated subsections (a)–(d), new subsection (e), and amendment of Note filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56002. Student with a Disability.

A "student with a disability" or "disabled student" is a person enrolled at a community college who has a verified impairment which limits one or more major life activities, as defined in 28 C.F.R. 35.104, and which imposes an educational limitation as defined in Section 56004. For purposes of reporting to the Chancellor under Section 56030, students with disabilities shall be reported in the categories described in Sections 56032–44.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310–12 and 84850, Education Code.

History

1. Repealer and new section filed 3–29–88; operative 4–28–88 (Register 88, No. 16). For prior history, see Register 83, No. 18.
2. Repealer and new section filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56004. Educational Limitation.

As used in this subchapter, "educational limitation" means disability related functional limitation in the educational setting. This occurs when the limitation prevents the student from fully benefiting from classes, activities, or services offered by the college to nondisabled students, without specific additional support services or instruction as defined in Section 56005.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310–12 and 84850, Education Code.

History

1. Repealer and new section filed 3–29–88; operative 4–28–88 (Register 88, No. 16). For prior history, see Register 83, No. 18.
2. Repealer and new section filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56005. Support Services or Instruction.

As used in this subchapter, "support services or instruction" means any one or more of the services listed in Section 56026, special class instruction authorized under Section 56028, or both.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310–12 and 84850, Education Code.

History

1. Repealer and new section filed 3–29–88; operative 4–28–88 (Register 88, No. 16). For prior history, see Register 83, No. 18.
2. New section filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56006. Determination of Eligibility.

(a) In order to be eligible for support services or instruction authorized under this chapter, a student with a disability must have an impairment which is verified pursuant to subdivision (b) which results in an educational limitation identified pursuant to subdivision (c) of this section.

(b) The existence of an impairment may be verified, using procedures prescribed by the Chancellor, by one of the following means:

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

§ 58056. Immediate Supervision and Control.

(a) Subdivision (a)(1) of section 58051 requires, as a condition for claiming attendance for apportionment purposes, the immediate supervision and control of an academic employee authorized to render service in a capacity and during the period in which he or she served. Immediate supervision and control requires the presence of the authorized employee. More specifically, immediate supervision or presence is characterized by all of the following:

(1) The authorized employee is able, in terms of physical proximity and range of communication, to provide immediate instructional supervision and control; and

(2) The authorized employee is in a position to provide the supervision and control necessary for the protection of the health and safety of students; and

(3) The authorized employee is not to have any other assigned duty during the instructional activity for which attendance is being claimed. The criteria specified above are to be applied in recognition of the fact that the need for immediate supervision will vary according to the course being offered, as well as with the design or mode of instruction of such course or program.

(b) Under the following limited circumstances, attendance of students enrolled in a course or program which does not meet the requirements of subdivision (a) shall qualify for apportionment purposes if:

(1) The course or program is approved and being conducted as distance education in accordance with article 3 (commencing with section 55205) of subchapter 1 of chapter 6; or

(2) The course or program is approved and being conducted as independent study in accordance with subchapter 4 (commencing with section 55300) of chapter 6; or

(3) The course or program is approved and being conducted as work experience education in accordance with subchapter 3 (commencing with section 55250) of chapter 6 of this part; or

(4) The course or program is approved and is being conducted as health sciences education in accordance with section 58055(a).

(c) Attendance generated solely under an instructional assistant or aide does not qualify for apportionment. In addition, instructional aides shall not be used to increase the number of students in relation to the number of classroom instructors in the district. However, attendance may qualify for apportionment under the following limited circumstances:

(1) The assistant or aide functions under the exclusive direction of the authorized employee assigned to that educational activity, and not independently; and

(2) The assistant or aide performs only those duties specifically authorized by law, including, but not limited to, sections 88240–88249 of the Education Code; and,

(3) The authorized employee is able, in terms of physical proximity and range of communication, to provide necessary supervision and control of students, so that by working in conjunction with the assistant or aide, the requirements of subsection (a) of this section are met.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58058. Employee of the District.

(a) A person is an "employee of the district" within the meaning of subdivision (a)(1) of Section 58051 if:

(1) The district has the primary right to control and direct the person's activities during the time such person is serving the district; and

(2) A contract exists between the person and the district, indicia of which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87801), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 87801, Education Code.

HISTORY

1. Amendment of subsections (a) and (a)(3) and NOTE filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58060. Valid Employment Qualifications.

For the purposes of Sections 58051 and 58056, the employee is deemed authorized to perform the services because he or she is employed pursuant to a valid, unrevoked credential issued by the Board of Governors or pursuant to minimum qualifications adopted by the Board of Governors or equivalencies pursuant to Section 53430.

(a) If the person serves pursuant to a credential,

(1) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(2) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

(b) If the person serves pursuant to minimum qualifications adopted by the Board of Governors or equivalencies, the qualifications or equivalencies must be related to the assignment and effective during the period of instruction for which attendance is being claimed.

(c) For purposes of this section, an employee is deemed authorized to perform the services if he or she is employed as a faculty intern.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 84500 and 87487, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
2. Editorial correction of subsection (b) (Register 95, No. 47).

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Section 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a special-clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58106. Limitations on Enrollment.

In order to be claimed for purposes of state apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, provided that enrollment in specific courses or programs may be limited as follows:

(a) Enrollment may be limited to students meeting prerequisites and corequisites established pursuant to Sections 55200–55202 of this Division,

(b) Enrollment may be limited due to health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning or legal requirements imposed by statutes, regulations, or contracts. The governing board shall adopt policies identifying any such limitations and requiring fair and equitable procedures for determining who may enroll in affected courses or programs. Such procedures shall be consistent with one or more of the following approaches:

(1) limiting enrollment to a "first–come, first–served" basis or using other nonevaluative selection techniques to determine who may enroll; or

(2) limiting enrollment using a registration procedure authorized by § 58108; or

in the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students judged most qualified; or

(4) limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions; or

(5) with respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Sections 55754–55755 of this Part, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan.

(c) A student may challenge an enrollment limitation established pursuant to Subsection (b) of this Section on any of the following grounds:

(1) the enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(2) the district is not following its policy on enrollment limitations;

(3) the basis upon which the district has established an enrollment limitation does not in fact exist; or

(4) any other criteria established by the district.

(d) The student shall bear the burden of showing that grounds exists for the challenge. Challenges shall be handled in a timely manner, and if the challenge is upheld, the district shall waive the enrollment limitation with respect to that student.

(e) In the case of a challenge under Subsection (c)(1) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer and new section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42). For prior history, see Register 92, No. 15.

§ 58107. Facilities and Opportunities for Participation.

Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off–campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58110. Enrollment Limitations.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

Article 2. 175–Day Rule

§ 58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of section 58142, courses of instruction must be offered for a minimum of three hours during the period of 7 a.m. and 11 p.m.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of section 58142, provided that:

EXHIBIT 5

STATE AGENCY PROGRAM MANUALS AND ADVISORIES (Executive Orders)

HANDBOOK OF ACCREDITATION AND POLICY MANUAL

Accrediting Commission for Community and Junior Colleges

Western Association of Schools and Colleges

3402 Mendocino Ave

Santa Rosa, CA 95403

(707) 569-9177

FAX (707) 569-9179

Revised Summer 2002

ACKNOWLEDGEMENTS

The Standards of Accreditation and Commission Handbook are refined over time and informed by the experience of hundreds of professionals who volunteer their time, their labors, and their wisdom to the work of the Commission. Institutional trustees, presidents, administrators, faculty members, staff, and students contribute their perspective through participation on evaluation teams, working on institutional self studies, serving on Commission Task Groups, and reviewing Commission papers.

A series of Task Groups organized around each of the major standards, augmented by special working groups drawn from the private institutions and from the institutional research community provided advice throughout the development period. In addition, presentations at conferences, workshops with system and institutional representatives, and discussions with Accreditation Liaison Officers provided more comment. Organizations and associations were invited to provide comment, and they responded with valuable suggestions.

The development of this Handbook was further enhanced by the work of a national committee of regional accreditation Associate Directors. This committee reviewed all current regional accreditation eligibility requirements and threshold accreditation standards. The Commission adopted and incorporated much of the work of this group into the 1996 Standards of Accreditation.

The Commission Editorial Board, chaired first by Robert D. Jensen and then by Constance M. Carroll, coordinated the development of the 1996 Standards of Accreditation. Members of that Board were Commissioners Barbara Beno, Carmen Maldonado Decker, J. Robert Evans, Celina Sau Lin Ing, and Bruce Smith. Commission Consultant Frances Conn was a constant source of substantive insight and editorial

refinement. Associate Director Judith Watkins served as overall project coordinator and editor of the Handbook. Sue Lundquist and Mary Ann Hilmes prepared and proofread the material for publication.

PART I

INTRODUCTION TO THE 1996 EDITION

This handbook is intended for members of the community of community, junior, and specialized two year colleges. It is for the use of institutions under review, members of evaluation teams, and others who are concerned with good practice in associate degree- granting institutions.

Institutional accreditation by the Accrediting Commission for Community and Junior Colleges (ACCJC) is a voluntary, nongovernmental process involving institutional self study and professional peer review. Standards for accreditation represent generally-accepted definitions of good practice in education. Policies, procedures, and standards have been adopted and published by ACCJC after development by representatives of accredited institutions and review by accreditation liaison officers and institutional leaders.

New editions are published periodically as the Commission conducts systematic reviews of its standards, policies, and practices. Comments and suggestions should be submitted to the ACCJC Executive Director or any member of the Commission. Standards are under continuous review by ACCJC member institutions and the Commission.

This document is to be used in conjunction with companion volumes. The Guide to Institutional Self Study and Reports to the Commission is a reference book which includes instructions for completion and submission of reports to the Commission. The Handbook for Evaluators assists visiting teams in conducting on-site evaluations and preparing evaluation reports to the Commission. The Eligibility Brochure: Requirements for Accreditation spells out the core characteristics of an accreditable institution and the Commission's expectations of institutions to be considered for membership.

The Commission is recognized by the Council of Higher Education Accreditation (CHEA), a nongovernmental agency that recognizes postsecondary accrediting bodies in the United States. It is also recognized by the U.S. Secretary of Education.

TABLE OF CONTENTS

PART I - INTRODUCTION

Western Association of Schools and Colleges

Purposes of Accreditation

Standards and Policies

College-Commission Relationship

Accredited Status

Periodic Review

Candidate Status

Review and Appeal

Alteration of Evaluation Schedule

Eligibility for Accreditation

Eligibility Requirements for Accreditation

Documentation for Eligibility Applications

PART II - STANDARDS FOR ACCREDITATION

Standard One: Institutional Mission

Standard Two: Institutional Integrity

Standard Three: Institutional Effectiveness

Standard Four: Educational Programs

Standard Five: Student Support and Development

Standard Six: Information and Learning Resources

Standard Seven: Faculty and Staff

Standard Eight: Physical Resources

Standard Nine: Financial Resources

Standard Ten: Governance and Administration

PART III - COMMISSION POLICIES

Testimonial Policies

Credit for Prior Experiential Learning in Undergraduate Programs

Principles of Good Practice in Overseas International Education

Programs for Non-U.S. Nationals

Contractual Relationships with Non-Regionally Accredited Organizations

Policy Statement on Diversity

The Governing Board

National Policies

Policy Statement on the Role and Value of Accreditation

Policy Statement on Rights and Responsibilities of Accrediting Bodies

and Institutions in the Accrediting Process

Interregional Policies on the Accreditation of Institutions Operating

Across Regions

Policy Statement on Principles of Good Practice in Institutional Advertising, Student Recruitment, and Representation of Accredited Status

Representation of Accredited Status

Policy on Distance Learning, Including Electronically-Mediated Learning

Policy Statement on Considerations When Closing a Postsecondary Educational Institution

Joint Policy Statement on Transfer and Award of Academic Credit

Self-Regulation Initiatives: Guidelines for Colleges and Universities/Policy Guidelines for Refund of Student Charges

Operational Policies

Relationship Between General and Specialized Agencies

Relations with Accrediting Agencies

Access to Commission Meetings

Coordinating Guidelines for the WASC Postsecondary Accrediting Commissions

Code of Commission Good Practice in Relations with Member Institutions

Professional and Ethical Responsibilities of Commission Members

Policy and Procedures for the Evaluation of Institutions in Multi-College Districts or Systems

Policy on Distance Learning, Including Electronically-Mediated Learning

Policy on Complaints Against the Accrediting Commission for Community and Junior Colleges

Student and Public Complaints Against Institutions

Substantive Change Policy

Commission Actions on Institutions

Review of Commission Actions

Disclosure and Confidentiality of Information

Policy and Procedures on Public Disclosure

Policy Regarding Matters Under Litigation

Relations with Government Agencies

Review of Accreditation Standards

Conflict of Interest Policy for Commissioners, Evaluators, Consultants, Administrative Staff, and Other Agency Representatives

Commission Membership and Appointment Procedure

PART IV – APPENDIX

Accreditation Agencies and Related Organizations

WASC Constitution

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES

The Western Association of Schools and Colleges (WASC) is one of the six regional accrediting associations covering the United States whose purpose is continual improvement of education and cooperation among educational institutions and agencies. WASC was formed on July 1, 1962 to evaluate and accredit schools, colleges, and universities in California, Hawaii, American Samoa, Guam, the Commonwealth of the Northern Marianas, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. WASC functions through a board of directors and three accrediting commissions: the Accrediting Commission for Senior Colleges and Universities, the Accrediting Commission for Community and Junior Colleges, and the Accrediting Commission for Schools. The board of directors consists of nine members, each accrediting commission electing three members.

Each commission, with the involvement of all participating institutions, develops its own standards, procedures, and fiscal policies under the authority and subject to the approval of the WASC board of directors. The accreditation actions of each commission

are certified by the board of directors of WASC. Accreditation ceases whenever an institution requests in writing that its accreditation be terminated, when the Commission formally acts to terminate accreditation, or when an institution fails to pay its annual fees.

THE ACCREDITING COMMISSION FOR COMMUNITY AND JUNIOR COLLEGES

The Accrediting Commission for Community and Junior Colleges (ACCJC) accredits institutions in the WASC service area offering the undergraduate curriculum at less that the baccalaureate level. The ACCJC accredits only institutions that offer an associate's degree. Member institutions of the ACCJC include public community colleges, private non-profit colleges, private proprietary colleges, and religion-based colleges.

The Commission is composed of nineteen individuals selected from among the membership institutions and persons representing the public interest in the region. The Commissioners serve three-year terms, renewable for one term. The Commission develops and approves Accreditation Standards, all policies related to accreditation and the functioning of the Commission office, and makes decisions regarding the accredited status of institutions.

Purposes of Accreditation

Voluntary nongovernmental institutional accreditation as practiced by the Commission and the other regional commissions is a unique characteristic of American education. No institution in the United States is required to seek accreditation; however, because of the recognized benefits, most of the eligible institutions in this and other regions have sought to become accredited. In many other countries the maintenance of educational standards is a governmental function.

While the Commission works to establish minimum standards of quality for institutions, its primary focus is to foster educational excellence. Each institution has the responsibility of defining its mission and standards of excellence for itself, and presenting evidence that it is accomplishing its mission and providing excellent education.

The Commission evaluates the institution's performance against the Standards of Accreditation and in the context of the institution's own mission. The Commission tries to deal with institutional differences in ways that protect both general standards of excellence and individualized educational philosophy and practice.

Where an institution provides programs not commonly offered by accredited institutions of higher education in the United States, the institution bears the burden of demonstrating that the subject matter offered is appropriate to higher education, is academic in quality and rigor, and can be reviewed by peers from accredited institutions.

The Commission accredits institutions, not individual programs. Therefore, in addition to

assessing academic quality, integrity, and effectiveness, the Commission emphasizes structures, processes, and resources. In order to assist institutions in determining their educational effectiveness, the Commission has recognized five major purposes of accreditation:

1. To assure the educational community, the general public, and other organizations and agencies that an institution has clearly defined objectives appropriate to postsecondary education, has established conditions under which their achievement can reasonably be expected, appears in fact to be accomplishing them substantially, is so organized, staffed and supported that it can be expected to continue to do so, and meets Commission standards.

2. To encourage institutional development and improvement through self study and periodic evaluation by qualified peer professionals.

3. To develop and use standards to assess and enhance educational quality and institutional performance, and to validate these standards by ongoing research.

4. To promote interchange of ideas among public and independent institutions through peer review.

5. To protect institutions against encroachments which might jeopardize their educational effectiveness or academic freedom.

Standards and Policies

Accreditation is a continuing process, the heart of which lies in periodic self-appraisal by each institution. In its initial application for candidacy or accreditation, and in preparation for each subsequent visit, every institution prepares an extensive report with primary emphasis on self-analysis and evaluation. Between scheduled visits, each institution addresses visiting team recommendations and submits Annual Reports.

As a result of extensive experience and research, the Commission has determined that there are certain basic characteristics of quality required of all institutions of higher education. These Commission standards, policies, and procedures are periodically reviewed and revised. Revisions are made as needed, based on research, the experience of the Commission and visiting teams, and comments of institutional representatives.

The College-Commission Relationship

In carrying out its functions, the Commission has established a "Code of good Practice," both for its relations with the institutions it serves and with regard to its internal organization and procedures. The full text of this policy is to be found on pages 92-94.

Every institution seeking recognition by the Commission is expected to abide by the

standards and policies of the Commission as stated in this Handbook and as may be developed in the future. As knowledge increases and the needs of society change, institutions are continually evolving in order to serve their students and community better. Consequently, the Commission continually reviews the role and validity of its standards and engages in widespread consultation with the accredited institutions in the region in order to incorporate their suggestions and receive their approval. The Commission conducts research to assess the validity, reliability, and usefulness of its standards and procedures as aids to institutional improvement.

The effectiveness of self-regulatory accreditation, however, depends upon the institution's acceptance of specific responsibilities, including complying with all of the standards and abiding by the Commission's policies, procedures, and decisions. There must be institutional commitment to and involvement in the accreditation process. The process assumes that each institution has the responsibility to accept an honest and forthright assessment of institutional strengths and weaknesses. As a consequence, a comprehensive self study report and peer evaluation are required. Only in this way will the validity and vitality of the accreditation process be ensured.

In its relations with the institutions it serves, the Commission is committed to:

1. Appraise institutions in terms of their own stated purposes within the context of Commission standards and interpret standards in ways that are relevant to the character of the particular institution, respecting institutional integrity and diversity.

2. Emphasize the value and importance of institutional self study including systematic assessment of institutional effectiveness.

3. Assist and stimulate improvement in the educational effectiveness of the institution.

4. Conduct evaluation visits by experienced and qualified peers under conditions which, insofar as reasonably possible, ensure impartial and objective judgment, avoiding conflict of interest.

5. Include on evaluation teams representation from other institutions of similar purpose and academic programs.

6. Provide institutions an opportunity to object, for cause, to individual members assigned to the team designated to visit the institution, with special concern for possible conflict of interest.

7. Require each evaluation team chair to arrange consultation during the visit with administration, faculty, students, and trustees and to include during comprehensive visits a publicized opportunity for an open hearing.

8. Provide opportunity for the institution to respond in writing to the team

report before it is completed and to appear before the Commission when the report is considered.

9. Provide opportunity for institutional representatives and the general public to attend portions of Commission meetings devoted to policies and other nonconfidential matters. See policy on Public Access, page 90.

10. Encourage widespread discussion and serious consideration of major team recommendations.

11. Request a written response from an institution or refer a matter to the next evaluation team when the Commission's attention is drawn to the possibility that an institution may be in violation of Commission standards or policies. A special interim visit focused on specified concerns may be scheduled by the Commission.

12. Make an initial visit for candidacy or accreditation to an institution only on the written request of the chief executive officer of the institution.

13. Revisit an institution consistent with Commission policies and periodic evaluation procedures following due notice to the institution.

14. Permit withdrawal of a request for initial candidacy or initial accreditation at any time (even after evaluation) prior to final action by the Commission.

15. Revoke accreditation or candidacy only after advanced written notice.

16. Encourage continuing communication between the Commission and institutions through the liaison officer position in each institution. See policy on Accreditation Liaison Officer.

Accredited Status

The status of accreditation indicates that an institution has met Commission standards.

In meeting these standards the institution has:

1. Completed a period of intensive and comprehensive self study followed by an on-site evaluation of institutional performance, demonstrating that it meets Commission standards.

2. Demonstrated that it operates at a satisfactory level of quality in its educational programs consistent with its stated purposes and consistent with Commission standards.

3. Demonstrated the availability of sufficient resources to support existing

and planned activities at a satisfactory level of quality and offered reasonable grounds for belief that there will continue to be adequate resources in the future.

4. Committed itself to institutional improvement, periodic self-evaluation, and continuing compliance with all Commission standards, policies, procedures, and decisions.

Periodic Review

Accreditation is attained by the process of evaluation of an entire institution and continues until formally withdrawn. It is subject, however, to periodic review and to conditions as determined by the Commission. Every accredited institution files an annual report and undergoes a comprehensive self study and evaluation at least every six years. A Midterm Report describing progress in responding to team recommendations is submitted in the third year following the evaluation visit. The Commission may request special interim reports and visits to assure progress in addressing specified issues of concern.

If an institution undergoes significant change or if its educational effectiveness is questioned, the Commission reserves the right to review that institution's accreditation without regard to any previously indicated time pattern.

As a voluntary, nongovernmental agency, the Commission is not obligated to exercise the regulatory control of state and federal governments, or to apply their mandates regarding collective bargaining, affirmative action, health and safety regulations, and the like. Furthermore, the Commission does not enforce the standards of specialized accrediting agencies or other nongovernmental organizations, or the laws and regulations of state agencies, although institutions may wish to review the publications of such other agencies as part of the self study process. The Commission has its own standards and expects that institutions and teams will apply them with integrity, imagination, and an attitude of humane concern for students and the public interest.

When an institution is granted accreditation, the following shall appear in all appropriate publications:

(Name of institution) is accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges, an institutional accrediting body recognized by the Council on Higher Education Accreditation (CHEA) and the U.S. Department of Education.

Candidate Status

Candidate for Accreditation status offers both new and established institutions the opportunity to establish a publicly recognized relationship with a regional accrediting agency. It is a pre-accreditation status, initially awarded for two years. Candidacy indicates that an institution has achieved initial recognition and is progressing toward

accreditation. Candidacy is a period in which the institution undertakes the necessary steps to reach demonstrable compliance with Commission standards. Candidate status may not exceed four years.

An institution granted candidacy must use the following statement if it wishes to describe that status publicly:

> (Name of institution) is a candidate for accreditation by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges, an institutional accrediting body recognized by the Council of Higher Education Accreditation (CHEA) and the U.S. Department of Education.
>
> Candidate for Accreditation is a status of preliminary affiliation with the Commission initially awarded for two years. The Commission may renew candidate status for an additional two years, grant initial accreditation following institutional self study and on-site evaluation visit, or terminate candidacy. Candidacy may not exceed four years. Candidacy is not accreditation and does not assure eventual accreditation.

Review and Appeal

Institutions whose applications for candidacy, renewal of candidacy, accreditation, or reaffirmation of accreditation are denied or whose candidacy or accreditation is terminated by the Accrediting Commission for Community and Junior Colleges may request a review of the Commission's decision. Such a review must be requested prior to a filing of an appeal by the institution to the Western Association of Schools and Colleges (WASC). The policies and procedures which govern the conduct of the Commission's review are found in the Western Association of Schools and Colleges Constitution.

An institution which, after availing itself of the review procedure of the Commission, still believes itself aggrieved by the Commission's denial or withdrawal of candidacy or accreditation may appeal such action within thirty days of receipt of notice thereof, to the President of the Western Association of Schools and Colleges. The WASC President shall arrange a hearing for representatives of the institution before the Association's Hearing Board, established for this purpose, as prescribed in Article VI of the Constitution of the Western Association of Schools and Colleges.

Alteration of Evaluation Schedule

An institution may petition the Accrediting Commission for alteration of its evaluation schedule. A written request submitted to the Executive Director will be considered by the Commission if the request is based on:

1. A plan to coordinate evaluation of institutions in a system.

2. Disaster, such as fire, flood, or earthquake that impedes the normal conduct of institutional business for an extended period of time.

3. Severe and unusual circumstances that unavoidably disrupt the self study process or scheduled team visit.

4. Substantive changes in the mission or status of the institution.

ELIGIBILITY FOR ACCREDITATION

Eligible institutions offering one or more programs of two academic years leading to the Associate Degree, located in the states of Hawaii and California, the territories of Guam and American Samoa, the Federated States of Micronesia, the Commonwealth of the Northern Marianas Islands, the Republic of Palau, and the Republic of the Marshall Islands may apply to the Commission for candidacy.

Prior to making a formal application, an institution wishing to become a Candidate for Accreditation must begin by assessing itself in relation to the basic criteria for institutional eligibility, stated below. The standards of accreditation and Commission policies should also be reviewed as they will provide a clear statement of ultimate Commission expectations of institutional performance and quality and give further definition to the eligibility criteria. The eligibility process is designed to screen institutions prior to a period of formal and extensive institutional self study so that only institutions which meet the basic criteria for eligibility may proceed.

The Commission uses the same self study and site visit process for both candidacy and accreditation applications. The results of a candidacy or initial accreditation visit could be denial, candidacy, or accreditation. Clearly, the history of the applicant institution will have great bearing on the Commission's decision.

ELIGIBILITY REQUIREMENTS FOR ACCREDITATION

(Adopted June, 1995; Revised January, 1996)

Compliance with the requirements is expected to be continuous and will be validated periodically, normally as part of every institutional self study and comprehensive evaluation. Institutions are expected to include in their self study reports information demonstrating that they continue to meet the eligibility requirements.

AUTHORITY

1. The institution is authorized to operate as an educational institution and to award degrees by an appropriate governmental organization or agency as required by each of the jurisdictions or regions in which it operates.

In California, 94310.3A (or subsequent statute) approval by the California Council for Private Postsecondary and Vocational Education is required for

private institutions. The institution shall submit a copy of its articles of incorporation.

MISSION

2. The institution's educational mission is clearly defined, adopted, and published by its governing board consistent with its legal authorization and is appropriate to a degree granting institution of higher education and the constituency it seeks to serve.

GOVERNING BOARD

3. The institution has a functioning governing board responsible for the quality and integrity of the institution and for ensuring that the institution's mission is being carried out. Its membership is sufficient in size and composition to fulfill all board responsibilities.

The governing board is an independent policy-making body, capable of reflecting constituent and public interest in board activities and decisions. A majority of the board members have no employment, family, or personal financial interest in the institution.

CHIEF EXECUTIVE OFFICER

4. The institution has a chief executive officer who is appointed by the governing board and whose primary responsibility is to the institution.

ADMINISTRATIVE CAPACITY

5. The institution has sufficient staff with appropriate preparation and experience to provide the administrative services necessary to support its mission and purpose.

OPERATIONAL STATUS

6. The institution is operational with students actively pursuing its degree programs.

DEGREES

7. A substantial portion of the institution's educational offerings are programs that lead to degrees, and a significant proportion of its students are enrolled in them.

EDUCATIONAL PROGRAMS

8. The institution's principal degree programs are congruent with its mission, are based on recognized higher education field(s) of study, are of sufficient content and length, and are conducted at levels of quality and rigor appropriate to the degrees offered. At least one degree program must be of two academic years in

length.

ACADEMIC CREDIT

9. The institution awards academic credits based on generally accepted practices in degree-granting institutions of higher education. Public institutions governed by statutory or system regulatory requirements should provide appropriate information regarding the award of academic credit.

EDUCATIONAL OBJECTIVES

10. The institution defines and publishes for each program the program's educational objectives for students.

GENERAL EDUCATION

11. The institution defines and incorporates into all of its degree programs a substantial component of general education designed to ensure breadth of knowledge and promote intellectual inquiry. The general education component should include demonstrated competence in writing and computational skills and an introduction to some of the major areas of knowledge. Degree credit for general education programs should be consistent with levels of quality and rigor appropriate to higher education.

FACULTY

12. The institution has a substantial core of qualified faculty with full-time responsibility to the institution and sufficient in size and experience to support all of the institution's educational programs. A clear statement of faculty responsibilities must exist.

STUDENT SERVICES

13. The institution provides for all of its students appropriate student services and development programs consistent with student characteristics and its institutional mission.

ADMISSIONS

14. The institution has adopted and adheres to admission policies consistent with its mission that specify the qualifications of students appropriate for its programs.

INFORMATION AND LEARNING RESOURCES

15. The institution owns or otherwise provides specific long-term access to sufficient information and learning resources and services to support its mission and all of its educational programs.

FINANCIAL RESOURCES

16. The institution documents a funding base, financial resources, and plans for financial development adequate to support its mission and educational programs and to assure financial stability.

FINANCIAL ACCOUNTABILITY

17. The institution regularly undergoes and makes available an external financial audit by a certified public accountant or an audit by an appropriate public agency. The institution shall submit a copy of the current budget and a copy of the current audited financial statement prepared by an outside certified public accountant who has no other relationship to the institution. The audit must be certified and any exceptions explained. It is recommended that the auditor employ as a guide Audits of Colleges and Universities, published by the American Institute of Certified Public Accountants.

INSTITUTIONAL PLANNING AND EVALUATION

18. The institution provides evidence of basic planning for the development of the institution, planning which identifies and integrates plans for academic personnel, learning resources, facilities, and financial development, as well as procedures for program review and institutional improvement.

The institution engages in systematically evaluating how well and in what ways it is accomplishing its purposes, including assessment of student learning and documentation of institutional effectiveness.

PUBLIC INFORMATION

19. The institution publishes in its catalog or other appropriate places accurate and current information that describes its purposes and objectives, admission requirements and procedures, rules and regulations directly affecting students, programs and courses, degrees offered and the degree requirements, costs and refund policies, grievance procedures, academic credentials of faculty and administrators, and other items relative to attending the institution and withdrawing from it.

RELATIONS WITH THE ACCREDITING COMMISSION

20. The governing board provides assurance that the institution adheres to the eligibility requirements and accreditation standards and policies of the Commission, describes itself in identical terms to all its accrediting agencies, communicates any changes in its accredited status, and agrees to disclose information required by the Commission to carry out its accrediting responsibilities.

DOCUMENTATION FOR ELIGIBILITY APPLICATIONS

The Commission recognizes that not every institution begins the process of affiliation from the same place. A public institution which has existed as a branch or center of an established college will be very different from a new private college, and both will be different from an established specialized institution. The documents listed below are intended to be guidelines indicating Commission expectations for colleges preparing for an Eligibility Review. It is in the college's best interest to provide as much relevant information as possible to assist staff review and the Commission decision making process.

1. AUTHORITY

   - Degree granting approval statement or certificate from appropriate body.

   - Articles of incorporation (private institutions).

2. MISSION

   - Copy of mission statement as it appears in a published catalog or other public document.

   - Minutes of governing board meeting where mission statement was adopted.

3. GOVERNING BOARD

   - Biographical information on the governing board members.

   - Copy of governing board by-laws and statement of board responsibilities.

   - Certification that the board does not have a majority of persons with employment, family, or personal interest in the institution signed by chief executive officer and governing board chair (private institutions).

4. CHIEF EXECUTIVE OFFICER

   - Name, address, and biographical information on chief executive officer.

   - Certification of CEO's primary responsibility to the institution signed by chief executive officer and governing board chair.

5. ADMINISTRATIVE CAPACITY

   - Table of organization, including names of those in positions.

   - Names and biographical information on administrative staff.

6. OPERATIONAL STATUS

   - Enrollment history of the institution.

- Enrollments in institutional degree programs by year or cohort, including degrees awarded.

- Current schedule of classes.

7. DEGREES

- List of degrees, course credit requirements, and length of study for each degree program, including documentation of at least one degree program of two academic years.

- Catalog designation of college level courses for which degree credit is granted.

8. EDUCATIONAL PROGRAMS

- Names of degrees which reflect the mission of the institution.

- Documentation from catalog or other public document which describes the courses, units, and curricular sequence of the educational programs.

9. ACADEMIC CREDIT

- Institutional policies on transfer and award of credit.

- Formulae used by the institution to calculate values of academic credit.

10. EDUCATIONAL OBJECTIVES

- Catalog statements which establish educational objectives for programs.

- Outcomes data from educational program reviews.

- Graduation history.

11. GENERAL EDUCATION

- List of general education courses, including catalog descriptions.

- Course outlines for language and quantitative reasoning courses.

- Documentation of higher education rigor and quality.

12. FACULTY

- Full time and part time faculty roster, including degrees and experience.

- Faculty responsibilities statement.

- Current schedule of classes identifying responsible faculty.

13. STUDENT SERVICES

- Demographic characteristics of students.

- List of student services provided which reflects the mission of the institution.

14. ADMISSIONS

- Copy of admissions policy from a published statement.

- Copy of enrollment application.

- Statement of student qualifications for admission.

15. INFORMATION AND LEARNING RESOURCES

- Profile of holdings and resources.

- Copies of agreements for access to external resources.

16. FINANCIAL RESOURCES

- Past, current, and proposed budgets and financial statements.

- Documentation of any external foundation or other funding support.

- Student loan default rates and relevant USDE reports, if a participant.

- Documentation of funding base.

17. FINANCIAL ACCOUNTABILITY

- Past, current, and proposed budgets.

- Financial aid program reviews/audits, if a participant.

- Certified independent audit, including management letter.

18. INSTITUTIONAL PLANNING AND EVALUATION

- Most recent educational, fiscal, and facilities plans.

- Most recent institutional evaluations of student assessment and outcomes systems.

19. PUBLIC DISCLOSURE

- Catalog or other public document which serves that purpose.

- Recent print or other media advertisements.

- Policies regarding public disclosure.

20. RELATIONS WITH THE ACCREDITING COMMISSION

- Copy of policy adopted and published by the governing board assuring compliance with this criterion.

- List of other accreditation held by the institution.

- Copy of directory pages which describe the institution's representation by those accrediting bodies.

PART II

STANDARDS FOR ACCREDITATION

The standards describe good practice in community and junior college education. The Accrediting Commission for Community and Junior Colleges has established its standards based on experience, research, and extensive consultation with member institutions. Commission standards and policies are periodically reviewed and revised. Revisions are made as needed and are based on research, the experience of the Commission and visiting teams, and comments of institutional representatives.

The Commission articulated five assumptions which undergird the standards. We encourage institutions to remember these overarching goals as they interpret and use the standards in light of individual mission and circumstance.

The diversity of the whole range of institutions included in the region must be respected and accommodated, recognizing that good practice may be manifest in a wide range of practices and settings.

The standards focus on outcomes and accomplishments, embracing a model of accreditation which requires assessment of resources, processes, and outcomes at the institutional level.

The standards are statements of good practice in higher education and avoid language of compliance which might be linked to one system or set of statutes or regulations within the region.

The standards strive toward economy and clarity and avoid redundancy and ambiguity.

The standards recognize that the Accrediting Commission for Community and Junior Colleges is itself a part of a larger accrediting community which includes the other Commissions in the region, other regional institutional accreditors, and governmental and non-governmental agencies.

The accreditation standards cover ten areas, each of which is designated as a major

standard. The scope of each standards is described in a headnote. It is followed by numbered and lettered subsections which provide further definition to the standard. these numbered subsections identify major components of the standard, but they are not designed to cover every facet of the standard. Institutions are expected to address each of the components set forth, and they are encouraged to include additional components if doing so would provide greater depth or more particular applicability to the individual institution.

In preparing its self study, an institution is expected to present appropriate documentation to support its description and analysis of programs and services and evidence that it meets or exceeds the requirements for accreditation.

The Guide to Self Study provides complete discussion of the Commission's expectations concerning evidence and documentation to be presented. It contains information, suggestions, and examples useful in conducting the institutional self study and preparing the accreditation report.

STANDARD ONE: INSTITUTIONAL MISSION

The institution has a statement of mission that defines the institution, its educational purposes, its students, and its place in the higher education community.

1. The institution has a statement of mission, adopted by the governing board, which identifies the broad-based educational purposes it seeks to achieve.

2. The mission statement defines the students the institution intends to serve as well as the parameters under which programs can be offered and resources allocated.

3. Institutional planning and decision making are guided by the mission statement.

4. The institution evaluates and revises its mission statement on a regular basis.

STANDARD TWO: INSTITUTIONAL INTEGRITY

The institution subscribes to, advocates, and demonstrates honesty and truthfulness in representations to its constituencies and the public; in pursuit of truth and the dissemination of knowledge; in its treatment of and respect for administration, faculty, staff, and students; in the management of its affairs and in relationships with its accreditation association and other external agencies.

1. The institution represents itself clearly, accurately, and consistently to its constituencies, the public, and prospective students through its catalogues, publications, and statements, including those presented in electronic formats. Precise, accurate, and current information is provided in the catalog concerning (a) educational purposes; (b) degrees, curricular offerings, educational

resources, and course offerings; (c) student fees and other financial obligations, student financial aid, and fee refund policies; (d) requirements for admission and for achievement of degrees, including the academic calendar and information regarding program length; and (e) the names of administrators, faculty, and governing board.

2. The institution has a readily available governing board-adopted policy protecting academic freedom and responsibility which states the institutional commitment to the free pursuit and dissemination of knowledge and fosters the integrity of the teaching-learning process.

3. Faculty and other college staff distinguish between personal conviction and proven conclusions and present relevant data fairly and objectively to students and others.

4. Institutions which strive to instill specific beliefs or world views or to require codes of conduct of faculty, administrative and support staff, or students give clear prior notice of such policies.

5. The institution provides faculty and students with clear expectations concerning the principles of academic honesty and the sanctions for violation.

6. The institution demonstrates through policies and practices an appropriate understanding of and concern for issues of equity and diversity.

7. The institution demonstrates honesty and integrity in its athletic programs.

8. The institution demonstrates honesty and integrity in its relationships with the Commission and agrees to comply with Commission standards, policies, guidelines, public disclosure, and self study requirements.

9. The institution regularly evaluates and revises institutional policies, practices, and publications to ensure integrity in all representations about its mission, programs, and services.

STANDARD THREE: INSTITUTIONAL EFFECTIVENESS

The institution, appropriate to its mission and purposes as a higher education institution, develops and implements a broad-based and integrated system of research, evaluation, and planning to assess institutional effectiveness and uses the results for institutional improvement. The institution identifies institutional outcomes which can be validated by objective evidence.

A. Institutional Research and Evaluation

A.1 Institutional research is integrated with and supportive of institutional planning and evaluation.

A.2 The institution provides the necessary resources for effective research and evaluation.

A.3 The institution has developed and implemented the means for evaluating how well, and in what ways, it accomplishes its mission and purposes.

A.4 The institution provides evidence that its program evaluations lead to improvement of programs and services.

B. Institutional Planning

B.1 The institution defines and publishes its planning processes and involves appropriate segments of the college community in the development of institutional plans.

B.2 The institution defines and integrates its evaluation and planning processes to identify priorities for improvement.

B.3 The institution engages in systematic and integrated educational, financial,
physical, and human resources planning and implements changes to improve programs and services.

C. Institutional Outcomes Assessment

C.1 The institution specifies intended institutional outcomes and has clear documentation of their achievement.

C.2 The institution uses information from its evaluation and planning activities to communicate matters of quality assurance to the public.

C.3 The institution systematically reviews and modifies, as appropriate, its institutional research efforts, evaluation processes, institutional plans, and planning processes to determine their ongoing utility for assessing institutional effectiveness.

STANDARD FOUR: EDUCATIONAL PROGRAMS

The institution offers collegiate level programs in recognized fields of study that culminate in identified student competencies leading to degrees and certificates. The provisions of this standard are broadly applicable to all educational activities offered in the name of the institution, regardless of where or how presented, or by whom taught.

A. General Provisions

A.1 The institution seeks to meet the varied educational needs of its students through programs consistent with its institutional mission and

purposes and the demographics and economics of its community.

A.2 Programs and courses leading to degrees are offered in a manner which provides students the opportunity to complete the program as announced, within a reasonable time.

A.3 When programs are eliminated or program requirements are significantly changed, the institution makes appropriate arrangements so that enrolled students may complete their education in a timely manner with a minimum of disruption.

A.4 The institution provides sufficient human, financial, and physical (including technological) resources to support its educational programs and to facilitate achievement of the goals and objectives of those programs regardless of the service location or instructional delivery method.

A.5 The institution designs and maintains academic advising programs to meet student needs for information and advice and adequately informs and prepares faculty and other personnel responsible for the advising function.

B. Degree and Certificate Programs

B.1 The institution demonstrates that its degrees and programs, wherever and however offered, support the mission of the institution. Degree and certificate programs have a coherent design and are characterized by appropriate length, breadth, depth, sequencing of courses, synthesis of learning, and use of information and learning resources.

B.2 The institution identifies its degrees and certificates in ways which are consistent with the program content, degree objectives, and student mastery of knowledge and skills including, where appropriate, career preparation and competencies.

B.3 The institution identifies and makes public expected learning outcomes for its degree and certificate programs. Students completing programs demonstrate achievement of those stated learning outcomes.

B.4 All degree programs are designed to provide students a significant introduction to the broad areas of knowledge, their theories and methods of inquiry, and focused study in at least one area of inquiry or established interdisciplinary core.

B.5 Students completing degree programs demonstrate competence in the use of language and computation.

B.6 The institution documents the technical and professional competence

of students completing its vocational and occupational programs.

C. General Education

C.1 The institution requires of all degree programs a component of general education that is published in clear and complete terms in its general catalog.

C.2 The general education component is based on a philosophy and rationale that are clearly stated. Criteria are provided by which the appropriateness of each course in the general education component is determined.

C.3 The general education program introduces the content and methodology of the major areas of knowledge: the humanities and fine arts, the natural sciences, and the social sciences. The general education program provides the opportunity for students to develop the intellectual skills, information technology facility, affective and creative capabilities, social attitudes, and an appreciation for cultural diversity that will make them effective learners and citizens.

C.4 Students completing the institution's general education program demonstrate competence in oral and written communication, scientific and quantitative reasoning, and critical analysis/logical thinking.

D. Curriculum and Instruction

D.1 The institution has clearly defined processes for establishing and evaluating all of its educational programs. These processes recognize the central role of faculty in developing, implementing, and evaluating the educational programs. Program evaluations are integrated into overall institutional evaluation and planning and are conducted on a regular basis.

D.2 The institution ensures the quality of instruction, academic rigor, and educational effectiveness of all of its courses and programs regardless of service location or instructional delivery method.

D.3 The evaluation of student learning and the award of credit are based upon clearly stated and published criteria. Credit awarded is consistent with student learning and is based upon generally accepted norms or equivalencies.

D.4 The institution has clearly stated transfer of credit policies. In accepting transfer credits to fulfill degree requirements, the institution certifies that the credits accepted, including those for general education, achieve educational objectives comparable to its own courses. Where patterns of transfer between institutions are established, efforts are

undertaken to formulate articulation agreements.

D.5 The institution utilizes a range of delivery systems and modes of instruction compatible with the objectives of the curriculum and appropriate to the needs of its students.

D.6 The institution provides evidence that all courses and programs – both credit and non-credit – whether conducted on or off-campus by traditional or non-traditional delivery systems, are designed, approved, administered, and periodically evaluated under established institutional procedures. This provision applies to continuing and community education, contract and other special programs conducted in the name of the institution.

D.7 Institutions offering curricula through electronic delivery systems operate in conformity with applicable Commission policies and statements on "Principles of Good Practice in Distance Education."

D.8 Institutions offering curricula in foreign locations to students other than U.S. nationals operate in conformity with applicable Commission policies and guidelines.

STANDARD FIVE: STUDENT SUPPORT AND DEVELOPMENT

The institution recruits and admits students appropriate to its programs. It identifies and serves the diverse needs of its students with educational programs and learning support services, and it fosters a supportive learning environment. The entire student pathway through the institutional experience is characterized by a concern for student access, progress, and success.

1. The institution publishes admissions policies consistent with its mission and appropriate to its programs and follows practices that are consistent with those policies.

2. The institution provides to all prospective and currently enrolled students current and accurate information about its programs, admissions policies and graduation requirements, social and academic policies, refund policies, student conduct standards, and complaint and grievance procedures.

3. The institution identifies the educational support needs of its student population and provides appropriate services and programs to address those needs.

4. The institution involves students, as appropriate, in planning and evaluating student support and development services.

5. Admissions and assessment instruments and placement practices are designed to minimize test and other bias and are regularly evaluated to assure

effectiveness.

6. The institution provides appropriate, comprehensive, reliable, and accessible services to its students regardless of service location or delivery method.

7. The institution, in keeping with its mission, creates and maintains a campus climate which serves and supports its diverse student population.

8. The institution supports a co-curricular environment that fosters intellectual, ethical, and personal development for all of its students and encourages personal and civic responsibility.

9. Student records are maintained permanently, securely, and confidentially, with provision for secure backup of all files, regardless of the form in which those files are maintained.

10. The institution systematically evaluates the appropriateness, adequacy, and effectiveness of its student services and uses the results of the evaluation as a basis for improvement.

STANDARD SIX: INFORMATION AND LEARNING RESOURCES

Information and learning resources and services are sufficient in quality, depth, diversity, and currentness to support the institutions intellectual and cultural activities and programs in whatever format and wherever they are offered. The institution provides training so that information and learning resources may be used effectively and efficiently.

1. Information and learning resources, and any equipment needed to access the holdings of libraries, media centers, computer centers, databases and other repositories are sufficient to support the courses, programs, and degrees wherever offered.

2. Appropriate educational equipment and materials are selected, acquired, organized, and maintained to help fulfill the institutions purposes and support the educational program. Institutional policies and procedures ensure faculty involvement.

3. Information and learning resources are readily accessible to students, faculty, and administrators.

4. The institution has professionally qualified staff to provide appropriate support to users of information and learning resources, including training in the effective application of information technology to student learning.

5. The institution provides sufficient and consistent financial support for the effective maintenance, security, and improvement of its information and learning resources.

6. When the institution relies on other institutions or other sources for information and learning resources to support its educational programs, it documents that formal agreements exist and that such resources and services are adequate, easily accessible, and utilized.

7. The institution plans for and systematically evaluates the adequacy and effectiveness of its learning and information resources and services and makes appropriate changes as necessary.

STANDARD SEVEN: FACULTY AND STAFF

The institution has sufficient qualified full-time and part-time faculty and staff to support its educational programs and services wherever offered and by whatever means delivered. Consistent with its mission, the institution demonstrates its commitment to the significant educational role played by persons of diverse ethnic, social, and economic backgrounds by making positive efforts to foster such diversity.

A. Qualifications and Selection

A.1 The institution has sufficient faculty and staff who are qualified by appropriate education, training, and experience to support its programs and services.

A.2 Criteria, qualifications, and procedures for selecting all personnel are clearly stated, public, directly related to institutional objectives, and accurately reflect job responsibilities.

A.3 Criteria for selecting faculty include knowledge of the subject matter or service to be performed, effective teaching, and potential to contribute to the mission of the institution.

A.4 Degrees held by faculty and administrators are listed in the institution's primary catalog. All U.S. degrees are from institutions accredited by recognized accrediting agencies. Degrees from non-U.S. institutions are recognized only if equivalence has been established.

B. Evaluation

B.1 The evaluation of each category of staff is systematic and conducted at stated intervals. The follow-up of evaluations is formal and timely.

B.2 Evaluation processes seek to assess effectiveness and encourage improvement.

B.3 Criteria for evaluation of faculty include teaching effectiveness, scholarship or other activities appropriate to the area of expertise, and participation in institutional service or other institutional responsibilities.

C. Staff Development

C.1 The institution provides appropriate opportunities to all categories of staff for continued professional development, consistent with the institutional mission.

C.2 Planning and evaluation of staff development programs include the participation of staff who participate in, or are affected by, the programs.

D. General Personnel Provisions

D.1 The institution has and adheres to written policies ensuring fairness in all employment procedures.

D.2 The institution regularly assesses and reports its achievement of its employment equity objectives, consistent with the institutional mission.

D.3 Personnel policies and procedures affecting all categories of staff are systematically developed, clear, equitably administered, and available for information and review.

D.4 The institution makes provision for the security and confidentiality of personnel records. Personnel records are private, accurate, complete, and permanent.

STANDARD EIGHT: PHYSICAL RESOURCES

The institution has sufficient and appropriate physical resources to support its purposes and goals.

1. The institution ensures that adequate physical resources are provided to support its educational programs and services wherever and however they are offered.

2. The management, maintenance, and operation of physical facilities ensure effective utilization and continuing quality necessary to support the programs and services of the institution.

3. Physical facilities at all site locations where courses, programs, and services are offered are constructed and maintained in accordance with the institution's obligation to ensure access, safety, security, and a healthful environment.

4. Selection, maintenance, inventory and replacement of equipment are conducted systematically to support the educational programs and services of the institution.

5. Physical resource planning and evaluation support institutional goals and are linked to other institutional planning and evaluation efforts, including district or system planning and utilization where appropriate.

STANDARD NINE: FINANCIAL RESOURCES

The institution has adequate financial resources to achieve, maintain, and enhance its programs and services. The level of financial resources provides a reasonable expectation of financial viability and institutional improvement. The institution manages its financial affairs with integrity, consistent with its educational objectives.

A. Financial Planning

A.1 Financial planning supports institutional goals and is linked to other institutional planning efforts.

A.2 Annual and long-range financial planning reflects realistic assessments of resource availability and expenditure requirements. In those institutions which set tuition rates, and which receive a majority of funding from student fees and tuition, charges are reasonable in light of the operating costs, services to be rendered, equipment, and learning resources to be supplied.

A.3 Annual and long-range capital plans support educational objectives and relate to the plan for physical facilities.

A.4 Institutional guidelines and processes for financial planning and budget development are clearly defined and followed.

A.5 Administrators, faculty, and support staff have appropriate opportunities to participate in the development of financial plans and budgets.

B. Financial Management

B.1 The financial management system creates appropriate control mechanisms and provides dependable and timely information for sound financial decision-making.

B.2 Financial documents, including the budget and independent audit, reflect appropriate allocation and use of financial resources to support institutional programs and services. Institutional responses to external audit findings are comprehensive and timely.

B.3 The institution practices effective oversight of finances, including management of financial aid, externally-funded programs, contractual relationships, auxiliary organizations or foundations, and institutional investments.

B.4 Auxiliary activities and fund raising efforts support the programs and services of the institution, are consistent with the mission and goals of the institution, and are conducted with integrity.

B.5 Contractual agreements with external entities are governed by institutional policies and contain appropriate provisions to maintain the integrity of the institution.

B.6 Financial management is regularly evaluated and the results are used to improve the financial management system.

C. Financial Stability

C.1 Future obligations are clearly identified and plans exist for payment.

C.2 The institution has policies for appropriate risk management.

C.3 Cash flow arrangements or reserves are sufficient to maintain stability.

C.4 The institution has a plan for responding to financial emergencies or unforeseen occurrences.

STANDARD TEN: GOVERNANCE AND ADMINISTRATION

The institution has a governing board responsible for the quality and integrity of the institution. The institution has an administrative staff of appropriate size to enable the institution to achieve its goals and is organized to provide appropriate administrative services. Governance structures and systems ensure appropriate roles for the board, administration, faculty, staff, and students, and facilitate effective communication among the institutions constituencies.

A. Governing Board

A.1 The governing board is an independent policy-making board capable of reflecting the public interest in board activities and decisions. It has a mechanism for providing for continuity of board membership and staggered terms of office.

A.2 The governing board ensures that the educational program is of high quality, is responsible for overseeing the financial health and integrity of the institution, and confirms that institutional practices are consistent with the board-approved institutional mission statement and policies.

A.3 The governing board establishes broad institutional policies and appropriately delegates responsibility to implement these policies. The governing board regularly evaluates its policies and practices and revises them as necessary.

A.4 In keeping with its mission, the governing board selects and evaluates the chief executive officer and confirms the appointment of other major academic and administrative officers.

A.5 The size, duties, responsibilities, ethical conduct requirements, structure and operating procedures, and processes for assessing the performance of the governing board are clearly defined and published in board policies or by-laws. The board acts in a manner consistent with them.

A.6 The governing board has a program for new member orientation and governing board development.

A.7 The board is informed about and involved in the accreditation process.

B. Institutional Administration and Governance

B.1 The institutional chief executive officer provides effective leadership to define goals, develop plans, and establish priorities for the institution.

B.2 The institutional chief executive officer efficiently manages resources, implements priorities controlling budget and expenditures, and ensures the implementation of statutes, regulations, and board policies.

B.3 The institution is administratively organized and staffed to reflect the institution's purposes, size, and complexity. The administration provides effective and efficient leadership and management which makes possible an effective teaching and learning environment.

B.4 Administrative officers are qualified by training and experience to perform their responsibilities and are evaluated systematically and regularly. The duties and responsibilities of institutional administrators are clearly defined and published.

B.5 Administration has a substantive and clearly-defined role in institutional governance.

B.6 Faculty have a substantive and clearly-defined role in institutional governance, exercise a substantial voice in matters of educational program and faculty personnel, and other institutional polices which relate to their areas of responsibility and expertise.

B.7 Faculty have established an academic senate or other appropriate organization for providing input regarding institutional governance. In the case of private colleges, the institution has a formal process for providing input regarding institutional governance.

B.8 The institution has written policy which identifies appropriate institutional support for faculty participation in governance and delineates the participation of faculty on appropriate policy, planning, and special purpose bodies.

B.9 The institution clearly states and publicizes the role of staff in institutional governance.

B.10 The institution clearly states and publicizes the role of students in institutional governance.

C. Multi-College Districts and/or Systems

C.1 The district/system chief executive officer provides effective leadership to define goals, develop plans, and establish priorities for the institution.

C.2 The district/system chief executive officer efficiently manages resources, implements priorities controlling budget and expenditures, and ensures the implementation of statutes, regulations, and board policies.

C.3 The district/system has a statement which clearly delineates the operational responsibilities and functions of the district/system and those of the college.

C.4 The district/system provides effective services that support the mission and functions of the college.

C.5 The district/system and the college(s) have established and utilize effective methods of communication and exchange information in a timely and efficient manner.

C.6 The district/system has effective processes in place for the establishment and review of policy, planning, and financial management.

PART III

COMMISSION POLICIES

TESTIMONIAL POLICIES

Testimonial Policies have been adopted by the Commission as public position statements. Testimonial policies define good practice in more detail than do the accreditation standards and are intended to offer guidance to member institutions and to the Commission itself. Such policies are adopted after broad consultation among member institutions and with other agencies that make up the regional accrediting community.

CREDIT FOR PRIOR EXPERIENTIAL LEARNING IN UNDERGRADUATE PROGRAMS

(Adopted June 1980, Revised June 1990)

It is the position of the Commission that the academy has a significant role beyond that

of certifying what a student has learned elsewhere. It is within the academy that a student earns academic degrees.

Credit for prior experiential learning is offered only under the conditions enumerated below. This policy is not designed to apply to such practices as CLEP, advanced placement, or ACE evaluated military credit. Questions about this policy should be referred to Commission staff.

In developing and publishing its guidelines and procedures, it is suggested that institutions follow the "Principles of Good Practice in Assessing Experiential Learning" represented by the Council for the Advancement of Experiential Learning (CAEL)* and the American Council on Education.**

1. Before credit for prior experiential learning becomes part of the student's permanent record, the student completes, at the credit-granting institution, a sufficient number of units to establish evidence of a satisfactory learning pattern.

2. Portfolio-based credit for prior experiential learning is awarded for no more than 30 semester units, or the equivalent, toward the Associate Degree. Credit is awarded only for documented learning which ties the prior experience to the theories and data of the relevant academic field.

3. Credit is awarded only in areas which fall within the regular curricular offerings of the institution and are part of the instructional program the student completes.

4. Institutions using documentation and interviews in lieu of examinations, demonstrate that the documentation provides academic assurances of equivalency to credit earned by traditional means.

5. No assurances are made in advance regarding the number of credits to be awarded.

6. Credit is awarded only by faculty holding regular appointments in the appropriate discipline. The awarding of credit, and the determination of the amount of such credit, is made by qualified faculty members. The faculty ensures that assessment procedures are appropriate for the credit awarded.

7. Only college level learning is creditable, consistent with the academic standards of the institution.

8. Credit is awarded only to matriculated students and is identified on the student's transcript as "credit for prior experiential learning." The institution is prepared, on request from another institution, to furnish full documentation showing how such learning was evaluated and the basis

on which such credit was awarded.

9. Steps are taken to ensure that credit for prior experiential learning does not duplicate credit already awarded or remaining courses planned for the student's academic program.

10. Policies and procedures for awarding experiential learning credit are adopted, described in appropriate institutional publications, and reviewed at regular intervals.

11. Fees charged are realistically related to the cost of the program. Adequate precautions are provided to ensure that payment of fees does not influence the award of credit.

---

*Willingham, Warren W. Principles of Good Practice in Assessing Experiential Learning. CAEL, American City Building, Suite 40-3, Columbia, MD 21044, 1977.

**American Council on Education. ``Principles of Good Practice for Alternative and External Degree Programs for Adults." ACE, Publications Department A, One Dupont Circle, Washington, D.C. 20036, 1990.

PRINCIPLES OF GOOD PRACTICE IN OVERSEAS INTERNATIONAL EDUCATION PROGRAMS FOR NON-U.S. NATIONALS

Regional Institutional Accrediting Bodies Council on Postsecondary Accreditation

February 1990

Preface

The Executive Directors of the regional institutional accrediting bodies of the Council on Postsecondary Accreditation subscribe to the following "Principles of Good Practice in Overseas International Education Programs for Non-U.S. Nationals."

Each regional institutional accrediting body will apply these principles consistent with its own accrediting standards.

PRINCIPLES OF GOOD PRACTICE

Institutional Mission

1. The international program is rooted in the U.S. institution's stated mission and purposes and reflects any special social, religious, and ethical elements of that mission.

2. The faculty, administration, and governing board of the U.S. institution

understand the relationship of the international program to the institution's stated mission and purposes.

Authorization

3. The international program has received all appropriate internal approvals where required, including system administration, government bodies, and accrediting associations.

4. The international program has received all appropriate external approvals where required, including system administration, government bodies, and accrediting associations.

5. The U.S. institution documents the accepted legal basis for its operations in the host country.

Instructional Program

6. The U.S. institution specifies the educational needs to be met by its international program.

7. The content of the international educational program is subject to review by the U.S. institution's faculty.

8. The international education program reflects the educational emphasis of the U.S. institution, including a commitment to general education when appropriate.

9. The educational program is taught by faculty with appropriate academic preparation and language proficiencies whose credentials have been reviewed by the U.S. institution.

10. The standard of student achievement in the international program is equivalent to the standard of student achievement on the U.S. campus.

11. The international educational program where possible and appropriate is adapted to the culture of the host country.

Resources

12. The institution currently uses and assures the continuing use of adequate physical facilities for its international educational program, including classrooms, offices, libraries, and laboratories, and provides access to computer facilities where appropriate.

13. The U.S. institution has demonstrated its financial capacity to underwrite the international program without diminishing its financial support of the U.S. campus. Financing of the international program is incorporated into the regular budgeting and auditing process.

Admissions and Records

14. International students admitted abroad meet admissions requirements similar to those used for international students admitted to the U.S. campus, including appropriate language proficiencies.

15. The U.S. institution exercises control over recruitment and admission of students in the international program.

16. All international students admitted to the U.S. program are recognized as students of the U.S. institution.

17. All college-level academic credits earned in the international program are applicable to degree programs at the U.S. institution.

18. The U.S. institution maintains official records of academic credit earned in its international program.

19. The official transcript of record issued by the U.S. institution follows the institution's practices in identifying by site or through course numbering, the credits earned in its off-campus programs.

Students

20. The U.S. institution assures that its institutional program provides a supportive environment for student development, consistent with the culture and mores of the international setting.

21. Students in the international program are fully informed as to services that will or will not be provided.

Control and Administration

22. The international program is controlled by the U.S. institution.

23. The teaching and administrative staff abroad responsible for the educational quality of the international program are accountable to a resident administrator of the U.S. institution.

24. The U.S. institution formally and regularly reviews all faculty and staff associated with its international program.

25. The U.S. institution assesses its international program on a regular basis in light of institutional goals and incorporates these outcomes into its regular planning process.

Ethics and Public Disclosure

26. The U.S. institution can provide to its accrediting agencies upon request a full

accounting of the financing of its international program, including an accounting of funds designated for third parties within any contractual relationship.

27. The U.S. institution assures that all media presentations about the international program are factual, fair, and accurate.

28. The U.S. institution's primary catalog describes its international program.

29. The U.S. institution does not sell or franchise the rights to its name or its accreditation.

30. The U.S. institution assures that all references to transfer of academic credit reflects the reality of U.S. practice.

31. The U.S. institution assures that if U.S. accreditation is mentioned in materials related to the international program, the role and purpose of U.S. accreditation is fairly and accurately explained within these materials.

Contractual Arrangements

32. The official contract is in English and the primary language of the contracting institution.

33. The contract specifically provides that the U.S. institution controls the international program in conformity with these guidelines and the requirements of the U.S. institution's accreditations.

34. The U.S. institution confirms that the foreign party to the contract is legally qualified to enter into the contract.

35. The contract clearly states the legal jurisdiction under which its provisions will be interpreted will be that of the U.S. institution.

36. Conditions for program termination specified in the contract include appropriate protection for enrolled students.

37. All contractual arrangements must be consistent with the regional commissions' document, ``Contractual Relationships With Non-Regionally Accredited Organizations."

Adopted February 12, 1990 by the Executive Directors of the Regional Institutional Accrediting Bodies:

Commission on Higher Education, Middle States Association of Colleges and Schools

Commission Institutions of Higher Education, New England Association of Schools and Colleges

Commission on Vocational, Technical, and Career Institutions, New England Association of Schools and Colleges

Commission on Institutions of Higher Education, North Central Association of Colleges and Schools

Commission on Colleges, Northwest Association of Schools and Colleges

Commission on Colleges, Southern Association of Colleges and Schools

Commission on Occupational Education Institutions, Southern Association of Colleges and Schools

Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges

Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges

Adopted June 1, 1990 by the Accrediting Commission for Community and Junior Colleges

CONTRACTUAL RELATIONSHIPS WITH NON-REGIONALLY ACCREDITED ORGANIZATIONS

(Adopted March 1973)

No postsecondary educational institution accredited by a regional institutional accrediting commission can lend the prestige or authority of its accreditation to authenticate courses or programs offered under contract with organizations not so accredited unless it demonstrates adherence to the following principles:

1. The primary purpose of offering such a course or program is educational. (Although the primary purpose of the offering must be educational, what ancillary purposes also provide the foundation for the program or course such as auxiliary services, anticipated income, and public relations?)

2. Any course offered must be consistent with the institution's educational purpose and objectives as they were at the time of the last evaluation. If the institution alters its purpose and objectives, the regional commission must be notified and the policy on substantive change applied. (How does the institution define the specific relationship between the primary and ancillary purposes and the contracted service and how does it demonstrate its capability to attain these purposes?)

3. Courses to be offered and the value and level of their credit must be determined in accordance with established institutional procedures, and under the usual mechanisms of review. (What evidence exists that established

institutional procedures have been followed?)

4. Courses offered for credit must remain under the sole and direct control of the sponsoring accredited institution, which exercises ultimate and continuing responsibility for the performance of these functions as reflected in the contract, with provisions to assure that conduct of the courses meets the standards of its regular programs as disclosed fully in the institution's publications, especially as these pertain to

a. Recruitment and counseling of students;

b. Admission of students to courses and/or to the sponsoring institution where credit programs are pursued;

c. Instruction in the courses.

d. Evaluation of student progress.

e. Record keeping.

f. Tuition and/or fees charged, receipt and disbursement of funds, and refund policy.

g. Appointment and validation of credentials of faculty teaching the course.

h. Nature and location of courses.

i. Instructional resources, such as the library.

Additional data needed would include course outlines, syllabi, copies of exams, records of students, and evidence of equivalencies with established programs.

In establishing contractual arrangements with non-regionally accredited organizations, institutions are expected to utilize the following guidelines. The not-for-profit institution should establish that its tax-exempt status, as governed by state or federal regulations, will not be affected by such contractual arrangements with a for-profit organization.

The Contract

1. Should be executed only by duly designated officers of the institution and their counterparts in the contracting organization. While other faculty and administrative representatives will undoubtedly be involved in the contract negotiations, care should be taken to avoid implied or apparent power to execute the contract by unauthorized personnel.

2. Should establish a definite understanding between the institution and contractor regarding the work to be performed, the period of the agreement, and the conditions under which any possible renewal or renegotiation of the contract

would take place.

3. Should clearly vest the ultimate responsibility for the performance of the necessary control functions for the educational offering with the accredited institution granting credit for the offering. Such performance responsibility by the credit-granting institution would minimally consist of adequate provision for review and approval of work performed in each functional area by the contractor.

4. Should clearly establish the responsibilities of the institution and contractor regarding

a. Indirect costs and audits

b. Approval of salaries

c. Equipment

d. Subcontracts and travel

e. Property ownership and accountability

f. Inventions and patents

g. Publications and copyrights

h. Accounting records and

i. Security

j. Termination costs

k. Tuition refund

l. Student records

m. Faculty facilities

n. Safety regulations

o. Insurance coverage

Enrollment Agreement

1. The enrollment agreement should clearly outline the obligations of both the institution and the student, and a copy of the enrollment agreement should be furnished to the student before any payment is made.

2. The institution should determine that each applicant is fully informed as to the nature of the obligation being entered into and the applicant's responsibilities and rights under the enrollment agreement before the applicant signs it.

3. No enrollment agreement should be binding until it has been accepted by the authorities of the institution vested with this responsibility.

Tuition Policies

1. Rates

a. The total tuition for any specific given course should be the same for all persons at any given time. Group training contracts showing lower individual rates may be negotiated with business, industrial, or

governmental agencies.

b. Tuition charges in courses should be *bona fide,* effective on specific dates, and applicable to all who enroll thereafter or are presently in school, provided the enrollment agreement so stipulates.

c. All extra charges and costs incidental to training should be revealed to the prospective student before enrollment.

d. The institution should show that the total tuition charges for each of its courses is reasonable in the light of the service to be rendered, the equipment to be furnished, and its operating costs.

2. Refunds and Cancellations

a. The institution should have a fair and equitable tuition refund and cancellation policy.

b. The institution should publish its tuition refund and cancellation policy in its catalog or other appropriate literature.

3. Collection Practices

a. Methods used by an institution in requesting or demanding payment should follow sound ethical business practices.

b. If promissory notes or contracts for tuition are sold or discounted to third parties by the institution, enrollees or their financial sponsors should be aware of this action.

Student Recruitment

1. Advertising and Promotional Literature

a. All advertisements and promotional literature used should be truthful and avoid leaving any false, misleading, or exaggerated impressions with respect to the school, its personnel, its courses and services, or the occupational opportunities for its graduates.

b. All advertising and promotional literature used should clearly indicate that education, and not employment, is being offered.

c. All advertising and promotional literature should include the correct name of the school. So-called ``blind" advertisements are considered misleading and unethical.

2. Field Agents

a. An institution is responsible to its current and prospective students for

the representations made by its field representatives (including agencies and other authorized persons or firms soliciting students), and therefore should select each of them with the utmost care, provide them with adequate training, and arrange for proper supervision of their work.

b. It is the responsibility of an institution to conform to the laws and regulations of each of the areas in which it operates or solicits students, and in particular to see that each of its field representatives is properly licensed or registered as required by the laws of the state or other entity.

If field representatives are authorized to prepare and/or run advertising or to use promotional materials, the institution should accept full responsibility for the materials used and should approve any such in advance of their use.

When field representatives are authorized to collect money from an applicant for enrollment, they should leave with the applicant a receipt for the money collected and a copy of the enrollment agreement.

No field representative should use any title, such as " counselor," " advisor," or " registrar," that tends to indicate that his duties and responsibilities are other than they actually are.

f. No field agent should violate orally any of the standards applicable to advertising and promotional material.

POLICY STATEMENT ON DIVERSITY

(Adopted January, 1994)

How an institution deals with diversity is an important indicator of its integrity and effectiveness. Institutions accredited by the Commission consider diversity issues in a thorough and professional manner. Every institution affiliated with the Commission is expected to provide and sustain an environment in which all persons in the college community can interact on a basis of accepting differences, respecting each individual, and valuing diversity. Each institution is responsible for assessing the quality and diversity of its campus environment and for demonstrating how diversity is served by the goals and mission of the college and district. In addition, institutions must identify the processes that actively promote diversity in the everyday environment and the academic programs of the college. Accreditation teams will evaluate the condition of institutional diversity during the site visits and include findings and recommendations in written reports to the Accrediting Commission.

The Commission Statement on Diversity is designed to guide institutions and evaluation teams in the self study and site visit process and to indicate how institution-wide reviews of issues of diversity should be documented in the self

study and visiting team reports. The Accrediting Commission, taking into account the mission of the institution and the entirety of the self study and peer review processes, will evaluate the institution's effectiveness in addressing issues of diversity.

THE GOVERNING BOARD

(Adopted June 1996)

Institutions of higher education in the United States have a long tradition of governance by lay boards of citizen trustees. A trustee is one to whom property is entrusted for management. In the case of colleges, the board of trustees holds the institution in trust on behalf of the owners, to ensure that the institution is operating effectively and efficiently in accordance with its established mission. For private colleges, the owners may be a nonprofit corporation, a religious order or denomination, or a for-profit corporation. For public institutions, the owners may be a governmental entity or a geographic district. In each case the board includes qualified lay persons who are unencumbered by conflicts of interest. Regional accrediting associations require as a condition of eligibility that member institutions have an independent, policy-making board, with a majority of members who have no employment, ownership, familial or personal relationship with the institution. This latter condition is to ensure impartial exercise of judgment on behalf of the owners and users of the institution.

All boards act on behalf of their owners. Owners may be remote and have a limited range of concerns, or they may have a more immediate presence and establish rather detailed expectations. In every case, however, there is a delegation of authority from owners to trustees, with the clear understanding that trustees may act on behalf of owners to direct the affairs of the college, without compromising legitimate ownership interests.

Boards of public institutions may be elected or appointed, subject to laws and regulations of the political entity that owns the institution. The practice in private institutions is ordinarily appointment of trustees by a self-perpetuating board, appointment by owners/sponsors, or a combination. The duty of the board is to make policy, while *administration,* the day-to-day management of the institution – is the duty of the chief executive and staff. This traditional dividing line is an oversimplification, in that faculty in many institutions play significant roles in policy-making, and administrative authority is in many cases delegated to others than the president's staff.

In his paper, "Policy and Administration," published by the Association of Governing Boards, Charles A. Nelson defines policy as "a general rule of principle, or a statement of intent or direction, which provides guidance to administrators in reaching decisions with respect to the particular matters entrusted to their care." Institutions in public systems are guided and directed by

laws and regulations that establish basic rights and responsibilities of their governing boards. Boards that serve private institutions frequently rely on associations such as the Association of Governing Boards or institutional associations of private institutions to offer guidance as to good practice.

A board needs to establish the level of policy at which it will operate, thus determining the levels of policy at which the administration will operate. Where policy responsibility is formally shared, as it may with faculties on academic issues, the board sets boundaries for itself by formal delegation to others. Size and complexity, and public or private control, will influence the level of policy at which a board operates.

Boards need rules, for themselves as well as for the institution. Bylaws or policies that establish regular meeting times, structuring of agendas, decision-making, and codes of ethics including prohibitions on conflicts of interest help to not only make the board effective, but also to build trust in the integrity of the board.

Oversight responsibility – the obligation to ensure that the mission of the institution is being appropriately served, and that its established goals are faithfully pursued, is a major duty of a board. The board asks questions about achievement of intended outcomes, as part of its acting on behalf of the owners of the institution. The board protects the institution from external pressures, and is an advocate for the best interests of the institution.

The board must be concerned about its own effectiveness, as well as that of the executive and the institution. Boards systematically evaluate the executive, and evaluate their own effectiveness. Board effectiveness may be substantially enhanced by participation in programs of board education offered by organizations such as the Association of Governing Boards, the Association of Community College Trustees, and the Community College League of California.

NATIONAL POLICIES

National Policies adopted by major higher education associations advise accrediting agencies and their member institutions about good practice. The following policies have been adopted by ACCJC and the other regional accrediting agencies. The Commission regularly renews its commitment to the principles expressed in the policies through a process of Commission review. In some cases the original adopting body is no longer in existence; however, the accrediting agencies' joint adoption remains in place.

Note: The Council on Postsecondary Accreditation (COPA) referred to in several policies dissolved in December 1993. The Commission on Recognition of Postsecondary Accreditation (CORPA) was incorporated in January 1994 to continue the recognition process for accrediting agencies. The Council for Higher Education Accreditation was incorporated in July 1996 to recognize accrediting bodies, coordinate accreditation functions, foster innovation in accreditation, assist in resolving disputes,

and serve as a national voice for self-regulation through accreditation.

POLICY STATEMENT ON THE ROLE AND VALUE OF ACCREDITATION

Accreditation is an activity long accepted in the United States, but generally unknown in most other countries because other countries rely on governmental supervision and control of educational institutions. The record of accomplishment and outstanding success in the education of Americans can be traced in large part to the reluctance of the United States to impose governmental restrictions on institutions of postsecondary education and to the success of the voluntary American system of accreditation in promoting quality without inhibiting innovation. The high proportion of Americans benefiting from higher education, the reputation of universities in the United States for both fundamental and applied research, and the widespread availability of professional services in the United States all testify to postsecondary education of high quality and to the success of the accreditation system which the institutions and professions of the United States have devised to promote that quality.

I.

Accreditation is a status granted to an educational institution or a program that has been found to meet or exceed stated criteria of educational quality. In the United States accreditation is voluntarily sought by institutions and programs and is conferred by non-governmental bodies.

Accreditation has two fundamental purposes: to assure the quality of the institution or program, and to assist in the improvement of the institution or program. Accreditation, which applies to institutions or programs, is to be distinguished from certification and licensure, which apply to individuals.

The bodies conducting institutional accreditation are national or regional in scope and comprise the institutions that have achieved and maintain accreditation. A specialized body conducting accreditation of a program preparing students for a profession or occupation is often closely associated with professional associations in the field.

Both institutional and specialized bodies conduct the accreditation process using a common pattern. The pattern requires integral self study of the institution or program, followed by an on-site visit by an evaluation team, and a subsequent review and decision by a central governing group. Within this general pattern the various accrediting bodies have developed a variety of individual procedures adapted to their own circumstances. Increasingly, attention has been given to educational outcomes as a basis for evaluation.

Members of the Council on Postsecondary Accreditation have been found by COPA to meet specific criteria of procedure and organization regarded as necessary for the effective conduct of the accrediting process. A COPA-recognized accrediting body can be regarded as qualified to conduct evaluations of institutions and/or programs seeking accreditation, and accreditation by such bodies is generally recognized and accepted in

higher education.

Institutional or specialized accreditation cannot guarantee the quality of individual graduates or of individual courses within an institution or program but can give reasonable assurance of the context and quality of the education offered.

II.

An institutional accrediting body considers the characteristics of whole institutions. For this reason an institutional accrediting body gives attention not only to the educational offerings of the institutions it accredits, but also to other such institutional characteristics as the student personnel services, financial conditions, and administrative strength.

The criteria of an institutional accrediting body are broad, as is demanded by the attention to an entire institution and by the presence in the United States of postsecondary institutions of widely different purposes and scopes. Such criteria also provide encouragement to institutions to try innovative curricula and procedures, and to adopt them when they prove successful. The accreditation of an institution by an institutional accrediting body certifies to the general public that the institution:

a. Has appropriate purposes.

b. Has the resources needed to accomplish its purposes.

c. Can demonstrate that it is accomplishing its purposes.

d. Gives reason to believe that it will continue to accomplish its purposes.

Institutional improvement is encouraged by an institutional accrediting body through the requirement that the accredited institution conduct periodic self-evaluations seeking to identify what the institution does well, determining the areas in which improvement is needed, and developing plans to address needed improvements. While the certification of accreditation indicates an acceptable level of institutional quality, an institution, however excellent, is capable of improvement, which must come from its own clear identification and understanding of its strengths and weaknesses.

Institutional improvement is also encouraged by the institutional accrediting body through the advice and counsel provided by the visiting team, which is comprised of experienced educators drawn primarily from accredited institutions, and by the publications of the accrediting body.

III.

A specialized accrediting body focuses its attention on a particular program within an institution of higher education. The close relationship of the specialized accrediting body with the professional association for the field helps insure that the requirements for accreditation are related to the current requirements for professional practice.

In a number of fields (*e.g.*, medicine, law, dentistry) graduation from an accredited program in the field is a requirement for receiving a license to practice in the field. Thus, specialized accreditation is recognized as providing a basic assurance of the scope and quality of professional or occupational preparation. This focus of specialized accreditation leads to accreditation requirements that are generally sharply directed to the nature of the program, including specific requirements for resources needed to provide a program satisfactory for professional preparation. Because of this limitation of focus to a single program, many specialized accrediting bodies require that the institution offering the program be institutionally accredited before consideration can be given to program accreditation.

Specialized accreditation encourages program improvement by application of specific accreditation requirements to measure characteristics of a program and by making judgments about the overall quality of the program. For a non-accredited program, the accreditation requirements serve as specific goals to be achieved. In addition to accrediting standards, assistance for program improvement is provided through the counsel of the accreditation visiting team members, which include practitioners of the profession and experienced and successful faculty members and administrators in other institutions.

IV.

Institutional and specialized accreditation are complementary. The focus of an institutional accrediting body on an institution as a total operating unit provides assurance that the general characteristics of the institution have been examined and found to be satisfactory. The focus of a specialized accrediting body on a specific program provides assurance that the details of that particular program meet the external accreditation standards. Institutional accreditation, concerned with evaluating the institution as a whole, does not seek to deal with any particular program in great detail although programs are reviewed as a part of the consideration of the entire institution. Specialized accreditation, speaking to a specific program, does not seek to deal significantly with the general conditions of the institution, although certain general conditions are considered in the context in which the accredited program is offered. Occasionally there are institutions offering but a single program (``free-standing" schools), which may seek institutional and/or specialized accreditation. In such cases, the certification of the accreditation is that appropriate to either institutional or specialized accreditation, and does not imply both certifications, although a specialized body accrediting such an institution is expected to look at the whole institution, just as the institutional body is expected to consider the single educational program.

V.

In fulfilling its two purposes – quality assurance and institutional and program improvement – accreditation provides service of value to several constituencies.

To the **public**, the values of accreditation include:

a. An assurance of external evaluation of the institution or program and a finding that there is conformity to general expectations in higher education or the professional field.

b. An identification of institutions and programs which have voluntarily undertaken explicit activities directed at improving the quality of the institution and its professional programs and are carrying them out successfully.

c. An improvement in the professional services available to the public, as accredited programs modify their requirements to reflect changes in knowledge and practice generally accepted in the field.

d. A decreased need for intervention by public agencies in the operations of educational institutions, since their institutions through accreditation are providing privately for the maintenance and enhancement of educational quality.

To s**tudents**, accreditation provides

a. An assurance that the educational activities of an accredited institution or program have been found to be satisfactory and therefore meet the needs of students.

b. Assistance in the transfer of credits between institutions, or in the admission of students to advanced degrees through the general acceptance of credits among accredited institutions when the performance of the student has been satisfactory and the credits to be transferred are appropriate to the receiving institution.

c. A prerequisite in many cases for entering a profession.

Institutions of higher education benefit from accreditation through:

a. The stimulus provided for self-evaluation and self-directed institutional and program improvement.

b. The strengthening of institutional and program self-evaluation by the review and counsel provided through the accrediting body.

c. The application of criteria of accrediting bodies, generally accepted throughout higher education, which help guard against external encroachments harmful to institutional or program quality by providing benchmarks independent of forces that might impinge on individual institutions.

d. The enhancing of the reputation of an accredited institution or

program because of public regard for accreditation.

e. The use of accreditation as one means by which an institution can gain eligibility for the participation of itself and its students in certain programs of governmental aid to postsecondary education; accreditation is also usually relied upon by private foundations as a highly desirable indicator of institutional and program quality.

Accreditation serves the **professions** by:

a. Providing a means for the participation of practitioners in setting the requirements for preparation to enter the professions.

b. Contributing to the unity of the professions by bringing together practitioners, teachers, and students in an activity directed at improving professional preparation and professional practice.

Adopted by the COPA Board April 15, 1982, Reviewed by ACCJC 1990, 1996

POLICY STATEMENT ON RIGHTS AND RESPONSIBILITIES OF ACCREDITING BODIES AND INSTITUTIONS IN THE ACCREDITING PROCESS

Preface

American higher education is a diverse, semi-autonomous and independent composite of institutions and programs. In the diversity of the system lies its strength. By design, postsecondary education functions with considerable latitude and few restrictions. Compared with most other countries, in America there has been a remarkable degree of freedom from government regulation and intrusion. This freedom has been achieved and maintained in large measure because the self-regulatory process of accreditation balances institutional autonomy, independence, and freedom with the institution's responsibilities to students, to the public, to the profession, and to various levels of government. Voluntary accreditation involves mutual understanding and respect for the rights and responsibilities of institutions and the rights and responsibilities of accrediting bodies. The national, nongovernmental accreditation system is the key in ensuring that education remains fundamentally sound, responsible, responsive, and effective, thereby providing public confidence in the integrity and quality of educational institutions and programs.

Preconditions

A statement related to rights and responsibilities of institutions/programs and accrediting bodies is rooted in general assumptions:

1. That the institutions/programs and accrediting bodies are partners in the system of voluntary nongovernmental evaluation.

2. That there is a mutual commitment among institutions/programs and

accrediting bodies to:

a. Voluntary self-regulation

b. Assessment and enhancement of educational quality

c. Candor

d. Cooperation

e. Integrity

f. Confidence and trust

Given these preconditions there are certain reciprocal institutional/programmatic and accrediting body rights and responsibilities that relate directly (1) to the development and promulgation of accreditation standards and (2) to the various stages of the accrediting process.

A. Development and Promulgation of Standards

Institutions/programs and accrediting bodies, in cooperation with each other, have the responsibility to:

1. Involve broad participation of affected constituencies in the development and acceptance of standards and policies.

2. Develop standards and policies which:

a. Are consistent with the purposes of accreditation.

b. Are sufficiently flexible to allow diversity and effective program development.

c. Allow and encourage institutional/programmatic freedom and autonomy.

d. Allow the institution/program to exercise its rights within a reasonable set of parameters relevant to the quality of education and, in professional fields, to prepare individuals effectively for practice in the profession.

3. Conduct periodic reviews of the standards.

B. Five Stages of Accreditation Actions or Process and Concomitant Statements of Rights and Responsibilities

Stage 1: Basic Procedures

a. The institution/program develops and implements an institutional policy

for seeking, securing, and maintaining accredited status with institutional or specialized accrediting bodies.

b. The institution/program develops an effective mechanism to ensure the internal coordination of accrediting activities.

c. In corresponding with representatives on campus, the accrediting body routinely provides copies to the chief executive and, where appropriate, the chief academic officer and/or director of the program.

d. The accrediting body refrains from advertising or soliciting applications for accreditation from institutions/programs.

Stage 2: Information Requested and Supplied (Including the Self Study)

a. The institution/program determines how it will conduct its self study and the accrediting body specifies the items to be addressed in the report.

b. The accrediting body requires only information that is relevant to accrediting standards and policies, and, whenever possible, this information will be coordinated with information requested by other accrediting bodies.

c. The institution/program involves broad and appropriate constituent groups in the preparation and process of self study.

d. The institution/program discloses to the accrediting body that information which is required to carry out the accrediting body's evaluation and accrediting functions (with due regard to individual privacy).

e. The accrediting body and institution/program respect the confidentiality of information required and evaluated in the accrediting process.

Stage 3: The Site Visit and Review

a. When requested by the institution/program, the accrediting body (in consultation with the institution/program and when feasible) conducts joint, concurrent, coordinated, consolidated, or phased visits.

b. The accrediting body, in consultation with the institution/program, selects site visitors who are:

1. Competent by virtue of experience, training, and orientation;

2. Sensitive to the uniqueness of the institution and/or program; and

3. Impartial, objective, and without conflict of interest.

c. The accrediting body ensures that the composition, team size, and length of the visit are:

1. Determined in consultation with the institution/program

2. Determined with regard to the size and complexity of the institution/program.

3. Most appropriate to accomplish the objectives of the visit.

d. The institution/program provides maximum opportunity for communication with all relevant constituencies.

e. The accrediting body communicates its findings derived from the site visit to the institution/program.

f. The accrediting body ensures that the report identifies and distinguishes clearly between statements directly related to quality-assessment and those representing suggestions for quality-improvement.

g. The accrediting body provides the chief executive officer of the institution (and the chief academic officer and/or the director of the program) with an opportunity to comment on the written report of the visiting team and to file supplemental materials pertinent to the facts and conclusions therein before the accrediting body takes action on the report.

Stage 4: The Decision (Including the Following)

Commission action

Conveyance of action

Appeal

Public announcement of action

a. The accrediting body permits the withdrawal of a request for any status of accreditation at any time prior to the decision on that request.

b. The accrediting body makes decisions solely on the basis of published standards, policies, and procedures using information available and made known to the institution/program.

c. The accrediting body avoids conflicts of interest in the decision making process.

d. The accrediting body ensures the confidentiality of those deliberations in which accrediting decisions are made, but due process will be observed

in all deliberations.

e. The accrediting body notifies institutions and programs promptly in writing of accrediting decisions, giving reasons for the actions.

f. The accrediting body ensures that the communication of the final accrediting decision, *i.e.*, the notification letter and/or final report, identifies and clearly distinguishes between statements directly related to quality-assessment and those representing suggestions for quality-improvement.

g. The institution/program has a right to appeal an accrediting decision in accordance with the policies of the accrediting body and to maintain its accredited status during the appeal.

h. The accrediting body publishes accrediting decisions, both affirmative and negative, except for initial denial which need not be made public.

i. The accrediting body maintains the confidentiality of the final report, but it may request that corrective action be taken if an institution/program releases information misrepresenting or distorting any accreditation action taken by the body or the status of affiliation with the accrediting body. If the institution/program is not prompt in taking corrective action, the accrediting body may further release a public statement providing the correct information.

Stage 5: Follow-Up (Including interim reports and reapplication)

a. The accrediting body can request periodic reports, special reports, and consultative activities relevant to the institution's/program's accreditation status.

b. The accrediting body provides written notice to the institution/program of the action taken in relation to a special report or visit.

c. The accrediting body may request the reevaluation of an institution/program at any time for cause.

d. The institution/program has an obligation to inform the accrediting body of any substantive changes.

e. The institution/program has a right to have pertinent information provided concerning reapplication requirements for accreditation under the terms and conditions specified by the accrediting body.

f. Separate from the accrediting process leading to a decision on accredited status, the accrediting body assists and stimulates improvement of the educational effectiveness of an institution/program, and to this end makes provision for appropriate assistance.

Adopted by the COPA Board April 19, 1985 Reviewed by ACCJC 1990, 1996

INTERREGIONAL POLICIES ON THE ACCREDITATION OF INSTITUTIONS OPERATING ACROSS REGIONS

(Adopted June 2000)

Preamble

The purpose of these policies is to establish and define the respective roles of the regional higher education accrediting commissions in assuring quality and encouraging the improvement of affiliated institutions operating interregionally. Developed by the Council of Regional Accrediting Commissions (CRAC), they are designed to address concerns arising from differences that may exist among regional commission criteria and their application in off-campus operations. The interregional policies encompass only those colleges and universities which have physical presence, appropriate state authorization, and offer instruction equivalent to 50% or more of a degree program in another (host) region(s) than their home region where they hold accreditation. Once adopted, however modified, these polices will encompass all regionally accredited institutions and will establish a common framework for the evaluation of institutions operating interregionally.

These policies are based upon the following fundamental premises:

The home region should be demonstrably accountable for its accreditation decisions affecting institutions operating in host regions.

The host region has a legitimate interest in the quality of institutions from other regions operating within its jurisdiction.

The home and host regions, while honoring these policies and the procedures designed to implement them, have flexibility in defining the host region's role in the evaluation of instructional sites operating in its region.

The eight regional commissions, building on their commonality of tradition and longstanding mutual respect, will work cooperatively, together with affected institutions, to implement these policies toward the fulfillment of their quality assurance responsibilities in the review of transregional programming while honoring institutional autonomy and integrity.

These policies represent a departure from past practice. Their continued efficacy rests upon the commitment of the involved commissions to assess their effectiveness and

otherwise determine their impact on their member institutions, making modifications as are necessary. For that reason, CRAC has recommended that these policies be implemented on a three-year (2000-2003) pilot basis. While it is expected that once in force the policies will materially affect the evaluation of institutions operating across regional boundaries, it is also understood that first experiences will likely result in the need for corrections and adjustments in their content. For that reason, CRAC is committed to undertake in 2003 a basic review of the effectiveness of the policies in achieving their purposes.

POLICY STATEMENT ON THE EVALUATION OF INSTITUTIONS OPERATING INTERREGIONALLY

To preserve the values and practices of peer review and regional accreditation, the evaluation of institutions that deliver education at a physical site(s) in another region(s) will be undertaken with the participation of the host regional accrediting commission(s). This will include the joint (home/host) review of off-campus sites in a host region against the accreditation standards of that region.

Procedures for the evaluation of colleges and universities operating interregionally will honor these basic principles:

The mission of the institution will be respected throughout the evaluation process.

The design and implementation of the strategy fashioned to evaluate its host region instructional sites will be developed collaboratively by the participating regional commissions together with the affected institution.

The home region's evaluation processes will serve as the basis for the joint evaluations and the home region will take the leadership role in initiating and overseeing the process.

The home region will be solely responsible for final accrediting actions, but will respond to issues brought to its attention by the host commission as identified through its involvement in the institutional review.

Host commission participation in an interregional accrediting process shall not constitute accreditation of the institution by that commission.

The host region retains the discretion to determine its involvement in the evaluation of institutions operating interregionally.

Exchanging Information

To assure that each commission is adequately apprised of the instructional activities of out-of-region institutions in its region, the following information will be exchanged as specified:

A. Annually, each commission will notify the other affected commissions of any of its institutions operating interregionally. The information provided will include:

location(s), levels of degree offerings, and number of students enrolled. It is understood here as elsewhere, that notice need only be provided regarding those locations where 50% or more of a degree program are offered.

B. Each commission will notify other relevant commissions when one of its institutions intends to establish a new out-of-region instructional site. In such cases, the home commission in consultation with the host region together with the institution, will determine if the new site(s) constitute a substantive change and thus be subject to review under the interregional accrediting processes.

Procedures for the Interregional Accrediting Process

Notice to Host Region of Planned Evaluations

The home region will provide timely notice to the host region(s) of

A. scheduled comprehensive evaluations of institutions with instructional sites in the host region;

B. any focused visits which include the review of sites in the host region or includes issues related to off-campus programming;

C. any other evaluations of new sites in the host region.

Procedures for Evaluations

A. Standards to be applied. The standards of both the home and host region will be applied at host region sites using a "home standards plus" model. That is, the standards of the home region will be used as the basis for the evaluation as supplemented by any criteria of the host region identified in the design process for the evaluation.

B. Evaluation protocol. Well in advance of the comprehensive visit, the home and host commissions, in consultation with the institution, will develop a protocol for the evaluation of host region sites to include: 1) the scope of the review; 2) which sites are to be reviewed, with the final decision remaining with the home region; 3) the content of

the self-study report(s) for the sites to be visited with particular attention to how identified host region standards are to be addressed; and 4) any other matters of agreement relevant to the evaluation, including issues of possible public disclosure.

C. Site team composition. The size and composition of the team visiting host region sites will be jointly determined, with the host region being afforded the opportunity to appoint up to 50% of the team's membership. The host region may appoint a vice or co-chair as agreed upon by the home region. Teams will otherwise be appointed in keeping with home region procedures. It is understood that the host region's conflict of interest policy will apply for the team members it appoints.

D. Costs. The costs for the evaluation of host region sites will be billed in keeping with the home region's policies. The home region will otherwise administer reimbursement of evaluator expense also in keeping with its policies.

Procedures for Evaluation Reports

A. A single evaluation report will be prepared for each of the sites visited within the host region, as agreed upon by the commissions involved.

B. The evaluation report will include a review of the site under the home region's standards, and as appropriate, findings regarding the host region's standards as previously identified and any topics included in the evaluation under prior agreement. Recommendations to the home region can be made by both home and host sub-groups on the team.

C. Site team reports are provided to the host region by the home region upon receipt. In cases of comprehensive evaluations, the home region's institutional evaluation report is also forwarded to the host region.

D. The host region is responsible for establishing processes for the timely review of site-specific evaluation reports prior to their being considered by the home regional commission so as to provide any comments it believes should be taken

into consideration as the institution's case is reviewed.

F. The policy of confidentiality for team recommendations of the home region will apply.

Procedures for Decisions and Notification

A. The home region's decision-making processes will ensure that the institution has the opportunity to respond to the team report and any comments from the host region before a final decision is made.

B. The home region takes the final accrediting action and is responsible for providing notification of that action to all relevant parties, including the host region.

C. When the final action differs from the recommendation and comments of the host region, if any, a rationale for the action will be sent upon request by the home to the host region.

D. The home region is responsible for addressing any misrepresentation of the interregional evaluation on the institution's accreditation status.

POLICY STATEMENT ON SEPARATELY ACCREDITABLE INSTITUTIONS

In an effort to be consistent and equitable to all institutions, the following criteria for identifying separately accreditable institutions will be applied by each of the regional accrediting commissions.

An instructional site located in a region other than that of its home campus must seek separate accreditation in the region it exists if it functions independent of operational control of the parent college or university. An instructional site will be deemed operationally independent and accreditable by the host region when it meets these criteria:

The instructional site:

1. has, under board policy, substantial financial and administrative independence from the home institution including matters related to personnel;

2. has a full time chief administrative officer;

3. is empowered, under board policy, to initiate and sustain its own academic programs;

4. has degree-granting authority in the state or jurisdiction in

which it is located.

Each regional commission, upon the adoption of this policy, will determine if any of its affiliated institutions have instructional sites that appear to be separately accreditable. Following consultation with the host commission and the institution, and upon learning from the host region the site's potential to meet its eligibility requirements, the home region will make the determination as to the status of such sites that meet these criteria. The host region agrees to take deliberate steps toward reviewing any instructional sites identified as operationally independent in keeping with its policies and procedures for applying institutions. An institution identified as separately accreditable will continue to be included in the accreditation of the parent college or university until it achieves separate accreditation.

Off-campus instructional sites, regardless of location, not found to be operationally independent are included in the accreditation of the home campus. The operational independence of such sites is periodically reviewed under this policy.

POLICY STATEMENT ON PRINCIPLES OF GOOD PRACTICE IN INSTITUTIONAL ADVERTISING, STUDENT RECRUITMENT, AND REPRESENTATION OF ACCREDITED STATUS

All accredited postsecondary institutions, or individuals acting on their behalf, must exhibit integrity and responsibility in advertising, student recruitment, and representation of accredited status. Responsible self-regulation requires rigorous attention to "Principles of Good Practice."

I. Advertising, Publications, Promotional Literature

Educational programs and services offered should be the primary emphasis of all advertisements, publications, promotional literature, and recruitment activities.

2. All statements and representations should be clear, factually accurate, and current. Supporting information should be kept on file and readily available for review.

3. Catalogs and other official publications should be readily available and accurately depict:

a. Institutional purposes and objectives.

b. Entrance requirements and procedures.

c. Basic information on programs and courses, with required sequences and frequency of course offerings explicitly stated.

d. Degree and program completion requirements, including length of time

required to obtain a degree or certification of completion.

e. Faculty (full-time and part-time listed separately) with degrees held and the conferring institution.

f. Institutional facilities readily available for educational use.

g. Rules and regulations for conduct.

h. Tuition, fees, and other program costs.

i. Opportunities and requirements for financial aid.

j. Policies and procedures for refunding fees and charges to students who withdraw from enrollment.[1]

4. In college catalogs and/or official publications describing career opportunities, clear and accurate information should be provided on:

a. National and/or state legal requirements for eligibility for licensure or entry into an occupation or profession for which education and training are offered.

b. Any unique requirements for career paths, or for employment and advancement opportunities in the profession or occupation described.

II. Student Recruitment for Admissions[2]

1. Student recruitment should be conducted by well-qualified admissions officers and trained volunteers whose credentials, purposes, and position or affiliation with the institution are clearly specified.

2. Independent contractors or agents used by the institution for recruiting purposes shall be governed by the same principles as institutional admissions officers and volunteers.

3. The following practices in student recruitment are to be scrupulously avoided:

a. Assuring employment unless employment arrangements have been made and can be verified.

b. Misrepresenting job placement and employment opportunities for graduates.

c. Misrepresenting program costs.

d. Misrepresenting abilities required to complete intended program.

e. Offering to agencies or individual persons money or inducements other than educational services of the institution in exchange for student

enrollment.

---

[1]See ACE Guidelines #1: "Policy Guidelines for Refund of Student Charges"

[2]See ACE Guidelines #2: "Joint Statement of Principles of Good Practice in College Admissions and Recruitment"

(Except for awards of privately endowed restricted funds, grants or scholarships are to be offered only on the basis of specific criteria related to merit or financial need.)

III. Representation of Accredited Status

1. The term "accreditation" is to be used only when accredited status is conferred by an accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation and/or the U.S. Secretary of Education.

No statement should be made about possible future accreditation status or qualification not yet conferred by the accrediting body. Statements like the following are not permissible; "(Name of institution) has applied for candidacy with the Commission on Colleges of the _____ Association"; "The _____ program is being evaluated by the National Association of _____, and it is anticipated that accreditation will be granted in the near future."

3. Any reference to state approval should be limited to a brief statement concerning the actual charter, incorporation, license, or registration given.

4. The phrase "fully accredited" should be avoided, since no partial accreditation is possible.

5. When accredited status is affirmed in institutional catalogs and other official publications, it should be stated accurately and fully in a comprehensive statement, including:

a. identifying the accrediting body by name.

indicating the scope of accreditation as:

(1) institutional (regional or national).

Example:

The University of Southern Yukon is accredited by the Commission on Colleges of the Northwest Association, an institutional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation (and/or the

U.S. Department of Education).

(2) programmatic (curriculum or unit accredited must be specified).

Examples:

Programs in (Civil Engineering and Aeronautical Engineering) are accredited by the Accrediting Board for Engineering and Technology, a specialized accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation (and/or the U.S. Department of Education).

The Department of Music at the University of Hiawatha is accredited by the National Association of Schools of Music, a specialized accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation (and/or the U.S. Department of Education).

Programs for the preparation of elementary, secondary, and special education teachers at the bachelor's and master's level, for the preparation of guidance counselors at the master's and specialist degree level, and for school superintendents at the specialist and doctoral degree level are accredited by the National Council for Accreditation of Teacher Education, a specialized accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation (and/or the U.S. Department of Education).

6. The accredited status of a program should not be misrepresented.

a. The accreditation granted by an institutional accrediting body has reference to the quality of the institution as a whole. Since institutional accreditation does not imply specific accreditation of any particular program in the institution, statements like ``this program is accredited,'' or ``this degree is accredited,'' are incorrect and misleading.

b. ``Free-standing'' institutions offering programs in a single field, *e.g.*, a school of art, engineering, theology, granted accreditation by a regional or national institutional accrediting body alone, should clearly state that this accreditation does not imply specialized accreditation of the program offered.

Member agencies of CORPA should assume responsibility for informing the CORPA office of improper or misleading advertising or unethical practices which come to their

attention, so that CORPA may inform the appropriate accrediting association or associations.

Adopted by the COPA Board April 20, 1983

Reviewed by ACCJC 1990, 1996

REPRESENTATION OF ACCREDITED STATUS

(Revised and Adopted June 1998, Revised January 1999)

The following statements govern representations which can be made by an institution during three types of accreditation status. In addition, institutions on probation, show cause, or termination status must disclose that information to students and prospective students and in any publication where the institution makes reference to its accredited status.

A. Representation of status by institutions preparing, submitting, or completing Eligibility Reviews

An institution which is preparing, has submitted, or completed an Eligibility Review has no formal relationship with the Commission. An institution that has completed an Eligibility Review may not make any representation which claims or implies any relationship with the Accrediting Commission.

During the period in which the college prepares its self study, the institution does not have a publicly recognized relationship with the Accrediting Commission and cannot represent itself to current or prospective students, the public, governmental agencies, other accrediting bodies, or any other parties as having an affiliated status with the Commission.

No formal or informal statements should be made about possible future accreditation, status, or qualification which is not yet conferred by the Commission.

Representations should be limited to the following statement:

> At its (date of meeting), the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges reviewed and accepted the Eligibility Report submitted by (name of institution). Under Commission rules, acceptance of an Eligibility Report does not establish a formal relationship between the Commission and the college. Inquiries about accreditation should be made to the Commission office: ACCJC/WASC, 3402 Mendocino Avenue, Santa Rosa, CA 95403, (707) 569-

9177.

B. Representation of status by candidate institutions

Institutions who have achieved candidacy status should use the following language in public representations about their relationship with the Accrediting Commission. Note that both paragraphs are required.

> (Name of institution) is a candidate for accreditation by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges, 3402 Mendocino Avenue, Santa Rosa, CA 95403, (707) 569-9177, an institutional accrediting body recognized by the Council for Higher Education Accreditation and the U.S. Department of Education.
>
> Candidate for Accreditation is a status of preliminary affiliation with the Commission initially awarded for up to two years. Candidacy is not accreditation and does not assure eventual accreditation.

C. Representation of status by accredited institutions

Representations of accredited status should be limited to the following statement. Additional modifiers such as fully accredited are not appropriate since no partial accreditation is possible.

> (Name of institution) is accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges, 3402 Mendocino Avenue, Santa Rosa, CA 95403, (707) 569-9177, an institutional accrediting body recognized by the Council for Higher Education Accreditation and the U.S. Department of Education.

POLICY STATEMENT ON CONSIDERATIONS WHEN CLOSING A POSTSECONDARY EDUCATIONAL INSTITUTION

I. Preparing the Way

A decision to close an educational institution requires thoughtful planning and careful consultation with all affected constituencies. Every effort should be devoted to informing each constituency as fully as possible about the conditions requiring consideration of a decision of such importance, and all available information should be shared. Before closing, such alternatives as merging with another institution, forming a consortium, or participating in extensive inter-institutional sharing and cooperation should be carefully considered. As much as possible, the determination to close an institution should

involve a consultative process, but responsibility for the final decision to close rests with the board of governors.

Tradition and sentiment are important considerations, but sentimentality should not be allowed to determine events. A decision to close should never be made or reversed simply on the basis of fears, hopes, or aspirations that have little relation to reality. Neither should it be delayed to the point where the institution has lost its viability and its educational program no longer retains quality and integrity. Since the immediate interests of current students and faculty are most directly affected, their present and future prospects require especially sensitive attention and involvement.

It is assumed that closing an institution means a decision permanently to discontinue its educational activities, not merely to suspend them for an indefinite period in the hope that circumstances may someday permit their resumption. But it should be noted that most institutions of higher education are corporations established under the provisions of state law, and as such may have legal responsibilities (holding title to real property, for example) that may necessitate the continued existence of the corporation after the educational activities of the institution have been terminated. Indeed, it is probable that such continued corporate existence, at least for a time, will prove to be the usual situation. It is unlikely that in most cases corporate existence and educational activities can be terminated simultaneously.

II. Closing an Institution

A decision to close requires specific plans for providing in appropriate ways for the students, the faculty, the administrative and support staff, and for the disposition of the institution's assets. Many considerations bear upon closing an educational institution, and each situation will be unique. Public institutions, seminaries, church-related colleges--the nature and sponsorship of each institution require different emphasis and pose particular conditions to be met in reaching and carrying out the ultimate decision. Nevertheless, general guidelines may be helpful to each institution considering closing.

This statement makes only incidental reference to such corporate responsibilities and always in the educational context. It is imperative, therefore, that a Board of Trustees considering closing an institution under its care should be guided not only by guidelines such as these and by the state educational authorities, but also by advice of legal counsel. Special counsel to advise with respect to problems of closing may be desirable for the institution. Institutional and specialized accrediting bodies should also be consulted and be kept fully apprised of developments.

A. The Students

Students who have not completed their degrees should be provided for according to their academic needs. Arrangements for transfer to other institutions will require complete academic records and all other related information gathered in dossiers which can be transmitted promptly to receiving institutions. Agreements made with other

institutions to receive transferring students and to accept their records must be submitted to the Accrediting Commission for approval. Where financial aid is concerned, particularly federal or state grants, arrangements should be made with the appropriate agencies to transfer the grants to the receiving institutions. Where such arrangements cannot be completed, students should be fully informed. In cases where students have held institutional scholarships or grants and there are available funds which can legally be used to support students while completing degrees at other institutions, appropriate agreements should be negotiated.

B. Academic Records and Financial Aid Transcripts

All academic, financial aid information, and other records should be prepared for permanent filing, including microfilming. Arrangements should be made with the state department of higher education or other appropriate agency for filing of student records. If there is no state educational agency which can receive records, arrangements should be made with another college or university or with the state archives to preserve the records. Notification should be sent to every current and past student indicating where the records are being stored and what the accessibility to those records will be. Where possible, a copy of a student's record should also be forwarded to the individual student.

C. Completion of Institutional Obligations

When a student chooses to continue at another institution but is within a year to 18 months of completing an academic degree in the closing institution, arrangements may be made to permit that student to complete the requirements for a degree elsewhere but to receive it from the closed institution. This may require special action by the appropriate state agency. Such arrangements should also include provision for continuation of the institution's accreditation only for this purpose by the accrediting agency involved. These steps normally require the institution to continue as a legal corporate entity for 12 to 18 months beyond the closing date, but any such arrangement must be established in careful consultation with the appropriate authorities and with their written consent.

D. Provision for Faculty and Staff

In every possible case, the institution should arrange for continuation of those faculty and staff who will be necessary for the completion of the institution's work up to the closing date. When faculty and staff are no longer needed, the institution should make every effort to assist them in finding alternative employment. It should be understood that the institution can make no guarantees, but genuinely good faith efforts to assist in relocation and reassignment are essential. In the event that faculty or staff members find new positions, early resignations should be accepted.

III. The Final determination

Determinations must be made to allocate whatever financial resources and assets

remain after the basic needs of current students, faculty, and staff are provided for. When the financial resources of the institution are inadequate to honor commitments, the Board should investigate what alternatives and protection are available under applicable bankruptcy laws before deciding to close. If funds are insufficient to maintain normal operations through the end of the closing process, the institution should not overlook the possibility of soliciting one-time gifts and donations to assist in fulfilling its final obligations.

Every effort should be made to develop publicly defensible policies for dividing the resources equitably among those with claims against the institution. One of the best ways of achieving this goal is to involve potential claimants in the process of developing the policies. Time and effort devoted to carrying the process to a judicious conclusion may considerably reduce the likelihood of lawsuits or other forms of confrontation.

It is impossible to anticipate in advance the many claims that might be made against remaining resources of an institution, but the following three principles may help to sort out possible claims and to set priorities:

(a) Students have the right to expect basic minimal services during the final semester, not only in the academic division, but also in the business office, financial aid office, registrar's office, counseling, and other essential support services. Staff should be retained long enough to provide these services. It may be appropriate to offer special incentives to keep key personnel present.

(b) Reasonable notice is given to all employees, explaining the possibility of early termination of contracts and that the reasons for retaining some personnel longer than others are based on satisfying the minimal needs of students and the legal requirements for closing.

(c) Every effort should be made to honor long-term financial obligations (loans, debentures, etc.) even though the parties holding such claims may choose not to press them.

IV. The Closing Date

The Board of Trustees should take a formal vote to terminate the institution on a specified date. That date will depend on a number of factors including the decision to file or not to file for bankruptcy. Another key factor is whether or not all obligations to students will have been satisfactorily discharged. This is particularly important if the decision is made to allow seniors in their final year to graduate from the institution by completing their degree requirements elsewhere. If such arrangements are made, the Board must be sure to take the legal action necessary to permit awarding degrees after the institution otherwise ceases to function. Normally, formal vote to award a degree is made after all requirements have been met, but it is legally possible to make arrangements for a student to complete the requirements for a degree at another

institution and to receive the degree from the closed institution. These requirements must be clearly specified along with a deadline for completion. Also the Board must identify the person or persons authorized to determine whether or not these requirements have in fact been satisfied. Arrangements must be completed with the appropriate state and accrediting agencies in advance in order to assure that the degree is awarded by a legally authorized and accredited institution.

V. Disposition of Assets

In the case of a not-for-profit institution, the legal requirements of the state and the federal government must be carefully examined with respect to the disposition of institutional assets. Arrangements for the sale of the physical plant, equipment, the library, special collections, art, or other funds must be explored with legal counsel. In the case of wills, endowments, or special grants, the institution should discuss with the donors, grantors, executors of estates, and other providers of special funds arrangements to accommodate their wishes. State laws regarding the disposition of funds from a nonprofit institution must be meticulously followed. All concerned federal and state agencies need to be apprised of the institution's situation and any obligations relating to estate or federal funds need to be cleared with the proper agencies.

VI. Other Considerations

The institution should establish a clear understanding with its creditors and all other agencies involved with its activities to assure that their claims and interests will be properly processed. Insofar as possible, the institution should assure that its final arrangements will not be subject to later legal proceedings which might jeopardize the records or status of its students or faculty.

VII. Conclusion

The closing of an educational institution is never a happy event. Nevertheless, such action can be rendered less traumatic by careful attention to the details of the legal and moral obligations of the institution. Closing will be marked by sadness, but well-planned and conscientious efforts to assure that the institution's students, faculty, and staff will be optimally provided for and that its assets will be used in ways that will honor the intentions of the original donors should help in avoiding bitterness and rancor. A final report on the closing should be submitted to the appropriate accrediting and state agencies for their records.

Note: The most recent and comprehensive reference work, which includes summaries of state regulations regarding disposition of student records and dissolution of non-profit colleges and universities is the following:

O'Neill, Joseph P. and Barnett, Samuel. College and Corporate Change: Merger, Bankruptcy, and Closure. Princeton, N.J., Conference University Press, 1980.

Adopted by the COPA Board

April 15, 1982

Reviewed by ACCJC 1990, 1996

JOINT POLICY STATEMENT ON TRANSFER AND AWARD OF ACADEMIC CREDIT

Council on Postsecondary Accreditation. American Council on Education/ Commission on Educational Credit American Association of Collegiate Registrars and Admissions Officers

This statement is directed to institutions of postsecondary education and others concerned with the transfer of academic credit among institutions and award of academic credit for extra-institutional learning. Basic to this statement is the principle that each institution is responsible for determining its own policies and practices with regard to the transfer and award of credit. Institutions are encouraged to review their policies and practices periodically to assure that they accomplish the institution's objectives and that they function in a manner that is fair and equitable to students. Any statements, this one or others referred to, should be used as guides, not as substitutes, for institutional policies and practices.

Transfer of credit is a concept that now involves transfer between dissimilar institutions and curricula and recognition of extra-institutional learning, as well as transfer between institutions and curricula of similar characteristics. As their personal circumstances and educational objectives change, students seek to have their learning, wherever and however attained, recognized by institutions where they enroll for further study. It is important for reasons of social equity and educational effectiveness, as well as the wise use of resources, for all institutions to develop reasonable and definitive policies and procedures for acceptance of transfer credit. Such policies and procedures should provide maximum consideration for the individual student who has changed institutions or objectives. It is the receiving institution's responsibility to provide reasonable and definitive policies and procedures for determining a student's knowledge in required subject areas. All institutions have a responsibility to furnish transcripts and other documents necessary for a receiving institution to judge the quality and quantity of the work. Institutions also have a responsibility to advise the students that the work reflected on the transcript may or may not be accepted by a receiving institution.

Inter-institutional Transfer of Credit

Transfer of credit from one institution to another involves at least the following three considerations:

1. The educational quality of the institution from which the student transfers.

2. The comparability of the nature, content, and level of credit earned to that offered by the receiving institution.

3. The appropriateness and applicability of the credit earned to the programs

offered by the receiving institution, in light of the student's educational goals.

Accredited Institutions

Accreditation speaks primarily to the first of these considerations, serving as the basic indicator that an institution meets certain minimum standards. Users of accreditation are urged to give careful attention to the accreditation conferred by accrediting bodies recognized by the Council on Postsecondary Accreditation (COPA). COPA has a formal process of recognition which requires that any accrediting body so recognized must meet the same standards. Under these standards, COPA has recognized a number of accrediting bodies, including:

1. Regional accrediting commissions (which historically accredited the more traditional colleges and universities but which now accredit proprietary, vocational-technical, and single-purpose institutions as well).

2. National accrediting bodies that accredit various kinds of specialized institution.

3. Certain professional organizations that accredit free-standing professional schools, in addition to programs within multi-purpose institutions. (COPA annually publishes a list of recognized accrediting bodies, as well as a directory of institutions accredited by these organizations.)

Although accrediting agencies vary in the ways they are organized and in their statements of scope and mission, all accrediting bodies that meet COPA's standards for recognition function to assure that the institutions or programs they accredit have met generally accepted minimum standards for accreditation.

Comparability and Applicability

Comparability of the nature, content, and level of transfer credit and the appropriateness and applicability of the credit earned to programs offered by the receiving institution are as important in the evaluation process as the accreditation status of the institution at which the transfer credit was awarded. Since accreditation does not address these questions, this information must be obtained from catalogues and other materials and from direct contact between knowledgeable and experienced faculty and staff at both the receiving and sending institutions. When such considerations as comparability and appropriateness of credit are satisfied, however, the receiving institution should have reasonable confidence that students from accredited institutions are qualified to undertake the receiving institution's educational program.

Accreditation affords reason for confidence in an institution's or a program's purposes, in the appropriateness of its resources and plans for carrying out these purposes, and in its effectiveness in accomplishing its goals, insofar as these things can be judged. Accreditation speaks to the probability, but does not guarantee, that students have met

acceptable standards of educational accomplishment.

Admissions and Degree Purposes

At some institutions there may be differences between the acceptance of credit for admission purposes and the applicability of credit for degree purposes. A receiving institution may accept previous work, place credit value on it, and enter it on the transcript. However, that previous work, because of its nature and not its inherent quality, may be determined to have no applicability to a specific degree to be pursued by the student.

Institutions have a responsibility to make this distinction, and its implications, clear to students before they decide to enroll. This should be a matter of full disclosure, with the best interests of the student in mind. Institutions also should make every reasonable effort to reduce the gap between credits accepted and credits applied toward an educational credential.

Unaccredited Institutions

Institutions of postsecondary education that are not accredited by COPA-recognized accredited bodies may lack that status for reasons unrelated to questions of quality. Such institutions, however, cannot provide a reliable, third-party assurance that they meet or exceed minimum standards. That being the case, students transferring from such institutions may encounter special problems in gaining acceptance and transferring credits to accredited institutions. Institutions admitting students from unaccredited institutions should take special steps to validate credits previously earned.

Foreign Institutions

In most cases, foreign institutions are chartered and authorized by their national governments, usually through a ministry of education. Although this provides for a standardization within a country, it does not produce useful information about comparability from one country to another. No other nation has a system comparable to voluntary accreditation. The Division of Higher Education of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) is engaged in a project to develop international compacts for the acceptance of educational credentials. At the operational level, four organizations--the Council on International Exchange (CIEE), the National Council on the Evaluation of Foreign Student Credentials (CEC), the National Association for Foreign Student Affairs (NAFSA), and the National Liaison Committee on Foreign Student Admissions (NLC) -- often can assist institutions by distributing general guidelines on admission and placement of foreign students. Equivalency or placement recommendations are to be evaluated in terms of the programs and policies of the individual receiving institutions.

Validation of Extra-institutional and Experiential Learning for Transfer Purposes

Transfer-of-credit policies should encompass educational accomplishment attained in extra-institutional settings as well as at accredited postsecondary institutions. In deciding on the award of credit for extra-institutional learning, institutions will find the services of the American Council on Education's Office of Educational Credit helpful. One of the Office's functions is to operate and foster programs to determine credit equivalencies for various modes of extra-institutional learning. The Office maintains evaluation programs for formally structured courses offered by the military, and civilian non-collegiate sponsors such as businesses, corporations, government agencies, and labor unions. Evaluation services are also available for examination programs, for occupations with validated job proficiency evaluation systems, and for correspondence courses offered by schools accredited by the National Home Study Council. The results are published in a Guide series. Another resource is the General Education Development (GED) Testing Program, which provides a means for assessing high school equivalency.

For learning that has not been validated through the ACE formal credit recommendation process or through credit-by examination programs, institutions are urged to explore the Council for Advancement of Experiential Learning (CAEL) procedures and processes. Pertinent CAEL publications designed for this purpose are also listed.

Uses of this Statement

This statement has been endorsed by the three national associations most concerned with practices in the area of transfer and award of credit: the American Association of Collegiate Registrars and Admissions Officers, the American Council on Education/Commission on Educational Credit, and the Council on Postsecondary Accreditation.

Institutions are encouraged to use this statement as a basis for discussions in developing or reviewing institutional policies with regard to transfer. If the statement reflects an institution's policies, that institution might want to use this publication to inform faculty, staff, and students.

It is recommended that accrediting bodies reflect the essential precepts of this statement in their criteria.

Adopted by the COPA Board October 10, 1978; Approved by the American Council on Education/Commission on Educational Credit , December 5, 1978

Approved by the Executive Committee, American Association of Collegiate Registrars and Admissions Officers, November 21, 1978 Reviewed by ACCJC 1990, 1996

SELF-REGULATION INITIATIVES:

GUIDELINES FOR COLLEGES AND UNIVERSITIES

POLICY GUIDELINES FOR REFUND OF STUDENT CHARGES

Background

National attention has for some time focused on the matter of fair and equitable refund of student charges and fees. Since 1976, federal law has required that all institutions receiving federal student-aid funds have equitable refund policies. Within the higher education community the belief has grown that policy guidelines for voluntary self-regulation, developed by higher education representatives, are preferable to governmental definitions and regulations. To this end, the American Council on Education and other associations urged the National Association of College and University Business Officers to prepare policy guidelines for refunding student fees.

The guidelines were drafted by NACUBO's Student-Related Programs Committee and were reviewed by persons representing a wide range of institutions and professional responsibilities. Associations that have approved the guidelines are listed below. The guidelines have gained acceptance by officials in the U.S. Office of Education. Leo Kornfeld, Deputy Commissioner for Student Financial Assistance, lauded the effort as important progress toward self-regulation and indicated that, as a result, the USOE will not proceed with developing regulations for tuition refund policies of colleges and universities.

The guidelines summarize elements of fair and equitable policy in refunding tuition, room, board, and other charges for students who withdraw from their studies or otherwise discontinue their use of an institution's services before the end of an academic term. They offer a balanced approach to issues related to refunds, including the financial commitments incurred by the institution and the responsibility to treat both withdrawing and continuing students fairly. Overall, they allow institutions to ensure that their students' rights to fair and equitable treatment are fully recognized.

Colleges and universities are urged to use the guidelines to evaluate and, where necessary, modify current institutional policies and practices to meet the spirit and intent of the guidelines.

GUIDELINE ONE. **The governing board of the institution should review and approve the schedule of all institutional charges and refund policies applicable to students.** The pricing of services and refund policies have important consequences to students, parents, the institution, and society; as such, pricing and refund policies should receive board attention and approval.

GUIDELINE TWO. **Institutions should seek consumer views in the process of establishing and amending charge and refund structures.** Decisions regarding institutional funds are ultimately the sole responsibility of the institution's legally-designated fund custodians. However, consumer concerns do affect decision making, and involving consumers in decision making related to charges and refunds is a

desirable approach for assessing student needs and creating public awareness of institutional requirements.

GUIDELINE THREE. **Institutions should publish a current schedule of all student charges, a statement of the purpose for such charges, and related refund policies, and have them readily available free of charge to current and prospective students.** Students and parents have a right to know what charges they will be expected to pay and what will or will not be refunded. They also have a right to know what services accompany payment of the charges. Informational materials published free for students and prospective students are ideal for this purpose.

GUIDELINE FOUR. **Institutions should clearly designate all optional charges as "optional" in all published schedules and related materials. Clearly, charges that are mandatory and charges that are optional must be plainly differentiated in all printed materials.** Also, the institution should state clearly in its schedule if a charge is optional for some students but required for others. Statements accompanying the schedule may include institutional endorsements of the optional program or service.

GUIDELINE FIVE. **Institutions should clearly identify charges and deposits that are nonrefundable as ``nonrefundable" on all published schedules.** Institutions determine on an individual basis which of their charges are refundable or nonrefundable. In general, admissions fees, application fees, laboratory fees, facility and student activity fees, and other similar charges are not refundable. Such fees are generally charged to cover the costs of activities such as processing applications and other student information, reserving academic positions, and establishing the limits of institutional programs and services, reserving housing space, and otherwise setting the fixed costs of the institution for the coming academic period.

Institutions determine on an individual basis which of their deposits are refundable or nonrefundable. Some deposits will be nonrefundable or will be credited to a student's account (*e.g.*, tuition deposits). Others are refundable according to the terms of the deposit agreement (*e.g.*, deposits for breakage).

GUIDELINE SIX. **Institutions should refund housing rental charges, less a deposit, so long as written notification of cancellation is made prior to a well-publicized date that provides reasonable opportunity to make the space available to other students.** Written notification on or before the beginning of the term of the contract is necessary to ensure utilization of housing units. During the term of the contract, room charges are generally not refundable. However, based on the program offered, space availability, debt service requirements, state and local laws, and other individual circumstances, institutions may provide for some more flexible refund guideline for housing.

GUIDELINE SEVEN. **Institutions should refund board charges in full, less a deposit, if written notification of cancellation is made prior to a well-publicized date that falls on or before the beginning of the term of the contract. Subsequent**

board charges should be refunded on a *pro rata* basis less a withdrawal fee. It is reasonable to make a refund for those goods and services not consumed. The withdrawal charge should reflect that portion of an institution's costs that are fixed for the term of the contract.

GUIDELINE EIGHT. **The institutional tuition refund policy for an academic period should include the following minimum guidelines:**

1. The institution should refund 100 percent of the tuition charge, less a deposit fee, if written notification of cancellation is made prior to a well-publicized date that falls on or before the first day of classes.

2. The institution should refund at least 25 percent of the tuition charge if written notification of withdrawal is made during the first 25 percent of the academic period.

It is reasonable to refund tuition charges on a sliding scale if a student withdraws from his or her program prior to the end of the first 25 percent of the academic period unless state law imposes a more restrictive refund policy.

GUIDELINE NINE. **The institution should assess no penalty charges where the institution, as opposed to the student, is in error. The institution should make refunds in cases where the institution has assessed charges in error.** Penalty charges, such as those involving late registration fees, change of scheduled fees, late payment fees, should not be assessed if it is determined that the student is not responsible for the action causing the charge to be levied.

GUIDELINE TEN. **Institutions should advise students that any notifications of withdrawal or cancellation and requests for refund must be in writing and addressed to the designated institutional officer.** A student's written notification of withdrawal or cancellation and request for a refund provides an accurate record of transactions and also ensures that such requests will be processed on a timely basis. Acceptance of oral requests is an undesirable practice.

GUIDELINE ELEVEN. **Institutions should pay or credit refunds due on a timely basis.** The definition of ``timely basis" should include the time required to process a formal student request for refund, to process a check if required, and to allow for mail delivery, when necessary. If an institution has a policy that a refund of an inconsequential amount will not be made, such policy should be published as part of all materials related to refund policies.

GUIDELINE TWELVE. **Institutions should publicize, as a part of their dissemination of information on charges and refunds, that an appeals process exists for students or parents who feel that individual circumstances warrant exceptions from published policy. The informational materials should include the name, title, and address of the official responsible.** Although charges and refund policies should reflect extensive consideration of student and institutional needs, it will

not be possible to encompass in these structures the variety of personal circumstances that may exist or develop. Institutions are required to provide a system of due process to their students, and charges and refund policies are legitimately a part of that process. Students and parents should be informed regularly of procedures for requesting information concerning exceptions to published policies.

American Council on Education
August 1979

Reviewed by ACCJC 1990, 1996

OPERATIONAL POLICIES

Operational Policies adopted by WASC and the Commission apply to the organization of the Commission and the conduct of its business.

RELATIONSHIP BETWEEN GENERAL AND SPECIALIZED AGENCIES

(Adopted October 1964, Revised January 1978)

Each institution must be free to decide for itself whether or not to seek accreditation by any particular agency. If an institution desires both general (regional) accreditation and specialized program accreditation, the Commission may collaborate with the specialized accrediting agency in arranging joint visitations or exchange of information.

An institution should not interpret its general accreditation as validating a specialized program in the same manner as specialized accreditation, which by its very nature is a more intensive evaluation process.

A specialized institution may apply for regional accreditation through ACCJC if it meets the Commission's eligibility requirements.

Reviewed by ACCJC 1996

RELATIONS WITH ACCREDITING AGENCIES

(Adopted January 1998, Revised June 1998)

It is the policy of the Accrediting Commission for Community and Junior Colleges to maintain a working relationship with other accrediting agencies where a community of interest exists. Elements of the relationship shall include, but not be limited to:

Active participation in meetings of executive staff and Commission leadership

Routine open sharing of publications and policy documents

Timely submission of information on accrediting decisions taken at

Commission meetings

Cooperating in the evaluation of institutions that operate in more than one accrediting association region

Recommending persons for evaluation team and Commission service, and receiving such recommendations from other agencies

Participation in common ventures of policy development and advocacy for institutional accreditation

Systematically monitoring the status of ACCJC/WASC institutions with other accrediting agencies

Consideration of actions taken by other recognized agencies when undertaking actions of initial candidacy or accreditation, or renewal of candidacy or accreditation of institutions that may be accredited by those other agencies

Handling and forwarding of dues collected from member institutions on behalf of national affiliates such as the Council for Higher Education Accreditation

Upon receipt of information regarding interim or final adverse actions against a member institution by another recognized accrediting agency (or state agency), Commission staff will seek further information from the agency involved, and the Commission shall determine whether a review of the accredited status of the institution will be required.

The Commission will not renew the accreditation or preaccreditation of any institution during a period that the institution is the subject of an interim action by a recognized institutional accreditation agency potentially leading to the suspension, revocation, or termination of the institution s accreditation or preaccreditation, or the institution has been notified of a threatened loss of accreditation and the due process procedures required by the action have not been completed. [602.30(a)(1)(ii)(A) and (C)]. If the Commission grants accreditation or preaccreditation notwithstanding these actions, the Commission will provide to the U.S. Secretary a thorough explanation consistent with its accreditation standards, why the previous action does not preclude the agency□ s grant of accreditation or preaccreditation. 602.30(a)(1)(iv).

In the event that the Commission grants initial accreditation, reaffirmation, or candidacy to an institution that is subject to adverse action by another recognized institutional accrediting agency, the bases for the decision will be explained and communicated to that agency and to the Secretary of Education as appropriate to each case.

The Commission is affiliated with other regional agencies through the Council for Higher Education Accreditation. It should be noted that the Commission has been an active participant in the community of accrediting agencies since the establishment of the

Western Association of Schools and Colleges, first with the Federation of Regional Accrediting Commissions in Higher Education (FRACHE), then the Council on Postsecondary Accreditation (COPA) and the Commission on Recognition in Higher Education Accreditation (CORPA) and the National Policy Board on Higher Education Accreditation.

The primary community of interest is clearly with the other regional institutional accrediting agencies. The Commission shares significant concerns with national agencies that accredit institutions, and to a lesser extent, with specialized accreditors. (Note policy, □ Relationship Between General and Specialized Agencies.□)

The Commission will not renew the accreditation or preaccreditation of any institution that is the subject of an interim action by a recognized institutional accrediting agency potentially leading to the suspension, revocation, or termination of the institutions accreditation or preaccreditation, or the Commission has been notified of a threatened loss of accreditation and the due process procedures required by the action have not been completed., 602.30(a)(1)(ii)(A) and (C). If the Commission grants accreditation or preaccreditation notwithstanding these actions, the Commission will provide to the U.S. Secretary a thorough explanation consistent with its accreditation standards, why the previous action does not preclude the agencys grant of accreditation or preaccreditation 602.30(a)(1)(iv).

ACCESS TO COMMISSION MEETINGS

(Adopted June 1978, Revised January 2000)

The ACCJC holds meetings of the Commission for two purposes: to decide the accredited status of applicant and member institutions and to consider such organizational and policy matters as may come before it. When deliberating or acting upon matters that concern specific individuals or institutions, the Commission meets in Executive Session. When deliberating or acting upon informational, organizational, or policy matters, the Commission meets in Public Session.

The Accrediting Commission for Community and Junior Colleges supports and encourages the presence of members of the public at its meetings. The Commission also recognizes that it has the responsibility to consider actions on the accredited status of institutions and matters such as personnel actions in a confidential manner.

The Executive Director mails a preliminary agenda 30 days before each regular meeting of the Commission to the chief executive officer and accreditation liaison officer of all applicant, candidate, and accredited institutions with the request that the agenda be posted or otherwise publicized. The preliminary agenda is also posted on the Commission web page.

PROCEDURES FOR ACCESS TO COMMISSION MEETINGS

I. PUBLIC SESSIONS OF THE COMMISSION MEETING

Observers will be seated at the public sessions of Commission meetings as space allows. Anyone wishing to make a presentation or address the Commission must give advance notice to the Executive Director as outlined below and identify the agenda item that they wish to address. No reference to specific individuals or institutions shall be made in Public Session.

Participation by observers at Commission meetings is limited to the following:

> Statements which address the Commissions agenda and which have been noted by the Executive Director in the agenda at the appropriate places. A written copy of all prepared remarks should be given to the Executive Director prior to the presentation. Requests to make statements should be made to the Executive Director, in writing, not less than 15 days before the Commission meeting.
>
> Requests to bring items to the attention of the Commission. Such requests should be made to the Executive Director, in writing, not less than 15 days before the Commission meeting
>
> Brief comments on specific points in the Public Session agenda. These may be made at the end of the Commission discussion of the same topic upon recognition from the Chair. The Chair may invite participation at other times at his/her discretion.

In all cases, observers statements shall be limited to five minutes but may be extended at the discretion of the chair or vote of the Commission.

II. EXECUTIVE SESSIONS OF THE COMMISSION

1. When the Commission is deliberating or acting upon matters that concern an institution, it will invite the chief executive officer of the institution to meet with the Commission in Executive Session. There is no requirement that the chief executive officer attend the Commission meeting. If the Commission is considering institutional action as a result of an evaluation team visit and the chief executive officer of the institution accepts the invitation to attend, the Chair of the evaluation team or designee is also invited to attend.

Whenever possible, the Executive Director will arrange for a subcommittee of Commissioners to meet with the institutional representative preceding the Executive Session of the Commission to discuss the matters of concern. The institutional representative will be invited to make a brief presentation followed by questions by Commissioners. After the institutional representative is excused the evaluation Team Chair will be asked to respond to Commission questions. The Team Chair is then excused, and the Commission deliberations and decision are conducted in Executive Session.

2. When the Commission is deliberating or acting upon matters that concern specific individuals, the Commission meets in Executive Session. Requests to meet with members of the Commission in Executive Session should be made to the Executive Director, in writing, not less than 15 days before the Commission meeting. Whenever possible, the Executive Director will arrange for a subcommittee of Commissioners to meet with the individuals preceding the Executive Session of the Commission to discuss the matters of concern. These Commissioners will report to the Commission as a whole and may recommend a presentation before the full Commission at an appropriate time.

COORDINATING GUIDELINES

FOR THE WASC POSTSECONDARY ACCREDITING COMMISSIONS

Revised July 2002

1. Commission of Jurisdiction

For an institution which offers a combination of secondary and lower division college programs, the Commission on Schools and the Commission for Community and Junior Colleges will conduct a joint accreditation review of the institution. ACS will be responsible for accrediting secondary programs. ACCJC will be responsible for accrediting lower-division college-level programs.

Normally, the Commission for Senior Colleges and Universities will assume jurisdiction, consulting with the Commission for Community and Junior Colleges, for an institution which offers lower division programs but is adding one or more upper division baccalaureate degree programs and/or any graduate level work. However, under special circumstances, an institution which offers lower division or community college programs but is adding a single baccalaureate degree program may be eligible for joint accreditation by the Accrediting Commission for Community and Junior Colleges and the Accrediting Commission for Senior Colleges and Universities.

ACCJC will retain jurisdiction of institutions offering the associate degree and limited upper division work which does not lead to a baccalaureate degree.

2. Evaluation and Recognition

When an institution has been accredited or recognized as a candidate by the Commission for Community and Junior Colleges and moves to a higher level, the Commission for Senior Colleges and Universities will conduct an evaluation in cooperation with the Commission for Community and Junior Colleges. The Senior

Commission standards and procedures will be used by the institution and the accrediting team.

The institution will continue to be listed under the original level. At such time as the total institution qualifies for recognition by a higher commission, it will come under that commission's jurisdiction. Generally, the institution has three years in which to effect a transfer.

CODE OF COMMISSION GOOD PRACTICE IN RELATIONS WITH MEMBER INSTITUTIONS

(Adopted June 1980, Revised June 1996, Edited October 1997, Revised January 1999, January 2001)

In its relations with the institutions it accredits, the Commission makes the commitment to:

1. Make an initial visit to, or evaluation of, an institution only on the written request of the chief executive officer of the institution;

2. Revisit an institution only on request by the chief executive, or if a visit is initiated by the Commission, after due notice to the institution;

3. Permit withdrawal of a request for initial candidacy or initial accreditation at any time (even after evaluation) prior to final action by the Commission;

4. Appraise institutions in the light of their own stated purposes so long as these are within the general frame of reference of higher education and consistent with the standards of the Commission;

5. Use the institutions self study, the team report, and relevant qualitative and quantitative information in institutional evaluation;

6. Consider information contained in a minority report that is developed in response to either a self study or another accreditation report submitted by the institution; the minority report should be received in approximate conjunction with the self study or other accreditation report to which it pertains. The Commission will notify the institution when a minority report is received by sending a copy of the report to the institution;

7. Interpret standards for accreditation in ways that are relevant to the character of the particular institution, respecting institutional integrity and diversity;

8. Encourage sound educational innovation and assist and stimulate improvement in the educational effectiveness of the institution;

9. Publish at least twice annually in the newsletter the names of institutions scheduled for comprehensive evaluation;

10. Accept relevant third-party comment on the institutions scheduled for evaluation. Such comment must be submitted in writing, signed, accompanied by return address and telephone number, and received no later than five weeks before the scheduled Commission consideration. The Commission will notify the institution when a third-party report is received by sending a copy of the report to the institution;

11. Establish reporting systems for annual, midterm, and self study reports which inform the Commission regarding student loan default rates and the standing of the institution with respect to appropriate state agencies, institutional or specialized accrediting agencies;

12. Consider information regarding adverse actions against a member institution by another accrediting agency or state agency and provide an explanation consistent with accreditation standards why the action by another authority does not result in an adverse action;

13. Limit oversight required by federal statute and regulations to issues expressly required by that mandate;

14. Include on evaluation teams representation from other institutions of similar purpose and academic program to the extent feasible;

15. Provide institutions an opportunity to object, for cause, to individual members assigned to the team designated to visit the institution, with special concern for possible conflict of interest;

16. Arrange consultation during the visit with administration, staff, students, and trustees, and include a publicized opportunity for an open hearing during the visit;

17. Address performance with regard to student achievement in reviews of institutional effectiveness. In addition, the team report should make clear those standards with which the institution does not comply and those areas needing improvement;

18. Provide to the institution a detailed written report on its review assessing the institution's or program's compliance with the Commission's standards, including areas needing improvement, and the institution's performance with respect to student achievement;

19. Emphasize the value and importance of institutional self study and respect the confidentiality of the institutional self study and evaluation team report. An institution, at its discretion, may make such documents public. In event of an adverse action, the Commission staff will attempt to reach agreement with the institution on a statement for public distribution, but the Commission reserves final authority in case of an impasse. Should the institution issue selective and biased releases or use the public forum to take issue with Commission actions, the Commission and its staff will be free to make all the documents public;

20. Provide opportunity for the institution to respond in writing to all types of team reports before they are finalized, supply all final team reports to the institution before an accrediting decision is made, and provide opportunity to the institution to appear before the Commission when such reports are considered. The Commission staff will notify an institution in writing as soon as reasonably possible regarding Commission decisions;

21. Encourage discussion and use on campus of major team recommendations;

22. Revoke accreditation only after advance written notice to the institution;

23. Provide opportunity for Commission review of its adverse decisions, and in addition, for appeal of those decisions to a panel established by the WASC Board;

24. Provide an opportunity for institutional representatives and the general public to attend those portions of Commission meetings devoted to policy matters and others of a non-confidential nature;

25. Refrain from conditioning candidacy or accreditation upon payment of fees for purposes other than annual fees and evaluation costs; and

26. Encourage continuing close relationships and communication between the Commission and institutions through the establishment of liaison officer positions in each institution, with appropriate visibility and responsibility.

PROFESSIONAL AND ETHICAL RESPONSIBILITIES OF COMMISSION MEMBERS

(Adopted January 2001, Edited June 2001)

PURPOSES OF ACCREDITATION

The Commission expects its members to accept and subscribe to the defined purposes of accreditation. The purposes of the Commission shall be the evaluation of member

institutions to assure the educational community, the general public, and other organizations and agencies that an institution has clearly defined objectives appropriate to higher education; has established conditions under which their achievement can reasonably be expected; appears in fact to be accomplishing them substantially; is so organized, staffed, and supported that it can be expected to continue to do so; and demonstrates that it meets Commission standards. The Commission encourages and supports institutional development and improvement through self study and periodic evaluation by qualified peer professionals.

COMMISSION RESPONSIBILITIES

The Commission as a whole

Establishes and periodically reviews accreditation standards, policies, and practices for member institutions;

Serves as the primary decision-maker on accredited status of member institutions;

Evaluates institutions in terms of their own stated purposes;

Strives for consistency in determining accredited status of institutions;

Assists in interpreting accreditation issues to the various publics served by the Commission.

PROFESSIONAL RESPONSIBILITIES OF COMMISSION MEMBERS

A Commissioner

Participates in all Commission meetings and attends them for their entire duration;

Studies documents as assigned prior to the meetings;

Serves as an in depth reader of evaluation visit materials as assigned;

Votes according to his or her best professional judgment in the light of existing policy and standards;

Participates on Commission committees and in activities representing the Commission□ s interests as assigned;

Attends and actively participates in Commission activities such as evaluation team visits and retreats;

Participates in self study and evaluation of the Commission;

Participates in Commission planning efforts;

Ensures that all functions of the Commission are executed responsibly through the Executive Director;

Participates in the evaluation of the Executive Director;

Notifies the Commission chairperson or Executive Director in a timely manner if the Commissioner's position or status changes during a term so that the Commissioner no longer meets the requirement for the category to which appointed.

ETHICAL RESPONSIBILITIES OF COMMISSION MEMBERS

A Commissioner

Respects the confidentiality of relationships between the Commission and the institutions it accredits.

Avoids conflicts of interest and the appearance of conflicts of interest.

Is familiar with and adheres to established bylaws and policies.

POLICY AND PROCEDURES FOR THE EVALUATION OF INSTITUTIONS IN MULTI-COLLEGE/MULTI-UNIT DISTRICTS OR SYSTEMS

(Adopted June 1999)

Introduction

The Accrediting Commission for Community and Junior Colleges and the other regional commissions have historically accredited colleges rather than districts or systems. The actual array of institutions in the region, however, is such that almost half of the member institutions are part of larger systems, either by being part of a multi-college district/system or owned by a larger corporate entity.

Unintended asymmetries have become evident, resulting in accreditation processes that serve multi-college districts/systems and their colleges differently from single college entities. For example, the role of trustees in the preparation of the self study, the review of the document, and interaction with the visiting team is clearly accounted for in the course of a typical single college institutional evaluation. These important involvements frequently do not happen, or happen to the same degree, in the multi-college setting. Similarly, system chancellors and other important central office executives, staff, and faculty leaders may not be significantly involved with the accreditation activities of district/system colleges. This results primarily because existing accreditation processes focus on the college as the responsible entity, and are less than clear regarding the district-college connections which should be reviewed during the development of the self study and evaluation site visit as indicators of institutional quality.

The purpose of this policy is to address the important relationships between institutions and systems in accreditation matters and to clarify the Commission's expectations regarding the conduct and outcomes of institutional reviews. Specifically, the goals are:

To confirm that the Commission accredits colleges, not districts or systems.

To address concerns regarding the equitable evaluation of all institutions regardless of the differences in organizational setting.

To address concerns that the level of scrutiny for all important organizational functions and outcomes is the same for all types of institutions, regardless of their organizational setting.

To better serve the purposes of accreditation by providing for close coordination among the institution(s), the district/system, the evaluation team(s), and the Commission.

The core principles of this policy are those that have been identified by member institutions and the Commission as being central to the consideration of institutions in multi-college, multi-unit systems or districts. These principles are:

1. The Commission reaffirms that individual colleges are the unit of analysis for the accreditation evaluations.

2. For colleges in multi-unit systems, the central district or organization plays a material role in the ability of the institution to gain and sustain accredited status.

3. The impact of the central entity affects all the Standards of Accreditation directly or indirectly, not just the standard on governance and administration.

4. Institutions have the responsibility to describe and display clearly the particular way functions are distributed in their unique multi-college organization. The Commission will evaluate the institution in light of the characteristics of each organization.

5. The level of scrutiny of all-important functions should be the same for all institutions. The fact that a college is in a multi-college setting is incidental to full accountability for functions that affect the college.

6. Parallel to the practice in single campus districts, when a team identifies serious inadequacies in the performance of a central office function, the consequence could jeopardize the accreditation of one, some or all of the district/system colleges.

7. The Commission reserves the right to initiate direct interaction with

district/system officers at any time when concerns arise regarding the ability of institutions to demonstrate that they meet or exceed the Standards of Accreditation.

8. A district/system may request an evaluation of the effectiveness of central functions in conjunction with any institutional reviews. This activity is limited to issues related to the ability of colleges to demonstrate that they meet or exceed the Standards of Accreditation. The outcome of this activity does not result in any "accredited" status for the district/system.

COMMISSION PROCEDURES REGARDING THE EVALUATION OF INSTITUTIONS IN MULTI-COLLEGE SYSTEMS OR DISTRICTS

A. Self Study

1. Prior to initiating the self study process and in consultation with the district/system, the institution must specify whether primary responsibility for all or parts of a specific function is at the college or district level. This organizational "map" is important in evaluating the quality of the performance of that function and establishing accountability for doing so. Those who are responsible should be involved in reporting about the function and be held accountable for its improvement. As a result, close cooperation between and among the institutions and the district/system office is expected as a part of the institutional self study. Moreover, the Commission recognizes that institutions in a multi-college system may have lateral relationships with other institutions in the district/system which must be addressed, and these too are part of the plan for developing the self study.

2. Individuals, whether on the campus or in the central office, must be actively involved in the self study based upon who has responsibility for the institutional function. For institutions in multi-college districts/systems, the self study will contain a functional map describing the distribution of activities and responsibility between and college and the district/system. This could be reflected in the required "organization for the self study" section, where the participation of appropriate persons would be identified.

3. In the self study, institutions are expected to include a discussion of the impact of the identified district/system functions and decisions on the college. For example, the Board's role in adopting the college mission statement is addressed in the standard dealing with mission; the central office responsibility for personnel is discussed in the standard on faculty and staff; the district/system financial allocation system should be addressed in the standard on financial resources. The functional map outlining the distribution of functions between the college and the central system will provide guidance for this discussion.

The district/system chief executive officer and governing board are expected to be substantially and collegially involved in the development of the self study.

4. At the governing board level, certification of an institutional self study is achieved by a resolution accepted by the governing board which testifies that there has been broad-based involvement from all relevant constituencies, and that the governing board has read the self study.

B. Standards

In any given district/system the distribution of functions between the district and the institutions may vary. The Commission does not try to dictate to a district, system, or organization the specific distribution of functions which should be followed. However, the Commission believes that accountability for the relevant functions should be applied to *every* standard, wherever those functions are located in the organizational structure.

C. Team Composition

Team composition will continue to be shaped by the institution being accredited. Teams visiting colleges in multi-college districts will have the range of expertise appropriate for the college and also individuals with multi-college district/system perspectives (*e.g.*, Chancellors, Chief Business Officers from multi-campus organizations). Institutions may request team members with special expertise in multi-college issues. The Commission will make every effort to include individuals who have experience in similarly situated institutions and multi-college districts/systems to serve as team chairs and team members in these situations.

D. Visit Organization

Institutions in multi-college organizations have the option to request individual, or coordinated site visits. At least three variations are most common:

- each institution is evaluated separately;
- all institutions within the organization are evaluated simultaneously;
- clusters of institutions are evaluated together.

The Commission continues to encourage the simultaneous arrangement in the interests of conservation of resources and encouraging opportunities for coordination and cooperation. However, this decision is ultimately made by the individual district/system.

E. District/System Visiting Team

1. When simultaneous visits are taking place in the colleges of a district/system, the Executive Director will name a Coordinating Chair from the team chairs involved, in consultation with the district/system chief executive officer. This Coordinating Chair, in consultation with the Executive Director, will form a small District/System Team which is drawn from all of the teams visiting the colleges. It will consist of all of the team chairs and such members of the respective teams as are needed to address the district/system issues identified in the self studies and by the evaluation teams.

The Coordinating Chair may have a separate Team Assistant available to him/her solely for the purpose of supporting the District/System Team and for performing organizational tasks related to this part of the evaluation visits. Team chairs on the special District/System Team will receive the self study, the previous team reports, and Commission action letters from every college involved and will make the materials available to institutional team members on the District/System Team.

The purpose of the Coordinating Chair and District/System Team is to validate the statements made in the self study(s), insure commonality and comparability of team recommendations which have district/system consequences, and to support the work of the teams evaluating each college. These activities will be woven into the activities of the college evaluation teams by each institutional team chair. The District/System Team has the responsibility for clarifying the recommendations of each team related to district/system functions. Any recommendations regarding district/system functions will be included in the institutional team reports. Each college team will validate the portions of the self study that are campus based; this part of the process remains much as it has been.

Depending on the circumstances, the District/System Team will spend an appropriate period
of time visiting the central office and validating the portions of the self studies that to
pertain
centralized operations.

2. When only one college in a multi-college district/system is being evaluated, the team chair and appropriate team members will perform the same district/system validation functions on behalf of the evaluation team as described above.

F. Reports by the Institutional Teams and District/System Team

The District/System Team (or the institutional evaluation team when only one college is being evaluated) will develop conclusions that discuss the major issues pertaining to the district/system. These conclusions will be contained, as appropriate, within the appropriate standards discussions in the individual institutional team reports. This outcome will be achieved through the work of the Coordinating Chair with the members of the District/System team. Some system observations may pertain to all colleges, and others only to particular colleges. When the District/System Team feels a recommendation is in order that pertains to the district/system as a whole, that recommendation will appear in each of the institutional team reports.

At the end of each evaluation visit, the institutional team chair meets with the Chief Executive Officer to discuss major findings. The team chair will then make a presentation of the team process and findings at an open meeting involving the entire college community.

After the verbal exit reports are concluded at each of the campuses, the team chairs,

led by the Coordinating Chair, will provide a verbal briefing to the chief executive officer of the district/system. This discussion is limited to the centralized functions identified in the institutional self studies and the issues related to them which are identified in the institutional self studies and the findings of the institutional teams. The themes reported by the Coordinating Chair ought to be congruent with those shared with the institutional chief executive officer(s) at each of the colleges.

Although the district/system policies may affect the accredited status of the institution(s), the District/System Team will not make recommendations on the accredited status of the colleges. Confidential recommendations on the accredited status of the colleges will come from each of the institutional teams.

G. Commission Actions and Public Disclosure

The Commission will receive the familiar items for each college in preparation for Commission Action: the self study, the team report, the catalog, and other pertinent documents. The Commission, using its reader system, will consider each institution separately and take the appropriate action for each.

The Commission will also discuss the district/system and develop a consensus on any matters to be communicated to the Chief Executive Officer of the district/system. In its action letters to the institutions, the Commission will comment on important district/system matters that impinge on or significantly enhance college quality.

In a case where one or more accreditation concerns relating to the district/system are identified, the Commission may request a special report from the district/system itself and may also specify a visit by Commission representatives to validate any such special report. The Commission will make clear that significant inadequacies in central office functions will jeopardize the accreditation of one, some, or all of the district/system colleges.

Should the Commission decide that a special district/system interim report and interim visit are in order, the interim team will normally include the Coordinating Chair (or the team chair if only one college was involved), a member of the Commission, and perhaps additional persons with special expertise, as needed. The purpose of the interim team is to validate the interim report from the district/system. This report could be the basis for subsequent Commission action relative to the accredited status of one or more of the institutions in the district/system.

H. Follow-up Activities

The chief executive officer of a district/system is required to share the report of any special interim visit with the governing board and appropriate staff at the district/system and at the colleges. Historically, the Commission has on occasion issued special private communications to college presidents on particular leadership issues. When the college involved is a member of a district/system, the district/system CEO will be copied on this correspondence.

I. Cost

The additional costs associated with the activities of a district/system team will be billed directly to the district/system involved on an actual cost basis and will not be charged to each institution through the institutional Evaluation Service Fee.

POLICY ON DISTANCE LEARNING, INCLUDING ELECTRONICALLY-MEDIATED LEARNING

(Adopted June 2001)

BACKGROUND

Recognizing that most institutions must make use of the growing range of systems for delivery of instruction, including various electronic means, the Accrediting Commission for Community and Junior Colleges (ACCJC) has adopted a policy based on principles of good practice to help assure that distance learning is characterized by the same concerns for quality, integrity, and effectiveness that apply to more traditional modes of instruction.

As methods used to facilitate/conduct distance learning evolve, the ACCJC policies that address distance learning also change. This policy statement has drawn from several previous policies and is intended to replace those policies with a single, unified, and up-to-date statement. Further development of this policy may well be appropriate in the not-so-distant future.

Definition of Distance Learning

Distance learning is defined, for the purposes of accreditation review, as a formal interaction designed for learning in which any portion of the interaction occurs when the student is separated by location from the instructor, resources used to support learning, or other students. Distance learning may employ correspondence study, audio, video, or computer technologies. Educational interactions delivered through these means may occur on campus as well as off campus. These interactions may be synchronous or asynchronous.

POLICY STATEMENT

ACCJC policy specifies that all learning opportunities provided by our accredited institutions have the same quality, accountability, and focus on student outcomes, whether they are delivered electronically or by more traditional means. The intent of the policy is to provide a framework that allows institutions the flexibility to adapt their delivery modes to the emerging needs of students and society while maintaining quality. Any institution offering courses and programs electronically is expected to meet the

requirements of accreditation in each of its courses and programs and at each of its sites.

Principles

Development, implementation, and evaluation of all courses and programs, including those offered electronically, must take place within the institution's total educational mission.

Institutions are expected to control development, implementation, and evaluation of all courses and programs offered in their names, including those offered electronically.

Institutions are expected to have clearly defined and appropriate educational objectives for students in all courses and programs, including those delivered through electronic means.

Institutions are expected to provide the resources and structure needed to accomplish these objectives.

Institutions are expected to demonstrate that their students meet these objectives through application of rigorous outcome measures.

Institutions are expected to provide the ACCJC reasons to believe that these objectives will continue to be accomplished.

Institutions are expected to give ACCJC advance notice, through the Substantive Change process, of intent to initiate a new delivery mode, such as electronically-delivered courses.

GUIDELINES FOR IMPLEMENTATION

Curriculum and Instruction

Each electronically-delivered course or program of study results in learning outcomes appropriate to the rigor and breadth of the course credit, degree, or certificate awarded.

A degree or certificate program delivered partially or entirely through electronic means is coherent and complete and results in learning outcomes comparable to those delivered through other means.

Student experiences result in achievement of intended learning outcomes whether electronically-delivered courses provide for synchronous or asynchronous interaction between faculty and students and among students.

Portions of courses delivered through electronic means adhere to the

same principles as courses delivered entirely through these means.

Institutional Context and Commitment

Role and Mission

Delivery of courses and programs through electronic means is consistent with the institution's role and mission.

Review and approval processes ensure the appropriateness of electronic delivery to meeting the course and program objectives.

Specific needs of students for whom electronically delivered courses are intended are identified and addressed.

Learning Resources

Appropriate learning resources are available to students who take electronically delivered courses.

Students and Student Services

Students receive clear, complete, and timely information on the curriculum, course and degree requirements, nature of faculty/student interaction, assumptions about technological competence and skills, technical equipment requirements, availability of academic support services and financial aid resources, and costs and payment policies.

Enrolled students have reasonable and adequate access to the range of student services appropriate to support their learning and assess their progress.

Students have the background, knowledge, and technical skills needed to successfully use the technology involved in their course work.

Advertising, recruiting, and admissions materials clearly and accurately represent the courses and programs, and the services available.

Commitment to Support

The institution demonstrates a commitment to ongoing program support, both financial and technical, and to continuation of the program for a period sufficient to enable students to complete a degree/certificate.

The institution ensures that qualified faculty provide appropriate oversight of courses delivered electronically.

The institution gives appropriate consideration to the technical skills and needs of faculty assigned to teach through electronic means.

The faculty evaluation process provides a means to evaluate technical skills when appropriate.

The institution provides faculty training and support services specifically related to teaching via electronic means.

Evaluation and Assessment

The institution evaluates the educational effectiveness of electronically-delivered course work, including assessments of student learning outcomes, student retention, and student and faculty satisfaction. Students have access to such evaluation data.

The institution provides for assessment of student achievement in each course and at completion of a program.

QUESTIONS TO AID DEVELOPMENT OF THE SELF STUDY

An institution offering courses through electronic or other modes of distance delivery is expected to meet ACCJC standards and policies. The questions below are provided to assist institutions in undertaking discussions as part of self study development. Evaluation teams will similarly use them in validating the Self Study.

Curriculum and Instruction

What means does the institution have to ensure that courses intended for electronic or other modes of distance delivery are developed through a process similar to traditionally-delivered courses?

How does the institution ensure that courses and programs provide for timely and effective interaction between students and faculty?

How does the institution ensure that courses and programs provide for effective interaction among students?

How does the institution ensure that faculty have responsibility for and exercise oversight of electronically-delivered courses and programs, ensuring both the rigor of those courses and programs and the quality of instruction?

How does the institution ensure that the technology used is appropriate to the nature and objectives of the courses and programs?

How does the institution ensure the currency of materials, courses, and programs?

How clear and effective are the institution's distance learning policies concerning ownership of materials, faculty compensation, copyright issues, and the utilization of revenue derived from the creation and production of software, telecourses, or other media products?

How does the institution ensure that appropriate faculty support services specifically related to distance learning are provided?

How does the institution provide effective training for faculty who teach using electronic means?

Evaluation and Assessment

How does the institution assess student capability to succeed in electronically delivered courses and programs? How is this information applied to admission and recruiting? How effective is this assessment?

How does the institution evaluate the educational effectiveness of its electronically-delivered courses and programs (including assessments of student learning outcomes, student retention, and student satisfaction) to ensure comparability to traditionally-delivered courses and programs?

How does the institution ensure the integrity of student work and the credibility of the degrees and credit it awards?

Library and Learning Resources

How does the institution ensure that students have access to and can effectively use appropriate information resources?

How does the institution monitor whether students make appropriate use of learning resources?

How does the institution provide laboratories, facilities, and equipment appropriate to the courses or programs?

Student Services

How does the institution provide adequate access to the range of student services appropriate to support the programs, including admissions, financial aid, academic advising, delivery of course materials, and placement, and counseling?

How does the institution provide an adequate means for resolving student complaints?

What advertising, recruiting, and admissions information does the institution provide to students that adequately and accurately represents the programs, requirements, and services available?

How does the institution ensure that students admitted possess the knowledge and equipment necessary to use the technology employed in the course or program?

How does the institution provide assistance to students who are experiencing difficulty using the required technology?

Facilities and Finances

How does the institution ensure that equipment and maintenance required for electronically-delivered courses and programs are provided effectively?

How are facilities, staffing, equipment, and other resources associated with the viability and effectiveness of the electronically-delivered courses and programs reflected in the institution's long-range planning, budgeting, and policy development processes?

GLOSSARY

electronically-mediated learning	Formal interaction designed for learning in which any portion of the interaction is conducted through electronic means.Some examples are: One-way audio (tapes, radio); Two-way audio (phone, voice mail, tapes); One-way video (canned telecourses); Two-way video (interactive telecourses); One-way Internet (website viewing); Two-way Internet (website, e-mail, chat); A combination of any of the above means; Combination of any of the above means with traditional instructional mode
	learning opportunity student interactions with instructors, learning resources, or other students
	program set of coherent courses and other learning experiences leading to a defined learning outcome
	traditional mode of instruction classroom-based, face-to-face learning

POLICY ON COMPLAINTS AGAINST THE ACCREDITING COMMISSION FOR COMMUNITY AND JUNIOR COLLEGES

(Adopted January 1999)

Complaints against the Commission are limited to complaints regarding the agency's standards, criteria, or procedures. In order to be considered a formal complaint against the Commission, a complaint must involve issues broader than a concern about a specific institutional action or a specific evaluation team.

The complaint must be written, and must state clearly the nature of the complaint, and it must be signed. The Executive Director, on behalf of the Commission, responds to each complaint made against the Commission within 30 days of receipt of the complaint (if more time than this is required to complete an investigation, the complainant is notified within the initial 30 days); reports the nature and disposition of any complaints to the Chair of the Commission; and compiles annually a list, available to the public on request, which summarizes the nature and disposition of any such complaints. Upon advice of counsel, the Commission retains the right to withhold public disclosure of information if potential legal action is involved in the complaint.

If a complaint filed against the Commission under the provisions of this section is not resolved by the Executive Director, the Commission chair shall designate one or more persons to review the handling of the complaint. The Commission shall review the report of the designated reviewer(s) and shall notify the complainant and the Executive Director of its response.

STUDENT AND PUBLIC COMPLAINTS AGAINST INSTITUTIONS

(Adopted June 1972, Revised January 1984, January 1993, edited October 1997, Revised June 2001)

Accreditation by the Western Association of Schools and Colleges is an expression of confidence that an institution is satisfactorily achieving its objectives, and that it meets or exceeds the Commission's standards and abides by Commission policies. The Commission is concerned with institutional integrity and with performance consistent with Commission standards and policies. While it cannot intervene in the internal procedures of institutions or act as a regulatory body, the Commission can and does respond to complaints regarding allegations of conditions at affiliated institutions that raise significant questions about the institution's compliance with the standards expected of an accredited institution.

The Commission does not consider allegations concerning the personal lives of individuals connected with its affiliated institutions. It assumes no responsibility for adjudicating isolated individual grievances between students, faculty, or members of the public and individual institutions. The Commission will not act as a court of appeal in

matters of admission, granting or transfer of academic credit, grades, fees, student financial aid, student discipline, collective bargaining, faculty appointments, promotion, tenure and dismissals or similar matters.

Complaints are considered only when made in writing, when the complainant is clearly identified, and the complainant's address is included. Substantial evidence should be included in support of the allegation that the institution is in significant violation of the Commission's standards and policies. Such evidence should state relevant and provable facts. The Commission requires that each affiliated institution have in place student grievance and public complaint policies and procedures that are reasonable, fairly administered, and well publicized. The complainant should demonstrate that a serious effort has been made to pursue all review procedures provided by the institution.

When the Commission receives a complaint about a candidate or accredited institution, it reviews that information to determine if it is relevant to the compliance of that institution with Commission standards and policies. If appropriate, such information may be referred to the institution and/or to the visiting team next scheduled to evaluate the institution. The Commission at all times reserves the right to request information of an affiliated institution and to visit that institution for purposes of fact-finding, consistent with Commission policy. If Commission investigation yields credible evidence that indicates a systemic problem that calls into question the institution's ability to meet Commission standards and policies, the Commission may invoke the sanctions provided for in policy.

PROCEDURES

1. Within ten days of the receipt of a complaint it will be acknowledged in writing and initially reviewed by the staff of the Commission.

It is the complainant's responsibility to do the following:

a. State the complaint in the clearest possible terms.

b. Provide, in writing, a clear description of the evidence upon which the allegation is based.

c. Demonstrate that all remedies available at the institution (grievance procedures, appeals, hearings, etc.) have been exhausted. The complainant should describe what has been done in this regard.

d. Acknowledge awareness that Commission staff may send a copy of the complaint to the president of the institution.

e. Include name and address.

f. Sign the complaint.

2. If the Executive Director or designee finds the complaint to be not within the scope of Commission policies and jurisdiction, the complainant will be so notified. Individual complaints, whether acted upon or not by the Commission, will be retained in Commission files.

3. If the complaint appears to be within the scope of Commission policies and jurisdiction, and is substantially documented, a copy of the complaint will be forwarded to the institution's chief executive, who will be asked to respond to the Executive Director within thirty days. The Executive Director will send a copy of the complaint and correspondence to the chairperson of the Accrediting Commission.

4. The Commission staff will review the complaint, the response, and evidence submitted by the institution's president, and will determine one of the following:

a. That the complaint will not be processed further. The complainant will be so notified.

b. That the complaint has sufficient substance to warrant further investigation (which may include referral to the Commission). The Commission may request information of the institution and may visit that institution for purposes of fact-finding. If Commission investigation reveals credible evidence that the institution is not meeting Commission standards and policies, the Commission may invoke the sanctions provided for in policy. In the event of further investigation, the complainant will be so notified.

Although every effort will be made to expedite a final decision, it is not possible to guarantee a specific time frame in which the process will be completed. If further investigation is warranted, the time required to conduct the investigation may vary considerably depending on the circumstances and the nature of the complaint.

5. The complainant and the institution will be notified of the outcome of the review of the complaint.

a. If the complaint is investigated further, as in 4.b above, the complainant and the institution will be notified of the outcome of the investigation.

Prior to the Commission's disposition of the complaint, the institution will have an opportunity to respond in writing within thirty days to the findings of the investigation. The complainant and the institution involved will be notified of the decision. The decision as communicated by the Executive Director is final.

b. If the complaint was referred to ACCJC by another agency, that agency will receive copies of correspondence that state the outcome of the

complaint.

6. The Commission will keep a record of student and public complaints against member institutions. Commission staff will report to the Commission annually regarding the status and resolution of student and public complaints against member institutions. At the time of an institution's comprehensive evaluation, a summary of any complaints will be provided to the team chair for consideration by the evaluation team.

SUBSTANTIVE CHANGE POLICY

(Adopted October 1972, Revised January 1978, June 1991, June 1996, Edited October 1997, Revised January 2002)

BACKGROUND

Accreditation, a voluntary process of peer review dependent on recognized standards of good practice, is in part an affirmation that the institution

has clearly defined objectives appropriate to higher education;

has established conditions under which the achievement of these objectives can reasonably be expected;

presents evidence that it is in fact accomplishing the objectives substantially;

is so organized, staffed, and supported that it can be expected to continue to do so; and

demonstrates that it meets Commission standards, Eligibility Requirements, and policies.

The scope of an institution's accreditation covers everything done in its name.

POLICY

A substantive change is a change which alters: the mission, scope, or name of the institution; the nature of the constituency served; the location or geographical area served; the control of the institution; the content of courses or programs to an extent which represents a significant departure from current curricula or the mode of delivery of a program so that courses constituting 50% or more of a program are offered at a distance or through electronic delivery; or the credit awarded to courses or programs. Since it is the Commission's responsibility to determine the effect of a substantive change on the quality, integrity, and effectiveness of the total institution, it is the Commission's policy that such changes must be approved by the Commission prior to implementation. When an institution proposes to make a change which is considered substantive, the change must be approved according to the Substantive Change

Approval Process. Upon successful review and approval, the institution's accreditation will be extended to areas affected by the change.

The following changes are all substantive changes:

63840. Change in mission, scope, or name of the institution

a change in the purpose or character of the institution

a change in the degree level from that which was previously offered by the institution any change in the official name of the institution

63925. Change in the nature of the constituency served

a change in the intended student clientele

closure of an institution

3. Change in the location or geographical area served

offering courses or programs outside the geographic region currently served

moving to a new location

establishing an additional location geographically apart from the main campus, at which students can complete at least 50% of an educational program

closing a location geographically apart from the main campus at which students can complete at least 50% of an educational program

4. Change in the control of the institution

any change in the legal status, form of control, or ownership of the institution

merging with another institution

contracting for the delivery of courses or programs in the name of the institution with a non-regionally accredited organization

a change by a parent institution of one of its off-campus sites into a separate institution

5. Change in courses or programs or their mode of delivery that represents a significant departure from current practice.

addition of a program that represents a significant departure from an

institution's current programs

addition of courses that represent a significant departure from the current curricula of an institution

addition of courses that constitute 50% or more of a program or 50% of the college's courses offered through a mode of distance or electronic delivery

6. A change in credit awarded

an increase of 50% or more in the number of credit hours awarded for the successful completion of a program

a change from clock hours to credit hours

SUBSTANTIVE CHANGE APPROVAL PROCESS

Institutions wishing to effect a substantive change should follow these procedures.

Note that institutions which have been declared eligible for accreditation but have not yet achieved candidate or accredited status may not employ the substantive change approval process.

1. Notify the Commission: The institution begins the Substantive Change Approval Process by notifying the Commission of the proposed change, the need for the change, and the anticipated effects. Commission staff determine whether or not the proposed change is indeed substantive. Early notification enables the staff to provide information and advice about how the institution might best proceed through the Substantive Change Process.

2. Preparing the Substantive Change Report: If the Commission staff determines that the proposed change is substantive in nature, the institution is asked to submit a Substantive Change Report for review by the Commission's Committee on Substantive Change.

The Substantive Change Report should include the following:

A. A concise description of the proposed change and the reasons for it.

B. A description of the educational program(s) to be offered and evidence that the educational purposes of the change are clear and appropriate if the substantive change involves a new educational program.

C. A description of the planning process which led to the request for the change, how the change relates to the institution's stated mission, the assessment of needs and resources which has taken place, and the anticipated effect of the proposed change on the rest of the institution.

D. Evidence that the institution has provided adequate human, management, financial, and physical resources and processes to initiate, maintain, and monitor the change and to assure that the activities undertaken are accomplished with acceptable quality.

If the substantive change is to establish a branch campus, private institutions must include projected revenues and expenditures and cash flow at a branch campus. Public institutions, in keeping with the financial reporting requirements of their district, system, or governmental agency, must include financial information which allows for comparable analysis of the financial planning and management of a branch campus.

If the change involves the formation of a separate institution from an off-campus center or branch campus, the projected financial information must be provided for the parent institution of the proposed split. The new separate institution must begin the process for separate accreditation.

E. Evidence that the institution has received all necessary internal or external approvals. The report should state clearly what faculty, administrative, governing board, or regulatory agency approvals are needed and evidence that any legal requirements have been met.

F. Evidence that each Eligibility Requirement will still be fulfilled after the change. Any requirements that are particularly impacted by the change should be addressed in detail.

G. Evidence that each accreditation standard will still be fulfilled after the change and that all relevant Commission policies are addressed. Any standards that are particularly impacted by the change should be addressed in detail.

H. Other information requested by Commission staff that is pertinent to the specific nature of the change.

3. Commission Action: Once the Substantive Change Report is received by the Commission, it is reviewed by the Commission's Committee on Substantive Change, which has full authority to act. The Committee may approve or deny a substantive change request or return it to the institution for additional information. At its discretion, the Committee may refer the decision on the substantive change request to the entire Commission at its next meeting. Commission staff keep the institution informed as to the status of the substantive change request. The institution is notified of the Committee action within two weeks of the Committee meeting. Denial of the request will include reasons for the denial.

63926. Appeal: If the institution wishes to appeal the decision of the Commission's

Committee on Substantive Change, the appeal must be filed in writing and will be

deliberated at the next meeting of the Commission. Members of the Committee on Substantive Change may participate in the discussion but will abstain from voting on the appeal.

63927. Referral to the Commission: In the event a substantive change request has been referred to the Commission for consideration, the institution will be notified of Commission action within two weeks of the meeting at which action occurred. In the event that the change is judged to be of such magnitude as to potentially affect the candidate or accredited status of the institution, the review process for the substantive change may be expanded to include a review of the accreditation status of the institution and a visit.

63928. Future visits: Approved substantive changes should be addressed in the next comprehensive review of the institution. If the institution is not due for a comprehensive evaluation within two years of the approval of the substantive change, an on-site evaluation, or other measures as the Commission may determine, may be required. Costs for an on-site evaluation will be borne by the institution. (Note: Off-campus centers, including branch campuses, that offer 50% or more of a program are subject to an on-site inspection within the first six months of establishment.) The Commission reserves the right to request a report and visit to assess the effects of any substantive change it deems to be a very significant departure from the past, including a requirement to submit periodic prescribed reports and support special visit(s) by representatives of the Commission.

COMMISSION ACTIONS ON INSTITUTIONS

(Adopted January 1977, Revised January 1979, January 1991, June 1998, Edited July 2002)

Institutions applying for candidacy or initial accreditation and accredited institutions undergoing periodic evaluation will be reviewed by the Accrediting Commission. The Commission will examine institutional documents (catalog and schedule), the institutional self study, the evaluation team report, and documents from previous evaluations. The Commission will apply, as it deems appropriate, one of the following actions in each case.

I. Actions on Candidate Institutions

- Grant Candidacy. Candidacy is a pre-accreditation status, initially awarded for two years. Candidate status is granted only to institutions that demonstrate the ability and will to meet the standards of accreditation within the candidate period.

- Extend Candidacy. Candidacy is renewed for two years. (Four years in candidate status is maximum available.)

• Defer a decision on candidacy pending receipt of specified information from the institution.

• Deny Candidacy. The institution may reapply for candidacy by submitting a self study after two years. Denial of candidacy may be subject to a request for review by the Commission and subsequent appeal to the Western Association of Schools and Colleges under the published policies and procedures of these two bodies.

• Termination of Candidacy. If, in the opinion of the Commission, an institution has not maintained its eligibility for candidacy or has failed to explain or correct deficiencies of which it has been given notice, the candidacy of the institution may be terminated. Termination may be subject to a request for review by the Commission and subsequent appeal to the Western Association of Schools and Colleges under the published policies and procedures of these two bodies.

II. Actions on Initial Accreditation

• Grant initial accreditation. The institution must be fully evaluated again within a maximum of six years from the date of the Commission action.

• Grant initial accreditation with a request for a progress report and/or a visit within a limited time. The Commission will specify the nature, purpose, and scope of the information to be submitted and of the visit to be made.

• Defer a decision on accreditation pending receipt of specified additional information from the institution or to permit an institution to correct serious weaknesses and report to the Commission within a limited time. If the institution is a candidate for accreditation, candidacy continues during the period of deferment.

• Denial of accreditation. A denial is a final decision which is subject to a request for review by the Commission and subsequent appeal to the Western Association of Schools and Colleges under the published policies and procedures of these two bodies. A candidate institution may be permitted to remain in candidate status until it is ready for a new evaluation within a limited period of time. In cases where the four year limit on candidacy has been reached, the Commission may consider extending the limit in special circumstances. If an extension is not granted, the institution may not reapply for candidacy for at least two years.

III. Actions on Accredited Institutions

• Reaffirmation of accreditation without conditions.

• Reaffirmation of accreditation, with a request for a progress report to be submitted by a specific date, to achieve resolution within a one- to two-year period.

• Reaffirmation of accreditation, with a request for a progress report to be followed by a limited visit. In such cases, the Commission will specify the nature, purpose, and scope of any further information to be submitted by the institution and of the visit to be made. Institutions are expected to achieve resolution of issues within a one to two year period. The purpose of the visit is to verify in person the institution's response to the Commission's recommendations.

• Deferment of a decision on accreditation pending receipt of specified additional information from the institution or to permit an institution to correct serious weaknesses and report to the Commission within six months or less. The report is followed by a visit addressed primarily to the reasons for the decision. The Commission will specify the nature, purpose, and scope of the information to be submitted and of the visit to be made. The accredited status of the institution continues during the period of deferment.

• Warning. When the Commission finds that an institution has pursued a course deviating from the Commission's eligibility criteria, standards, or policies to an extent that the institution's continued accreditation may become jeopardized, the Commission may issue a warning to the institution to correct its deficiencies, refrain from certain activities, or initiate certain activities within a stated period of time. The Commission will give the institution written reasons for its decision. During the warning period, the institution will be subject to reports and visits, at a minimum of every six months. Resolution of the concerns is required within two years or the Commission must take adverse action. The accreditation status of the institution continues during the warning period.

• Probation. When a candidate or accredited institution fails to respond to conditions imposed upon it by the Commission, including a warning, or when it deviates significantly from the Commission's eligibility criteria, standards, or policies but not to such an extent as to warrant a show cause order or the termination

of candidacy or accreditation, it may be placed on probation for a specified period of time. While on probation, the institution will be subject to special scrutiny by the Commission, including a requirement to submit periodic prescribed reports and receive special visit(s) by representatives of the Commission. The Commission will give the institution written reasons for its decision. Institutions are expected to correct deficiencies within a two year period or the Commission will take adverse action. If the institution has not taken steps satisfactory to the Commission to remove the cause or causes for its probation at the end of the specified time, the Commission will issue a show cause order. The accredited status of the institution continues during the probation period; however, the reaffirmation may be delayed during the period of probation.

• Show Cause. When the Commission finds an institution to be in substantial non-compliance with its eligibility criteria, standards, or policies or when the institution has not responded to the conditions imposed by the Commission, the Commission may require the institution to show cause why its accreditation should not be withdrawn at the end of a stated period. In such cases, the burden of proof will rest on the institution to demonstrate why its accreditation should be continued. While under a show cause order, the institution will be subject to special scrutiny by the Commission, including a requirement to submit periodic prescribed reports and receive special visit(s) by representatives of the Commission, at a minimum of every six months. The Commission will give the institution written reasons for its decision. Resolution of the reasons for the show cause order should be achieved in no longer than one year. If the institution does not demonstrate that it meets accreditation standards and eligibility requirements, the Commission will take adverse action. The accredited status of the institution continues during the period of the show cause order.

• Termination of Accreditation. If, in the judgment of the Commission, an institution has not satisfactorily explained or corrected matters of which it has been given notice, its accreditation may be terminated. The Commission will give the institution written reasons for its decision. Termination of accreditation is subject to a request for review and appeal under the applicable policies and procedures of the Commission and the Western Association of Schools and Colleges. The accredited status of the institution continues pending completion of any review appeal process the institution may request. Otherwise, the institution's accreditation ends on the date when the time period

permitting such a request expires. In such a case, the institution must complete again the entire accreditation process to qualify for candidacy or accreditation.

The Commission requires that a member institution remain in continuing compliance with the Eligibility Requirements and the Standards of Accreditation, comply with Commission policies and procedures, and provide information as requested by the Commission in accordance with the Commission's accreditation responsibilities. However, if an institution cannot document that it is in compliance with the Eligibility Requirements and/or Standards of Accreditation within a maximum of two years after the initial action, the Commission will take an adverse action. In keeping with the provisions of the Higher Education Act of 1965, as amended, the Commission defines adverse action as denial, withdrawal, suspension, or termination of accreditation or candidacy. If the Commission determines that there is good cause, the Commission may extend the time allowed for the institution to demonstrate that it meets or exceeds the Standards of Accreditation. Progress Reports, Midterm Reports, Deferral of a Decision, Warning, Probation, and Show Cause are not adverse actions in the context of federal regulations.

The Commission will announce publicly, as appropriate, through its Executive Director and will publish in appropriate publications and in the WASC annual Directory the status of each institution in accordance with the Commission's policy on "Disclosure and Confidentiality of Information." The Executive Director will attempt to reach agreement with the institution on a public statement to be used by both parties. However, the Commission reserves final authority in event of impasse.

If a specific inquiry is made about an institution which has been warned, placed on probation, or issued a show cause order, the Executive Director shall inform the inquirer that such an action has been taken and the reasons therefore.

In addition, the Commission requires Annual Reports, Midterm Reports from every institution during the third year of the six year evaluation cycle. Progress Reports, special evaluations, and site visits are used as necessary during the cycle in order to monitor institutional improvement activities and compliance with accreditation standards and policies.

If an institution so conducts its affairs that they become a matter of public concern, or uses the public forum to take issue with an action of the Commission relating to that institution, the Commission may announce, through the Executive Director, the action taken and the basis for that action, making public any pertinent information available to it.

REVIEW OF COMMISSION ACTIONS

(Adopted January 1977, Revised January 1979, June 1998)

The Commission defines adverse actions as denial, withdrawal, suspension, or termination of accreditation or preaccreditation as defined in 602.2 of the Higher

Education Act.

Institutions who are denied initial accreditation or preaccreditation, or whose candidate or accredited status is denied, withdrawn, suspended, or terminated by the Accrediting Commission for Community and Junior Colleges may request a review of the Commission's decisions. For purposes of compliance with 602.28(b)(5) of the Higher Education Act, these actions are considered to be adverse actions. For Commission review of denial, withdrawal, suspension or termination of accreditation, or termination of accreditation or preaccreditation, the institution may be represented by counsel. Such institutional appeals are limited to written appeals.

Such a review must be requested prior to filing of an appeal by the institution to the Western Association of Schools and Colleges. The following procedures will govern the conduct of the Commission's review:

1. If the Accrediting Commission for Community and Junior Colleges decides to take any of the actions listed above, its Executive Director will notify the institution concerned of the decision by certified mail, return receipt requested, within approximately seven calendar days of the Commission's decision. Said notification shall contain a succinct statement of the reasons for the Commission's decision.

2. If the institution wishes a review by the Commission, it shall file with the Executive Director a request for such a review under the policies and procedures of the Commission. This request should be submitted by the chief executive officer of the institution and, in the case of private institutions, co-signed by the chairperson of the governing board. Requests for review by an institution in a multi-college system shall be co-signed by the chief executive officer of the system. This request must be received by certified mail, return receipt requested, within twenty-eight calendar days of the date of the mailing of the Commission's notification of its decision to the institution.

3. Within twenty-one calendar days after the date of its request for a review, the institution, through its chief administrative officer, must submit a written statement of the reasons why, in the institution's opinion, a review of the Commission's decision is warranted. As a general rule, this written statement should respond only to the Commission's statement of the reasons for the Commission's decision and to the evidence that was before the Commission at the time of its decision. However, if the institution believes that there are compelling reasons to expand the scope of the response or if it wishes to introduce new evidence which may have been generated or discovered since the time of the Commission's decision, it may do so in a separate section of its response.

4. On receipt of the institution's written statement referred to in paragraph

3, the chairperson of the Commission will select a review committee of three or more persons. A roster of the review committee will be sent to the institution normally within twenty-one calendar days of the date of the Commission's receipt of the institution's written statement.

5. Within a reasonable period of time after the review committee has been selected, the Executive Director will schedule a visit to the institution by the review committee.

6. Prior to the visit to the institution, the review committee will review available information. If additional information is needed, the chairperson of the review committee may request such information from the chief executive officer of the institution.

7. The review visit will be investigative and designed to determine if the Commission's decision was substantially supported by the evidence before the Commission at the time of the Commission's decision. If, however, in the judgment of the review committee, changes have occurred which might materially affect the decision of the Commission, the review committee chairperson, with the approval of the members, may accept new evidence bearing on these changes.

8. The committee should open and close its visit with a meeting with the chief executive officer of the institution. At the closing meeting the chairperson should, among other matters, attempt to ascertain whether or not the institution has any complaints about any aspect of the visit.

9. The committee should prepare a report which cites and evaluates the evidence which the committee considers relevant to the question of whether the Commission's original decision was substantially supported by the evidence before the Commission at the time of its decision. If the committee accepts evidence of changes which occurred subsequent to the committee's original decision, the review committee should include a summary and analysis of such evidence in its report identifying it as new evidence and describing the weight given it.

10. The chairperson of the review committee will submit a copy of the committee's report which is referred to in paragraph 9 to the chief executive officer of the institution, the chairperson of the institution's governing board, and the Executive Director of the Commission, normally within twenty-one calendar days of the end of the review committee's visit.

11. Within fourteen calendar days of the institution's receipt of the review committee's report, the chief executive officer may submit a written response to the Executive Director of the Commission, with a copy to the chairperson of the review committee. Failure of the institution to submit a response shall constitute an acceptance by the institution of the

Commission's original decision.

12. In a confidential letter to the Commission, the review committee shall make one of the following recommendations:

a. The decision of the Commission was substantially supported by the evidence before the Commission at the time of the Commission's decision;

b. The decision of the Commission was not substantially supported by the evidence before the Commission at the time of the Commission's decision; or

c. The decision of the Commission was substantially supported by the evidence available at the time of the Commission's decision, but the institution has taken significant steps to improve conditions and remedy deficiencies and the Commission should reevaluate its decision in light of these steps.

The recommendation of the review committee to the Commission shall not be
disclosed to the institution being reviewed. The recommendation is not binding on the Commission.

13. The chief executive officer of the institution and a limited number of the staff will be invited to meet with the two readers of the committee's report and the chairperson of the review committee shortly before the meeting of the Commission at which the report will be acted upon. Discussion at this preliminary meeting will be confined to the report of the review committee referred to in section 9 and the institution's response to this report.

14. The two readers will report the substance of this meeting to the Commission when it meets. If institutional representatives wish to appear before the Commission at that time, their request will be granted, but the meeting with the readers is intended to obviate the need for such an appearance except in unusual circumstances.

15. In making its decision on the institution's status, the Commission will consider the evidence available to it and then reach a final decision to (a) reaffirm its original decision; (b) modify it; or (c) reverse it. As soon after the meeting as practicable, the Executive Director will notify the chief executive officer of the institution by certified mail of the Commission's decision.

16. The decision of the Commission, referred to in paragraph 15, shall be final as far as the Accrediting Commission for Community and Junior

Colleges is concerned. However, if the institution remains aggrieved, it may file an appeal with the President of the Western Association of Schools and Colleges through the Executive Director of the Commission in accordance with the provisions of Article VI of the Constitution of the Western Association of Schools and Colleges.

17. An institution retains its accredited or candidate status until the review process of the Commission is completed. If the institution files a subsequent appeal with the Western Association of Schools and Colleges, its status remains unchanged until that appeal has been heard and decided.

18. The cost of the review will be borne by the institution. The request for a review must be accompanied by a deposit set by the Commission. If the actual cost is less than this amount, the excess will be refunded. If it is greater, the institution will be billed for the difference.

DISCLOSURE AND CONFIDENTIALITY OF INFORMATION

(Adopted January 1976, Revised June 1978, June 1996, June 1998)

It is the obligation of every institution applying for candidacy, extension of candidacy, accreditation, or reaffirmation of accreditation and of every candidate or accredited institution to provide the Commission with access to all parts of its operations, with due regard for the rights of individual privacy, and with complete and accurate information with respect to the institution's affairs, including reports of other accrediting, licensing, and auditing agencies. Failure to do so, or to make complete, accurate, and honest disclosure, is sufficient reason in and of itself to deny or revoke candidacy or accreditation.

The Commission will maintain inviolate the confidentiality of information supplied by the institution except in those rare cases where it is deemed necessary by the Commission to make public information which forms a substantive basis for the Commission's decision.

I. Policy on publication of Commission actions.

The Commission may announce publicly, as appropriate, through its Executive Director and will publish in the WASC Bulletin and/or annual Directory the fact that

1. The institution's application for candidacy or accreditation has been denied;

2. An institution has been granted candidacy or accredited;

3. The institution's candidacy has not been extended or its accreditation reaffirmed;

4. The institution has been placed on probation;

5. The institution has been given a show cause order effective at a specific date; or

6. The institution's candidacy has not been renewed or its accreditation has been terminated.

II. Policy on publicly available written materials.

It shall be the policy of the Accrediting Commission for Community and Junior Colleges to maintain and make publicly available written materials describing:

(1) Each type of accreditation and preaccreditation granted by the Commission;

(2) Commission procedures for applying for accreditation or preaccreditation;

(3)The criteria and procedures used by the Commission for determining whether to grant, reaffirm, reinstate, deny, restrict, revoke, or take any other action related to each type of accreditation and preaccreditation that the agency grants;

(4) The names, academic and professional qualifications, and relevant employment and organizational affiliations of the members of the Commission's policy and decision making bodies as well as the agency's principal administrative staff; and

(5) The institutions or programs that the Commission currently accredits or preaccredits and the date when the agency will review or reconsider the accreditation or preaccreditation of each institution or program.

POLICY AND PROCEDURES ON PUBLIC DISCLOSURE

(Adopted June 1999, Edited July 2002)

Introduction.

The Commission believes that the two major responsibilities of institutional accreditation are quality assurance to the public and improvement of member institutions. Accreditation systematically accomplishes these purposes through standards of good practice, institutional self study, external peer review and recommendations, Commission actions, and follow-up. The purpose of this policy is to strengthen the ability of institutions and the Commission to fulfill mutual obligations to inform, to educate, and to enhance the level of public confidence in higher education institutions in the process and outcomes of voluntary, non-governmental accreditation, within the region and across regions. Specifically, the goals are:

actions regarding the institution, a definition of the meaning of the accredited status, and a discussion of any terms that might require explanation.

D. Commission Responsibilities to the Institution.

The Commission will prepare information for the institution which outlines the reasons for the action, the follow-up and the monitoring activities which will be required, and the time frame within which the institution must remedy the conditions which led to the action.

If an institution cannot document that it is in compliance with the Eligibility Requirements and/or Standards of Accreditation within a maximum of two years after the initial action, the Commission will take an adverse action. In keeping with the provisions of the Higher Education Act of 1965, as amended, the Commission defines adverse action as denial, withdrawal, suspension, or termination of accreditation or candidacy. If the Commission determines that there is good cause, the Commission may extend the time allowed for the institution to demonstrate that it meets or exceeds the Standards of Accreditation. Progress Reports, Midterm Reports, Deferral of a Decision, Warning, Probation, and Show Cause are not adverse actions in the context of federal regulations.

E. Disclosure of Commission Actions on the Accredited Status of Institutions.

Actions of the Commission regarding the accredited status of institutions as described in the Policy on Commission Actions on Institutions are public actions. The Commission publishes the status of each institution in appropriate publications such as Commission Newsletters, the WASC Directory, and the ACCJC web site. The Commission also notifies appropriate governmental agencies and accrediting bodies as required by the Higher Education Act.

When the action of the Commission involves a status of deferral of a decision, warning, probation, show cause or termination, the Executive Director will invite the institution to develop a joint statement appropriate to the college. This statement can be issued by the Commission and the institution. However, the Commission reserves final authority to develop and issue a statement in the event of an impasse.

If an institution misrepresents a Commission action or uses the public forum to take issue with an action of the Commission relating to that institution, the Commission may announce, through the Executive Director, the action taken and the basis for that action.

II. **Information about the application of the accreditation processes at a**

particular institution.

A. The Commission publishes the names of institutions scheduled for comprehensive review annually in the Commission newsletter. This notice also includes an invitation for third-party comment and information regarding how, and to whom, that comment should be delivered. The institutional evaluation schedule is available to the public on request.

B. The Commission provides each institution under review with a roster of the team members, including their positions and institutional affiliations. Institutions may object to a proposed team member for cause. These rosters are updated regularly as team membership is adjusted.

C. The Commission does not itself make public the institutional self study or the team report without the permission of the college, unless the institution has misrepresented the content of the self study or the findings of the reports. In the event of such misrepresentation, the Commission is free to disclose the reports and provide accurate statements about the institution's accredited status.

D. The Commission does not disclose any information about an institution's potential accredited status before a Commission action is taken. Information about actions under review or appeal (denial of candidacy or initial accreditation, or termination of accreditation) will not be disclosed until a final decision is rendered, unless required by federal regulation. Review and Appeal procedures are found in the policy on Review of Commission Actions.

E. The institutional file in the Commission office is part of the private relationship with the institution and is therefore not available to the public. Upon request, the Commission will disclose the number of complaints received about the institution since the last comprehensive evaluation, the general nature of those complaints, and their resolution or status. In accordance with its Policy on Student and Public Complaints against

Institutions (Handbook of Accreditation), the Commission will only include in that disclosure formal, signed complaints that are within the Commission's jurisdiction and which have been referred to the institution. Multiple complaints about a single issue will be assessed to determine how those complaints should be recorded. The Commission informs the institution when such an inquiry is received.

III. **Information about the Commission and its processes**.

A. The Commission publishes an Annual Report on the status of higher education in the region from the experiences of accreditors. Typically, the report includes a review of major issues in the region, an analysis of

actions taken during the year, summaries of the focus of team findings and recommendations, changes in Commission policies and practices, and summaries of staff activities.

B. The Commission newsletter, which is published quarterly, provides timely information about accreditation, the Commission, and its policies and practices. The newsletter is distributed to all member institutions, other accreditors, and appropriate higher education and government associations and agencies. The newsletter is available to the public on request.

C. The Commission publishes handbooks, videos, and other materials which describe the Commission and its processes which are distributed to all member institutions and to the public on request. These materials are free to members and other accreditors and are available for a nominal charge to others.

D. The Commission maintains a website which informs members and the public about the Commission and its activities.

E. The Commission and Commission staff make presentations before organizations within higher education, government, and the public at large. The Commission and its staff participate in regional and national forums on subjects related to quality assurance and institutional improvement.

INSTITUTIONAL RESPONSIBILITIES

Institutions, as well as accrediting agencies, are accountable for honest and open communication with the public on institution-related issues in which there is a legitimate public interest. Honesty, openness, and concern for its constituents are indicators of the integrity with which the institution conducts its interactions and communication with its public. Ultimately, this institutional integrity is one indicator of institutional quality and effectiveness, and the Commission includes these matters in its evaluation of institutions. The Commission relies on member institutions to conduct themselves in accordance with these principles of institutional responsibility.

I. Institutional Self Study and other Accreditation Reports

A. Self Studies. The Commission relies on the strong sense of collegiality, mutual respect, and trust in its relations with member institutions. The privilege of self-regulation requires openness with the public as well.

The self study is the property of the institution which developed it, but the self study should receive wide distribution within the institution. The Commission recognizes that some institutions may be governed by public disclosure statutes and expects that institutions will conduct themselves in

accord with those laws and regulations.

B. Team Reports. The Commission requires that institutions share the findings and recommendations that result from the accreditation process widely throughout the institution, especially with those that contributed to the self study. Once an on-site evaluation is complete, institutions are required to make the report readily available through a wide distribution system. The institution is required to publicize the location of the team reports. Any excerpting of team reports for use by those outside the institution must be accompanied by explanatory information which discusses the complete context of accreditation. Any use of the team reports which misquotes, misleads, or misrepresents findings or recommendations is grounds for Commission release of the complete team report.

II. On-Site Evaluation

The Commission requires that the chief executive officer notify the campus community of the date and purpose of each comprehensive evaluation and any follow-up activity or reports requested by the Commission. Key elements in that notification to the campus community should include the following:

1. Notice of the opportunity for submission of third-party comments by the public and the process for doing so.

2. Information regarding where and how the Commission's Standards of Accreditation may be accessed at the institution.

3. Information regarding the development of the institutional self study and a call for widespread participation.

4. Information regarding the team visit, *e.g.*, team composition, dates of the visit, team schedule and activities. Institutions are expected to publicize times and locations during the visit when team members will be available to meet informally with any member of the campus community on any accreditation issue.

III. Dissemination of information within individual institutions regarding Commission actions

The Commission delegates the primary responsibility for communicating information about its status to the institution. However, the Commission action letter to the Chief

Executive Officer requires that there be broad and timely dissemination of the team report and the Commission action letter within the institution, especially to those who were signatories to the self study. The Chair of the institutional Board and system or district Chancellor (where applicable) also receive a copy of the action letter and the team report.

IV. Representation of Eligibility, Candidacy, or Accredited Status

A. The institution is expected to describe its accredited status using the language prescribed in the Commission Policy on Representation of Accredited Status, and to avoid expanding that representation to include other matters such as transfer of credit. The address and telephone number of the Commission office is included when the college references its accredited status, including catalogs and recruiting materials. Institutions send a copy of the institutional catalog to the Commission office as each iteration is published.

B. The chief executive officer of the institution is responsible for informing the campus community of the accreditation action taken by the Commission and the reasons for the action. This communication should be coordinated with district or system officers as appropriate. If the accreditation action includes any special status, the institution is obligated to provide that information to all current and prospective students and staff in a timely manner. As noted in Section I.D. of this policy, the Commission will work with the institution in these cases to develop a statement that can be used for distribution to the campus community or for individual inquiry.

C. When the institution refers to its accredited status in any publications or advertisements during a period in which its accreditation may be subject to special scrutiny, the institution must disclose that information.

POLICY REGARDING MATTERS UNDER LITIGATION

(Adopted January 1989, Revised June 1996, January 2001)

The Commission's concerns are to determine whether an institution is in compliance with Commission standards and policies and to assist institutions, through established procedures, in the improvement of quality. To this end, the Commission takes appropriate action on credible evidence received from any reliable source, including the courts, that calls into question the ability of an institution to meet Commission standards and policies. It is the policy of the Accrediting Commission not to become involved in litigation within an institution. The Commission is not an adjudicatory agency, and it is not the role or function of the Commission to arrive at any determination regarding the merits of any aspect of pending litigation.

Because of the sensitivities created when litigation is pending during a site visit by an evaluation team, the Commission has developed the following guidelines.

Responsibility of the Institution

It is the responsibility of the institution to inform the Commission staff, prior to a visit, of any pending litigation against the institution. The staff will consult with the liaison officer to determine if any special advice will need to be provided to the team chair.

Responsibility of Visiting Teams

Visiting teams should not comment on pending litigation in such a way as to express an opinion about the merits of the lawsuit or its outcome. Team members are not precluded from meeting with individuals involved in litigation and hearing from them regarding the litigation. If such a meeting is held or if the subject of the litigation arises during the course of interviews, the institution will be informed. Team members are cautioned against saying or writing anything which may be used by either party in support of their positions in the lawsuit.

If questions arise prior to, during, or after a visit, Commission staff should be consulted.

RELATIONS WITH GOVERNMENT AGENCIES

(Adopted June 1996, Revised January 1998)

The Commission has sought recognition and periodically seeks renewal of recognition by the Secretary of Education, in order that member institutions achieve and maintain eligibility to participate in programs such as HEA Title IV student financial aid. The Commission provides, upon request from the Secretary, any information sought regarding institutional compliance with HEA Title IV regulations.

The Commission notifies the Department of Education and relevant state agencies of all institutional actions, immediately following the meeting at which action is taken. If the Commissions final decision is to deny, withdraw, suspend, or terminate the accreditation or preaccreditation of an institution or program or take other adverse action against an institution or program, the Commission will notify the Secretary of that decision at the same time it notifies the institution or program.

Copies of publications such as the Commission Newsletter and the WASC Directory are routinely sent to the state and federal agencies with which the Commission communicates.

The Commission annually sends an updated directory of accredited institutions to the Secretary of Education.

The Commission maintains regular communication with the Department of Education and relevant state agencies. It responds to inquiries from government agencies and forwards responses to complaints against institutions that have been routed to the Commission by those agencies.

In the event clear evidence of Title IV fraud and abuse is obtained by the Commission, that information is forwarded to the Department of Education.

Institutions are notified and asked to respond if complaints or allegations of fraud and abuse are communicated to the Commission by the Department of Education.

The Commission submits to the Secretary any proposed changes in policy and procedures, or accreditation standards that might alter its scope of recognition or its compliance with appropriate federal regulation [6024.4(g)].

The Commission will not, except where exceptional circumstances exist, renew the accreditation or preaccreditation of any institution that is subject to adverse action by any other recognized institutional accrediting agency or state agency.

REVIEW OF ACCREDITATION STANDARDS

(Adopted June 1996, Revised June 1998, January 1999, June 2001)

The Accrediting Commission conducts systematic and comprehensive study of the utility, effectiveness, relevance, and consistency of its standards and practices.

The Commission assesses its standards concurrent with the development of each edition of the Handbook of Accreditation, normally every six years. Independent review is commissioned prior to issuance of each edition of the Handbook of Accreditation so that the revision may be informed by the findings of that research.

The process for review of accreditation standards:

1. Examines whether the standards are adequate to evaluate educational quality;

2. Focuses on the relationship of the standards to the quality of educational/training programs and their relevance to student needs;

3. Examines each standard and the standards as a whole; and

4. Involves all of the agency's relevant constituencies.

Each such review solicits comments from member institutions and participants in the processes of accreditation. The process seeks to incorporate state of the art institutional evaluation, as practiced by academic quality assurance and accrediting agencies, and by business and industry into standards revisions. Information is sought to measure:

1. Institutional attitudes about validity and utility of standards;

2. Consistency of application of standards;

3. Consistency of application of the Range of Actions policy;

4. Degree of confidence in the processes used by the evaluation teams and the Commission; and

5. Effects of Commission actions and team recommendations on institutional practices.

Constituencies are notified of proposed changes to standards and are given an opportunity to comment. These comments are taken into account during revisions of the standards. If the Commission identifies a need to change the standards between reviews, changes are made in a timely manner. However, the Commission allows sufficient time for the institutions to implement the changes before they are enforced. The process for ensuring constituent participation in those revisions is consistent with that occurring during six-year standard reviews.

CONFLICT OF INTEREST POLICY FOR COMMISSIONERS, EVALUATORS, CONSULTANTS, ADMINISTRATIVE STAFF, AND OTHER AGENCY REPRESENTATIVES

(Adopted June 1997, Revised June 1999, March 2001)

The Accrediting Commission believes that those who engage in accreditation activities must make every effort to protect the integrity of accrediting processes and outcomes. The intent of the Commission is to:

- maintain the credibility of the accreditation process and confidence in its decisions;

- assure that decisions are made with fairness and impartiality;

- avoid allegations of undue influence; relationships which might bias deliberations,
decisions, or actions; and situations which could inhibit an individual's capacity to make objective decisions;

- make all of its decisions in an atmosphere which avoids even the appearance of conflict of interest;

- provide the means to disclose any existing or apparent conflict of interest.

The Commission will not knowingly invite or assign participation in the evaluation of an institution anyone who has a conflict of interest or the appearance thereof.

General Principles regarding Conflict of Interest

1. The Commission relies on the personal and professional integrity of individuals to guard against conflict of interest, or the appearance of conflict of interest, by refusing

any assignment where the potential for conflict of interest exists. Anyone who has contact of the types listed below with an institution/district/system, normally within the last five years, will not participate in the evaluation of that institution.

- any current or prior employment at the institution/district being evaluated;

- candidacy for employment at the institution/district being evaluated;

- any current or prior service as a paid consultant or other business relationship with the institution/district/system being evaluated;

- any written agreement with an institution/district/system that may create a conflict or the appearance of a conflict of interest with the institution/district/system;

-personal or financial interest in the ownership or operation of the institution/district/system;

- close personal or familial relationships with a member of the institution/district;

- other personal or professional connections that would create either a conflict or the appearance of a conflict of interest;

- receipt of any remuneration, honoraria, honorary degrees, honors or other awards from the institution/district/system.

Notwithstanding the above list defining what is considered to be a conflict or potential conflict of interest, a conflict of interest arising from one of the relationships described above does not go into perpetuity, but expires five years after the relationship ends. Nevertheless, the individual is expected to ask him/herself whether the existence of such relationship would in any way interfere with his/her objectivity, and, if the answer is in the affirmative, he/she is expected to refuse the assignment.

2. A Commissioner is expected to recuse him/herself from any deliberation or vote on decisions regarding individual institutions where any of the above conditions exist. A Commissioner who served on the most recent evaluation team of the institution being considered may participate in the discussion, but does not vote. Any such potential conflict of interest shall be reported to the Commission in advance of the deliberation and action and shall be recorded in the Commission minutes.

The following connections have been determined to be of the type that do not constitute a conflict of interest or the appearance thereof. It is recognized that it is the nature of the academy to engender collegial, professional relationships among and between members of institutions. Those professional and collegial relationships are generally considered innocuous. Examples of relationships that do not create a conflict or the appearance of a conflict of interest include:

-attending meetings or cultural events on a campus;

-having infrequent social contact with members of institutions/districts/systems;

-making a presentation at an institution on a one-time, unpaid basis, with no sustained relationship with the institution;

-fulfilling a professional assignment with members of an institution on an issue not related to the institution.

A Commissioner whose connections with the institution/district/system are limited solely to connections of this nature need not disclose them or recuse him/herself.

The purpose of this list is to reduce the burden on the Commission to disclose every relationship for discussion by the Commission. A Commissioner who is uncertain regarding a possible conflict of interest may recuse him/herself, in which case there is no requirement to disclose the nature of the contact(s) for review by the Commission. Alternatively, the Commissioner may disclose the nature of the contact for review by the Commission. The Commission shall then determine in all such cases by majority vote whether the connections raise a conflict of interest or the appearance of conflict of interest. Commission decisions regarding any issue raised relating to conflict of interest shall be noted in the minutes. Commissioners should be especially sensitive to the newly emerging possibilities of conflict of interest created by inter-institutional collaborations such as distance education or international education projects.

3. During the period of Commission employment, Commission staff members are expected to refrain from connections and relationships with candidate or member institutions which could represent a conflict of interest. Commission staff may not engage in private consulting or employment with ACCJC member institutions; Commission staff may engage in such arrangements with outside organizations or institutions other than ACCJC members only with the approval of the Executive Director. The Executive Director may engage in such arrangements only with the approval of the Commission Chair.

4. Each Commissioner, evaluator, consultant, and member of the Commission administrative staff is asked to review the Conflict of Interest Policy and consider potential conflicts of interest in his/her proposed assignments. Institutions being evaluated also review the prospective evaluation team for potential conflict of interest. The Executive Director should be notified immediately if there are conflicts of interest or any concerns that there might be conflicts of interest.

5. During the period in which the visit is occurring and Commission action is pending, evaluation team chairs and team members are expected to refrain from any paid relationship with an institution for which they have been an evaluator.

COMMISSION MEMBERSHIP AND APPOINTMENT PROCEDURE

(Adopted January 1985, Revised January 1988, Revised, January 1992, Revised, June 1992, Revised, June 1996,
Revised, June 1999)

Membership. The Commission consists of nineteen members, all of whom are appointed by the Commission Selection Committee. One Commission member shall be selected from among the nominees of each of the following: the Chancellor of the California Community Colleges, the President of the University of Hawaii, the Accrediting Commission for Senior Colleges and Universities, and the Accrediting Commission for Schools in accordance with the WASC Constitution. At least five of the Commission members shall be faculty, at least five members shall represent the public interest, at least three members shall be administrators, at least one member shall represent independent institutions, and at least one member shall represent institutions in the Pacific Basin.

Term of Appointment. Commissioners are appointed for staggered three-year terms in accordance with the WASC Constitution, Article III. Section 3b. In every case, appointments are limited to two three-year terms unless the person is elected an officer for a term which extends beyond a sixth year, in which case an additional three-year term may be served. Regular appointments are effective on July 1 of the first year and end on June 30 of the last year of a Commissioner term.

A Commissioner appointed to a membership category defined by position or status is expected to maintain that status for the entire term. If the Commissioner's position or status changes during a term so that the Commissioner no longer meets the requirement for the category to which appointed, the Commissioner shall notify the Commission's chairperson or Executive Director in a timely manner. A Commissioner whose status has so changed is considered to have completed the term on the date that the new status is actually assumed.

The officers shall consist of a chairperson and a vice chairperson elected annually by the Commission. The term of office is limited to two years. The vice chairperson shall represent a different constituency from the chairperson and shall serve as chair-elect.

APPOINTMENT PROCEDURE

Vacancies Noted

The Executive Director shall inform the Commission at the winter meeting about terms of office due to expire at the end of the following June. In February a letter will be sent by the Director to chief executive officers, accreditation liaison officers, and district and local academic senate presidents of member institutions, to major organizations, and to individuals known to be interested. The letter shall announce vacant positions on the Commission and will indicate those positions occupied by Commissioners eligible for reappointment. Institutional and organizational representatives may submit nominations, and individuals may also submit applications. The notice will be distributed to organizations for inclusion in their publications. Applications are considered to be in effect for one year.

All applicants and nominees will be asked to submit the following by the published deadline (ordinarily in late April):

(1) A letter of application, stating their interest in the Commission

(2) A completed ACCJC data form

(3) Optional - A professional resume and/or letter of recommendation.

Selection Committee

Appointments for terms beginning July 1.

The Selection Committee, established pursuant to Section 3b of the WASC Constitution, shall meet to consider nominees and applicants and to make appointments to the Commission.

The chairperson of the Commission shall designate a member of the Selection Committee to serve as its chair.

The Executive Director shall serve as the nonvoting secretary to the Selection Committee.

Appointments Out of Normal Sequence

If a vacancy occurs after the meeting of the Selection Committee and before the winter Commission meeting, the Selection Committee will review the pool of applicants and nominations. If the Selection Committee determines that there is adequate representativeness in the pool, it will proceed with the appointments. If it determines that the pool is not adequate, the vacancy will be announced in and according to the process describe above.

PART IV

APPENDIX

ACCREDITATION AGENCIES AND RELATED ORGANIZATIONS

1. Western Association of Schools and Colleges*

The Western Association of Schools and Colleges (WASC) is one of six regional accrediting associations that cover the United States, whose purpose is continual improvement of education and cooperation among educational institutions and agencies.

WASC was formed July 1, 1962, for the purpose of evaluation and accreditation of schools, colleges, and universities in California, Hawaii, and Pacific Island areas.

WASC functions through a board of directors and three accrediting commissions. The board of directors consists of nine members, three of whom are elected by each of the WASC commissions. The board annually elects one of its members to be chairperson of the board and president of the Western Association of Schools and Colleges. It also elects a secretary-treasurer, who is usually the executive director of one of the three accrediting commissions.

The board of directors and the secretary-treasurer are responsible for the annual publication of the WASC Directory, which lists WASC-accredited and candidate institutions.

Each commission develops its own standards, procedures, and fiscal policies, under the authority of and subject to the approval of the WASC Board of Directors.

Those institutions which have been evaluated by commissions and have received approval are accredited by WASC. Any such accreditation shall cease whenever an institution is dropped from the accredited list of the association, or fails to pay its annual fees, or requests in writing that its accreditation be terminated.

The WASC office is located at 533 Airport Boulevard, Suite 200, Burlingame, CA 94010. Telephone (415) 344-4805, FAX (415) 375-7790. The WASC office is administrated by Donald G. Haught, Secretary-Treasurer.

*For the list of WASC candidate and accredited institutions, see the official WASC Directory.

The three accrediting commissions of the Western Association of Schools and Colleges are:

a. Accrediting Commission for Senior Colleges and Universities

Ralph A. Wolff is the Executive Director, and the Commission office is located at 985 Atlantic Avenue, Suite 100, Alameda, California 94501. The telephone number is (510)

748-9001.

b. Accrediting Commission for Community and Junior Colleges

Barbara A. Beno is the Executive Director, and the Commission office is located at 3402 Mendocino Ave Santa Rosa CA 95403. The telephone number is (707) 569-9177.

c. Accrediting Commission for Schools

Donald G. Haught is the Executive Director. The Commission office is at 533 Airport Boulevard, Suite 200, Burlingame, California 94010. The telephone number is (415) 696-1060.

2. Other Regional Commissions in the United States

Middle States Association of Colleges and Schools, Commission on Higher Education, 3624 Market Street, Philadelphia, Pennsylvania 19104. Telephone (215) 662-5606. Executive Director, Jean Avnet Morse.

New England Association of Schools and Colleges, Commission on Institutions of Higher Education, Charles M. Cook, Director; Commission on Vocational, Technical, Career Institutions, Richard E. Mandeville, Director, 209 Burlington Road, Bedford, Massachusetts 01730. Telephone (617) 271-0022.

North Central Association of Colleges and Schools, Commission on Institutions of Higher Education, 30 North LaSalle Street, Suite 2400, Chicago, Illinois 60602. Telephone (312) 263-0456, (800) 621-7440. Executive Director, Patricia A. Thrash.

Northwest Association of Schools and Colleges, Commission on Colleges, 8060 165th Avenue, NE, Suite 100, Redmond, Washington 98052 Telephone (425) 558-4224. Executive Director, Sandra Elman.

Southern Association of Colleges and Schools, Commission on Colleges, 1866 Southern Lane, Decatur, Georgia 30033. Telephone (404) 679-4500. Executive Director, James T. Rogers.

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES

CONSTITUTION

Revised July 2002

ARTICLE I. Name and Purpose

This organization shall be entitled WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES. Its purpose is to promote the welfare, interests, and development of elementary, secondary, and higher education through (1) improvement of educational programs, (2) close cooperation among the schools, colleges, and universities within

the territory it undertakes to serve, (3) certification of accreditation or candidacy status, and (4) effective working relationships with other educational organizations and accrediting agencies.

ARTICLE II. Accrediting Region and Certification

Section 1. The accrediting region of the Association consists of the states of California and Hawaii, the territories of Guam, American Samoa, Federated States of Micronesia, Republic of the Marshall Islands, Republic of Palau, Commonwealth of the Northern Marianas Islands, the Pacific Basin, and East Asia, and areas of the Pacific and East Asia where American/ International schools or colleges may apply, and such other areas as may apply to it for service, subject to approval by the Board of Directors.

Section 2. Any university, college, or school shall be certified by the Board of Directors as a candidate or accredited institution upon report of action taken by the appropriate Accrediting Commission. Any such certification shall cease whenever an institution resigns, is dropped from the accredited or candidate list of the Association, or fails to pay its annual fees by the date set by the appropriate Accrediting Commission for payment.

ARTICLE III. Organization

Section 1. The Board of Directors shall consist of nine persons, three to be selected for staggered three-year terms from and by each of the three Accrediting Commissions hereinafter named and described. One of each Commission's appointees shall be its Chair or Assistant/Vice Chair. The Board shall elect its Chair from among its members for a one-year term. The Chair may be re-elected for one additional one-year term. The Chair of the Board shall be the President of the Association. The Secretary-Treasurer of the Association shall be selected by the Board.

Section 2. The Board of Directors shall meet annually at such time as may be determined by the Board, and may hold other meetings at the call of the Chair or on the request of any three members of the Board of Directors.

Section 3. There shall be three Accrediting Commissions, as follows:

a. *Accrediting Commission for Senior Colleges and Universities.*

This Commission shall consist of up to twenty-five (25) members, but no less than eighteen (18) members, with the exact number set by the Commission from time to time. Commission members shall serve overlapping three-(3-)year terms, with a maximum of two terms (plus any partial term served as the result of the member being selected to fill a vacancy), as established by the Commission. The Commission shall elect one of its members to serve as Chair for a three-(3-)year term and one of its members to serve as Vice Chair for a one-(1-)year term. In the event the has served for the maximum two terms on the Commission prior to the expiration of his or her term as Chair, the Chair shall continue to serve on the Commission until his or her term as Chair

shall have expired. Commission members shall be elected by the presidents of the institutions accredited by the Commission according to Bylaws approved by the Commission.

Members of the Commission shall be allowed to complete their terms upon retirement from their institutions. Nonpublic Commissioners who lose their institutional base for any reason shall be ineligible to serve beyond the end of the academic year.

b. *Accrediting Commission for Community and Junior Colleges.*

This Commission shall consist of nineteen members, all of whom are appointed by the Commissioner Selection Committee. One Commission member shall be selected from among the nominees who represent community college interests provided by the chief administrative officer of each of the following: the California Community Colleges Chancellor's Office and the University of Hawaii Community Colleges Chancellor's Office. In addition, one Commission member shall be selected from among the nominees provided by each of the other Commissions to represent the Accrediting Commission for Senior Colleges and Universities and the Accrediting Commission for Schools. These nominees shall be sitting or former members of the Senior College or Schools Commissions, or individuals with demonstrated familiarity with the policies, procedures, and operations of the Accrediting Commission for Community and Junior Colleges. At least five of the Commission members shall be faculty, at least five members shall represent the public interest [as defined in USDOE §602.3], at least three members shall be administrators, at least one member shall represent independent institutions, and at least one member shall represent institutions in the Western Pacific. Commission representatives shall serve staggered three year terms.

Commission officers shall be selected by the Commission according to Bylaws approved by the Commission.

c. *Accrediting Commission for Schools*

This Commission shall consist of up to twenty-six persons selected by the Commission's Nomination Review Committee from candidates nominated by member organizations or the Commission. Not less than one-seventh of the persons selected shall be public members. Appointment shall be for staggered three-year terms. Representatives shall be nominated as follows:

- seven by the Association of California School Administrators;
- one by the California Teachers' Association;
- one by the California Federation of Teachers;
- one by the Hawaii Government Employees' Association;
- one by the California Association of Independent Schools;

- one by the Hawaii Association of Independent Schools;
- one by the East Asia Regional Council of Overseas Schools;
- three by the Western Catholic Educational Association, one of whom must be a practicing classroom teacher;
- one by the Pacific Union Conference of Seventh-day Adventists;
- one practicing classroom teacher on a rotational basis from the Hawaii public and private schools;
- one practicing classroom teacher from the California Association of Private School Organizations (CAPSO);
- one school board member by the California School Boards' Association;
- one parent by the California Congress of Parents and Teachers;
- non-school public members from business, community, or public organizations.

The California Department of Education and the Hawaii Department of Education will each have an ex officio seat on the Commission. The Commission shall determine which organizations shall be represented by voting Commission members, and which shall be represented by non-voting ex officio members.

If a change of status, which affects eligibility for constituency appointments of any of the above appointees occurs during the term of office, the individual may at the discretion of the appointing agency, serve the remainder of the term or may be replaced. A person completing a term after a change of status may not be reappointed.

Section 4. The Executive Director of each Accrediting Commission shall be appointed by the Commission. Changes in the size and composition of each Accrediting Commission may be made by the Commission with the approval of the Board of Directors. The composition of each Accrediting Commission shall be published in the annual Directory of the Association.

Section 5. Recognizing that the Board of Directors retains ultimate authority over administrative structures, budgets, fiscal policies, contracts and leases, including those entered into by the Accrediting Commissions, the Board will delegate actual management over such matters, including the actual review and approval of such matters, to the Commissions to the extent it deems prudent.

Section 6. Action taken by any Commission to deny or withdraw accreditation or candidacy shall be reported in writing to the WASC Board at it annual meeting.

ARTICLE IV. Criteria for Certification

Section 1. Each of the Accrediting Commissions shall adopt its own criteria, subject to

the approval of the Board of Directors of the Association. The criteria shall provide for the evaluation of each institution on the basis of the degree to which it is accomplishing the purposes and functions outlined in its own statement of objectives, and on the appropriateness of those purposes and functions for an institution of its type.

Section 2. The actions by each Accrediting Commission, subject to its review procedures and the appeals procedures provided for in Article VI, shall be final and shall be certified by the Board of Directors.

ARTICLE V. Duties of Officers

Section 1. The Chair of the Board of Directors shall preside at all meetings of the Board and shall have the right to vote on all issues that come before the Board for decision. As President of the Association, he/she shall be the official spokesperson for the Association, representing the Association in accord with policies established by each of the three Accrediting Commissions and the Board.

Section 2. The Secretary-Treasurer shall serve as the Secretary of the Board of Directors and shall maintain a complete file of Minutes and Board decisions. He/She shall receive from the Directors of the three Accrediting Commissions the lists of accredited and candidate institutions and shall provide for the publication of a total Association list of accredited and candidate institutions at least once each year.

Section 3. The Director of each of the three Accrediting Commissions shall maintain a careful record of the actions and decisions of the Commission, shall be responsible under the Commission's direction for the scheduling of accreditation visits, appointment of visiting committees, distribution of necessary accreditation materials, and for such other matters as the Commission may delegate to the Director for the effective administration of the accreditation program. Following each meeting of the Commission at which accreditation decisions are made, the Director shall promptly notify the Secretary-Treasurer of the Board of Directors of all changes in the list of accredited and candidate institutions. At its annual meeting the Board of Directors shall certify the list of accredited and candidate institutions submitted by each Accrediting Commission.

ARTICLE VI. Appeals

Section 1. The WASC Board of Directors shall elect annually a WASC Hearing Panel from which shall be selected a Hearing Board established for the purpose of deciding appeals by any institution against the decision of any of the WASC Commissions denying or withdrawing accreditation or candidacy. This Panel shall consist of twenty persons as follows: (1) five from elementary/secondary schools; (2) five from junior or community colleges; (3) five from senior colleges and universities; and (4) five lay members of governing boards. None of the twenty shall be a current member of an Accrediting Commission.

a. The Hearing Board shall consist of five persons, including at least one person from each of the above categories, selected on random basis from the Hearing Panel and

appointed, after such selection, by the WASC President. None of those selected shall have been involved in the accreditation process which resulted in the appeal. The Hearing Board shall elect its Chair from its own membership. Each member, including the Chair, shall have one vote.

b. Hearing Board members to replace those who are absent or have a conflict of interest shall be selected on the same random basis and appointed by the WASC President from the remaining members of the Hearing Panel.

Section 2. Costs. An institution making an appeal shall assume all necessary costs of the Hearing Board including the cost of any legal fees of the Hearing Board.

a. The WASC Board of Directors shall establish a differential deposit, depending upon whether the institution chooses to be represented by counsel in the conduct of the hearing. At the time it makes its appeal the institution shall declare whether or not it wishes to have an attorney conduct its portion of the hearing and represent it before the Hearing Board.

b. An institution making an appeal shall deposit at the time it files its appeal an amount to be established annually by the WASC Board of Directors [ten thousand dollars ($10,000)] with the Secretary Treasurer of the Western Association of Schools and Colleges if the institution wishes to conduct the hearing without the use of an attorney to represent it. If the institution wishes to have an attorney conduct its portion of the hearing and represent it before the Hearing Board the deposit shall be twenty-five thousand dollars ($25,000).

c. In the event the necessary costs exceed the amount of the deposit, the institution shall be responsible for the balance or, in the event the deposit exceeds the necessary costs, the institution shall receive a refund in the amount of the difference.

Section 3. If an institution after availing itself of any review or appeal procedures of its appropriate Commission, still believes itself aggrieved by that Commission's denial or termination of candidacy or accreditation, its governing board may appeal such action within thirty (30) calendar days of receipt of notice thereof to the President of the Western Association of Schools and Colleges through the appropriate Commission's Executive Director. During the period up to and including the appeal, the institution's status with the Commission shall remain the same as it was prior to the decision being appealed.

a. The President of the Western Association of Schools and Colleges shall then arrange a hearing at the earliest practicable date for the representatives of the institution before the Association's Hearing Board, established for this purpose as prescribed in Article VI, Section I of this Constitution.

b. This hearing shall be informal and conducted under rules and procedures established by the WASC Board of Directors. Those testifying shall not be placed under oath. Legal counsel may be present as advisors but they shall not conduct the case unless the

institution has filed a declaration at the time it filed its appeal, as provided in Article VI, Section 2, of this Constitution.

c. At least forty-five (45) calendar days before the time set for the hearing of such an appeal, the President (or Secretary-Treasurer) of the Western Association of Schools and Colleges shall cause notice of the time and place of the hearing to be mailed by registered or certified mail, return receipt requested, to the Chairman or President of the Governing Board of the institution with a copy to the chief executive. Proof of notice shall be made at the hearing.

d. Subject to limitations set forth below, representatives of the institution shall have an opportunity to present written documents, other evidence on the institution's behalf, oral testimony, and arguments. Representatives of the appropriate Commission and of the evaluation team shall have a similar opportunity to present evidence, oral testimony, and arguments on the Commission's behalf. Neither party shall have the right to subpoena or to call any witnesses from the other party.

e. The Hearing Board, in addition to considering evidence adduced at the hearing, will also consider the institution's self-study report, the evaluation team report, and all other material relied upon by the Commission in reaching the decision which is being appealed, including the reports filed as a result of any internal Commission appeal process.

f. The appeal shall be based on one or more of the following grounds: (1) there were errors or omissions in carrying out prescribed procedures on the part of the evaluation team and/or the Commission which materially affected the Commission's decision; (2) there was demonstrable bias or prejudice on the part of one or more members.

ARTICLE VII. Financing

Financial support for the work of the Board of Directors of the Association shall be obtained by equal assessment on each of the three Accrediting Commissions.

ARTICLE VIII. Amendments

Proposed amendments to this Constitution may originate with any of the Commissions or with the Board of Directors. Such proposed amendments, except those relating to the size and composition of a Commission (See Article III, Section 4), shall become effective upon approval by a two-thirds vote of each of the three Commissions and of the Board of Directors.

ARTICLE IX. Indemnification

The Association does hereby grant indemnification to any officer, director, commissioner, or other agent, or former officer, director, commissioner, or other agent, including but not limited to WASC employees and team members, for claims or actions asserted against said person arising out of acts or omissions alleged to have occurred

in connection with, or as a result of his or her activities as an officer, director, commissioner, or agent, of this Association, to the fullest extent permitted by law; provided, however, as follows:

a. If any claim or action is asserted or threatened to be asserted, as described in such statutes, the person requesting indemnification must give timely notice thereof to the President of the Association or the Chairperson of the Board of Directors;

b. If the person requesting indemnification is not successful on the merits of the action, the Board of Directors, the members, or the court must determine that the person acted in good faith, in a manner he or she reasonably believed to be in the best interests of the corporation, and without reason to believe his or her conduct was unlawful; and

c. Indemnification shall be provided herein only to the extent that valid and collectible insurance coverage under all existing policies of insurance held by the Association has been exhausted.

PROCEDURES AND INTERNAL POLICIES

I. Oversight by the WASC Board Over Commission Activities

Recognizing that the WASC Board of Directors (the "Board") retains the ultimate responsibility for the affairs of the corporation while at the same time recognizing the wide latitude which has been historically granted to the three Commissions, the Board establishes the following rules with respect to its oversight responsibilities. These rules are not intended to preclude the Board from taking further actions as it deems necessary in a particular instance to discharge its responsibility to govern the affairs of the corporation:

1. Each Commission shall be audited annually by an outside certified public accountant of the Commission's choice. Copies of the full audit report, including any "management letter" shall be provided by each Commission to the Board.

2. Each Commission shall annually develop and adopt an operating and, when necessary, capital budget. The budgets shall be reported to, reviewed by, and ratified by the WASC Board. Prior ratification shall not be necessary in order for a Commission to begin to implement its budget. Significant variances in expenses or revenues from the budget shall also be reported to the Board.

3. All Commission Manuals, Handbooks, Policies and amendments thereto shall be presented to the Board by the respective Commission for ratification. Prior ratification shall not be necessary in order for a Commission to begin to implement any policy, Manual, or Handbook.

4. Each Commission shall present for prior approval of the WASC Board any proposed capital expenditure larger than the reserves of that Commission.

II. Meeting by Conference Call

A special meeting of the Board may be requested for any reason by the chairs of at least two (2) of the Commissions of WASC. The Board may also meet and act by a meeting conducted by conference call.

III. Satisfying Extraordinary Litigation Expense

WASC recognizes the possibility that the organization may at some time in the future incur substantial costs rising from litigation against WASC. Such costs might involve substantial legal defense expenses or an adverse judgment with resulting damages, or both. WASC maintains liability insurance to protect WASC and its Commissions from such a possibility. However, defense costs might be incurred or an adverse judgment might occur which would not be covered by insurance. This might occur if: (1) insurance becomes unavailable in the future; (2) the adverse judgment or defense costs are in excess of insurance limits; or (3) the nature of the liability precludes coverage from the insurance policy. In such an instance, WASC would have to depend on its own internal financial resources to satisfy all or part of the defense costs or judgment. The purpose of this Policy is to set forth the manner in which the assets of WASC and its Commissions would be made available in this event.

1. The Commission responsible for the action giving rise to the litigation would be responsible to pay for all costs of defense, including legal expenses, and to satisfy the judgment through whatever means it might have at its disposal;

2. To the extent that the assets of the affected Commission were insufficient to satisfy the Commission's obligation under paragraph I above, the assets of the remaining Commissions would be available on an equal basis to cover these costs. To the extent that the assets of the three Commissions were insufficient to pay for these costs, any assets controlled by the WASC Board would become available.

3. To the extent that the assets of the Commissions not responsible for the adverse decision or of the WASC Board were employed as described of WASC's insurance in paragraph 2 above, the Commission responsible for the adverse judgment would be responsible to reimburse the other Commissions and the WASC Board for all such costs. Such reimbursement will be made as soon as practicable and according to a schedule developed by the Commissions and approved by the WASC Board.

IV. Term of the Chair of the Board

At its annual meeting, the Board shall elect its Chair from among its members for a one-year term. The Chair may be re-elected for one additional one-year term. The Chair's term will run from August 1 to July 31.

accjc1@pacbell.net

HANDBOOK OF ACCREDITATION AND POLICY MANUAL

Accrediting Commission for Community and Junior Colleges

Western Association of Schools and Colleges

3402 Mendocino Ave

Santa Rosa, CA 95403

(707) 569-9177

FAX (707) 569-9179

Revised Summer 2002

ACKNOWLEDGEMENTS

The Standards of Accreditation and Commission Handbook are refined over time and informed by the experience of hundreds of professionals who volunteer their time, their labors, and their wisdom to the work of the Commission. Institutional trustees, presidents, administrators, faculty members, staff, and students contribute their perspective through participation on evaluation teams, working on institutional self studies, serving on Commission Task Groups, and reviewing Commission papers.

A series of Task Groups organized around each of the major standards, augmented by special working groups drawn from the private institutions and from the institutional research community provided advice throughout the development period. In addition, presentations at conferences, workshops with system and institutional representatives, and discussions with Accreditation Liaison Officers provided more comment. Organizations and associations were invited to provide comment, and they responded with valuable suggestions.

The development of this Handbook was further enhanced by the work of a national committee of regional accreditation Associate Directors. This committee reviewed all current regional accreditation eligibility requirements and threshold accreditation standards. The Commission adopted and incorporated much of the work of this group into the 1996 Standards of Accreditation.

The Commission Editorial Board, chaired first by Robert D. Jensen and then by Constance M. Carroll, coordinated the development of the 1996 Standards of Accreditation. Members of that Board were Commissioners Barbara Beno, Carmen Maldonado Decker, J. Robert Evans, Celina Sau Lin Ing, and Bruce Smith. Commission Consultant Frances Conn was a constant source of substantive insight and editorial refinement. Associate Director Judith Watkins served as overall project coordinator and editor of the Handbook. Sue Lundquist and Mary Ann Hilmes prepared and proofread the material for publication.

PART I

INTRODUCTION TO THE 1996 EDITION

This handbook is intended for members of the community of community, junior, and specialized two year colleges. It is for the use of institutions under review, members of evaluation teams, and others who are concerned with good practice in associate degree- granting institutions.

California Community Colleges

Program and Course Approval Handbook

Chancellor's Office
California Community Colleges

September 2001

This handbook was produced under the direction of Victoria P. Morrow, Vice Chancellor for Educational Services and Economic Development, and Jose Michel, Dean of Curriculum Standards and Instructional Services. The principal author was Charlie Klein, Specialist in Academic Planning. The section on apprenticeships was written by Dr. Barry Noonan.

This handbook may also be viewed on the World Wide Web. Go to the Chancellor's Office web site at **www.cccco.edu**, click on "Divisions and Units," then "Educational Services and Economic Development," then "Curriculum Standards and Instructional Services."

For comments or questions about this handbook or about program or course approval, please contact Charlie Klein at (916) 322-6888, or e-mail to cklein@cccco.edu. For approval forms, status inquiries, or inventory research, please contact Stephanie Ricks-Albert, Curriculum Analyst, at (916) 323-3093, or e-mail to sricksal@cccco.edu.

Grateful acknowledgment is made to the representatives of the Academic Senate for California Community Colleges, Chief Instructional Officers of the California Community Colleges, and California Community Colleges Association for Occupational Education who provided valuable consultation in the preparation of this handbook. Thanks are also offered to Dr. Nancy Glock-Greuneich, principal author of the previous *Curriculum Standards Handbook*.

Table of Contents

INTRODUCTION i

I. CREDIT PROGRAM APPROVAL 1

Legal Authority 1

What Programs Need to Be Approved? 3

- Degrees and Majors 3
- Certificates 6
- Options 6
- Substantial Modifications 7
- Projected Programs 8

Types of Programs 9

- Occupational Programs 9
- Transfer Programs 10
- Conjoint Programs 11

Apprenticeships 12

Special Circumstances 13

- Transferred Programs 13
- Conversion of Center to New College 13
- Inactive Programs 14

Approval Criteria 15

- Appropriateness to Mission 15
- Need 16
- Quality 17
- Feasibility 18
- Compliance 18

Chancellor's Office Procedures 18

Role of CPEC 20

What Does Program Approval Authorize? 21

II. CREDIT COURSE APPROVAL 23

Local Approval and Chancellor's Office Approval 23

- Courses Part of an Approved Program 23
- Blanket Approval of Certain Stand-alone Courses 24
- Stand-alone Courses That Require Chancellor's Office Approval 26

Standards for All Courses 26

- Associate Degree Applicable Courses 27
- Nondegree-Applicable Credit Courses 29
- Relationship of Hours to Units 31
- Course Repetition 33
- Open Courses 36
- Transferable Courses 39
- Prerequisites 41

Special Courses for Students with Disabilities 44

III. OTHER CURRICULUM TOPICS **47**

Independent Study 47
Distance Education 47
Cooperative Work Experience Education 49
Community Services 49
Contract Education 51
Program Review 52
Curriculum Approval of New Centers and Colleges 54

APPENDIX A: FORMS AND INSTRUCTIONS FOR APPROVAL OF NEW PROGRAMS

- Application for Approval–New Occupational Program A-1
- Application for Approval–New Transfer Program A-21
- Request to Add New Option or Certificate Within Existing Program to Inventory A-37
- Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program) A-43
- Request to Add Projected Program to Inventory A-45
- Application for Approval–New or Revised Apprenticeship Program A-47

APPENDIX B: STATEMENT OF "GUIDING PRINCIPLES" FOR REVIEW OF DEGREE AND CERTIFICATE PROGRAMS, CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

APPENDIX C: APPLICATION FORM FOR APPROVAL OF STAND-ALONE COURSE

APPENDIX D: QUESTIONS AND ANSWERS ON STAND-ALONE COURSES; ADMINISTRATIVE MEMO ON STAND-ALONE COURSES

APPENDIX E: CHANCELLOR'S OFFICE CONTACTS

Introduction

This handbook is intended to assist California community college administrators, staff, and faculty who are responsible for designing new programs or courses, and submitting those programs or courses for approval. It is primarily oriented toward Chancellor's Office approval requirements, but also contains information relevant to local curriculum committees and Regional Occupational Consortia.

The Chancellor's Office is required by law to produce and distribute this handbook. The requirement was originally adopted as a statute by the Legislature in 1976. It is now contained in the California Code of Regulations, Title 5 (the regulations adopted by the Board of Governors of the California Community Colleges):

> **55000.5. Handbook; Monitoring and Review of Approved Courses and Programs**
>
> (a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.
>
> (b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

The present edition of this handbook replaces the *Curriculum Standards Handbook*, second edition, as revised March 1995, and all other earlier versions. It also replaces the *Course Standards Handbook* published by the Educational Standards and Evaluation Unit of the Chancellor's Office in July 1987.

Statements in this handbook are not law, except for the regulations and statutes quoted in it. If there is a conflict between something in this handbook and the language of law, the law prevails. However, colleges are expected to follow the procedures and instructions in this handbook to have curriculum approved by the Chancellor's Office.

Updates to this handbook will be supplied by the Chancellor's Office from time to time. As always, we welcome comments and suggestions from users on ways that the handbook could be improved. Please see the reverse of the title page for where to send such comments and suggestions.

The complete and current text of all regulations in the California Code of Regulations, including those referred to in this handbook, may be viewed on the World Wide Web at **www.calregs.com**. The complete text of all California statutes, including the Education Code sections referred to here, may be viewed at **www.leginfo.ca.gov**.

This handbook may be viewed on the World Wide Web. Go to the Chancellor's Office web site at **www.cccco.edu**, click on "Divisions and Units," then "Educational Services and Economic Development," then "Curriculum Standards and Instructional Services."

I. Credit Program Approval

Legal Authority

The Board of Governors, by statute, has statewide responsibility for approving all new instructional programs in community colleges. This mandate is one of the earliest and most basic legislative charges to the Board. Before 1968, approval of programs for junior colleges was the responsibility of the State Board of Education. When the Board of Governors of the California Community Colleges was created by the Legislature in 1968, this responsibility was transferred to the new board. It is now contained in Education Code Section 70901:

> **70901. Board of governors; duties; rules and regulations; delegation; consultation**
>
> (a) The Board of Governors of the California Community Colleges shall . . . perform the following functions:
>
> . . . (b)(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors. . . .

The Legislature also made the requirement for State approval part of the finance law for community colleges. This provision was part of the Education Code for many decades, but in 1991 it was shifted to the California Code of Regulations, Title 5:

> **58050. Conditions for Claiming Attendance.**
>
> (a) All of the following conditions must be met in order for the attendance of students enrolled in a course to qualify for state apportionment:
>
> (1) The course or the program of which it is a part must be approved by the Board of Governors in accordance with the provisions of Article 2 (commencing with Section 55100) of Subchapter 1, Chapter 6.
>
> (2) The course must meet the criteria and standards for courses prescribed by Section 55002. . . .

The Board of Governors has further adopted a "Minimum Condition" regulation regarding program and course approval. Minimum Conditions are selected areas of regulations that are considered particularly crucial and which may result in denial or reduction of State aid if violated. The Minimum Condition regulation on program and course approval is as follows:

> **51021. Curriculum.**
>
> Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community colleges. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

The Title 5 subchapter to which reference is made in the Minimum Condition above is titled "Program, Course, and Class Classification and Standards." Article 2 of that subchapter is titled "Approval of Courses, Programs and Classes." Within that article, the most important section for program approval is Section 55130, which sets forth the basic requirements for approval of a credit instructional program:

55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

This section, which provides the basic framework for Chancellor's Office program approval, has been administratively applied by the Chancellor's Office as will be explained in the following sections.

What Programs Need to Be Approved?

A "program" is defined by Title 5 as follows:

> **55000. Definitions.**
>
> For the purpose of this chapter, the following definitions shall apply:
>
> (a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.
>
> (b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.
>
> (c) "Class" means a community services offering.

In practice, however, the Chancellor's Office only approves certificates and degrees that community colleges wish to award to students. Degrees and certificates must be approved regardless of whether they are intended primarily for occupational students or primarily for transfer students. All degrees, certificates, and options that are subject to Chancellor's Office review are entered into the Chancellor's Office Inventory of Approved and Projected Programs when they are approved or authorized.

Recommended patterns of coursework for transferring, or achieving any other objective, are not subject to Chancellor's Office approval. Such patterns, although they may be locally referred to as "programs," are not entered into the Chancellor's Office Inventory of Approved and Projected Programs.

Degrees and Majors

All associate degrees and associate degree majors that may appear by name on a student transcript or diploma require Chancellor's Office approval. Thus, a program called "Associate in Science in Electronics Technology" requires approval, and so does a program called "Associate in University Studies–English Emphasis," as well as a degree called "Liberal Studies" or "Transfer Major." Each degree that may be separately named on the transcript or diploma requires separate approval.

All associate degrees in California are one of two general types, Associate in Arts or Associate in Science. There is no difference in law as to the requirements for the two, and no State guidelines on which majors should be assigned which type of degree. However, many colleges are guided by the language of a regulation applicable before

1983, which said that the Associate in Science was to be awarded for majors "in the fields of engineering, physical and biological sciences, or occupational curriculum."

Associate degree majors are required to be at least 18 semester units or 27 quarter units of coursework in a single discipline or related disciplines, as listed in the Taxonomy of Programs. However, for degrees intended to provide transfer students with lower-division general education, a distribution of general education coursework according to university requirements may be considered to satisfy this requirement.

There are also requirements in law for general education and for demonstration of competency in reading, written expression, and mathematics for the associate degree. The key sections of Title 5 regarding these requirements are as follows:

55805. Philosophy and Criteria for Associate Degree and General Education.

(a) The governing board of a community college district shall adopt policy which states its specific philosophy on General Education. In developing this policy governing boards shall consider the following policy of the Board of Governors:

The awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights. Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self-understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by the various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture, and the society in which they live. Most importantly, General Education should lead to better self-understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a regular basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

55806. Minimum Requirements for the Associate Degree.

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). It must

include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each part of (D). The remainder of the unit requirement is also to be selected from among these four divisions of learning or as determined by local option:

(A) Natural Sciences. Courses in the natural sciences are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general

education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

Certificates

All certificates that may appear by name on a student transcript, diploma, or completion award of any sort, and which require 18 or more semester units or 27 or more quarter units of coursework, require Chancellor's Office approval. Each certificate that may be separately named on the transcript or student award requires separate approval.

Certificates that require fewer than 18 semester units or 27 quarter units do not require Chancellor's Office approval.

When a college creates a set or sequence of certificates in a particular subject, arranged such that a student must complete one level before taking another, and the set or sequence as a whole requires 18 semester or 27 quarter units or more, then the entire set or sequence requires Chancellor's Office approval. For example, if a college offers the following certificates:

Multimedia, Basic (or Level I) – 16 units
Multimedia, Advanced (or Level II) – requires completion of Level I or equivalent skills and knowledge – 16 units

Then both Multimedia certificates require Chancellor's Office approval, since the program as a whole requires 32 units.

The Title 5 provision authorizing the award of certificates contains no specifics on how they should be structured:

55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

Options

New options, emphases, concentrations, specializations, strands, tracks and so forth also require Chancellor's Office review before they are offered, if they are intended to appear by name on student transcripts, diplomas, or awards. Again, this is true for both occupational and transfer programs. Some options, etc., represent "substantial

modifications" of a program that must be approved as if they were new programs, under the language of Title 5, Section 55130. Others represent minor variations on existing programs that do not require thorough Chancellor's Office review such as is given to a genuinely new program.

In the past, it has proven impossible to draw a clear defining line to tell which options are actually new programs for approval purposes, and which are not. For example, at one extreme it has been claimed that massive new programs in computer animation and multimedia are merely "options" under an existing computer science program approved in the 1970s. Such a claim is not based on curriculum reality, but on a desire to avoid Chancellor's Office program approval. At the other extreme, sometimes a college may wish to divide an existing high-unit certificate into smaller certificates representing levels through which a student can advance gradually, without changing the overall required coursework at all. This sort of "modularization" has occurred in industrial fields such as welding, in business fields such as office technology, and in other areas. Certainly the new certificates resulting from such a re-sequencing are not "new programs" in the usual sense.

To avoid futile debates about whether or not a particular new award is a "new program," the Chancellor's Office has adopted a form to be used for all options, concentrations, specializations, tracks, etc. that a college believes *do not* represent truly new, or substantially modified, programs. It is called "Request to Add New Option Or Certificate Within Existing Program To Inventory." (See Appendix A.) This form, which requires a minimal amount of information, may also be used for requesting the addition of new certificates in a program area where a college already has at least one approved certificate, or for requesting addition of a certificate in a program area where the college already has an approved degree, or for requesting addition of a degree major where the college already has an approved certificate.

If, after reviewing the "Request to Add New Option Or Certificate Within Existing Program To Inventory," the Chancellor's Office believes the additional option, certificate, or degree is actually a new or substantially modified program, it may request additional information from the college before making an approval decision. Such additional information may include any of the elements on the "Application for Approval–New Occupational Program," or the "Application for Approval–New Transfer Program," as applicable.

If an option, specialization, track, etc. is not intended to appear by name on a student transcript or award, then Chancellor's Office review is not required and the option will not be entered in the Inventory of Approved and Projected Programs.

Substantial Modifications

Pursuant to Title 5, Section 55130, a program that has been approved by the Chancellor's Office must be submitted for re-approval if it is "modified in any substantial

way." A program is considered to be substantially modified in any of the following situations:

- The goals and objectives of the program are substantially changed;
- The job categories for which program completers qualify are substantially different from the job categories program completers previously qualified for; or
- The baccalaureate major to which students typically transfer is different from the baccalaureate major students previously typically transferred to.

If a program that has been primarily transfer-oriented proposes to change to become primarily occupational, or vice versa, that is a substantial modification. However, if a transfer program proposes to add an occupational component, but not change its primary transfer orientation; or an occupational program proposes to add a transfer component, but not change its primary occupational orientation, that is not a substantial modification for purposes of State approval.

Changes that are made to keep a program current with changing job requirements, evolving applications of technology within the same occupation, or evolving knowledge within a particular field, are not necessarily substantial modifications for this purpose. There is no specific numerical standard for determining when a program modification is "substantial." The fact that the number of required units has increased from 20 to 32 does not necessarily mean a program has been "substantially modified" so as to require re-approval; and the fact that only two new courses have been added does not necessarily mean that a program has *not* been "substantially modified." Rather, the determination must be made according to the criteria mentioned above.

The Chancellor's Office has adopted a form for reporting non-substantial changes to existing programs that colleges wish to have reflected on the Inventory of Approved and Projected Programs, such as name changes, changes in unit requirements, and even T.O.P. code changes when they do not represent substantial changes in the nature of the program. It is called "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program." (See Appendix A.) Although a college may submit this form at any time, the Chancellor's Office will also conduct a periodic inventory update, offering colleges the opportunity to supply such update information for all their programs at once.

Projected Programs

Reporting projected programs for inclusion on the inventory, while not required by law, will assist the Chancellor's Office in planning and will make more complete information available to the public. A program's having been listed as projected does not change any requirement of Chancellor's Office approval before it is offered; however, it may facilitate concurrence by the California Postsecondary Education Commission (CPEC). A form to add projected programs to the inventory is included in Appendix A.

Types of Programs

Occupational Programs

An occupational program is one whose primary goal is preparing students for employment immediately upon completing the program, and/or upgrading employment skills. In keeping with the intent of the "open course" regulations (see p.36), occupational programs should not be designed exclusively for persons already employed by a particular employer or in a particular industry, unless the college also makes available a parallel or comparable program which would enable a student who is not already employed by that employer or in that industry to obtain entry-level employment.

The "Application for Approval–New Occupational Program" form should be used for these programs. The chief differences from the transfer program application are that more detail and justification regarding program need are required, and a recommendation for approval from the Regional Occupational Consortium is required.

There are ten Regional Occupational Consortia, composed of vocational education and economic development administrators, faculty, and staff from each college in the region. Their activities are funded by the Chancellor's Office from federal Vocational and Technical Education Act (VTEA) and Economic Development funds, and among their purposes are to increase collaboration among colleges, encourage regional planning, offer professional development, and promote marketing of community college occupational programs.

The Chancellor's Office requires the recommendation of the Regional Occupational Consortium mainly as a means of carrying out its responsibility for ascertaining the need for the proposed program in regard to other community colleges in the area, as specified by Title 5, Section 55130(b)(6)(A). The Chancellor's Office will rely heavily upon the advice of Regional Occupational Consortium in regard to the approval criterion of need. If the review of evidence of need is thorough at the regional level, Chancellor's Office approval will be expedited. This regional review also serves as a quality check, so colleges can be assured that the design of their program curriculum is along the lines of current good practice as judged by their professional peers.

However, the requirement for a recommendation from the Regional Occupational Consortium is not absolute. If a program has been refused a recommendation for approval by a Regional Occupational Consortium, and the college feels the refusal was unjustified or unfair, it may submit the program to the Chancellor's Office without a positive regional recommendation. But the burden of justification will be on the college to show why the application should be approved without a positive recommendation.

Justification of the need for new occupational programs is specifically required through a job market study, pursuant to the Education Code:

78015. Job market study; area; scope

(a) (1) The governing board of a community college district, prior to establishing a vocational or occupational training program, shall conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. The study shall use the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(2) The governing board of the community college district shall make copies of each job market study available to the public.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall determine, by resolution, whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Section 8092.

Some occupational programs also have a transfer component. An item is included on the "Application for Approval–New Occupational Program" for colleges to provide information on the transfer applicability of programs that are primarily occupational.

Transfer Programs

A transfer program is a degree, or degree major, that primarily prepares students to major in a particular university subject matter, or that primarily provides baccalaureate-level general education. The form "Application for Approval–New Transfer Program" should be used for these programs. The chief differences are that no labor market or employer survey information is necessary, and transfer documentation is required.

The appropriateness of these programs for transfer may be documented either according to a programmatic articulation agreement, or according to a specific comparison of the coursework required at the community college and the university. Please see the instructions for the application form. A recommendation from the Regional Occupational Consortium is not required for these programs.

Transfer programs range widely in scope, from narrow specialty majors (for instance, Microbiology) to broad general education programs (for instance, "Liberal Arts"). All degree majors, of whatever scope, that may appear by name on a student transcript or diploma, require Chancellor's Office approval.

Most transfer programs are degree majors; however, it is possible for colleges to offer certificates that are primarily of value to transfer students.

Conjoint Programs

In the past, a conjoint program was defined as one offered in a multi-college district, where one college offered the advanced major coursework and other colleges in the district offered only introductory coursework. This definition is no longer used.

A conjoint program is now defined by the Chancellor's Office as one offered collaboratively by two or more colleges, whether in the same or different districts (but usually within the same geographical region). Each college participating in a conjoint program receives authorization to award the certificate or degree. A single approval application is submitted, but individual cover application forms with all required signatures must be prepared by each participating college. There are two basic curriculum arrangements:

- Each participating college offers the identical or nearly identical curriculum pattern, and each offers all or nearly all the courses required for the program. The collaboration is in designing a uniform curriculum, and submitting a unified approval application. The colleges may or may not share some resources for the program.

- Participating colleges offer different parts of the curriculum needed to complete the program, and students must take some courses at one college and some courses at another. Colleges share program resources; there is really only one program, but more than one college is authorized to confer the program award.

Other combinations and variations may arise, as long as the application is essentially for a single curriculum. A conjoint application may not be used for more than one college to file a single application for approval of significantly different programs. The Chancellor's Office welcomes reasonable innovations within a conjoint framework, so as to make better use of our system's overall resources, especially in specialized occupational fields or geographically contiguous areas.

When a conjoint program application has been approved for a particular geographical area, another college in the same area may request to be added to the conjoint approval within no more than one year from the date when the original conjoint application was received by the Chancellor's Office, provided that the program the college wishes to offer is essentially the same, and evidence has been provided, as part of either the original application or the supplemental request, that the job market is sufficient to justify another college's offering the same degree or certificate.

Apprenticeships

Apprenticeship credit and noncredit offerings have some unique elements regarding curriculum approval and funding approval. All apprenticeship credit programs and noncredit courses must obtain Chancellor's Office approval for each college responsible for the offerings. This is specifically required by the annual Budget Act.

The apprenticeship curriculum offered by community colleges, adult schools, and regional occupational program centers is referred to as *related and supplemental instruction* (RSI) in the apprenticeship law and in the Budget Act. In apprenticeship circles one sometimes hears reference to "Montoya Funding" when talking about *related and supplemental instruction*, but in the law there is no mention of the term "Montoya Funding." Apprenticeship RSI can be described as follows:

> The Apprenticeship related and supplemental instruction (RSI) supplements the on the job training with classroom and laboratory instruction which is intended to provide the apprentice with an understanding of the theoretical bases of the trade or craft and/or develop the ancillary skills that enable the apprentice to successfully practice the trade in the world at large.

An employer who has an apprenticeship RSI program at an adult school or regional occupational program center can apply to move the program to a community college. If the college wants approval to offer the program, it must follow the procedures set forth in this handbook.

Because apprenticeships receive approval from another State agency (the Department of Industrial Relations), they are not sent to the California Postsecondary Education Commission (CPEC) for review. While this may expedite curriculum approval, the RSI approval may take additional time.

If the district intends to receive apprenticeship RSI funding, the Budget Act states that the program or courses must have the approval of the Chancellor's Office. Thus the district must receive from the Chancellor's Office both 1) curriculum approval; and 2) RSI funding approval. For both these approvals, the application must contain documentation that the apprenticeship has been approved by the Division of Apprenticeship Standards within the Department of Industrial Relations. The approval documentation must list the specific campus approved for the RSI, and must be signed by the Chief of the DAS or his designee.

Because funding of apprenticeship programs involves long range planning to provide adequate funding, it is important for the community college district to notify the Chancellor's Office apprenticeship coordinator as soon as the district decides to give the employer or program sponsor a letter of intent to be the Local Educational Agency (LEA). This notification is to be used when working with a new apprenticeship program or applying for the transfer of an existing program from another community college, adult school, or regional occupational program center.

Special Circumstances

Transferred Programs

As stated in Title 5 regulations, in a multi-college district, approval is granted only for the individual college. There is no difference in new program approval requirements resulting from the fact that another similar or identical program may already exist at another college of the same district.

However, if a district wishes to *transfer* a program from one of its colleges to another, all of the approval criteria required for a new program will not need to be addressed. In this case, the college proposing to offer the program should submit the appropriate application form (for a vocational or transfer program), with all required signatures and with the planning summary section completed. However, only the following approval criteria need to be addressed:

- Statement of Program Goals and Objectives
- Catalog Description
- Program Requirements
- Outlines of Records for Required Courses
- Recommendation of Regional Consortium (for vocational program)

In addition, the college should supply an explanation of the reason for the transfer of the program, and of any anticipated effects on other colleges.

This simplified approval procedure does not apply to the transfer of a program from one district to another. Such a case requires a regular new program approval application.

Conversion of Center to New College

It is anticipated that in the coming years a number of districts will apply to the Board of Governors for authorization to convert an existing educational center into a full community college. In such a case, it is necessary to establish a new inventory of approved programs for the new college.

The approved status of programs offered at a center derives from the approved status of those programs reflected on the inventory of the "parent" college. When a new college is converted from a center, it is not necessary to obtain new approvals for all programs. Rather, establishing a program inventory for the new college involves separating the approvals belonging to the parent college and the new college.

When a new college created from a center assumes independent existence (generally, when it receives separate accreditation or begins reporting data separately to the Chancellor's Office Management Information System), the college should provide the

Chancellor's Office Curriculum Standards unit with a list of all programs then being offered. An inventory of approved programs for the new college will then be established, based on those programs offered at the new college that had previously been approved for the parent college, plus any new approvals that have been given specifically for the new college.

However, the new college will start out with approvals only for those parent college programs that are then fully operational at the site of the new college. This means that all coursework necessary to complete the program is offered at that site. No parent college program approvals will be assigned to the new college "on spec," that is, on the hope or possibility that such a program will be set up at the new college a few years later. For example, if the parent college had an Industrial Technology program, but Industrial Technology was not offered as a full program on-site at the educational center before its conversion, then the new college will not receive an inventory authorization for Industrial Technology, even if it offers a few of the courses and plans to set up a full-fledged Industrial Technology program in the future. When the new college is actually ready to establish such a program, it must submit a request for approval.

Programs that are offered in full at both the parent college and the new college at the time of conversion (including academic majors and degrees) will be listed as approved on both inventories. However, any program that has only been offered in full at the center will be removed from the inventory of the parent college, even if the parent college plans to set up a full-fledged program of the same type on-site in the future. When the parent college is actually ready to establish such a program at its site, it must submit a request for approval.

At the time of converting a center to a new college, the approved status of all programs at both sites will be reviewed, and any degrees or certificates that have not been properly approved, at either location, will have to obtain approval before the Curriculum Standards unit will recommend approval of the new college.

Inactive Programs

A program approval is effective until the program is "discontinued," according to Title 5, Section 55130. To implement this provision, a program that is not currently offered may be retained for a maximum of three years on the Inventory of Approved and Projected Programs with an "Inactive" designation, if the college has a specific intention to offer the program again within the near future. The form "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)" (Appendix A, p. A-43) may be used to restore such a program to active status. Programs that have not been offered for more than three years will be removed from the inventory.

Approval Criteria

This section discusses the five criteria used by the Chancellor's Office to approve programs. A college must document that a proposed program meets all of these criteria before it will be approved. These criteria also broadly apply to the review of new courses.

These five criteria have been derived from statute, regulation, intersegmental agreements, guidelines provided by transfer institutions and industry, and the experience of those involved in the intersegmental and occupational review of courses, as well as the standards of good practice established in the field of curriculum design.

Appropriateness to Mission

The stated goals and objectives of the proposed program, or the objectives defined in the course Outline of Record, are consistent with the mission of the community colleges as established by the Legislature in the Education Code:

> **66010.4.Missions and function of public and independent institutions of higher education**
>
> The missions and functions of California's public and independent segments, and their respective institutions of higher education shall be differentiated as follows:
>
> (a) (1) The California Community Colleges shall, as a primary mission, offer academic and vocational instruction at the lower division level for both younger and older students, including those persons returning to school. Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree.
>
> (2) In addition to the primary mission of academic and vocational instruction, the community colleges shall offer instruction and courses to achieve all of the following:
>
> (A) The provision of remedial instruction for those in need of it and, in conjunction with the school districts, instruction in English as a second language, adult noncredit instruction, and support services which help students succeed at the postsecondary level are reaffirmed and supported as essential and important functions of the community colleges.
>
> (B) The provision of adult noncredit education curricula in areas defined as being in the state's interest is an essential and important function of the community colleges.
>
> (C) The provision of community services courses and programs is an authorized function of the community colleges so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions.
>
> (3) A primary mission of the California Community Colleges is to advance California's economic growth and global competitiveness through education, training, and services that contribute to continuous work force improvement.
>
> (4) The community colleges may conduct to the extent that state funding is provided, institutional research concerning student learning and retention as is needed to facilitate their educational missions . . .

Curriculum falls within the mission when designed to be taught to lower division students for credit towards the degree, for purposes of transfer, occupational preparation, or career supplementation or upgrade, rather than for avocational purposes. Non degree-applicable courses that develop the ability of enrolled students to succeed in college level courses, and adult noncredit instruction also fall within the mission.

For courses to be mission appropriate, they must not be designed primarily to provide group activities or services (e.g. physical activity, counseling, or assessment), but rather to provide systematic instruction in a body of content or skills whose mastery forms the basis of the student grade. Avocational, community service, and contract classes do not qualify for state funding, but may fall within the mission if they are self-supporting.

Problems with the mission-appropriateness of a proposed program do not arise often, but when they do arise, they tend to be serious problems for approval. Many instances of such problems are because:

- A program or course appears to be directed at the wrong level for community colleges; that is, to be directed either at the upper-division university level or at the primary or secondary school level; or
- A program or course appears to be primarily avocational or recreational.
- A program or course does not appear to address a valid transfer, occupational, or basic skills purpose.

Programs and courses should also be congruent with the mission statement and comprehensive or master plan of the college and district.

Need

There is a demonstrable need for a course or program that meets the stated goals and objectives, at this time, and in the region the college proposes to serve with the program.

For transfer curriculum, need is presumed to exist if there is student demand for a program or course and its transfer applicability for a university major has been demonstrated; i.e., if it has been shown that the coursework required for the community college program substantially satisfies the lower-division coursework requirements for the corresponding university major.

For programs that are primarily occupational, need must be demonstrated by supplying labor market information, an employer survey, and a job market analysis, or other comparable information that shows that jobs are available for program completers. In addition, a recommendation for approval must be obtained from the Regional Occupational Consortium.

The ordinary expectation is that labor market need must be shown within the service area of the individual college. However, if cooperative planning with neighboring colleges has occurred, labor market evidence for the region as a whole may be sufficient. (The boundaries of the 10 regions for vocational education, economic development, and workforce preparation purposes may be viewed on the World Wide Web at **http://www.cccco.edu/cccco/voced/Advisors/RC/rc.htm**.) Statewide or national labor market evidence may be included as supplementary support, but is not ordinarily acceptable in itself without specific service area or regional evidence of need. If the college believes the program has statewide or national importance and wishes to substitute statewide or national labor market evidence for local evidence, an explicit justification of why this is appropriate must be included.

Here are examples of the types of evidence of occupational need that may be submitted:

- Statistical projections of growth in specific jobs by county (or labor market area) from the Employment Development Department's Labor Market Information system.
- Employer surveys.
- Industry studies.
- Regional economic studies.
- Letters from employers.
- Minutes of industry advisory committee meetings.
- Job advertisements, from newspapers or the World Wide Web.
- Newspaper or magazine articles on industry or employment trends.
- Studies or data from licensing agencies or professional associations.

Further specifics on occupational need are found in the Instructions for completing the application form for approval of a new occupational program (Appendix A).

Quality

Outlines of Record for each course meet all the requirements of Title 5, especially Sections 55002 and 55805.5. (See "Standards for All Courses, " p. 26.)

The program is designed so that successfully completing the program requirements will enable students to fulfill the program goals and objectives.

Courses and programs are integrated, with courses designed to effectively meet their objectives and the goals and objectives of the programs for which they are required.

Feasibility

The college has the resources realistically to maintain the program at the level of quality described in the new program application. This includes funding, faculty, and facilities and equipment.

The college commits to offering all the required courses for the program at least once every two years, unless the goals and rationale for the particular program justify a longer time frame as being in the best interests of students.

In the case of courses, the college has the resources needed to offer the course at the level of quality described in the Outline of Record.

Compliance

The design of the program or the course is not in conflict with any law. This includes both state and federal laws, and both statutes and regulations. It includes laws particularly affecting community colleges, as well as any other law that may affect the program or course (for example, licensing laws in a particular occupation).

Some of the areas of law in which compliance conflicts have arisen include:

- Open course regulations
- Course repeatability regulations
- Regulations requiring active supervision by a qualified instructor.
- Statutes and regulations on student fees.
- Prerequisite and enrollment limitation regulations.
- Particular provisions of the practice act for a health occupation.
- Constitutional prohibitions against political and religious activities in public instruction.

Because a number of compliance problems have arisen in the areas of fees and program admissions procedures, the Chancellor's Office has added a section to the program approval application asking colleges to discuss the fees charged and the program admission policies in programs for which approval is requested.

Chancellor's Office Procedures

Three copies of each program approval application and all supporting materials must be submitted, for new occupational and transfer programs. Two copies of the form and all attachments must be submitted for the "Request to Add New Option or Certificate Within Existing Program to Inventory," and for apprenticeship approval applications. For "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)," only one copy of the form needs to be submitted.

The Chancellor's Office will carry out its initial review of applications for approval of new programs within no more than 60 days. (However, there is no authority for districts to assume that a program is approved if a response is not received within a certain time. Approval requires a positive response.) This 60 days does not include time that may be necessary to obtain missing information from the college if the original submission was not complete, or to obtain answers to questions relevant to approval if the initial submission did not fully answer the questions. Inquiries on the status of a program approval application should be directed to the curriculum analyst.

Approval applications will be reviewed by the specialist or program assistant in academic planning, who will make recommendations for approval or denial to the Dean of Curriculum Standards and Instructional Services. In addition, the Chancellor's Office may ask a person knowledgeable in the subject matter area of the proposed program to read the application and provide consultation, for purposes of securing understanding of the discipline, and expediting approval. This may be another specialist or other staff member within the Chancellor's Office, or any other person with appropriate subject matter expertise.

The Chancellor's Office may also provide a copy of a college's approval application to another college that requests to see applications in a particular subject matter area.

If the Chancellor's Office needs to contact the college to request information or discuss some aspect of the application, the specialist or analyst will contact the person who is listed on the application as the contact person. That is why it is important that the person so listed be the one who has the best knowledge of the program's background and details. However, when formal notifications are sent regarding the approval status of the program, they will be sent to the college's chief instructional officer, with copies to the contact person and any other appropriate parties.

The Chancellor's Office may take various actions in response to a program approval application:

- Approve – Program is entered on inventory with no expiration date.
- Deny – Application indicates major problems which prevent approval. No specific revisions which would result in approval are immediately apparent.
- Request changes before approving – This is effectively a denial, but revisions that would make the program approvable are apparent and are suggested. This is sometimes the case when specific compliance issues are found.
- Approve for a limited duration – If the Chancellor's Office believes the program requires a trial period, it may approve for a period of time and require a review report before that period expires, in order to decide on extension or permanent approval. Such a trial period might be from one to three years. Program is entered on inventory with an expiration date.
- Approve with a restriction – If the Chancellor's Office determines that the program is approvable overall but that a certain category of coursework or a

certain program element, if added, would make it unapprovable, the Chancellor's Office may approve subject to a restriction that that element or that category of courses may not be added.

It is expected, based on past experience, that the great majority of program approval applications will be approved. The Chancellor's Office believes that colleges have a right to have their new programs approved in a quick and efficient manner, unless they present specific problems affecting system or State interests. If a program is denied, it is always possible for a college to redesign and resubmit it.

At the same time, also based on past experience, it is predictable that a high percentage of program approval applications will arrive at the Chancellor's Office with some information or some required element missing, or inadequately explained. The college that is careful to ensure that all required signatures are provided, that all necessary copies and attachments are enclosed, and that each required section of the narrative is clear and adequate, will save itself and the Chancellor's Office much time and energy.

Role of CPEC

The California Postsecondary Education Commission (CPEC) is responsible for reviewing and providing a recommendation regarding approval for most new programs in any segment of public higher education, according to the Education Code:

> **66904. Legislative intent**
>
> . . . All proposals for new postsecondary educational programs shall be forwarded to the commission for review together with supporting materials and documents that the commission may specify. The commission shall review the proposals within a reasonable length of time, which time shall not exceed 60 days following submission of the program and the specified materials and documents. . . .

CPEC's response to program approval request is termed "concurrence" or "nonconcurrence." Although the Chancellor's Office has final approval authority, it will not ordinarily approve a program against CPEC's nonconcurrence. However, if CPEC is unable to complete its review and respond one way or another within sixty days, the Chancellor's Office will issue a final approval.

When the Chancellor's Office wishes to approve a program, it will send a letter to the chief instructional officer, notifying the college that the Chancellor's Office proposes to approve and has forwarded the application and supporting materials to CPEC. When CPEC has responded with concurrence or nonconcurrence, the Chancellor's Office will send another letter to the chief instructional officer, notifying the college of final approval, or of delay or denial of approval if CPEC's response indicates nonoccurrence. If CPEC has not responded within sixty days, the Chancellor's Office will send a letter of final approval in the absence of CPEC action.

Additional options or certificates within an existing program, and new apprenticeship programs, are not subject to CPEC review.

A statement of CPEC's principles regarding its role in the review of new programs is included as Appendix B.

What Does Program Approval Authorize?

Colleges that receive Chancellor's Office approval of a new program are authorized to:

- Collect State apportionment for the required courses and restricted electives that are part of the program. [Education Code Section 70901(b)(10), Title 5 Sections 55130, 58050.] Colleges that do not secure the required program approval are subject to loss of revenues through audit or administrative action.
- Award a degree or certificate with the designated title, and require specific courses for the completion of such degree or certificate. [Education Code Sections 70901(b)(10), 70902(b)(2).] Degree or certificate awards that are made in programs for which the required approval has not been secured will not be recognized as valid for any audit or accountability purpose.
- In past editions of this handbook, it was said that colleges require Chancellor's Office approval before publishing the description of a new program in the catalog or publicizing a new program in other ways. There is no direct legal authority for such a restriction. However, since there is a direct legal requirement for approval before the program is offered, colleges should generally not publish the fact that a program exists, before it is approved.

  In some cases, colleges have announced programs in a catalog or class schedule before Chancellor's Office approval has been obtained. Although there is no specific sanction against such an action, it is dangerous and the Chancellor's Office advises against it, since, if the program is not approved before the announced starting date, the college will not legally be able to offer it, and catalog or schedule users will have to be notified of the error. At a minimum, in any such case, the publication should carry a warning that the proposed program has not yet been approved.

Chancellor's Office approval of a program is formally recognized in two ways: by a final letter of approval from the Chancellor's Office to the chief instructional officer of the college, giving the unique program identifier number, and by the program's being entered on the Chancellor's Office Inventory of Approved and Projected Programs. Colleges should verify that both of these formal recognitions have been accomplished. The Inventory is accessible on the World Wide Web at:

http://www.cccco.edu/cccco/esed/curric/inventory.htm

The Web display will be brought up to date with the latest approvals every two weeks.

II. Credit Course Approval

Local Approval and Chancellor's Office Approval

Education Code Section 70901(b)(10) requires that the Board of Governors "Review and approve all educational programs offered by community college districts, *and all courses that are not offered as part of an educational program approved by the board of governors*" (emphasis added). In Title 5, Section 55100, the Board of Governors has delegated this approval responsibility to the Chancellor:

> **55100. Course Approval.**
>
> Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.
>
> (b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).
>
> (c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

"Except as provided . . . in Section 55160" refers to community services classes.

A course is considered to be "part of an approved program" when it is required or is on a list of restricted electives, specified by course name or number, from which students are required to choose to achieve a degree or certificate in a program approved by the Chancellor's Office.

A program is considered "approved by the Chancellor's Office" when it is listed as approved, and has been assigned a unique identifying code, on the Chancellor's Office Inventory of Approved and Projected Programs. The approved status of any program may be verified on the World Wide Web at

http://www.cccco.edu/cccco/esed/curric/inventory.htm.

Courses Part of an Approved Program

Pursuant to Title 5 Section 55100, the governing board of a community college district may establish policies for, and may approve, courses that are part of an approved program, without separate approval by the Chancellor's Office. However, local approval

of courses must include review by the curriculum committee established according to Title 5 Section 55002. The curriculum committee and the governing board should determine that the course meets the standards of Sections 55002, 55002.5, 55182, 55805.5 and all other applicable provisions of Title 5. In addition, all courses should be appropriate to the mission of the community college system, as defined in Education Code Section 66010.4 (see p. 15).

Blanket Approval of Certain Stand-alone Courses

When a course is *not* part of an approved program as defined above, it is sometimes referred to as a "stand-alone course." By law, stand-alone courses are subject to Chancellor's Office approval. However, the Chancellor's Office has determined that, under limited circumstances, review of each individual stand-alone course is not necessary to ensure reasonable State accountability. Therefore, blanket approval is provided in these circumstances.

The Chancellor's Office hereby waives individual approval of new stand-alone courses in the following categories only, and authorizes all colleges in the system to add such courses without individual course approval:

1) Courses in non-vocational T.O.P. codes, which are accepted for major requirements or general education requirements at any California State University or University of California campus. Courses that are only transferable for elective credit are not included in this blanket approval. When a new community college course, in a non-vocational T.O.P. code, has been identified as similar to a specific course offered for general education or major purposes at a CSU or UC campus, and the community college curriculum committee has applied for the course to be accepted for general education or major purposes at CSU or UC, or for the Intersegmental General Education Transfer Curriculum (IGETC), the community college shall automatically be entitled to offer the course for a period of no more than fifteen months from the date of approval by the curriculum committee, without separate course approval from the Chancellor's Office, while the course is evaluated by CSU or UC for articulation. After that period, if the course is accepted by CSU or UC, or for IGETC, it is authorized under the permanent blanket approval for such courses. If it is not accepted by CSU or UC, the course may not continue to be offered except with individual stand-alone approval from the Chancellor's Office. This automatic limited-duration approval applies only to courses that have been identified as similar to courses offered for general education or major purposes at CSU or UC. Other non-vocational stand-alone courses, even if intended for general education or major purposes, must either actually be accepted by CSU or UC, or be individually approved by the Chancellor's Office, before they are offered.

2) Courses in vocational T.O.P. codes, when the college has fewer than 12 semester units or 18 quarter units of stand-alone coursework in the same T.O.P. code.

3) Cooperative work experience courses (both occupational work experience and general work experience), provided that the district operates its work experience program in accordance with its cooperative work experience plan, as approved by the Chancellor's Office. (See "Cooperative Work Experience Education," p. 49.)

4) Experimental courses, special topics courses, and special study courses. These courses may be offered without individual Chancellor's Office approval, provided that a course outline of record for the category is on file locally, all regular local curriculum approval processes are followed, and the categories are used for the purposes intended. In general, an experimental course is one for which full information on some approval criterion, such as feasibility or need, cannot be determined until the course is actually offered on a trial basis. An experimental course should generally be submitted for approval as a regular course, or discontinued, within one year. A special topics course is one which employs a consistent disciplinary framework, but for which the specific focus may change from term to term. An example is a special topics literature course in which the focus is on a different author each term. If a particular topic is offered regularly, it should be approved as a separate course. A special study course is one that involves an individual student or small group of students in study, research, or activities beyond the scope of regularly offered courses, pursuant to an agreement among the college, faculty member, and student(s).

5) Mandated public safety training courses, offered specifically to satisfy certification requirements of the California Commission on Peace Officers Standards and Training, or the California Fire Service Training and Education System, provided such courses are conducted according to the curricula and standards approved and disseminated by those agencies. While this blanket approval shall apply to stand-alone courses of this type, the establishment of a public safety training academy requiring a sequence of coursework totaling 18 semester units or more shall continue to be considered establishment of an occupational program, subject to Chancellor's Office program approval.

Courses that are part of a program that has been disapproved by the Chancellor's Office are not included in the blanket approval, even if they otherwise fit one of the above criteria. Such courses may be submitted for consideration of individual stand-alone approval.

The curriculum committee should review each new course to see that it meets the standards of Title 5 regulations, and should also determine whether the course falls into one of the blanket approval categories. If it does not, or if it is part of a program that has been disapproved by the Chancellor's Office, it must be submitted individually to the Chancellor's Office for approval before being offered.

The Chancellor's Office may from time to time review a sample of stand-alone courses added to the curriculum under the conditions of this blanket approval. If unusual problems are found, the Chancellor's Office may cancel this authorization with respect to an individual college.

Stand-alone Courses That Require Chancellor's Office Approval

New courses not part of an approved program, other than those that fall into one of the categories given blanket approval above, must be submitted to the Chancellor's Office for approval before being offered. This includes all non-degree-applicable courses. By definition, these courses are not part of any approved program.

Stand-alone courses will be reviewed using the same five broad criteria that are used for program approval, and which are discussed starting on p. 15:

Mission
Need
Quality
Feasibility
Compliance

The Chancellor's Office will respond to requests for stand-alone course approval within 30 calendar days from the date the request is received by the Chancellor's Office. If no response is provided within 30 days, the course shall be approved. The 30-day response need not always be final approval or denial. In cases where unusual difficulties may arise, the 30-day Chancellor's Office response may be that additional time is required to resolve specific problems.

The form to apply for approval of a stand-alone course is in Appendix C of this handbook.

New procedures for approval of stand-alone courses were promulgated by an administrative memo in August, 2000. Subsequently, various questions were raised by persons involved in local curriculum procedures. The Chancellor's Office has published a set of questions and answers on this subject which are included as Appendix D of this handbook. These Q&A's can also be viewed on the World Wide Web. Go to the Chancellor's Office web site at **www.cccco.edu**, click on "Divisions and Units," then "Educational Services and Economic Development," then "Curriculum Standards and Instructional Services."

Standards for All Courses

It is the responsibility of the governing board of each community college district, under the Education Code, to approve courses offered in that district:

70902. Governing boards; rules and regulations; duties; authority; delegation.

. . . the governing board of each community college district shall do all of the following: . . . (2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

Title 5 of the California Code of Regulations further provides that every course must be recommended for approval by a curriculum committee before it goes to the governing board for approval:

55002. Standards and Criteria for Courses and Classes.

. . . (1) Curriculum Committee. The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

The curriculum committee and the governing board, and the district's and college's academic administrators (as delegated by the governing board) are thus together responsible for ensuring that regulatory standards are met for the applicable category of community college credit, and also that courses meet other standards, such as standards for university transfer, general education certification, and articulation for particular majors.

The Academic Senate for California Community Colleges has published a paper called "Components of a Model Course Outline of Record" (November 1995) which can be useful to curriculum committees in carrying out their responsibilities for course approval.

Associate Degree Applicable Courses

For any course that will apply toward the associate degree, Title 5 regulations require that the curriculum committee determine that the coursework is truly at a college level, and that the course incorporates critical thinking. Every course is required to have an official outline of record which includes specified elements:

55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of Section 55805.5 and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

. . . (2) The college and/or district curriculum committee shall recommend approval of the course for associate degree credit if it meets the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays, or in courses where the curriculum committee deems them to be appropriate, by problem solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course also requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short-term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity that require students to study independently outside of class time.

(D) Prerequisites and Corequisites. When the college and/or district curriculum committee, determines, based on a review of the course Outline of Record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course, then the course shall require prerequisites or corequisites that are established, reviewed, and applied in accordance with the requirements of Article 2.5 (commencing with section 55200) of this Subchapter.

(E) Basic Skills Requirements. If success in the course is dependent upon communication or computational skills, then the course shall require, consistent with the provisions of Article 2.5 (commencing with section 55200) of this Subchapter, as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary that the curriculum committee deems appropriate for a college course.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Conduct of Course. Each section of the course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Chapter 2 (commencing with Section 51000), sections 55761-55763 and 58161 of this Division.

There is also a description in Title 5 of the types of courses that may be considered associate degree-applicable. Courses that fall outside the categories listed in the regulation may not be offered for associate degree credit:

55805.5. **Types of Courses Appropriate to the Associate Degree.**

The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in Section 55002 (a) and that fall into the following categories to be offered for associate degree credit:

(a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.

(b) Courses that apply to the major in non-baccalaureate occupational fields.

(c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.

(d) All mathematical courses above and including Elementary Algebra.

(e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board, require entrance skills at a level equivalent to those necessary for the courses specified in sections (c) and (d) above.

In paragraph (b) of the section, the Chancellor's Office interprets the phrase "courses that apply to the major in non-baccalaureate occupational fields" to mean courses within a T.O.P. code designated as vocational, which are part of an approved program (degree or certificate), or are approved by the Chancellor's Office, either under a blanket approval, or by individual course approval.

Paragraph (e) of this section means that courses whose content is primarily English or mathematics, regardless of what the course is called or what department it is taught in, may not be applied for associate degree credit unless they are at a level comparable to the course whose completion satisfies the entrance requirements for transferable freshman composition (in the case of English), or comparable to elementary algebra (in the case of math). This rule applies to English as a Second Language as well as all other disciplines. For English and ESL, the standard is interpreted to mean that the course must require the student to write several full-length essays for it to be associate degree-applicable. Thus, courses whose primary focus is the acquisition of spoken English skills, or writing skills at the sentence and paragraph level, are not applicable to the associate degree.

Nondegree-Applicable Credit Courses

The category of credit, non degree-applicable courses was created by regulatory amendments adopted by the Board of Governors in 1986. Its primary purposes were two: to allow community colleges students to receive "workload credit" (which would apply toward maintaining the unit load necessary to receive financial aid) for

precollegiate basic skills (or "remedial") courses; and to safeguard the integrity of the associate degree by ensuring that such courses were not counted within the degree.

Title 5 prescribes that these courses must provide instruction in critical thinking, must prepare students to study independently outside of class, and must include reading and writing assignments. However, the course materials and level of difficulty do not have to be at the college level. In addition, the regulation includes a specific list of the types of courses appropriate for the non degree-applicable credit category:

55002. Standards and Criteria for Courses and Classes.

(b) Nondegree Credit Course. A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this section) and is approved by the district governing board and falls within one of the categories described in Subdivision (1) of this subsection.

(1) Types of Courses. Non-degree applicable credit courses are:

(A) Precollegiate basic skills courses as defined in section 55502(d) of this division

(B) Courses designed to enable students to succeed in college-level work (including, but not limited to, college orientation and guidance courses, and discipline-specific preparatory courses such as biology, history, or electronics) that integrate basic skills instruction throughout and assign grades partly upon the demonstrated mastery of those skills.

(C) Precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college-level occupational courses or programs

(D) Essential occupational instruction for which meeting the standards of section 55002(a) is neither necessary nor required.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the standards which follow. In order to be eligible for state apportionment, such courses must be approved (as courses not part of programs) by the Chancellor's Office as provided in section 55100 of this Division.

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in the subject matter and the ability to demonstrate that proficiency, at least in part, by means of written expression that may include essays, or, in courses where the curriculum committee deems them to be appropriate, by problem solving exercises or skills demonstrated by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course requires a minimum of three hours of student work per week, per unit, including class time and/or demonstrated competency, for each unit of credit, prorated for short-term laboratory, and activity courses.

(C) Intensity. The course provides instruction in critical thinking and generally treats subject matter with a scope and intensity that prepare students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses.

(D) Prerequisites and corequisites. When the college and/or district curriculum committee deems appropriate, the course may require prerequisites or corequisites for the course that are established, reviewed, and applied in accordance with Article 2.5 (commencing with section 55200) of this Subchapter.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside-of- class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students. Taken together, these course specifications shall be such as to typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives.

(4) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Division 2 (commencing with Section 5100), Sections 55761-55763 and 58161 of this Division.

Relationship of Hours to Units

Title 5 contains a regulation, carried over from a previous Education Code section originally enacted in the 1930s, that defines the relationship of hours of student learning time to units earned in a community college:

55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

This relationship applies to both degree-applicable credit and nondegree-credit courses. In this section, "recitation" includes the method of instruction usually called "lecture."

For purposes of classroom or laboratory time, an hour is defined by Title 5 fiscal regulations, Section 58023, as 50 minutes. However, for out-of-class study time, an hour retains its ordinary meaning of 60 minutes.

The essence of the relationship expressed in this section is that each unit of credit requires approximately 48 hours of student learning time. As a matter of standard university practice (but not as a matter of law), in traditional academic disciplines (such as English, history, mathematics, etc.), it is expected that one third of these hours will occur in the classroom ("recitation" or lecture), and two-thirds of them will occur outside the classroom ("study" or homework).

Thus, for a one-unit academic course, the following hours would normally be expected:

16 hours of classroom time
32 hours of homework
48 hours total student learning time

Many traditional academic courses award three units. The number of hours expected for such a course would be:

48 hours of classroom time
96 hours of homework
144 hours total student learning time

Many other combinations and schedules are possible. For instance, suppose a college offers an accelerated course that meets for two hours of lecture per day over ten days.

20 hours of classroom time
28 hours of homework must be assigned
48 hours total student learning time for one unit

Or an intensive weekend seminar could be offered and generate one-half unit:

16 hours of classroom time (two 8-hour days)
8 hours of homework must be assigned
24 hours total student learning time for one-half unit

It is not appropriate to offer accelerated courses that, by their design, would not permit the student to do the amount of out-of-class homework required to meet the hours-to-units relationship of Title 5.

These configurations illustrate the hours required for lecture-type courses in semester-length terms. For each unit of credit in a college using the quarter system, 10 2/3 hours of classroom time and 21 1/3 hours of homework would be expected in a lecture-type course. For a three-unit course on the quarter system, 32 hours of classroom time and 64 hours of homework would be expected.

Naturally, it is impossible to predict exactly how long it will take for any individual student to do a given amount of assigned study or homework; therefore, these ratios will not hold true for every individual. However, faculty are required to attempt to assign an

amount of homework that they believe would take the average student the requisite amount of time to complete.

In laboratory or activity courses, it has not traditionally been expected that the student will study outside the classroom. Therefore, the number of units earned is generally based entirely on the number of hours of laboratory or activity work performed on campus under the immediate supervision and control of a qualified academic employee. For example, 48 hours of chemistry laboratory (three hours per week over 16 weeks) earns one semester unit of credit, whereas the same number of hours of chemistry lecture would earn three units.

However, some community colleges have assigned a unit of credit for fewer than three hours a week of laboratory or activity, in certain courses where it is expected that students will do some homework, but not as much as in a traditional lecture course. For instance, in a computer applications course which is primarily laboratory, there may nonetheless be a certain amount of reading involved outside of class. The college might thus award one unit of credit for only two hours per week of hands-on computer instruction, as long as the instructor assigns one hour per week of out-of-class study. There is no prohibition against this practice. However, it must be used with caution, particularly in regard to transferable laboratory courses. In the natural sciences, it is standard university practice to base the number of units awarded only on the in-class hours. Any alteration of this relationship for such a course could jeopardize its acceptability for major or general education purposes at the four-year level.

In the California Community College system, the number of hours per unit is often expressed as slightly higher than the figures cited in this section. That is because, although the controlling regulation describes a 16-week semester, our finance laws require that our semesters average 17.5 weeks rather than 16 (and that our quarters average 11 2/3 weeks rather than 10 2/3). Therefore, the number of hours of lecture instruction for a three-unit course, for instance, is often cited as 51 to 54 (three hours per week for 17 weeks or 18 weeks), rather than 48. However, community colleges are authorized to reduce their instructional calendars by up to 15 days per year for "flex time" (faculty professional development activities). Most colleges do not use the maximum allowable 15 days for "flex time," but even one that did would remain in compliance with the hours-per-unit regulation, since the minimum learning time requirement is predicated on a term of 16 weeks.

Course Repetition

Title 5 "Standards of Scholarship" regulations provide that any course may be repeated if the student received a "D," "F," or "NC" grade the first time (see Sections 55761-55762). In addition, a district may allow a student to repeat a course even if he or she achieved a satisfactory grade (such as a "C") the first time, if certain justifying circumstances exist (see Section 55763). Another regulation in the "Fiscal Support" chapter of Title 5 specifies that State apportionment may only be claimed for one repetition in either of these circumstances.

Title 5, Section 58161 defines more precisely these circumstances and others under which such repetition may occur and may be claimed for State apportionment:

58161. State Apportionment for Course Repetition.

(a) Except as specifically authorized by statute or by this section, no state apportionment shall be allowed for the attendance of a student in a course in which the student has previously received a grade from the district.

(b) State apportionment may be claimed for the attendance of a student in a course in which the student has received a grade only if:

(1) The student is repeating the course to alleviate substandard work which has been recorded on the student's record. The term "substandard" shall be defined as course work for which the grading symbol "D," "F," or "N/C" has been recorded; or . . .

This paragraph establishes that any course may be repeated and State apportionment claimed once when the student has received a substandard grade the first time. No special notation need be put on the course outline of record to establish this; it is an across-the-board rule.

The following paragraphs establishes that a district may (but is not required to) allow a student to repeat a course and claim State apportionment once even if he or she received a satisfactory grade the first time, under certain circumstances. Students sometimes want to do this in order to boost their chances of admission to a selective program, or because recency is required for a prerequisite for entrance into a program:

58161. State Apportionment for Course Repetition (cont'd)

. . . . (2) The district finds that the student's previous grade is, at least in part, the result of extenuating circumstances. Extenuating circumstances are verified cases of accidents, illness, or other circumstances beyond the control of the student; or

(3) The district has determined that a student should repeat a course because there has been a significant lapse of time since the student previously took the course.

The attendance of students repeating a course as authorized by this subsection may be claimed only once for state apportionment.

However, Section 55763 provides that when a course is repeated under these paragraphs (the student did not receive a substandard grade the first time), the grade received for the repetition shall not be counted in calculating the student's grade point average.

In 1997, a provision was inserted in Section 55753 requiring districts to allow indefinite repetition "in instances when such repetition is necessary for a student to meet a legally mandated training requirements as a condition of continued paid or volunteer

employment," and to count the grades earned toward the g.p.a. This covers certain periodic recertification courses required of peace officers and emergency medical personnel, but may also apply in other occupations. Districts may require students "to certify or document that course repetition is necessary to complete legally mandated training." Concomitantly, a provision was placed in Section 58161 authorizing districts to collect apportionment for unlimited repetitions in these circumstances:

58161. State Apportionment for Course Repetition (cont'd)

. . . (c) When course repetition is necessary for a student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment, the district may claim state apportionment each time the student repeats the course.

Finally, the last paragraphs of the section establish that districts may designate certain types of courses as repeatable for apportionment up to three times under the semester system or five times under the quarter system, regardless of the grade previously received or the student's individual circumstances. (In other words, the student may take this type of course up to a total of four times or six times, depending on the college's calendar) Such courses must be specifically designated in the college catalog, and a system must be adopted to track students' repetitions:

58161. State Apportionment for Course Repetition (cont'd)

. . . (d) State apportionment for repetition of courses not expressly authorized by this section may be claimed in accordance with the following procedure:

(1) The district must identify the courses which are to be repeatable, and designate such courses in its catalog.

(2) The district must determine and certify that each identified course is one in which the course content differs each time it is offered, and that the student who repeats it is gaining an expanded educational experience for one of the following reasons:

(A) Skills or proficiencies are enhanced by supervised repetition and practice within class periods; or

(B) Active participatory experience in individual study or group assignments is the basic means by which learning objectives are obtained.

(3) The district must develop and implement a mechanism for the proper monitoring of such repetition.

(4) The attendance of students repeating a course pursuant to this subsection may be claimed for state apportionment for not more than three semesters or five quarters.

Physical education activity courses and performing and studio arts courses may be designated as repeatable under this regulation. Occupational courses may also be designated as repeatable if the course content is determined to differ each time the course is offered, and the other criteria of the section are met. (An administrative memo

clarifying the Chancellor's Office interpretation of the applicability of the repeatability regulations to occupational courses was issued January 2, 2001, and may be viewed on the World Wide Web at **http://www.cccco.edu/cccco/esed/curric/curriculum.htm**.) It is not the intent of the regulation that basic skills or ESL courses generally be eligible to be so designated. In those disciplines, where further skill needs to be developed, generally an additional course level should be offered.

The limitation of four semesters or six quarters applies to the total number of repetitions for any given activity, even if the college offers several levels of courses in that activity. As an example, a college may receive apportionment for a student's enrollment in tennis for a total of four semesters or six quarters, regardless of how the tennis courses are numbered. A student may not enroll for four times in each of Beginning Tennis, Intermediate Tennis, and/or Advanced Tennis. (Some colleges have arranged to allow individual students to continue participating in a physical education activity after this limit through the community services, or fee-supported, mode.) This administrative interpretation was promulgated by the Chancellor's Office in 1985. However, the interpretation was modified by another administrative memo in 1992, in regard only to courses in the arts:

> Section 58161(c) [now renumbered 58161(d)] of Title 5 of the California Code of Regulations will henceforth be interpreted to restrict all activity course repetitions to no more than three semester or five quarters per subject matter (as previously applied) or per course (irrespective of the number of repeats in other courses with a common subject matter) if and only if the course is part of a sequenced transfer curriculum in the visual and performing arts disciplines (music, fine arts, dance or theater arts). Applicable sequenced transfer curriculum shall include but not be limited to major performance ensembles.

There is a special exception to the limitations on course repetition for apportionment provided for Disabled Students Programs and Services (DSPS) special classes. It is contained in Title 5, Section 56029, and provides that the limitations do not apply:

> (a) When continuing success of the student in other general and/or special classes is dependent on additional repetitions of a specific class;
>
> (b) When additional repetitions of a specific special class are essential to completing a student's preparation for enrollment into other regular or special classes; or
>
> (c) When the student has a student educational contract which involves a goal other than completion of the special class in question and repetition of the course will further achievement of that goal.

Open Courses

Every community college is required, as a minimum condition of State aid, to place a statement on open courses in its catalog and class schedules:

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full-time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

The meaning of "open courses" is discussed more specifically in an article of Title 5 commencing with Section 58100. Following are some selected key sections from that article:

58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

The linkage of the "open course" concept to State apportionment is further reinforced by a subsection within the "Attendance Accounting Standards" article:

58051.5. Reports for Apportionment; Prohibited Classes.

(a) No community college district may claim for purposes of state apportionment any classes:

. . . (3) if such classes are not located in facilities clearly identified in such a manner, and established by appropriate procedures, to ensure that attendance in such classes is open to the general public, except that students may be required to meet prerequisites which have been established pursuant to Sections 55002, 55201 and 55202.

The open course concept means that no course is approvable if it is restricted to a particular group, such as employees of a particular company or organization, or students concurrently enrolled in a neighboring university, or persons of a particular ethnicity, or any other narrowly defined group. Furthermore, although a course may be designed primarily for persons in a particular group–as a common example, for persons already employed in a particular occupation–it is not approvable unless it is open to, and designed in such a way that it could also be of benefit to, other students. Thus, a course may be primarily intended for skills upgrading of persons already experienced in a particular occupation, but it must also be possible for a student in training for that occupation to take and benefit from the course (subject to legally established prerequisites).

Certain narrow exceptions to the open course rule are specified in law. These include enrollment preference for fire service personnel (Title 5, Section 58051[d]) and law enforcement trainees (Penal Code Section 832.3[c]), courses conducted in a jail or federal prison (Title 5, Section 58051.6), students who are part of a cohort concurrently enrolled in another specified course (Title 5, Section 58106), and apprentices in "related and supplemental instruction" courses (Labor Code Section 3076.3).

Transferable Courses

Community college courses may be transferable to a four-year college for different purposes: elective credit, general education, and/or major credit. Faculty, curriculum committees, and articulation officers share responsibility for determining and ensuring the transferable status of courses.

The predominant transfer-receiving institutions for California community colleges are the campuses of the California State University and the University of California. Under "Executive Order #167," the California State University has delegated responsibility, since 1973, to the community colleges to determine which courses shall be considered baccalaureate-level for elective transfer credit. By contrast, the University of California Office of the President reviews the determination of transferability course-by-course for that system; transferability for elective credit requires that the community college course be essentially equivalent to a course already offered on at least one of UC's campuses.

Executive Order #167 states in part:

> Courses from accredited institutions which do not offer bachelor's degrees [such as community colleges] will be accepted when such courses are identified in the catalog or other official publications as baccalaureate courses. Such identification must make clear that the course is considered to be of baccalaureate level and quality. No qualification may be attached to the designation. For example, it would *not* be acceptable to designate a course as being of baccalaureate level for the The California State University and Colleges or for particular fields of study.

The full text of the executive order may be viewed on the World Wide Web at **http://www.calstate.edu/tier3/EO/EO-167.pdf**.

A document prepared by the Academic Senate for the California State University ("Considerations Involved in Determining What Constitutes a Baccalaureate Level Course") provides some further guidance for transferability:

> **Course Expectations**
>
> 1) The course is presented in a manner that requires of students:
>
> a. a level of intellect, skill, prior knowledge, and maturity consistent with entry level collegiate expectations and the stated prerequisite(s), if any, for that course;
>
> b. learning skills and a vocabulary necessary to master the subject matter of a baccalaureate level course; and
>
> c. the capacity to think critically and to understand and apply concepts.
>
> 2) The course:
>
> a. treats subject matter with an intensity and pace that establishes an expectation for significantly greater learner independence than that required at the secondary level; and

b. requires the student to continue development of communication skills appropriate for higher education.

3) Coursework that:

a. enhances understanding of analytical, intellectual, scientific, or cultural concepts and traditions generally shall be considered baccalaureate level.

b. enhances understanding of occupational and professional fields usually requiring experience in higher education as prerequisite to employment in such fields may be considered baccalaureate level if it includes attention to appropriate theories and concepts.

c. provides instruction in occupational fields not usually requiring experience in higher education as prerequisite to such fields may be considered baccalaureate level if the primary emphasis is upon understanding the theories and concepts that underlie practice rather than only upon the development of technical skills required for immediate employment.

Challenges may be raised at CSU campuses to particular courses that are certified by a community college as transferable, but such challenges are not frequent. Transferability for elective credit, however, does not create any presumption of acceptance for general education or major purposes.

Decisions on transferability for equivalence to particular coursework required as part of a university major are made by departmental faculty and committees at each university campus. Major-specific articulation information for most campuses can be found in the database of the "Articulation System Stimulating Interinstitutional Student Transfer" (ASSIST), on the World Wide Web at: **http://www.assist.org**. In addition, the "California Articulation Number" (CAN), used in most community college catalogs, is a separate numbering system designed to identify comparable courses that may be used in lieu of lower division major requirements at CSU and some participating independent colleges and universities. A course may be assigned a "CAN number" after it has gone through the articulation approval process, and has been accepted for major requirements according to established CAN procedures. The CAN database is also available on the World Wide Web at: **http://www.cansystem.org**.

The four-year public segments have extensive requirements for general education. Identifying those community college courses that will be accepted by CSU or UC as satisfying their general education requirements is very important to the success of transfer students. For the University of California, the acceptability of a course for general education is predicated on the acceptability of the equivalent UC course, since each course transferred to UC has been identified, by staff review at the Office of the President, as essentially equivalent to an existing UC course. UC's general education requirements, moreover, vary greatly from campus to campus. For the California State University, general education requirements are standardized through statewide regulations. Procedures for certifying community college courses as meeting CSU's general education requirements are set forth in the CSU Chancellor's Executive Order 595, which is available on the World Wide Web at **http://www.calstate.edu/tier3/EO/EO-595.pdf.**

Before 1993 community colleges were permitted to self-certify courses as satisfying CSU general education categories. Since 1993, however, new courses intended for general education transfer have been reviewed for acceptability by CSU Chancellor's Office staff and a subcommittee of the CSU General Education Advisory Committee. This same subcommittee, with the addition of UC representatives, reviews the acceptability of community college courses for IGETC, the Intersegmental General Education Transfer Curriculum, which is accepted by both four-year public segments as an alternative pattern for satisfying lower-division general education requirements.

Determining the eligibility of a particular course for university transfer for all these purposes–elective credit, major requirements, and general education–is an essential part of the process of local course approval by the curriculum committee, generally with the assistance of a college articulation officer. For course outlines submitted to the Chancellor's Office, evidence of transferability is a quality criterion that is reviewed for all courses and programs in traditionally or potentially transferable disciplines.

Prerequisites

Title 5, Section 55002 requires, for degree-applicable courses, that when the curriculum committee determines that is necessary for student success, the course shall require appropriate prerequisites or corequisites, including prerequisite English or math levels. This section also states that curriculum committees may establish prerequisites or corequisites for non degree-applicable courses.

However, other Title 5 regulations have been adopted governing the manner in which prerequisites and corequisites may be established. These regulations establish that, with certain limited exceptions, prerequisites must be carefully scrutinized before they are established, to be certain that they are necessary and not discriminatory. Most prerequisites are subject to scrutiny through a process of "content review," but prerequisite English and math levels generally require a process of statistical research validation.

The application of the prerequisite regulations is linked to the Matriculation program and is overseen mainly by the Matriculation unit within the Student Services division of the Chancellor's Office. A document is available from the Chancellor's Office entitled "A Discussion of Title 5 Regulations Concerning Prerequisites, Corequisites, Advisories on Recommended Preparation, and Other Limitations on Enrollment" (August 1997), which may be useful to faculty or administrators dealing with these issues. In addition, the Academic Senate published a paper called "Good Practice for the Implementation of Prerequisites" (Spring 1997), which offers advice, examples, and proposed answers to questions concerning prerequisites. The Matriculation unit of the Chancellor's Office also has documents available pertaining to assessment testing procedures and other aspects of the Matriculation program.

Following is the key section of Title 5 concerning prerequisites. There are a number of other related sections that are discussed and may be found in the papers mentioned above.

55201. Policies for Prerequisites, Corequisites, and Advisories on Recommended Preparation.

(a) The governing board of a community college district may establish prerequisites, corequisites, and advisories on recommended preparation, but must do so in accordance with the provisions of this Article 2.5 55200-55202. Nothing in this subchapter shall be construed to require a district to establish prerequisites, corequisites or advisories on recommended preparation; provided however, that a prerequisite or corequisite shall be required if the course is to be offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E).

(b) A governing board choosing to establish prerequisites, corequisites or advisories on recommended preparation shall, in accordance with the provision of Sections 53200-53204 of this Division, adopt policies for the following:

(1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation. Such policies shall provide that in order to establish a prerequisite or corequisite, the prerequisite or corequisite must be determined to be necessary and appropriate for achieving the purpose for which is it being established. District policies shall also specify the level of scrutiny that shall be required in order to establish different types of prerequisites, corequisites, and advisories on recommended preparation. At a minimum, prerequisites, corequisites, and advisories on recommended preparation shall be based on content review, with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite being established. The policy shall provide that the types of prerequisites described in Subsection (e) may be established only on the basis of data collected using sound research practices. Determinations about prerequisites or corequisites shall be made on a course-by-course or program-by program basis.

(2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline, particularly those aspects of the course outline that are the basis for justifying the establishment of the prerequisite or corequisite.

(3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. These processes shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. These processes shall also provide for the periodic review of advisories on recommended preparation.

(4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite.

(c) Prerequisites or corequisites may be established only for any of the following purposes;

(1) the prerequisite or corequisite is expressly required or expressly authorized by statute or regulation; or

(2) the prerequisite will assure, consistent with Section 55002(a)(2)(D), that a student has the skills, concepts, and/or information that is presupposed in terms of the course or program for which it is being established, such that a student who has not met the prerequisite is highly unlikely to receive a satisfactory grade in the course (or at least one course within the program) for which the prerequisite is being established; or

(3) the corequisite course will assure, consistent with Section 55002(a)(2)(D), that a student acquires the necessary skills, concepts, and/or information, such that a student who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established; or

(4) the prerequisite or corequisite is necessary to protect the health and safety of a student or the health and safety of others.

(d) Except as provided in this Subsection, no prerequisite or corequisite may be established or renewed pursuant to Subsection (b)(3) unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established. A prerequisite or corequisite need not be so scrutinized until it is reviewed pursuant to Subsection (b)(3) if:

(1) it was established prior to July 6, 1990, and is part of a sequence of degree-applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of this regulation, in accordance with regulations in effect during this period of time; or

(3) it is required by statute or regulation; or

(4) it is part of a closely-related lecture-laboratory course pairing within a discipline; or

(5) it is required by four-year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 50002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or corequisite have been met. The requirements of this subdivision related to collection of data shall not apply when:

(1) four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

(2) the prerequisite or corequisite is required for enrollment in a program, that program is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

(A) colleges in at least six different districts have previously satisfied the data collection requirements of this subdivision with respect to the same prerequisite or corequisite for the same program; and

(B) the district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall be resolved in a timely manner and, if the challenge if upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites or corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

Special Courses for Students with Disabilities

Some classes for disabled students are simply sections of existing courses. In such a case, the class is taught in accordance with the regular outline of record for that course, but the teaching methods or materials are supplemented to accommodate stated disabilities.

Special classes may also refer, however, to distinct courses with their own outlines of record, designed either to meet educational objectives unique to a population with specific disabilities, or to supplement the standard objectives in an otherwise similar course, with objectives unique to that population.

In either case, special classes–like all courses and sections of courses–must be primarily instructional in nature and must have objectives that fall within the instructional mission of the California Community Colleges. Such courses cannot be designed primarily to provide group activities or services, (e.g. physical activity, counseling, or

assessment) but must provide systematic rather than incidental instruction in a body of content or skills whose mastery forms the basis of the student grade.

Courses designed to meet the needs of students with specific functional limitations "shall be open to enrollment of students who do not have disabilities" (Title 5, Section 56028). The course description published in the college catalog may note that it has been designed for students with specific disabilities, but it may not restrict enrollment to such students, nor require students to register for classes through the DSP&S program or counselor, nor otherwise violate the open-enrollment provisions of State law (Title 5, Section 51006).

Sections of courses in the regular curriculum that are merely adapted to enable students with disabilities to meet the regular course objectives in alternative ways do not require separate Chancellor's Office approval.

New DSP&S courses generally require approval by the Chancellor's Office according to the procedures for stand-alone courses, as they are not by definition generally "part of an approved program."

Title 5 contains definitions and specific provisions related to approval of DSPS courses:

56028. Special Class Instruction.

Special classes are instructional activities offered consistent with the provisions of Section 56000 and designed to address the educational limitations of students with disabilities who are admitted to the institution pursuant to Education Code Sections 76000 et seq. and who would be unable to substantially benefit from regular class college classes even with appropriate support services or accommodations. Such classes generate revenue based on the number of full-time equivalent students (FTES) enrolled in the classes.

Such classes shall be open to enrollment of students who do not have disabilities. However, to qualify as a special class, a majority of those enrolled in the class must be students with disabilities. Special classes offered for credit or noncredit shall meet the applicable requirement for degree credit, non-degree credit, or noncredit set forth in Sections 55002 and 55805.5 of this part. In addition, special classes shall:

(a) Be designed to enable disabled students to compensate for educational limitations and/or acquire the skills necessary to complete their educational objectives;

(b) Employ instructors who meet minimum qualifications set forth in Section 53414 of this division.

(c) Utilize instructional methods, or materials specifically designed to address the educational limitations of students with disabilities. Curriculum committees responsible for reviewing and/or recommending special class offerings shall have or obtain the expertise appropriate for determining whether the requirements of this section are satisfied.

(d) Utilize student/instructor ratios determined to be appropriate by the district given the educational limitations of the students with disabilities enrolled in each class. Class size should not be so large as to impede measurable progress or to endanger the well-being and safety of students or staff.

Section 56029 further allows extended repetitions of DSPS courses under certain circumstances. (See p. 36 for specific language.)

In summary, DSP&S course outlines of record should:

- Specify what disability or disabilities the course is designed to address;
- Clarify what objectives the course is to fulfill as they relate to these disabilities;
- Show why a special course is needed to meet this need, rather than its being met through accommodation in a regular course;
- Specify how it will be determined that the objectives have been achieved;
- Explain what disability-specific instructional methods, materials, equipment, etc. will be used and why.

III. Other Curriculum Topics

Independent Study

Independent study is a mode of instruction in which students are not required to be under the immediate supervision and control of a qualified academic employee. Apportionment for independent study is calculated based on the academic units the student earns, rather than on the student contact hours (classroom or laboratory time).

Independent study includes courses conducted through television, radio, and correspondence. It also includes individual study as arranged between student and faculty member, with approval of the college (sometimes called "special study," "tutorial," or "individual study"). Distance education courses conducted "on-line" may or not be considered independent study for apportionment purposes, depending on how they are conducted.

Distance Education

All distance education is governed by the provisions of the Title 5 subchapter on Independent Study in regard to academic issues. However, if a distance education course is fully interactive (such as a course that uses real-time interactive television, or real-time interactive Internet communication), and conducted with regularly scheduled hours similar to what would be offered in a classroom setting, then it may not be considered independent study for apportionment purposes, but considered instead a regular "census" course.

Title 5 regulations specify that course quality standards apply to distance education in the same manner as for regular classroom courses, and that each course delivered via distance education must be separately approved as such through local curriculum approval processes. In addition, the regulations require regular effective contact between instructors and students. The Academic Senate for California Community Colleges has published a set of "Guidelines for Good Practice: Effective Instructor-Student Contact in Distance Learning" (Spring 1999).

Title 5 regulations on distance education are contained in Sections 55370-55380:

55370. Definition and Application.

Distance education means instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology.

All distance education is independent study, and subject to the general requirements of Article 1 as well as the specific requirements of this Article. Provided however, that fully interactive distance education courses, as defined in guidelines adopted by the Chancellor, shall not be considered independent study for purposes of calculating state apportionment pursuant to Section 58003.1. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the Americans with Disabilities Act (42 U.S.C. Sec. 12100 et seq).

55372. Course Quality Standards.

The same standards of course quality shall be applied to distance education as are applied to traditional classroom courses, in regard to the course quality judgments made pursuant to the requirements of Section 55002 of this Part, and in regard to any local course quality determination or review process.

55374. Course Quality Determinations.

Determinations and judgments about the quality of distance education, under the course quality standards referred to in Section 55372, shall be made with the full involvement of faculty in accordance with the provisions of Subchapter 2 (commencing with Section 53200) of Chapter 2 of Division 4 of this Part.

55376. Instructor Contact.

In addition to the requirements of Section 55002 and any locally-established requirements applicable to all courses, district governing boards shall ensure that

(a) All approved courses offered as distance education shall include regular effective contact between instructor and students, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, telephone contact, correspondence, voice mail, e-mail, or other activities.

(b) All distance education courses shall be delivered consistent with guidelines issued by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors. Regular effective contact is an academic and professional matter pursuant to Title 5, Section 53200.

55378. Separate Course Approval.

Each proposed or existing course if delivered by distance education, shall be separately reviewed and approved, according to the district's certified course approval procedures.

55380. Faculty Selection.

Instructors of sections delivered via distance education technology shall be selected by the same procedures used to determine all instructional assignments. Instructors shall possess the minimum qualifications for the discipline into which the course's subject matter most appropriately falls, in accordance with Article 2 of Chapter 4 of Division 4 of this Part (commencing with Section 53410), and with the list of disciplinary definitions and requirements adopted by the Board of Governors to implement that Article, as such list may be amended from time to time.

Cooperative Work Experience Education

Cooperative work experience education is another exception to the usual requirement that state-reimbursed community college education be under the immediate supervision and control of a qualified academic employee. Apportionment for this mode of instruction is based on the number of hours of employment, paid or non-paid, that a student works during a term, in a job that offers opportunities for on-the-job educational experiences.

There are two types of cooperative work experience education. "General work experience education" is supervised employment intended to assist students in acquiring desirable work habits, attitudes and career awareness. It need not be related the student's specific educational goals. "Occupational work experience education" is supervised employment where on-the-job learning relates to the student's specific educational or occupational goal. A student may earn up to a maximum of 16 semester units or 24 quarter units of both types of work experience education combined.

A college that offers cooperative work experience must provide certain services, including supervision by a qualified instructor or coordinator, written evaluation of students' progress, consultation with employers, and other elements. Units of work experience must be earned in certain patterns described in regulations.

Title 5 regulations covering cooperative work experience education are contained in Sections 55250-55257. The Chancellor's Office has also published a handbook on this subject: "Cooperative Work Experience Education Management Handbook" (1994).

When work experience education is reported in the Chancellor's Office Management Information System, the Taxonomy of Programs (T.O.P.) code 4930.10 should be used for general work experience education. Occupational work experience should be reported in the same T.O.P. code as the program of which it is part; e.g., occupational work experience in the area of automotive technology should be reported in T.O.P. code 0948.00; occupational work experience in computer information systems should be reported in T.O.P. code 0701.00, etc.

Community Services

Community colleges are authorized by statute and regulation to offer community services classes, which are defined as "classes in civic, vocational, literacy, health, homemaking, technical and general education, including, but not limited to, classes in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics." There is no restriction against offering avocational, recreational, and personal development subject matters in the community services program. Community services classes are not the same as noncredit courses. They do not require approval from the Chancellor's Office and are not connected with any approved program.

Community colleges do not collect any state apportionment for community services offerings. They must charge students in these classes a fee sufficient to cover the cost of maintaining the classes, or they may provide community services classes by contract, or with contributions or donations from individuals or groups.

Community college districts are also prohibited from spending state general fund moneys to maintain community service classes. Thus these classes must be fully self-supporting, but, conversely, fees are not permitted to exceed the cost of maintaining the classes. The Board of Governors, pursuant to statute, has adopted guidelines to define the acceptable costs for which a community services fee may be charged (BOG Agenda, May 1985, Item 5).

The statutory authorization for community services offerings may be found at Education Code Section 78300:

> **78300. Authorization; topics; admission; funds; fees.**
>
> (a) The governing board of any community college district may, without the approval of the Board of Governors of the California Community Colleges, establish and maintain community service classes in civic, vocational, literacy, health, homemaking, technical and general education, including, but not limited to, classes in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics. These classes shall be designed to provide instruction and to contribute to the physical, mental, moral, economic, or civic development of the individuals or groups enrolled therein. (b) Community service classes shall be open for the admission of adults and of those minors as in the judgment of the governing board may profit therefrom. (c) Governing boards shall not expend General Fund moneys to establish and maintain community service classes. Governing boards may charge students enrolled in community service classes a fee not to exceed the cost of maintaining community service classes, or may provide instruction in community service classes for remuneration by contract, or with contributions or donations of individuals or groups. The board of governors shall adopt guidelines defining the acceptable reimbursable costs for which a fee may be charged and shall collect data and maintain uniform accounting procedures to ensure that General Fund moneys are not used for community services classes.

The Title 5 reference is Section 55160:

> **55160. Approval of Community Service Classes.**
>
> (a) Districts are authorized in accordance with the provisions of article 7 (commencing with section 78300) of chapter 2, part 48 of the Education Code to approve and conduct community services classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with Section 55001.
>
> (b) Community services classes shall not be referred to as noncredit classes.

Title 5 also includes a definition of community services classes and the standards they must meet:

55002. Standards and Criteria for Courses and Classes.

. . . (d) Community Services Class. A community services class is a class that meets the following minimum requirements:

(1) is approved by the local district governing board;

(2) is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein;

(3) provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students;

(4) is conducted in accordance with a predetermined strategy or plan;

(5) is open to all members of the community; and

(6) may not be claimed for apportionment purposes.

Contract Education

Community colleges are authorized to conduct contract education offerings, to meet the specific training needs of private corporations or other public agencies. This authorization is contained in Education Code Section 78021:

> **78021. Establishment of programs; recovery of costs; calculating average daily attendance.** The governing board of any community college district may establish, or with one or more community college districts may establish, contract education programs within or outside the state by agreement with any public or private agency, corporation, association, or any other person or body, to provide specific educational programs or training to meet the specific needs of these bodies.
>
> The contracting community college district or districts shall recover, from all revenue sources, including, but not limited to public and private sources, or any combination thereof, an amount equal to, but not less than, the actual costs, including administrative costs, incurred in providing these programs or training.
>
> The attendance of students in these contract education programs shall not be included for purposes of calculating the average daily attendance for apportionment to these districts, unless all statutory and regulatory conditions for generating average daily attendance are met.

Most contract education offerings do not generate State apportionment, because they are customized offerings paid for by businesses for their employees. Since they do not generate apportionment, they are not required to be open to any student admitted to the college. There are also other statutory or regulatory conditions for apportionment that do not apply to contract education.

The majority of contract offerings do not carry community college credit. They are referred to as "not-for-credit classes." (The term "noncredit" is reserved for State-

authorized and State-funded adult education courses in specific categories authorized by law.) However, contract education classes may carry community college credit, if they meet the same quality standards as equivalent courses taught within the State-funded curriculum. Some may generate apportionment, if they are open to any student of the college and meet all other legal requirements.

Approval of contract education classes is covered in Title 5:

> **55170. Contract Classes.**
>
> (a) Notwithstanding subdivision (c) of section 55000, "contract classes" means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association, or other body or person.
>
> (b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law.

This regulation means that Chancellor's Office approval is not required for a non-apportionment-generating contract class, even if it results in college credit. However, the Chancellor's Office advises that contract classes that result in credit, whether they generate apportionment or not, should be required to be approved by the college or district curriculum committee, applying the same quality standards as for other credit courses.

Program Review

Title 5 regulations give the Chancellor's Office the authority to review established programs:

> **55130. Approval of Credit Programs.**
>
> . . . From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

The Chancellor's Office has never been staffed sufficiently to carry out post-approval program reviews in a regular fashion. However, several times during its history the Chancellor's Office has collected information from all colleges on the processes for and/or the results of locally conducted program reviews. In doing so, the agency has relied on another section of Title 5, this one a "minimum condition" regulation (i.e., a condition that must be met for a community college district to receive State apportionment):

51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

In addition, the Education Code specifically requires regular review of the effectiveness of vocational programs:

78016. Review of program; termination

(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to ensure that each program, as demonstrated by the California Occupational Information System, including the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) This section shall apply to each program commenced subsequent to July 28, 1983.

(e) A written summary of the findings of each review shall be made available to the public.

Review of instructional programs on a regular basis, and according to a regular procedure, is mandated not only by Title 5 regulations and Education Code statutes, but also by the standards of the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges. Several accrediting standards speak to institutional planning, research, and design of instructional programs; however, the most direct requirement for program review is Standard D.1:

D.1 The institution has clearly defined processes for establishing and evaluating all of its educational programs. These processes recognize the central role of faculty in developing, implementing, and evaluating the educational programs. Program evaluations are integrated into overall institutional evaluation and planning and are conducted on a regular basis.

A report is available from the Chancellor's Office, entitled "Instructional Program Review in California Community Colleges" (June 1991), which summarizes the results of an analysis of all local program review procedures in place during 1990-91. This report identifies and provides examples of several different "genres" of review policies used in different districts: the "productivity" genre, the "planning" genre, the "directive accreditation" genre, and the "nondirective accreditation" genre.

The Academic Senate for California Community Colleges also has produced documents on program review. An ad-hoc research subcommittee produced a report entitled "Toward an Acceptable Program and Services Review" in 1988, which outlines several models of program review. And the Senate adopted a paper in Spring 1996 entitled "Program Review: Developing a Faculty Driven Process," which emphasizes the governance and procedural aspects of program review. "Processes for program review" is one of the areas in which districts governing boards are required by Title 5 (Sections 53200 and 53203) to consult collegially with local academic senates.

At present there is no standard officially recommended model, or selection of models, for how program review should be conducted in our system. There is an imperative, however, that every college must conduct an effective review of its instructional programs on a regular basis.

Curriculum Approval of New Centers and Colleges

Approving or disapproving plans for new facilities is one of the basic responsibilities of the Board of Governors, according to its original authorizing statute (Education Code Section 70901) and the Community College Construction Act (Education Code Section 81800 et seq.) In addition, every new college or educational center is specifically required to be approved by the Board of Governors, regardless of whether State construction funds are requested (Title 5, Section 51014). The Board has adopted a set of regulations broadly prescribing what information districts must submit in a request for a new college or center (Title 5, Sections 55825-55831), and how the request should be analyzed.

The Chancellor's Office Facilities Unit is the lead unit in recommending Board of Governors approval for new centers and colleges. However, the Curriculum Standards and Instructional Services Unit reviews these applications in regard to curriculum and program issues, and provides consultation to the Facilities Unit. For that purpose, the standards presented here have been prepared, as an aid to districts and the Chancellor's Office in carrying out their responsibilities under the law.

As required by the review procedures of the California Postsecondary Education Commission (CPEC), applications for approval of new centers and colleges generally occur in two stages: the "Letter of Intent," and the full "Needs Study." The elements defined below must be addressed in the "Needs Study," which will be used by the Board of Governors for its approval action. However, while not required, any aspects of these

standards which are ready to be addressed at the time of the "Letter of Intent" may be included then.

CURRICULUM STANDARDS FOR APPROVAL OF NEW COLLEGES AND CENTERS

(General authority: Education Code Section 70901, Title 5 Section 51014. Notations in parentheses provide authority and/or reference to relevant statutes and regulations.)

CURRICULUM STANDARDS FOR NEW COLLEGES

1) The approval application should describe the categories of coursework to be offered and the programs that the coursework will support. *(ECS 70901, 81821; T.5/ 55829,55830.)*

2) All the programs both at the new college and at the parent college or district should be approved by the Chancellor's Office, as reflected on the Inventory of Approved and Projected Programs.

In the case of a new college that is being converted from a previously existing center or campus, all programs actually offered in full on-site under the authority of a prior program approval held by the "parent" college, will be considered approved. For any program that is not fully operational on-site when the new college commences operations (even though an approval is held by the "parent" college), and for any program that lacks a prior approval at the "parent" college, a new program application must be submitted. *(ECS 70901, 70902; T.5/ 51021, 5130.)* (See "Conversion of Center to New College," p. 13.)

3) The new college should offer the necessary core curriculum (general education and lower-division requirements for the most common majors) to support a viable transfer function. *(ECS 66722, 66730, 66732; T.5/ 51027.)*

4) The determination of occupational programs to be offered should be based on a recent labor market study or regional economic analysis. *(ECS 78015, 78016; T. 5/ 55130.)*

5) The new college should offer a range of basic skills and ESL that is appropriate for its service area population. *(ECS 66010.4; T.5/ 55829.)*

6) An educational master plan, including projected programs, should be prepared or should be in process of preparation. *(ECS 70901, 70902; T.5/ 51008.)*

7) A policy and procedure for instructional program review should have been adopted. *(T. 5/ 51022.)*

CURRICULUM STANDARDS FOR NEW EDUCATIONAL CENTERS

1) The approval application should describe the categories of coursework to be offered and the programs that the coursework will support. *(ECS 70901, 81821; T.5/ 55829,55830.)*

2) All the programs both at the center and at the parent college should be approved by the Chancellor's Office, as reflected on the Inventory of Approved and Projected Programs.

Any programs that have not previously been approved, or which are to be started concurrently with, or following the establishment of, the new center, must be submitted for program approval. *(ECS 70901, 70902; T.5/ 51021, 5130.)*

3) The center should offer a distribution of coursework based on the needs of the service area, as documented by surveys, and/or information from K-12 schools and other postsecondary educational providers, employers, and public and private nonprofit agencies. The curriculum should include, as determined to be appropriate:

a) Courses in each general education category.
b) Core major coursework for common transfer majors.
c) Coursework for short-term job training and/or full career preparation.

A center, unlike a college, need not always provide all coursework needed for a full transfer function, or the complete range of occupational preparation. Some programs may require that the student take courses at the parent college. *(ECS 66010.4; T.5/ 55829, 55830.)*

4) The determination of occupational programs to be offered should be based on a recent labor market study or regional economic analysis. *(ECS 78015, 78016; T. 5/ 55130.)*

5) The center should offer a range of basic skills and ESL that is appropriate for its service area population. *(ECS 66010.4; T.5/ 55829.)*

6) An educational master plan, including projected programs, should be prepared or should be in process of preparation. *(ECS 70901, 70902; T.5/ 51008.)*

7) A policy and procedure for instructional program review should have been adopted. *(T. 5/ 51022.)*

APPENDIX A

Forms and Instructions for Approval of New Programs

- Application for Approval–New Occupational Program
- Application for Approval–New Transfer Program
- Request to Add New Option or Certificate Within Existing Program to Inventory
- Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)
- Application for Approval–New or Revised Apprenticeship Program

PLEASE READ!

GENERAL INSTRUCTIONS FOR ALL APPLICATIONS

1) Send the correct number of copies. Applications for approval of new programs need three copies. Requests for addition of options or certificates within existing programs, and applications for apprenticeship approvals, require two copies. Nonsubstantial changes to existing programs require one copy.

2) Ensure that the signature page is completely filled in, with each signature dated, the name of the signer clearly typed or printed, and the date of local board approval filled in.

3) Keep down the overall size of applications. A bulky application does not increase the prospects for approval, and may even cause delay. Bulky printouts of raw data or the contents of web sites should not be included. Do not include items such as the college's entire program review report or course articulation agreement. When a separate labor market or economic study needs to be included to provide evidence of need, that is appropriate, even if bulky.

4) Don't send more, or fewer, course outlines than required. The instructions for each type of approval specify which course outlines should be sent and which should not.

5) Avoid permanent bindings such as tape or perfect binding.

6) College and district officers should realize that they take responsibility for the quality and accuracy of the application when they sign the cover form. Each responsible signer should read the application, and not sign until he or she is satisfied with its contents. This is especially true of the chief instructional officer.

7) If in doubt, do the following: first; read the instruction. If the answer is not found there, contact the Chancellor's Office.

Curriculum Standards & Instructional Services
(916) 322-6888
cklein@cccco.edu

Application Date

California Community Colleges

APPLICATION FOR APPROVAL—NEW OCCUPATIONAL PROGRAM

PROPOSED PROGRAM TITLE

CONTACT PERSON

COLLEGE

TITLE

DISTRICT

PHONE NUMBER

PROJECTED PROGRAM START DATE

E-MAIL ADDRESS

☐ CERTIFICATE ☐ A.A. DEGREE ☐ A.S. DEGREE ☐ LIMITED DURATION, until _____

PLANNING SUMMARY

Recommended T.O.P. Code		Estimated FTE Faculty Workload	
Units for Major—Degree		Number of New Faculty Positions	
Total Units for Degree		Est. Cost, New Equipment	
Required Units—Certificate		Type of New/Remodeled Facility	
Projected Annual Completers		Est. Cost, Library Acquisitions	
Projected Net Annual Labor Demand			

APPROVAL CRITERIA

Approval Criterion	Pg. # in App.	Section	Chancellor's Office Use
MISSION		1. Statement of Program Goals and Objectives	
		2. Catalog Description	
		3. Program Requirements	
		4. Background and Rationale	
NEED		5. Enrollment and Completer Projections	
		6. Place of Program in Curriculum/Similar Programs	
		7. Similar Programs at Other Colleges in Service Area	
		8. Labor Market Information	
		9. Job Market Analysis	
		10. Employer Survey	
		11. Explanation of Employer Relationship	
		12. List of Members of Advisory Committee	
		13. Minutes of Key Meetings/Recommendations	
		14. Recommendation of Regional Consortium	
QUALITY		15. Display of Proposed Sequence	
		16. Outlines of Record for Required Courses	
		17. Transfer Applicability	
		18. Program Evaluation Plan	
FEASIBILITY		19. Library and/or Learning Resources Plan	
		20. Facilities and Equipment Plan	
		21. Financial Support Plan	
		22. Faculty Qualifications and Availability	
COMPLIANCE		23. Model Curriculum	
		24. Licensing or Accreditation Standards	
		25. Student Selection and Fees	
		26. Programs Provided by Contract	

SUBMIT THREE COPIES OF THIS FORM AND ALL ATTACHMENTS

REQUIRED SIGNATURES

Program _____ College _____

LIBRARY AND LEARNING RESOURCES

Library and learning resources needed to fulfill the objectives of the program are currently available or are adequately budgeted for.

DATE	SIGNATURE, CHIEF LIBRARIAN/LEARNING RESOURCES MANAGER	TYPED OR PRINTED NAME

VOCATIONAL REQUIREMENTS

Program fulfills the requirements of employers in the occupation, provides students with appropriate occupational competencies, and meets any relevant professional or licensing standards.

DATE	SIGNATURE, DEAN OF OCCUPATIONAL EDUCATION	TYPED OR PRINTED NAME
DATE	SIGNATURE, CHAIR, OCCUPATIONAL ADVISORY COMMITTEE	TYPED OR PRINTED NAME

Program was recommended for approval by Regional Occupational Consortium on _____ (date).

DATE	SIGNATURE, CHAIR, REGIONAL CONSORTIUM	TYPED OR PRINTED NAME

LOCAL CURRICULUM APPROVAL

Program and courses within the program have been approved by the curriculum committee and instructional administration, and satisfy all applicable requirements of Title 5 regulations.

DATE	SIGNATURE, CHAIR, CURRICULUM COMMITTEE	TYPED OR PRINTED NAME
DATE	SIGNATURE, CHIEF INSTRUCTIONAL OFFICER	TYPED OR PRINTED NAME
DATE	SIGNATURE, PRESIDENT, ACADEMIC SENATE	TYPED OR PRINTED NAME

COLLEGE PRESIDENT

All provisions of Title 5, Section 55130(b) have been considered. All factors, taken as a whole, support establishment and maintenance of the proposed instructional program.

DATE	SIGNATURE, PRESIDENT OF THE COLLEGE	TYPED OR PRINTED NAME

DISTRICT APPROVAL

On _____, the governing board of _____
District approved the instructional program attached to this application.

DATE	SIGNATURE, SUPERINTENDENT/CHANCELLOR OF DISTRICT	TYPED OR PRINTED NAME

INSTRUCTIONS FOR APPLICATION FOR APPROVAL–NEW OCCUPATIONAL PROGRAM

Program Title: Please give the title as it is proposed to appear in the catalog. A program title should clearly and accurately reflect the scope and level of the program.

Contact Person: The person designated as contact for the application should be the person most able to answer questions about the proposed program. It may be the chief instructional officer, the dean of occupational education, the division or department chair of the originating department, or the originating faculty member who has designed the program.

Interim communications from the Chancellor's Office, such as requests for further information, will usually be sent to the contact person, but official communications on the status of program approval applications are sent to the chief instructional officer, with copies to the contact person and whomever else the college may designate.

Projected Program Start Date: The month and year when the college plans to offer the first required course in the program, or to enroll students in an existing course on the expectation that it will count toward the degree or certificate to be approved. Programs are required to be approved before being offered; however, if for some reason the program has already started, please indicate "Already started (term) (year)."

Type of Program: Please check appropriate box or boxes. All new degree majors are required to be approved. For certificates, only those requiring 18 or more semester units, or 27 or more quarter units, are required to be approved. If the program will offer both a certificate and a degree, please submit a single application for both. A limited duration approval may be requested for any type of program.

Limited Duration: A limited duration approval may be requested for one of two reasons: the college plans to operate the program only for a limited period; or the college cannot supply all information necessary for a permanent approval application within the necessary length of time. In the latter case, the Chancellor's Office will consider an approval application with one or more required elements missing or incomplete, if there is reason to believe that permanent approval is likely to be granted when those elements are supplied. In such a case, the limited approval will generally be granted for one academic year only. Colleges are advised to avoid this procedure, as it effectively requires going through the approval process twice (once for the limited authorization and again for the permanent authorization). However, it is available if necessary.

If a limited duration approval is requested because the college plans to operate the program only for a limited period, any duration may be requested, but the same application elements are required as for a permanent approval.

A college may not admit new students into a program after a limited duration approval has expired. However, students already in the program should be permitted to complete it.

Planning Summary

Recommended T.O.P. Code: The Taxonomy of Programs code is the category which groups the proposed new program together with degree and certificate programs on other campuses that have similar employment goals and objectives. The code is used to aggregate system-wide data on awards, program completions, placements, job success and other outcomes, and is the basis for reporting county and statewide job market supply data. For non-occupational programs, the T.O.P. reflects the main discipline or subject matter and is used to aggregate data on awards, program completions and transfers.

The T.O.P. code should be assigned according to the content and outcomes of the program, and should conform as best as possible to the code assigned to similar programs in other colleges around the state. The T.O.P. code should not be assigned based on local departmental structure, faculty qualifications, or budget groupings.

A college that has difficulty identifying the most appropriate T.O.P. code should contact the Chancellor's Office. The Chancellor's Office may adjust the T.O.P. code, if necessary, after consulting the college.

Units for Major–Degree: The number of semester or quarter units reported here should include only required courses, restricted electives, and closely associated prerequisites. An example of a closely associated prerequisite would be anatomy and physiology for a nursing program, or technical mathematics for a manufacturing program. Do not include prerequisite units needed to bring a student to standard collegiate levels of language and computational competence. Do not include general education, or open electives. Do not convert quarter units to semester unit equivalents.

Total Units for Degree: The total units required to complete the degree, including the units in the item above, plus all required general education, open electives, and any other requirements.

Required Units–Certificate: The number of semester or quarter units, including required courses, restricted electives, and closely associated prerequisites. Do not convert quarter units to semester unit equivalents.

Projected Annual Completers: Number of students estimated to receive the degree or certificate each year, when the program is fully established. Explanation may be provided in Item #5.

Projected Net Annual Labor Demand: Fill in the estimated number of annual job openings, minus the annual number of program completers of other programs within the

same service area. In most cases, this figure should cover only the college's service area. But for occupations considered to have a larger regional or statewide training and recruitment area, the larger area may be used. In such a case, the figure shown here should be explained in Items #7-9.

Estimated FTE Faculty Workload: This is the number of full-time equivalent faculty positions estimated to be dedicated to teaching the courses in this program, in the program's first full year of operation, regardless of whether new or existing faculty. It is not the number of FTES (Full Time Equivalent Students) expected to be generated by the program.

Number of New Faculty Positions: Do not fill in total FTE's, but the number of separately identified positions that will involve new hires or reassignments, whether part or full time. The qualifications for these positions should be discussed in Item #22.

Est. Cost, New Equipment: If new equipment will be acquired for this program, estimate total cost from district and State funds. Discuss specifics in Item #20.

Type of New/Remodeled Facility: If new or remodeled facilities will be acquired for this program, indicate here. Discuss specifics in Item #20.

Estimated Cost, Library Acquisitions: Fill in estimated costs for library and learning resources materials. Discuss specifics in Item #19.

Approval Criteria Sections

Please number the sections in the application narrative to correspond to the numbers on the sections below.

MISSION

1. *Statement of Program Goals and Objectives*

A statement must be submitted that defines the goal(s) of the proposed programs. For an occupational program, this statement must, at a minimum, clearly indicate:

- what specific occupation(s) the program will prepare students for;
- what basic occupational competencies students will acquire.

It is this statement of goal(s) and objectives that serves to define the program over time. The goal statement is one of the major factors in determining whether changes to the program are "substantial modifications" for Chancellor's Office approval purposes.

On the basis of the program goals, objectives appropriate to these goals, and a program design consistent with these objectives, the determination is made as to whether the proposed program is appropriate to the mission of the community colleges. For an occupational program, the stated goal of the program must include (but need not be

limited to) the preparation of students for one or more occupations specified in the goal. The objectives of the program must list the main competencies students will have achieved that fulfill the needs and requirements of that occupation.

2. *Catalog Description*

Description of the program as it will appear in the catalog. This description should be consistent with the rest of the application, convey the program's goal and objectives, and suggest how these differ from the goals and objectives of other programs and what students may expect as an outcome.

The catalog description represents a promise to the student, and exaggerated or unsustainable statements should therefore be avoided. Where job market data or other factors as documented in the application suggest some caveats of which students should be aware, these warnings should be as clearly conveyed in the catalog description as possible. It is recommended that for degrees and certificates in "high risk" occupations that are inherently competitive, low-salaried, and/or unlikely to hire inexperienced graduates, that the catalog description should mention the risks.

3. *Program Requirements*

A list must be submitted of all courses required for completion of the program, including core requirements, restricted electives, and prerequisites. For each course, the course number, course name, and unit value must be indicated. The total of the unit values must be shown.

For degree programs, general education requirements should also be indicated, but separately. This may be done in any of several ways. A copy of the college's overall general education requirements for a degree of this type may simply be included (such as a photocopy of requirements from the catalog). Or required general education categories may be listed with the number of units required in each. Or a display may be included of the required general education categories (including number of units required) with specific recommendations for appropriate general education course choices for students in this program.

The total units required for the degree should also be shown, including the major requirements, prerequisites, general education, open electives, and any other requirements.

Any other special requirements for completion of the program, such as an internship, work experience, or examination, must be detailed. Any alternative means of satisfying the program requirements must also be detailed. The program requirements detail should be consistent with the catalog description.

Taken together, successful completion by students of the set of courses required for the program must be sufficient to enable them to fulfill the program goals and meet the

program objectives. Courses should be required that will assure the college level communication and analytic skills that will generally enable graduating students not only to do well in transfer courses, if that is their goal, but also to participate as a full team member in a company, maintain currency in rapidly changing fields, and advance in their chosen occupations over a lifetime.

The set of requirements should reflect the thinking of the advisory committee, as indicated in the minutes of that committee (see Item #13), or the college should explain its departure from those recommendations.

The number of units, specific course requirements, design of individual courses, and the sequence of the courses should, taken together, be coherent, complete, and appropriate, given the program objectives and the resources with which the college has to work. The Chancellor's Office will rely heavily on the educational judgment of local discipline faculty and curriculum committees in regard to judgments on the appropriateness of program requirements.

4. *Background and Rationale*

This section explains at a general conceptual level what role the proposed program, given its stated goals and objectives, would fulfill in the curriculum. It may include some history of how the program proposal came about, what is different about it, why it is important, why it is especially appropriate for the region and for the college, the nature of the community support for it and so forth. These explanations should be related to the overall plan for the college, other new program developments, and the specific needs of that community and mission of the college. This item may be used to justify program objectives or the inclusion of a given course as a requirement, etc.

This narrative provides a context to reviewers. It is the place for colleges to explain special considerations and to make a case for a program that justifies the use of alternative documentation where the usual documentation would be misleading or inconclusive, or is simply not obtainable.

It is not necessary to repeat here information covered elsewhere, as long as it is clearly cross-referenced to a page numbered in proper sequence and a paragraph or section number, and, in the case of references to minutes, with the relevant section highlighted.

NEED

5. *Enrollment and Completer Projections*

These figures may be based upon enrollment in current courses and/or a survey of prospective students. In the case of a survey, the survey questionnaire, itself, as well as a description of population surveyed and survey results, should be included in this documentation.

Please provide estimates of:

- the number of sections of core courses to be offered annually
- the headcount student annual enrollment in the number of sections estimated above. (It is not necessary to break down enrollment estimates by course. A total estimate is sufficient.)
- the number of estimated program completers per year at the end of the first year of program operation
- the number of estimated program completers per year at the end of the third year of program operation

If it is anticipated that enrollments and completions will continue to rise after the third year of program operation, please explain.

6. *Place of Program in Curriculum/Similar Programs*

Before completing this section, review the college's existing program inventory. If you cannot obtain a printed inventory, you may view the inventory on the World Wide Web at **http://www.cccco.edu/cccco/esed/curric/inventory.htm**. This section must specify if the program replaces any existing program(s) on the inventory. Any existing inventory entries that need to be removed or modified in connection with the approval of the program must be specified. If such adjustments are needed, the recommended way to display them is to submit a hand-corrected printed copy of the existing inventory.

What related programs are there in the college? What need will this one fulfill that those programs do not? Will there be courses in common? Will this program pull students from them? Will it accommodate an overflow or provide for a different type of student? Will students wish to, or be able to move between the programs? Will programs share resources?

Explain how, if at all, this program makes new or more productive uses of existing resources, and/or builds upon existing programs or services, establishes a new direction for the college, or similar points. If this program is related to the ending or scaling down of other programs, this is the place to provide details.

7. *Similar Programs at Other Colleges in Service Area*

Under this item, describe all similar programs in colleges within commuting distance of the college. A brief description of each program, or photocopied pages from other colleges' catalogs, is sufficient. A narrative explaining similarities and differences, and why another program of this type is needed in this region at this time, is helpful. In most instances a college proposing a new program needs to make a convincing case that the existing capacities of other colleges are already being fully used and that there is an excess enrollment demand.

If the proposed program would have a different emphasis from programs offered elsewhere, targets a different market, is likely to be closer to the "state of the art" in the field, or is otherwise likely to be stronger, and/or if the college's existing mission, expertise or resources are especially well suited to development in this area, these factors should be explained.

Evidence that program developers have been in communication with existing programs and have used this information to help design the proposed program should be provided here. When two or more colleges in the same region are seeking approval for new programs of a similar sort at or near the same time, evidence of collaboration is especially important.

8. *Labor Market Information*

The US Department of Labor Occupational Employment Statistics (OES) Survey is conducted in each county in California. It surveys medium to large employers in established industries and publishes labor market data by county. OES includes some 750 occupational categories. For those categories that require up to 2 years or more of training, the OES codes have been matched to California Community College TOP codes to create the Labor Market Information or LMI system.

The LMI system provides five year occupational demand data by county on established occupations, i.e. those that have OES codes and that serve medium to large employers. The system also provides occupational supply data based upon actual or projected program outcomes. The LMI system is maintained by the state Employment Development Department (EDD) and partly funded by community colleges to aid in their planning of programs and in their reporting upon outcomes. Statistics from LMI can be found on the World Wide Web at **www.calmis.cahwnet.gov**. The Labor Market Information division of EDD can be reached by telephone at (916) 262-2162. Assistance with LMI data can also be obtained from Vocational Education unit specialists in the Chancellor's Office.

Pursuant to the Education Code, LMI data are specifically required for new program applications, where available:

> **78015. Job market study; area; scope.**
>
> . . . The [labor market] study shall use the State-Local Cooperative Labor Market Information Program . . . or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing [programs].

The application should include projections from LMI for the most applicable OES codes and geographical regions to be served by the program. If these projections do not appear to suggest adequate job openings to provide employment for all program completers, given existing training sources, then the application must explain what other

factors may make the LMI figures misleading. If LMI figures are unavailable for the occupation targeted by the program, please explain.

When a printout of data from the LMI system is included, which includes projections in numerous categories, it is important to highlight the applicable lines for the program under review with marker or another easily visible method. Do not include printouts showing job statistics for all occupations in a region; do not dump unneeded or irrelevant statistical printouts into an application narrative. This could delay the review.

9. *Labor Market Analysis*

Title 5 requires a college seeking approval of a new program to show "the relation of the proposed program to a job market analysis." This item fulfills that requirement. The job market analysis should present evidence that there is a viable job market that will preferentially hire those graduating with the proposed degree or certificate.

Below are some of the questions that could be addressed in such an analysis.
NOTE It is not necessary to address all of these, but the ones that are applicable:

Net Job Market

- Given the number of enrollments projected for the program and necessary to support the program, are there enough openings locally to permit placement of the expected number of graduates, taking account of the numbers of graduates available from similar programs within the same geographic region?
- Has the job market been: declining slowly? steady? growing slowly? growing rapidly? newly emerging?

Earning Potential

- What is the average initial salary ?
- What is the average percentage of salary increase in 2 years? 5 years?

Program Credibility/Career Potential

- Is there sufficient evidence that employers would preferentially hire or promote graduates with this education, other things being equal?
- How likely is it that employees with only the education provided by this program, and lacking experience, will be hired at all? Or that experienced employees with only this education would be promoted?
- If advanced degrees are typically needed for career advancement, will the courses required for this program transfer towards completion of the requirements for those degrees?
- Will this preparation permit students to stay current in their field? Does the program teach basic principles and theory, as well as applications? Is it current? Is it of

sufficient rigor to assure the capacity to continue to follow the literature and learn new techniques? Is it of sufficient generality to allow for later shifts in career?

- Does this preparation provide a significant secondary expertise to primary careers? Is it designed primarily or in part to meet the needs of those already employed for upward mobility, entrepreneurship, or other career upgrade?
- Does it prepare students to work in an ethnically diverse workforce and an ethnically diverse, global market?

Emerging Occupations

Where job market data are not available or are not appropriate for a new occupational program in an area of emerging social need or technology, it becomes important to provide a careful analysis and explication of the specific demands of this new occupation. It is in anticipating emerging demands that colleges can play an essential leadership role, but can also most readily be misled as to the actual job requirements or prospects in a field and thus inadvertently mislead students.

A carefully designed employer survey can elicit documentation of the fact that (a) employers share the college's assumption as to where the field is going and what skills this emerging industry will require of employees and (b) will recognize the value of the proposed degree or certificate in their hiring or promotion.

Competitive Fields

Colleges are often called upon to provide training that students greatly desire, even where the job prospects are limited and the field is highly competitive. In such occupations--often in the arts and entertainment--it is talent rather than education that is the bottom line in hiring. While no community college certificate can substitute for talent, a program that is exceptionally well designed to identify, develop, and demonstrate the presence of talent can still be justified when few programs of similar quality exist in the service area.

Supplementary Occupational Skills

Many kinds of certificates are of occupational benefit to students already employed. In such circumstances, the program objectives and design, including the sequencing of courses, should fit the needs of students likely to be already employed by building on their prior experience and spacing course requirements to accommodate working students. However, all community college programs should either include opportunities for entry-level students, or should be paired with related entry-level training at the same college. A program should not entirely exclude students who are not already employed in a particular industry, unless the college makes available to such students a practicable entry-level training route that would qualify them, upon completion, for the advanced training.

Small Businesses or Cottage Industries

Entrepreneurial opportunities and the market for cottage industries yield few statistics. Yet these are a source of employment for an increasingly large proportion of the workforce and constitute a legitimate vocational goal for a community college program, especially in rural areas. An application for approval of a program designed to meet the needs of such students should show a careful analysis of their needs and of the market within which they must compete, and relate this analysis to the design of the program.

10. *Employer Survey/Other Evidence of Need*

A survey of prospective employers in the geographic region within which students will be seeking employment should ordinarily be included. If an employer survey is found to be either impracticable or unnecessary, an explanation should be provided, and ample other evidence of job availability must be available.

The survey should address to what extent the proposed degree or certificate, with its stated objectives and proposed courses, will be valued by prospective employers. In communicating with survey respondents, the questionnaire should convey as much information as possible regarding the intended program design, with the proposed equipment, facilities, work experiences proposed, and/or faculty qualifications. The survey can then be used to determine whether, on that basis, the employer would preferentially hire someone with such a degree or certificate over someone without it, other things being equal.

This section should, at minimum, specify:

- When the survey was taken, and by what methodology (mail, telephone);
- How many employers were surveyed and how many responded;
- The specific title(s) of the positions covered by the survey;
- How many openings the employer anticipates, due to separations and new jobs (growth), in the next full year and over the next full five years;
- Whether the employer believes the program as described would qualify students for the specific positions;
- Whether the employer would preferentially hire students who have completed the program.

A copy of the questions asked in the survey and a full summary of responses should be provided either within this section or as an attachment.

Program applications will be evaluated in terms of whether the case was made that the net number of job openings that employers are planning to fill--annually and over the next five years-given turnover, growth, etc., will be equal to or greater than the number of students the program will graduate per year, after taking account of the number of graduates from similar programs in other institutions who will be entering the job market within the geographical region from which employers are being surveyed.

Letters of support from businesses in the college's service area are sometimes included with an approval application. These can be useful and are welcome, although not required. However, the most useful letters of support are specific, rather than general. The most useful letters are those from actual employers who will hire the program completers. An effective letter of support should specify that the employer is familiar with the proposed program, has need for the program completers, and intends to hire them. If possible, the letter should indicate approximately how many program completers the employing company estimates it might hire per year. Letters such as this are especially important if it has been infeasible, for some reason, to conduct a complete employer survey.

Other evidence of job market need may be included if available. Again, if an employer survey has not been conducted, these other materials may be provided in partial substitution. Or they may be provided in addition to the employer survey. Examples of other evidence of need include job advertisements or listings, regional economic studies, and industry trend studies.

11. *Explanation of Employer Relationship*

Whenever a program is to be offered in close cooperation with one or more specific employers–for examples, by using that employer's facilities as training sites or structuring the program to meet the recruitment or upgrade training needs of a specific employer–a discussion of the relationship should be provided.

An explanation of how the open enrollment requirements for California community college courses (Title 5, Sections 51006 and 58100-58110) will be observed in this context should be included in this discussion.

12. *List of Members of Advisory Committee*

This item should identify whether the proposed new vocational or vocational and transfer program has an advisory committee made up of typical employers, discipline faculty from transfer institutions, entrepreneurs, or others qualified to provide guidance in developing and reviewing the program. The list of advisory committee members should include their job titles as well as their affiliations, and an accompanying explanation should make clear that they represent those within the industry who would hire graduates of the proposed program.

13. *Minutes of Key Meetings/Recommendations*

Minutes of advisory committee meetings should be included. Minutes of other meetings, such as curriculum committee meetings, may also be included if they reflect relevant discussion. Meeting minutes should include the date and place of the meeting, and names of all who attended.

In this item, highlight portions of the minutes that deal with substantive issues of program need, objectives, design, resource requirements. Suggestions noted in these minutes, questions or concerns raised, and decisions recorded should be specifically addressed in the application, either in the rationale at the beginning of the application, in a narrative following the minutes, or in the specific parts of the application where the matter is relevant.

14. *Recommendation of Regional Consortium*

Include the minutes of the Regional Occupational Consortium meeting(s) at which the program was discussed. Highlight that portion of the minutes of the meeting in which the proposed program was recommended for approval. If it is impossible to obtain minutes for the meeting, a letter or memo from the chair of the Regional Occupational Consortium must be included, certifying that the group voted to recommend approval of the program, and specifying the date of the vote. This requirement is in addition to the signature of the regional chair, on the reverse of the application cover sheet.

QUALITY

15. *Display of Proposed Sequence*

Include a flowchart, table, or diagram that shows how the required courses should be taken in sequence and how the prerequisites fit together. Indicate whether the sequence is suggested or mandatory. The sequence should be arranged so that a full-time student could complete a degree program in two years, except in the case of a high-unit technical or health occupation program where a case has been made that a sequence longer than two years is definitely necessary. For a certificate, the sequence should be arranged so that a full-time student completes the program within the time normally needed to complete the total number of units required for the certificate.

For a degree program, the proposed sequence should include recommended or suggested typical general education courses. Such a recommended or suggested pattern does not constrain students' individual general education choices, unless specific general education courses have actually been integrated into the program requirements. In that case, they should be counted in the unit count for the major.

16. *Outlines of Record for Required Courses*

Outlines of record must be included for all core courses required of all students in the program.

Usually, outlines should also be included for all restricted electives. However, if there is a large number of restricted electives (i.e., more than ten), a representative sample should be included. A representative sample would constitute at least three outlines, chosen from different categories, if the electives fall into categories.

Do not send outlines for general education or prerequisite courses.

If several related programs or options, concentrations, specializations, etc. are submitted together for approval, do not send duplicate copies of the course outlines. Include the course outlines with one of the applications or narratives, and in all others, refer to where the reader may find the course outlines.

17. *Transfer Applicability*

Some occupational programs in technical fields also serve as transfer preparation for some students. A program that is primarily for the purpose of preparing students for employment immediately after completing the certificate or associate degree, should be considered occupational for purposes of program approval. However, if some students will take the program as transfer preparation, then information on the program's transferability should be included here.

When transfer is included as a major goal in the "Statement of Goals and Objectives," or is described as an outcome of the program in the catalog description, then it is mandatory to include articulation information in this section.

Please indicate what four-year institutions the program may transfer to. For at least two of those institutions, show lower-division requirements for the applicable major. Show the extent to which requirements for the community college program satisfy these transfer major requirements. If a programmatic articulation agreement exists, please include it. If transfer is stated as a major goal or described as an outcome in the catalog description, then the documentation must show that the program's coursework requirements substantially satisfy lower-division coursework requirements for the corresponding university major.

18. *Program Evaluation Plan*

If the college has a standard evaluation plan, please include a copy of that plan (unless it is too bulky, in which case a summary will do). Please explain how often the proposed program would be reviewed using that plan, and what will be done as a result of the information thereby gained.

If the college has no such standard practice, this section should indicate how the requirements of the Education Code, the federal Vocational and Technical Education Act (VATEA), and the accrediting commission for program evaluation will be met. It should also be noted that Title 5, Section 51022 sets the existence of program review procedures as a minimum condition for the receipt of state funding.

Among the items that could be included in the evaluation plan are:

- Fiscal viability of the program
- Adequacy of facilities, equipment, and library and learning resources collection in extent, currency, accessibility and quality

- Curriculum:

  1) Courses are current with respect to new developments in the field and improved teaching methods

  2) The set of requirements is complete, appropriate, and sequenced as effectively as possible, given the objectives of the program

- Faculty & Instruction:

  1) Faculty possess the appropriate credentials or other qualifications
  2) Proportion of part-time to full-time instructors is acceptable
  3) Faculty workload is acceptable
  4) Faculty syllabi and actual instruction are in accordance with the outlines of record
  5) The most effective teaching methods are in use
  6) Faculty evaluations are regularly and properly conducted

- Outcomes

  1) Number of students enrolling in and completing the program
  2) Number of students transferring and their subsequent grade point averages and retention rates
  3) Number of students working in the field after completion of at least one A-C level course (SAM Code) in that field
  4) Satisfaction measures among employers of students who complete vocational programs in the field of employment

FEASIBILITY

19. *Library and Learning Resources Plan*

Explain here the determination of what library and learning resources are necessary to support the program as designed. Determining the needed resources should involve a partnership between the originating faculty and the library and learning resources staff. If new resources will need to be acquired, explain how they will be budgeted.

20. *Facilities and Equipment Plan*

Specific needs for facilities and equipment should be detailed here with an indication of what is already available, what is part of the district's master plan, what is currently in some stage of acquisition, and what would have to be acquired after the program was begun. An estimate of the total cost of new facilities and equipment should be included.

21. *Financial Support Plan*

This section should discuss the adequacy and proposed sources of financial support both for the ordinary costs of instruction, and for any special equipment and/or facilities needs as described in the preceding section.

The source of support for ordinary costs of instruction may be apportionment revenue growth possible under the district's growth cap or apportionment revenue redirected as a result of phasing out another program. In some cases a new program may not entail any increased apportionment, if it is composed only of existing courses and does not add new courses.

Sources of support for facilities and equipment may include State capital outlay funding, instructional equipment grants, donations by industry, funds raised by a foundation, etc.

If the new program has been developed with a grant from the Fund for Instructional Improvement (FII), Economic Development, or other special funds, such as those for employer-based training or federal grants, these sources and any requirements that may have been set in relation to initiating the new program should be explained.

22. *Faculty Qualifications and Availability*

Resumes of the faculty who will be directing and teaching in the new program should be maintained locally in the program file, clearly indicating that the program will be adequately staffed and managed by faculty who meet State minimum qualifications, and whose qualifications indicate adequate understanding of current knowledge and practice in the field appropriate to the program. If new faculty will be needed, or if new training will be provided to faculty who are undertaking expanded or different responsibilities, an explanation should be provided as to how the additional costs and/or training will be accommodated.

If the program is in a field which does not appear by name on the minimum qualifications "disciplines lists," or where there could be ambiguity about which discipline it is under for minimum qualifications purposes, please specify the minimum qualifications that will be applied locally for faculty hiring and assignment.

Discuss the balance of full-time and part-time instructors in the program.

COMPLIANCE

23. *Model Curriculum*

If the program design is based upon a model that has been developed for statewide or national use, refer to the model, and if possible, include a copy of the model or a summary. Explain any departures from the model to fit local circumstances, or for other reasons.

The Chancellor's Office requires that, in fields where model curriculum designs have been developed and disseminated with the support of the Chancellor's Office, and with broad consensus from representatives of the discipline, every new program application generally should incorporate the elements of the model curriculum. The best-known example is the public safety occupations of administration of justice, fire science, hazardous materials, and emergency medical services, where model program

standards have been disseminated throughout the state. There are also model curricula in some health occupations, sometimes developed by national professional associations.

If there is a reason why, in a field where model curriculum does exist, that curriculum or a part of it is inappropriate for a particular new program, the reason should be explained.

24. *Licensing, Accreditation, or Professional Certification Standards*

The college should determine whether accrediting or licensing standards apply to the proposed program and include them, or a summary of them, in the application, together with information as to organizations or persons representing the accrediting or licensing body who may be contacted by the Chancellor's Office, if necessary. As with Item #23, any departures from the accrediting standards should be explained. The explanation should also clarify whether the college intends to function without programmatic accreditation in the area or expects to be accredited. Programmatic accreditation is not always mandatory; it is optional in numerous fields, but the application should discuss the college's intentions and reasons in this regard.

In some occupations, while there is no legal requirement for a license to practice, there is a widely recognized certification provided by a professional association. For example, the American Massage Therapy Association certifies massage therapists; the California Association of Alcohol and Drug Abuse Counselors certifies counselors in that field. In these cases, the Chancellor's Office expects that the approval application will specify whether the program will fully prepare completers for the recognized professional certification. If not, an explanation of why this is not considered necessary should be included.

25. *Student Selection and Fees*

In this item, entry criteria and the selection process for admission to the program, if the program is selective, should be detailed. Program admission or selection procedures should comply with the provisions of Title 5, Section 58106 ("Limitations on Enrollment"), and Section 55201 ("Prerequisites, Corequisites, and Advisories on Recommended Preparation.") In addition, all mandatory fees which students will incur, for the program as a whole or any of its constituent courses, aside from the ordinary course enrollment fee prescribed in Education Code Section 76300, should be specified. This includes fees for materials and reproduction, insurance, travel, uniforms, etc.

26. *Programs Provided by Contract*

For a new program intended to be offered by contract with a private postsecondary provider, or other educational or training entity, please specify the training provider, and include an explanation of the need to contract instead of provide instruction with

community college personnel and resources. Provide a copy of the proposed contract. Providing vocational education through contract with a private postsecondary provider is authorized and governed by Title 5, Sections 55600 through 55631.

A change in mode of delivery, in an established program, from noncontract to contract, or vice versa, is not considered a "substantial modification" requiring program reapproval; however, Title 5 requires that every vocational education contract be reapproved by the Chancellor's Office each year. Approval of these contracts is routinely the responsibility of the Vocational Education unit.

Signature Page

The title of proposed program, and name of the college, must be filled in at the top of this form.

Please be sure to provide all signatures required, and to fill in all blanks. A date must be filled in for each signature, as well as a typed or printed name. Note that the date of recommendation for approval by the Regional Occupational Consortium must be filled in.

In the signature block for the superintendent or chancellor of the district, the date of approval by the district governing board must be filled in.

Applications missing required signatures, or with dates or other information on this form not filled in, will be returned to be completed.

If time is short and obtaining signatures in sequence is a problem, photocopies of the signature page may be made, provided each copy shows the name of the proposed program, and signatures may be obtained on separate copies as necessary. This procedure may be particularly useful in obtaining the signature of the chair of the Regional Occupational Consortium, when that person is at a different college.

The signature of the chair of the Regional Occupational Consortium is not always necessary on this form. If the application includes a memo or letter from that chair indicating that the program was recommended for approval and giving the date of the recommendation, or if it includes a copy of minutes showing the positive recommendation, please write "See memo [or letter, or minutes] under section 14" in this space.

Application Date

California Community Colleges

APPLICATION FOR APPROVAL—NEW TRANSFER PROGRAM

PROPOSED PROGRAM TITLE

COLLEGE

DISTRICT

PROJECTED PROGRAM START DATE

CONTACT PERSON

TITLE

PHONE NUMBER

E-MAIL ADDRESS

☐ CERTIFICATE ☐ A.A. DEGREE ☐ A.S. DEGREE ☐ LIMITED DURATION, until _____

PLANNING SUMMARY

Recommended T.O.P. Code		Estimated FTE Faculty Workload	
Units for Major—Degree		Number of New Faculty Positions	
Total Units for Degree		Est. Cost, New Equipment	
Required Units—Certificate		Type of New/Remodeled Facility	
Projected Annual Completers		Est. Cost, Library Acquisitions	

APPROVAL CRITERIA

Approval Criterion	Pg. # in App.	Section	Chancellor's Office Use
MISSION		1. Statement of Program Goals and Objectives	
		2. Catalog Description	
		3. Background and Rationale	
		4. Program Requirements	
NEED		5. Enrollment and Completer Projections	
		6. Place of Program in Curriculum/Similar Programs	
		7. Similar Programs at Other Colleges in Service Area	
QUALITY		8. Display of Proposed Sequence	
		9. Outlines of Record for Required Courses	
		10. Transfer Documentation	
		11. Program Evaluation Plan	
FEASIBILITY		12. Library and/or Learning Resources Plan	
		13. Facilities and Equipment Plan	
		14. Financial Support Plan	
		15. Faculty Qualifications and Availability	
COMPLIANCE		16. Model Curriculum	
		17. Licensing or Accreditation Standards	
		18. Student Selection and Fees	

SUBMIT THREE COPIES OF THIS FORM AND ALL ATTACHMENTS

REQUIRED SIGNATURES

Program _____ College _____

LIBRARY AND LEARNING RESOURCES

Library and learning resources needed to fulfill the objectives of the program are currently available or are adequately budgeted for.

DATE	SIGNATURE, CHIEF LIBRARIAN/LEARNING RESOURCES MANAGER	TYPED OR PRINTED NAME

LOCAL CURRICULUM APPROVAL

Program and courses within the program have been approved by the curriculum committee and instructional administration, and satisfy all applicable requirements of Title 5 regulations.

DATE	SIGNATURE, CHAIR, CURRICULUM COMMITTEE	TYPED OR PRINTED NAME
DATE	SIGNATURE, CHIEF INSTRUCTIONAL OFFICER	TYPED OR PRINTED NAME
DATE	SIGNATURE, PRESIDENT, ACADEMIC SENATE	TYPED OR PRINTED NAME

COLLEGE PRESIDENT

All provisions of Title 5, Section 55130(b) have been considered. All factors, taken as a whole, support establishment and maintenance of the proposed instructional program.

DATE	SIGNATURE, PRESIDENT OF THE COLLEGE	TYPED OR PRINTED NAME

DISTRICT APPROVAL

On _____, the governing board of _____
District approved the instructional program attached to this application.

DATE	SIGNATURE, SUPERINTENDENT/CHANCELLOR OF DISTRICT	TYPED OR PRINTED NAME

INSTRUCTIONS FOR APPLICATION FOR APPROVAL–NEW TRANFER PROGRAM

Program Title: Please give the title as it is proposed to appear in the catalog. A program title should clearly and accurately reflect the scope and level of the program.

Contact Person: The person designated as contact for the application should be the person most able to answer questions about the proposed program. It may be the chief instructional officer, the division or department chair of the originating department, or the originating faculty member who has designed the program.

Interim communications from the Chancellor's Office, such as requests for further information, will usually be sent to the contact person, but official communications on the status of program approval applications are sent to the chief instructional officer, with copies to the contact person and whomever else the college may designate.

Projected Program Start Date: The month and year when the college plans to offer the first required course in the program, or to enroll students in an existing course on the expectation that it will count toward the degree or certificate to be approved. Programs are required to be approved before being offered; however, if for some reason the program has already started, please indicate "Already started (term) (year)."

Type of Program: Please check appropriate box or boxes. All new degree majors are required to be approved. For certificates, only those requiring 18 or more semester units, or 27 or more quarter units, are required to be approved. If the program will offer both a certificate and a degree, please submit a single application for both. A limited duration approval may be requested for any type of program.

Limited Duration: A limited duration approval may be requested for one of two reasons: the college plans to operate the program only for a limited period; or the college cannot supply all information necessary for a permanent approval application within the necessary length of time. In the latter case, the Chancellor's Office will consider an approval application with one or more required elements missing or incomplete, if there is reason to believe that permanent approval is likely to be granted when those elements are supplied. In such a case, the limited approval will generally be granted for one academic year only. Colleges are advised to avoid this procedure, as it effectively requires going through the approval process twice (once for the limited authorization and again for the permanent authorization). However, it is available if necessary.

If a limited duration approval is requested because the college plans to operate the program only for a limited period, any duration may be requested, but the same application elements are required as for a permanent approval.

A college may not admit new students into a program after a limited duration approval has expired. However, students already in the program should be permitted to complete it.

Planning Summary

Recommended T.O.P. Code: The Taxonomy of Programs code is the category which groups the proposed new program together with degree and certificate programs on other campuses that have similar goals and objectives. The code is used to aggregate system-wide data on awards, program completions, placements, job success and other outcomes, and is the basis for reporting county and statewide job market supply data. For non-occupational programs, the T.O.P. reflects the main discipline or subject matter and is used to aggregate data on awards, program completions and transfers.

The T.O.P. code should be assigned according to the content and outcomes of the program, and should conform as best as possible to the code assigned to similar programs in other colleges around the state. The T.O.P. code should not be assigned based on local departmental structure, faculty qualifications, or budget groupings.

A college that has difficulty identifying the most appropriate T.O.P. code should contact the Chancellor's Office. The Chancellor's Office may adjust the T.O.P. code, if necessary, after consulting the college.

Units for Major–Degree: The number of semester or quarter units reported here should include only required courses, restricted electives, and closely associated prerequisites. An example of a closely associated prerequisite would be anatomy and physiology for a nursing program, or technical mathematics for a manufacturing program. Do not include prerequisite units needed to bring a student to standard collegiate levels of language and computational competence. Do not include general education, or open electives. Do not convert quarter units to semester unit equivalents.

Total Units for Degree: The total units required to complete the degree, including the units in the item above, plus all required general education, open electives, and any other requirements.

Required Units–Certificate: The number of semester or quarter units, including required courses, restricted electives, and closely associated prerequisites. Do not convert quarter units to semester unit equivalents.

Projected Annual Completers: Number of students estimated to receive the degree or certificate each year, when the program is fully established. Explanation may be provided in Item #5.

Estimated FTE Faculty Workload: This is the number of full-time equivalent faculty positions estimated to be dedicated to teaching the courses in this program, regardless of whether new or existing faculty. It is not the number of FTES (Full Time Equivalent Students) expected to be generated by the program.

Number of New Faculty Positions: Do not fill in total FTE's, but the number of separately identified positions that will involve new hires or reassignments, whether part or full time. The qualifications for these positions should be discussed in Item #15.

Est. Cost, New Equipment: If new equipment will be acquired for this program, estimate total cost from district and State funds. Discuss specifics in Item #13.

Type of New/Remodeled Facility: If new or remodeled facilities will be acquired for this program, indicate here. Discuss specifics in Item #13.

Estimated Cost, Library Acquisitions: Fill in estimated costs for library and learning resources materials. Discuss specifics in Item #12.

Approval Criteria Sections

Please number the sections in the application narrative to correspond to the numbers on the sections below.

MISSION

1. *Statement of Program Goals and Objectives*

A statement must be submitted that defines the goal(s) of the proposed programs. On the basis of the program goals, objectives appropriate to these goals, and a program design consistent with these objectives, the determination is made as to whether the proposed program is appropriate to the mission of the community colleges.

For a transfer program, the stated goal of the program must include (but need not be limited to) the preparation of students for one or more baccalaureate majors, which must be specified in the goal. Courses required in the program are specifically designed to be transferable, not only as electives, but to fulfill the lower division requirements of a major in four-year colleges.

Programs designed to provide the complete pattern of lower division general education required for a baccalaureate degree also fall within the mission, even where the transferable courses required may not count directly toward any particular transfer major, but where, taken together, they clearly provide a strong foundation for upper division work.

If the program reflects a goal other than transfer or occupational preparation, please explain in detail how this conforms with the community college mission.

2. *Catalog Description*

Description of the program as it will appear in the catalog. This description should be consistent with the rest of the application, convey the program's goal and objectives, and suggest how these differ from the goals and objectives of other programs and what students may expect as an outcome.

The catalog description represents a promise to the student, and exaggerated or unsustainable statements should therefore be avoided. Assertions of career applicability as well as transfer applicability should be reasonable and capable of being documented.

3. *Program Requirements*

A list must be submitted of all courses required for completion of the program, including core requirements, restricted electives, and prerequisites. For each course, the course number, course name, and unit value must be indicated. The total of the unit values must be shown.

For degree programs, general education requirements should also be indicated, but separately. This may be done in any of several ways. A copy of the college's overall general education requirements for a degree of this type may simply be included (such as a photocopy of requirements from the catalog). Or required general education categories may be listed with the number of units required in each. Or a display may be included of the required general education categories (including number of units required) with specific recommendations for appropriate general education course choices for students in this program.

The total units required for the degree should also be shown, including the major requirements, prerequisites, general education, open electives, and any other requirements.

Any other special requirements for completion of the program, such as an internship, work experience, or examination, must be detailed. Any alternative means of satisfying the program requirements must also be detailed. The program requirements detail should be consistent with the catalog description.

Taken together, successful completion by students of the set of courses required for the program must be sufficient to enable them to fulfill the program goals and meet the program objectives. Courses should be required that will assure the college level communication and analytic skills necessary for success in a transfer program.

The number of units, specific course requirements, design of individual courses, and the sequence of the courses should, taken together, be coherent, complete, and appropriate, given the program objectives and the resources with which the college has to work. The Chancellor's Office will rely heavily on the educational judgment of local discipline faculty and curriculum committees in regard to judgments on the appropriateness of program requirements.

4. *Background and Rationale*

This section explains at a general conceptual level what role the proposed program, given its stated goals and objectives, would fulfill in the curriculum. It may include some

history of how the program proposal came about, what is different about it, why it is important, why it is especially appropriate for the region and for the college, the nature of the community support for it and so forth. These explanations should be related to the overall plan for the college, other new program developments, and the specific needs of that community and mission of the college. This item may be used to justify program objectives or the inclusion of a given course as a requirement, etc.

This narrative provides a context to reviewers. It is the place for colleges to explain special considerations and to make a case for a program that justifies the use of alternative documentation where the usual documentation would be misleading or inconclusive, or is simply not obtainable.

It is not necessary to repeat here information covered elsewhere, as long as it is clearly cross-referenced to a page numbered in proper sequence and a paragraph or section number, and, in the case of references to minutes, with the relevant section highlighted.

NEED

5. *Enrollment and Completer Projections*

These figures may be based upon enrollment in current courses and/or a survey of prospective students. A survey is rarely needed for a transfer program. However, in the case of a survey, the survey questionnaire, itself, as well as a description of population surveyed and survey results, should be included in this documentation.

Please provide estimates of:

- the number of sections of core courses to be offered annually (number of sections each semester times two, or each quarter times three)
- the headcount student annual enrollment in the number of sections estimated above. (It is not necessary to break down enrollment estimates by course. A total estimate is sufficient.)
- the number of estimated program completers at the end of the first year of program operation
- the number of estimated program completers at the end of the third year of program operation

If it is anticipated that enrollments and completions will continue to rise after the third year of program operation, please explain.

6. *Place of Program in Curriculum/Similar Programs*

Before completing this section, review the college's existing program inventory. If you cannot obtain a printed inventory, you may view the inventory on the World Wide Web

at **http://www.cccco.edu/cccco/esed/curric/inventory.htm**. This section must specify if the program replaces any existing program(s) on the inventory. Any existing inventory entries that need to be removed or modified in connection with the approval of the program must be specified. If such adjustments are needed, the recommended way to display them is to submit a hand-corrected printed copy of the existing inventory.

What related programs are there in the college? What need will this one fulfill that those programs do not? Will there be courses in common? Will this program pull students from them? Will it accommodate an overflow or provide for a different type of student? Will students wish to, or be able to move between the programs? Will programs share resources?

Explain how, if at all, this program makes new or more productive uses of existing resources, and/or builds upon existing programs or services, establishes a new direction for the college, or similar points. If this program is related to the ending or scaling down of other programs, this is the place to provide details.

7. *Similar Programs at Other Colleges in Service Area*

Under this item, describe similar programs in other colleges within commuting distance. A brief description of each program, or photocopied pages from other colleges' catalogs, are sufficient. If there are significant differences between the design of the proposed program and similar programs at neighboring colleges, please explain the reasons.

Generally, destructive competition between districts is not an issue for transfer programs, nor is redundancy of offerings, since every college is presumed to have the right to offer a range of transfer majors. For transfer programs, the main reason for considering programs in neighboring colleges is to compare how alike or different the program requirements are.

Evidence that program developers have been in communication with existing programs and have used this information to help design the proposed program should be provided here. When two or more colleges in the same region are seeking approval for new programs of a similar sort at or near the same time, evidence of collaboration is especially important.

QUALITY

8. *Display of Proposed Sequence*

Include a flowchart, table, or diagram that shows how the required courses should be taken in sequence and how the prerequisites fit together. Indicate whether the sequence is suggested or mandatory. The sequence should be arranged so that a full-time student could complete a degree program in two years, except in the case of a high-unit technical or health occupation program where a case has been made that a sequence longer than two years is definitely necessary. For a certificate, the sequence

should be arranged so that a full-time student completes the program within the time normally needed to complete the total number of units required for the certificate.

For a degree program, the proposed sequence should include recommended or suggested typical general education courses. Such a recommended or suggested pattern does not constrain students' individual general education choices, unless specific general education courses have actually been integrated into the program requirements. In that case, they should be counted in the unit count for the major.

9. *Outlines of Record for Required Courses*

Outlines of record must be included for all core courses required of all students in the program.

Usually, outlines should also be included for all restricted electives. However, if there is a large number of restricted electives (i.e., more than ten), a representative sample should be included. A representative sample would constitute at least three outlines, chosen from different categories, if the electives fall into categories.

Do not send outlines for general education or prerequisite courses. The exception is, if the program is based on general education transfer requirements (e.g., a major in "Transfer Studies" or "Liberal Arts"), a representative sample of outlines, including one from each general education category, should be sent.

If several related programs or options, concentrations, specializations, etc. are submitted together for approval, do not send duplicate copies of the course outlines. Include the course outlines with one of the applications or narratives, and in all others, refer to where the reader may find the course outlines.

10. *Transfer Documentation*

Please indicate what four-year institutions the program will transfer to. This section is the single most important section of documentation for a transfer program. It must document that the coursework required for the community college program substantially satisfies the lower-division coursework requirements of the corresponding university major. It is not always necessary that every lower-division requirement at the transfer institution be satisfied.

If a programmatic articulation agreement exists–that is, an agreement providing that completion of the program satisfies, in whole or in specified part, lower division requirements in the major at the four-year institution(s)–include it here. A programmatic articulation agreement is not the same as a course articulation agreement. Please do not include the community college's entire institutional course articulation list.

The ASSIST database (**http://www.assist.org**) can often be helpful in documenting programmatic articulation. Caution is important, however: ASSIST is often incomplete

and/or out-of-date. Whatever ASSIST may show must be verified, supplemented, or explained as necessary to provide complete documentation.

Many transfer majors do not have a programmatic articulation agreement at the time they are initially approved. If that is the case with the proposed program, then other transfer documentation must be provided. A comparison must be displayed of the requirements for the proposed program with the lower-division requirements for the corresponding major in three senior institutions to which students at the community college would typically transfer. (If geographical or programmatic factors limit transfer applicability, for practical purposes, to fewer than three senior institutions, a lesser number is acceptable.) This comparison may be made by laying out the requirements in table form, or by including photocopied pages from the transfer institutions' catalogs. The comparison must show that the requirements for the proposed community college program substantially satisfy the lower-division major requirements at the identified transfer institutions. Any significant gaps where the proposed program would not fulfill the transfer major requirements should be discussed.

Here, for purposes of illustration, is an articulation table prepared for a common major.

Speech Communication: Allan Hancock College–Cal Poly San Luis Obispo		
Required courses, A.A. in Speech Communication, Allan Hancock College	**Articulation Status and Comments**	**Required lower-division courses, B.A. in Speech Communication, Cal Poly San Luis Obispo**
Required Courses for Major		**Required Courses for Major**
Speech 101 Public Speaking	not required at Cal Poly	
Speech 103 Interpersonal Commun.	articulated	Speech 212 Interpersonal Commun.
Speech 102 Small Group Commun.	articulated	Speech 217 Small Group Commun.
Speech 108 Oral Interpretation of Literature	Will be listed as 205 in next catalog (lower division). We already have articulation	Speech 305 Performance of Literature
	No equivalent at this time	Speech 213 Organizational Comm.
	No equivalent at this time	Speech 250 Forensic Activity (1 unit)
Restricted Electives within major recommended for Cal Poly transfers		**Required Support Courses**
History/Humanities 104 Western Civilization to 1650	articulated	History 110 Western Civilization Ancient to Renaissance
History/Humanities 105 Western Civilization Since 1650	articulated	History 111 Western Civilization Reformation to Twentieth Century
Math 123 Elementary Statistics	articulated	Statistics 217 Applied Statistics for the Liberal Arts

This table shows that, to satisfy completely the transfer institution's lower-division requirements, Allan Hancock should develop an articulated course in organizational

communication. However, the table shows that the community college degree is approvable in terms of programmatic articulation, as it substantially (although not completely) satisfies lower-division transfer requirements.

Other types of supplementary transfer documentation that may be used include:

- A proposed programmatic articulation agreement and plans for achieving it.
- A summary of standards for lower-division preparation in this discipline published or endorsed by relevant professional bodies.
- A list of four-year college faculty from transfer institutions, knowledgeable in that discipline, and/or representatives of the profession, who have been involved in helping to create or review the program design.
- A plan for how students can gain transferability of non-articulated courses through a testing process or some other way in which the credits earned by students in the new program can be protected.

The documentation should show a good-faith effort on the part of the college to assure that, as far as possible:

- Every course required of students will count not only in transfer, but specifically toward completion of a major after transfer
- Courses required in the lower-division program will not have to be repeated in upper division
- All major requirements usually fulfilled at the lower-division level can be fulfilled at the community college

11. *Program Evaluation Plan*

If the college has a standard evaluation plan, please include a copy of that plan (unless it is too bulky, in which case a summary will do). Please explain how often the proposed program would be reviewed using that plan, and what will be done as a result of the information thereby gained.

If the college has no such standard practice, this section should indicate how the requirements of the accrediting commission for program evaluation will be met. It should also be noted that Title 5, Section 51022 sets the existence of program review procedures as a minimum condition for the receipt of state funding.

Among the items that could be included in the evaluation plan are:

- Fiscal viability of the program.
- Adequacy of facilities, equipment, and library and learning resources collection in extent, currency, accessibility and quality.

- Curriculum:

  1) Courses are current with respect to new developments in the field and improved teaching methods.

  2) The set of requirements is complete, appropriate, and sequenced as effectively as possible, given the objectives of the program.

- Faculty & Instruction:

  1) Faculty possess the appropriate credentials or other qualifications.
  2) Proportion of part-time to full-time instructors is acceptable.
  3) Faculty workload is acceptable.
  4) Faculty syllabi and actual instruction are in accordance with the outlines of record.
  5) The most effective teaching methods are in use.
  6) Faculty evaluations are regularly and properly conducted.

- Outcomes

  1) Number of students enrolling in and completing the program.
  2) Number of students transferring and their subsequent grade point averages and retention rates.
  3) Number of students working in the field after completion of at least one A-C level course (SAM Code) in that field.
  4) Satisfaction measures among employers of students who complete vocational programs in the field of employment.

FEASIBILITY

12. *Library and Learning Resources Plan*

Explain here the determination of what library and learning resources are necessary to support the program as designed. Determining the needed resources should involve a partnership between the originating faculty and the library and learning resources staff. If new resources will need to be acquired, explain how they will be budgeted.

13. *Facilities and Equipment Plan*

Specific needs for facilities and equipment should be detailed here with an indication of what is already available, what is part of the district's master plan, what is currently in some stage of acquisition, and what would have to be acquired after the program was begun. An estimate of the total cost of new facilities and equipment should be included.

14. *Financial Support Plan*

This section should discuss the adequacy and proposed sources of financial support both for the ordinary costs of instruction, and for any special equipment and/or facilities needs as described in the preceding section.

The source of support for ordinary costs of instruction may be apportionment revenue growth possible under the district's growth cap or apportionment revenue redirected as a result of phasing out another program. In some cases a new program may not entail any increased apportionment, if it is composed only of existing courses and does not add new courses.

Sources of support for facilities and equipment may include State capital outlay funding, instructional equipment grants, donations by industry, funds raised by a foundation, etc.

If the new program has been developed with a grant from the Fund for Instructional Improvement (FII), Economic Development, or other special funds, such as those for employer-based training or federal grants, these sources and any requirements that may have been set in relation to initiating the new program should be explained.

15. *Faculty Qualifications and Availability*

Resumes of the faculty who will be directing and teaching in the new program should be maintained locally in the program file, clearly indicating that the program will be adequately staffed and managed by faculty who meet State minimum qualifications, and whose qualifications indicate adequate understanding of current knowledge and practice in the field appropriate to the program. If new faculty will be needed, or if new training will be provided to faculty who are undertaking expanded or different responsibilities, an explanation should be provided as to how the additional costs and/or training will be accommodated.

If the program is in a field which does not appear by name on the minimum qualifications "disciplines lists," or where there could be ambiguity about which discipline it is under for minimum qualifications purposes, please specify the minimum qualifications that will be applied locally for faculty hiring and assignment.

Discuss the balance of full-time and part-time instructors in the program.

COMPLIANCE

16. *Model Curriculum*

If the program design is based upon a model that has been developed for statewide or national use, refer to the model, and if possible, include a copy of the model or a summary. Explain any departures from the model to fit local circumstances, or for other reasons.

The Chancellor's Office requires that, in fields where model curriculum designs have been developed and disseminated with the support of the Chancellor's Office, and with broad consensus from representatives of the discipline, every new program application generally should incorporate the elements of the model curriculum. The best-known example is the public safety occupations of administration of justice, fire science,

hazardous materials, and emergency medical services, where model program standards have been disseminated throughout the state. There are also model curricula in some health occupations, sometimes developed by national professional associations. The best-known example of a model curriculum in a transfer field is the one developed by the Engineering Liaison Committee for transfer students in engineering.

If there is a reason why, in a field where model curriculum does exist, that curriculum or a part of it is inappropriate for a particular new program, the reason should be explained.

17. *Licensing or Accreditation Standards*

The college should determine whether accrediting or licensing standards apply to the proposed program and include them, or a summary of them, in the application, together with information as to organizations or persons representing the field who may be contacted by the Chancellor's Office, if necessary. As with Item #23, any departures from the accrediting standards should be explained. The explanation should also clarify whether the college intends to function without accreditation in the area or expects to be accredited.

18. *Student Selection and Fees*

In this item, entry criteria and the selection process for admission to the program, if the program is selective, should be detailed. Program admission or selection procedures should comply with the provisions of Title 5, Section 58106 ("Limitations on Enrollment"), and Section 55201 ("Prerequisites, Corequisites, and Advisories on Recommended Preparation.") In addition, all mandatory fees which students will incur, for the program as a whole or any of its constituent courses, aside from the ordinary course enrollment fee prescribed in Education Code Section 76300, should be specified. This includes fees for materials and reproduction, insurance, travel, uniforms, etc.

Signature Page

The title of proposed program, and name of the college, must be filled in at the top of this form.

Please be sure to provide all signatures required, and to fill in all blanks. A date must be filled in for each signature, as well as a typed or printed name

In the signature block for the superintendent or chancellor of the district, the date of approval by the district governing board must be filled in.

Applications missing required signatures, or with dates or other information on this form not filled in, will be returned to be completed.

If time is short and obtaining signatures in sequence is a problem, photocopies of the signature page may be made, provided each copy shows the name of the proposed program, and signatures may be obtained on separate copies as necessary.

Date of Request

California Community Colleges

REQUEST TO ADD NEW OPTION OR CERTIFICATE WITHIN EXISTING PROGRAM TO INVENTORY

(including emphasis, concentration, specialization, strand, track, etc.)

TITLE OF NEW OPTION OR CERTIFICATE

CONTACT PERSON

TITLE OF EXISTING PROGRAM

TITLE

EXISTING PROGRAM T.O.P.

EXISTING PROGRAM UNIQUE CODE

PHONE NUMBER

COLLEGE

DISTRICT

E-MAIL ADDRESS

PROJECTED OPTION START DATE

☐ CERTIFICATE ☐ A.A. DEGREE ☐ A.S. DEGREE

NEW OPTION OR CERTIFICATE:

Recommended T.O.P. Code	
Units for Major—Degree	
Required Units—Certificate	
Projected Annual Completers	

Please provide the following for all options:

1. Statement of goals and objectives for existing program, including new option.
2. Catalog description for existing program, including new option.
3. Option requirements (list of required courses).
4. Discussion of place of option in the curriculum–relation to existing program and options; relation to other programs.
5. Course outlines only for new courses for this option.

Provide the following for options in occupational programs:

6. Discussion of labor market need or job availability.
7. Recommendation of regional consortium.

Provide the following for options in transfer and general programs:

8. Transfer documentation (evidence that option addresses requirements for an academic major at four-year institutions).

Provide the following for all options only if applicable:

9. Discussion of background and rationale (if needed).
10. Discussion of impact on other colleges in region (if needed).
11. Discussion of feasibility factors (if needed).

THE CHANCELLOR'S OFFICE MAY REQUEST ADDITIONAL INFORMATION IF NEEDED BEFORE ADDING A PARTICULAR OPTION TO THE INVENTORY.

SEE REVERSE FOR SIGNATURE PAGE.

SUBMIT TWO COPIES OF THIS FORM AND ALL ATTACHMENTS

REQUEST TO ADD NEW OPTION OR CERTIFICATE WITHIN EXISTING PROGRAM
REQUIRED SIGNATURES

Option or Cert._____ College _____

FOR ALL OPTIONS:

Option or certificate, and courses within the option or certificate, have been approved by the curriculum committee and instructional administration, and satisfy all applicable requirements of Title 5 regulations.

DATE	SIGNATURE, CHAIR, CURRICULUM COMMITTEE	TYPED OR PRINTED NAME
DATE	SIGNATURE, CHIEF INSTRUCTIONAL OFFICER	TYPED OR PRINTED NAME
DATE	SIGNATURE, ACADEMIC SENATE PRESIDENT	TYPED OR PRINTED NAME

FOR VOCATIONAL PROGRAM OPTIONS:

Option or certificate has been reviewed by Regional Occupational Consortium, and approval was recommended on _____ (date).

DATE	SIGNATURE, CHAIR, REGIONAL CONSORTIUM	TYPED OR PRINTED NAME

COLLEGE PRESIDENT:

All provisions of Title 5, Section 55130(b) have been considered. All factors, taken as a whole, support establishment and maintenance of the proposed instructional option or certificate.

DATE	SIGNATURE, PRESIDENT OF THE COLLEGE	TYPED OR PRINTED NAME

DISTRICT APPROVAL (check one):

☐ On _____, the governing board of _____ District approved the instructional option or certificate attached to this request.

☐ The governing board has delegated to me the authority to approve new options or certificates within existing programs, and I have approved the option or certificate attached to this request.

DATE	SIGNATURE, SUPERINTENDENT/CHANCELLOR OF DISTRICT	TYPED OR PRINTED NAME

Instructions for "Request For Addition Of New Option or Certificate Within Existing Program To Inventory"

This form is required whenever a college wishes to add a designation within an existing program – such as option, emphasis, concentration, specialization, strand, track, etc. – which will appear on students' completion awards and/or transcripts. Designations that will not appear on student awards or transcripts need not be submitted and should not be entered on the state Inventory of Approved and Projected Programs.

This form may also be used for requesting the addition of a certificate in a program for which a degree major and/or other certificates are already approved. It may also be used for requesting the addition of a degree major in a program for which a certificate is already approved.

In general, an option or certificate may be considered within an existing program if it is appropriately classified in the same T.O.P. code as the existing program. (However, this does not apply to codes ending in 99 ("Other"), since these codes do not imply any commonality.) In some instances a new option or certificate classified in a 5-digit T.O.P. subdiscipline may be considered within an existing program classified in the corresponding 4-digit T.O.P. discipline. Please check with the Chancellor's Office if you believe that may be appropriate for your option or certificate. If the appropriate T.O.P. classification of the new option or certificate is within a different 4-digit T.O.P. discipline, the "Application for Approval – New Occupational Program" or "Application for Approval – New Transfer Program" form should be used.

Specific Instructions

Statement of goals and objectives – If there is no statement of goals and objectives for the existing program, one will need to be prepared. At a minimum, such a statement should specify what transfer major the program prepares students for, or what specific occupation(s) it prepares students for and what main occupational competencies students will achieve. The statement should reflect or incorporate the new option as appropriate.

Catalog description – The catalog description should be consistent with the statement of goals and objectives, and should reflect or incorporate the new option as appropriate.

Option requirements – A list should be submitted of all courses required for completion of the program, including core requirements, restricted electives, and prerequisites. For each course, the course number, course name, and unit value must be indicated. The total of the unit values should be shown. It should be clear how requirements for the new option or certificate differ from requirements for the existing program and other

options. Also show any other requirements for completion, such as internship, work experience, or examination.

Discussion of place of option in the curriculum – Briefly state how the new option will augment or replace other options or programs. Please review the college's existing entries on the Inventory of Approved and Projected Programs before submitting a new option or certificate. (Request a printout from the Chancellor's Office if necessary.) Indicate what existing entries will need to be removed or modified to reflect program adjustments associated with the new option or new configuration of certificates.

Course outlines – Attach outlines of record for all new courses created for this option. If this option or certificate does not include any new courses, include outlines for any two courses specifically required for this option.

Discussion of labor market need or job availability – Please indicate how the college has determined the need for the new option. This may be through labor market statistics, employer survey, recommendations from occupational advisory committee, expressions of student interest, requests from individual employers, or other appropriate means. Documentation of the labor market is not required to accompany this discussion, unless specifically requested by the Chancellor's Office.

Recommendation of regional consortium – Include the minutes of the Regional Occupational Consortium meeting(s) at which the option was discussed. Highlight that portion of the minutes of the meeting in which the proposed option was recommended for approval. If it is impossible to obtain minutes for the meeting, a letter or memo from the chair of the Regional Occupational Consortium must be included, certifying that the group recommended approval of the option, and specifying the date of the recommendation, or the signature of the chair of the consortium must be provided on the signature page.

Transfer documentation – If the new option is within a transfer program, please include specific information on the requirements for the corresponding baccalaureate degree in two or more four-year institutions to which students are most likely to transfer. A comparison must be displayed between requirements for the community college option and lower-division requirements for the baccalaureate major. The comparison must show that the community college option substantially satisfies the lower-division baccalaureate major requirements.

If another legitimate educational outcome, other than transfer or occupational preparation, is served by the option, please explain.

Discussion of background and rationale (if needed) – This section is only required if there are aspects of the option that need special explanation. Provide

a history of how the option came about, what is unique about it, why it is especially appropriate for the region and the college, the nature of the community support for it, and so forth. This is a place for a college to explain special considerations and unusual circumstances.

Discussion of impact on other colleges in region (if needed) – This section is only required if the option might possibly create destructive competition with programs in other colleges. Discuss how the college has verified that the option will not have a negative impact on similar programs and options at neighboring colleges.

Discussion of feasibility factors (if needed) – This section is only required if the option will require a substantial new investment of facilities, equipment, funding, or faculty. Please discuss how each of these needs will be met, and how the college knows it will be able to provide the resources to continue the option.

Signature Page

The title of the proposed option or certificate must be filled in at the top of this form.

Please be sure to provide all signatures required, and to fill in all blanks. A date must be filled in for each signature, as well as a typed or printed name.

The signature of the chair of the Regional Occupational Consortium is not always necessary on this form. If the application includes a memo or letter from that chair indicating that the option or certificate was recommended for approval and giving the date of the recommendation, and/or if it includes a copy of minutes showing the positive recommendation, please write "See memo [or letter, or minutes] attached" in this space.

In the signature block for the superintendent or chancellor of the district, one of the two boxes must be checked: either the option has been approved by the district governing board (in this case the date of board approval must be filled in), or the superintendent or chancellor has approved the option under a delegation of authority.

Forms missing required signatures, dates or other information will be returned to be completed.

Questions?

If there are any questions about how to prepare this request for addition of a new option or certificate to the inventory, please contact the Chancellor's Office. See program and course approval handbook for contact information, or consult our web page at **www.cccco.edu**.

California Community Colleges

Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)

College _____ Contact Person _____

District _____ Phone # _____

Date Form Submitted _____ E-mail _____

_____ _____ _____

DATE SIGNATURE, CHIEF INSTRUCTIONAL OFFICER TYPED OR PRINTED NAME

Existing Program:

Permanent Program Identifier[1] _____

T.O.P. Code _____

Local Program Title _____

Inactive Program? Yes ☐ No ☐

Changes:

Title change to _____

T.O.P. shift to _____

(Why is T.O.P. shift requested? Please explain: _____

_____

Reactivate Inactive Program? Yes ☐ No ☐

Program requirements revised in (month/year) _____

Please fill in correct, current information, whether it has changed or not:

Cert Units _____ Deg Units[2] _____ Deg Type[3] _____ Occ Code[4] _____

Comments *(for college use)*: _____

_____

_____

Please attach program description and requirements, as revised.

[1]Inactive programs do not have a permanent program identifier until they are reactivated.

[2]Degree units should include units required for the major, including core and restricted electives, and closely associated prerequisites. Do not include general education or open electives.

[3]Degree types are "A" for Associate in Arts; "S" for Associate in Science; or "B" where both degrees are available. For "B," please explain difference in requirements under "Comments."

[4]Occupational codes: make no mark if nonoccupational; 1 if occupational non-apprenticeship; 2 if apprenticeship only; 3 if both apprenticeship and non-apprenticeship.

Please submit new options and concentrations on form "Request to Add New Option or Certificate Within Existing Program to Inventory."

Instructions for "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)"

Although a college may submit this form at any time, the Chancellor's Office will also conduct a periodic inventory update, offering colleges the opportunity to supply such update information for all their programs at once. A college may choose to wait to submit non-substantial changes until such a survey is taken; however, if it is desired to have changes reflected on the Inventory immediately, this form should be submitted.

Please be sure to review your college's existing entries on the Inventory of Approved and Projected Programs before completing this form. This is important so that you can inform the Chancellor's Office of exactly what changes are needed.

If you do not have a current printout of your college's inventory, please request one from the Chancellor's Office. The inventory may also be viewed on the World Wide Web at **http://www.cccco.edu/cccco/esed/curric/inventory.htm**.

The blanks to be filled in for the program information, "Cert Units," "Deg Units," "Deg Type," and "Occ Code," correspond to the column headings for this information that you will see in a printout from the Chancellor's Office inventory. Please refer to the footnotes for definitions of these fields.

Please attach a description of the program and the program requirements (list of required courses and any other completion requirements). These may be from the catalog, a program information sheet given to students, etc.

If the Chancellor's Office should determine that the program changes appear to be substantial, it may request additional information, including any of the elements from the applicable approval forms and instructions.

California Community Colleges

Request to Add Projected Program to Inventory

College _____ Contact Person _____

District _____ Phone # _____

Date Form Submitted _____ E-mail _____

_____ _____ _____

DATE SIGNATURE, CHIEF INSTRUCTIONAL OFFICER TYPED OR PRINTED NAME

Name of Projected Program: _____

Type of Program: ☐ Certificate ☐ Degree

Proposed T.O.P. Code _____

Projected Start Date _____

Brief description or comments (optional):

_____

_____

_____

_____

_____

_____

_____

_____

Application Date

9/01

California Community Colleges

APPLICATION FOR APPROVAL—CREDIT OR NONCREDIT APPRENTICESHIP PROGRAM

PROPOSED APPRENCTICESHIP TITLE

CONTACT PERSON

COLLEGE

TITLE

DISTRICT

PHONE NUMBER

PROJECTED PROGRAM START DATE

E-MAIL ADDRESS

☐ PROGRAM TRANSFER Previous location:

EMPLOYER OR JAC SPONSORING APPRENTICESHIP

TRAINING SITE(S)

☐ RELATED & SUPP. CREDIT COURSES ONLY ☐ RELATED & SUPP. NONCREDIT COURSES ONLY

☐ CERTIFICATE* ☐ A.A. DEGREE* ☐ A.S. DEGREE*

**Approval of a certificate or degree for apprentices does not provide approval of a certificate or degree for non-apprenticeship students. A separate approval is required for a corresponding non-apprenticeship program.*

PLANNING SUMMARY

Recommended T.O.P. Code		Est. Total RSI Hours in Third Year	
Units for Major—Degree		Estimated FTE Faculty Workload	
Total Units for Degree		Number of New Faculty Positions	
Required Units—Certificate		Est. Cost, New Equipment	
Est. Total RSI Hours in First Year		Type of New/Remodeled Facility	
Est. Total RSI Hours in Second Year		Est. Cost, Library Acquisitions	

APPROVAL CRITERIA

Please provide the following for all programs:

1. Statement of Program Goals and Objectives
2. Catalog Description
3. Program Requirements
4. Place of Program in Curriculum/Similar Programs
5. Outlines of Record for Required Courses
6. Evidence of Division of Apprenticeship Standards Approval

SUBMIT TWO COPIES OF THIS FORM AND ALL ATTACHMENTS

REQUIRED SIGNATURES

Program _____ College _____

COLLEGE CURRICULUM APPROVAL

Program and courses within the program have been approved by the curriculum committee and instructional administration, and satisfy all applicable requirements of Title 5 regulations.

DATE	SIGNATURE, CHAIR, CURRICULUM COMMITTEE	TYPED OR PRINTED NAME
DATE	SIGNATURE, CHIEF INSTRUCTIONAL OFFICER	TYPED OR PRINTED NAME
DATE	SIGNATURE, PRESIDENT, ACADEMIC SENATE	TYPED OR PRINTED NAME

COLLEGE PRESIDENT

All provisions of Title 5, Section 55130(b) have been considered. All factors, taken as a whole, support establishment and maintenance of the proposed apprenticeship program.

DATE	SIGNATURE, PRESIDENT OF THE COLLEGE	TYPED OR PRINTED NAME

DISTRICT APPROVAL

On _____, the governing board of _____
District approved the apprenticeship program attached to this application.

DATE	SIGNATURE, SUPERINTENDENT/CHANCELLOR OF DISTRICT	TYPED OR PRINTED NAME

INSTRUCTIONS FOR APPLICATION FOR APPROVAL–NEW OR REVISED APPRENTICESHIP PROGRAM

Program Title: Please give the title as it is proposed to appear in the catalog. A program title should clearly and accurately reflect the scope and level of the program. If the title is not the same as shown on the DAS approval document, please also give the DAS approved name of the program.

Contact Person: The person designated as contact for the application should be the person most able to answer questions about the proposed program. It may be the chief instructional officer, the dean of occupational education, an apprenticeship coordinator, or a faculty member.

Interim communications from the Chancellor's Office, such as requests for further information, will usually be sent to the contact person, but official communications on the status of program approval applications are sent to the chief instructional officer, with copies to the contact person and whomever else the college may designate.

Projected Program Start Date: The month and year when the college plans to offer the first related and supplemental courses for the apprenticeship. All related and supplemental instruction for apprentices is required to be approved by the Chancellor's Office before being offered. However, if for some reason the program has already started, please indicate "Already started (term) (year)."

Program Transfer: If the apprenticeship is being transferred from an adult school or regional occupational center, or from another community college (within the same district, or in another district), please check this box and fill in the name of the previous educational provider. Before applying for program transfer, please contact the Chancellor's Office apprenticeship coordinator for updated information.

Employer or JAC Sponsoring Apprenticeship: Please fill in name of employer or Joint Apprenticeship Committee sponsoring this apprenticeship. Also, if available, please provide address, phone, fax, and e-mail address.

Type of Program: Please check appropriate box or boxes. If the program will offer both a certificate and a degree, please submit a single application for both. Please note that, for related and supplemental apprenticeship instruction, unlike for nonapprenticeship courses, Chancellor's Office approval is required for the coursework itself, whether or not a certificate or degree is offered. For noncredit apprenticeship, each course needs to be approved and inventoried by the Chancellor's Office. Approval of a certificate or degree as part of an apprenticeship program does not provide approval for a corresponding non-apprenticeship certificate or degree.

Planning Summary

Recommended T.O.P. Code: The Taxonomy of Programs code is the category which groups the proposed new program together with programs on other campuses that have similar employment goals and objectives. The code is used to aggregate system-wide data on awards, program completions, placements, job success and other outcomes, and is the basis for reporting county and statewide job market supply data.

The T.O.P. code should be assigned according to the content and outcomes of the program, and should conform as best as possible to the code assigned to similar programs in other colleges around the state. The T.O.P. code should not be assigned based on local departmental structure, faculty qualifications, or budget groupings.

A college that has difficulty identifying the most appropriate T.O.P. code should contact the Chancellor's Office. The Chancellor's Office may adjust the T.O.P. code, if necessary, after consulting the college.

Units for Major–Degree: The number of semester or quarter units reported here should include only required courses, restricted electives, and closely associated prerequisites. An example of a closely associated prerequisite would be anatomy and physiology for a nursing program, or technical mathematics for a manufacturing program. Do not include prerequisite units needed to bring a student to standard collegiate levels of language and computational competence. Do not include general education, or open electives. Do not convert quarter units to semester unit equivalents.

Total Units for Degree: The total units required to complete the degree, including the units in the item above, plus all required general education, open electives, and any other requirements.

Required Units–Certificate: The number of semester or quarter units, including required courses, restricted electives, and closely associated prerequisites. Do not convert quarter units to semester unit equivalents.

Est. Total RSI Hours in First Year: Funding for apprenticeship apportionment is separate from funding for all other apportionment. In order to know how much funding to request from the Legislature, the Chancellor's Office must have each college's best estimate of the total number of hours of related and supplemental instruction the program is likely to generate. This item request an estimate of RSI hours in the first budget year of operation regardless of whether or not it will be a full academic year.

Est. Total RSI Hours in Second Year: This estimate is intended to show whether the college anticipates the apprenticeship program will grow after its initial establishment.

Est. Total RSI Hours in Third Year: This estimate is intended to show whether the college anticipates the apprenticeship program will continue to grow substantially.

Estimated FTE Faculty Workload: This is the number of full-time equivalent faculty positions estimated to be dedicated to teaching the courses in this program, regardless of whether new or existing faculty. It is not the number of FTES (Full Time Equivalent Students) expected to be generated by the program.

Number of New Faculty Positions: Do not fill in total FTE's, but the number of separately identified positions that will involve new hires or reassignments, whether part or full time.

Est. Cost, New Equipment: If new equipment will be acquired for this program, estimate total cost from district and State funds.

Type of New/Remodeled Facility: If new or remodeled facilities will be acquired for this program, indicate here.

Estimated Cost, Library Acquisitions: Fill in estimated costs for library and learning resources materials, if any.

Approval Criteria Sections

Please number the sections in the application narrative to correspond to the numbers on the sections below.

1. *Statement of Program Goals and Objectives*

A statement must be submitted that defines the goal(s) of the proposed programs. For an apprenticeship program, this statement must, at a minimum, clearly indicate:

- what specific occupation(s) the program will prepare students for;
- what basic occupational competencies students will acquire.

It is this statement of goal(s) and objectives that serves to define the program over time. The goal statement is one of the major factors in determining whether changes to the program are "substantial modifications" for Chancellor's Office approval purposes.

2. *Catalog Description*

Description of the program as it will appear in the catalog. This description should be consistent with the rest of the application, convey the program's goal and objectives, and suggest how these differ from the goals and objectives of other programs and what students may expect as an outcome.

The catalog description represents a promise to the student, and exaggerated or unsustainable statements should therefore be avoided

3. *Program Requirements*

A list must be submitted of all courses required for completion of the apprenticeship program. For each course, the course number, course name, and unit value must be indicated. The total of the unit values should be shown.

If the program includes a degree or certificate, this list should include core requirements, restricted electives, and prerequisites. For degree programs, general education requirements should be separately indicated. The total unit requirement should be shown for only the core requirements, restricted electives, and closely associated prerequisites. A separate total unit requirement should be shown for the degree as a whole, including general education and open electives.

Any other special requirements for completion of the program, such as an internship, work experience, or examination, must be detailed. Any alternative means of satisfying the program requirements must also be detailed. The program requirements detail should be consistent with the catalog description.

The number of units, specific course requirements, design of individual courses, and the sequence of the courses should, taken together, be coherent, complete, and appropriate, given the program objectives and the resources with which the college has to work. Any associate degree program must also account for general education requirements in the overall program description and sequencing.

4. *Place of Program in Curriculum/Similar Programs*

Before completing this section, review the college's existing program inventory. If you cannot obtain a printed inventory, you may view the inventory on the World Wide Web at **http://www.cccco.edu/cccco/esed/curric/inventory.htm**. This section must specify if the program replaces any existing program(s) on the inventory. Any existing inventory entries that need to be removed or modified in connection with the approval of the program must be specified. If such adjustments are needed, the recommended way to display them is to submit a hand-corrected printed copy of the existing inventory.

What related programs are there in the college? What need will this one fulfill that those programs do not? Will there be courses in common? Will this program pull students from them? Will students wish to, or be able to move between the programs? Will programs share resources?

Explain how, if at all, this program makes new or more productive uses of existing resources, and/or builds upon existing programs or services, establishes a new direction for the college, or similar points. If this program is related to the ending or scaling down of other programs, this is the place to provide details.

This section is also the place where colleges may discuss any special considerations relating to this apprenticeship or provide any relevant background that is not discussed elsewhere.

5. *Outlines of Record for Required Courses*

Outlines of record must be included for all core courses required of all students in the apprenticeship program.

If a certificate and/or degree is also involved, the following guidelines apply: usually, outlines should also be included for all restricted electives. However, if there is a large number of restricted electives (i.e., more than ten), a representative sample should be included. A representative sample would constitute at least three outlines, chosen from different categories, if the electives fall into categories.

Do not send outlines for general education or prerequisite courses.

If several related programs or options, concentrations, specializations, etc. are submitted together for approval, do not send duplicate copies of the course outlines. Include the course outlines with one of the applications or narratives, and in all others, refer to where the reader may find the course outlines

6. *Evidence of Division of Apprenticeship Standards Approval*

Please provide documentation that the Division of Apprenticeship Standards, Department of Industrial Relations has approved this apprenticeship, including the use of this college as the educational provider for related and supplemental instruction. This documentation must contain the signature of the Chief of the Division or his designee, and must be in the form of one of the following:

- Form DAS-27 ("Extract of New Standards")
- Form DAS-24 ("Revision of Approved Standards")
- Letter or memo of approval from DAS (must include the name of the college as the approved educational provider)

Signature Page

The title of proposed program, and name of the college, must be filled in at the top of this form.

Please be sure to provide all signatures required, and to fill in all blanks. A date must be filled in for each signature, as well as a typed or printed name.

In the signature block for the superintendent or chancellor of the district, the date of approval by the district governing board must be filled in.

Applications missing required signatures, or with dates or other information on this form not filled in, will be returned to be completed.

If time is short and obtaining signatures in sequence is a problem, photocopies of the signature page may be made, provided each copy shows the name of the proposed program, and signatures may be obtained on separate copies as necessary.

APPENDIX B

Statement of "Guiding Principles" for Review of Degree and Certificate Programs

California Postsecondary Education Commission

excerpted from "The Commission's Role in the Review of Degree and Certificate Programs," December 1981

GUIDING PRINCIPLES

In a system of postsecondary education consisting of a diversity of institutions offering a wide range of programs and services, the review of plans and programs must be guided by a concern for the broad public interest. It must encourage programs that will increase the knowledge and skills of individual citizens and be accessible to everyone with the ability and desire to benefit from them. It must support programs and activities that promise to advance the frontiers of knowledge. And it must seek to foster quality within each segment and institution, preserving institutional identity, initiative, and vitality in the process.

At the same time, it must be alert to possible unnecessary duplication of effort, excessive costs, and inefficiencies in the allocation of resources.

As defined in statute, the Commission's role in the review process is advisory. The Commission's recommendations will be based on criteria which, to varying degrees, should guide the process at all levels. While all of the criteria listed below must be taken into account, they cannot be assigned fixed weight in determining the need for every degree or certificate program. The criteria to be employed by the Commission in defining the public interest as it relates to academic and occupational programs, not necessarily listed in order of importance, are the following:

1. Student Demand

Within reasonable limits, students should have the opportunity to enroll in programs of study in which they are interested and for which they are qualified. Therefore, student demand for programs, indicated primarily by current and projected enrollments, is an important consideration in determining the need for a program.

2. Societal Needs

Postsecondary education institutions bear a responsibility to fulfill societal needs for trained manpower and for an informed citizenry. Even though projecting manpower needs is far from being an exact science, such projections serve as one indication of the need for an existing or proposed program. As a general rule, employment prospects for graduates constitute a more important consideration in those programs oriented toward specialized occupational fields; with certificate or associate degree programs, the local employment market tends to be more significant than in the case of graduate programs where the state and national manpower situation assumes more importance. Recognizing the impossibility of achieving and maintaining a perfect balance between manpower supply and demand in any given career field, it nevertheless is important to both society and the individual student that the number of persons trained in a field and the number of job openings remain in reasonable balance.

3. Appropriateness to Institutional and Segmental Mission

Programs offered by any institution within a given segment must comply with the delineation of function for that segment set forth in the California Master Plan, as well as with its own statement of mission and special emphasis approved by the segmental governing body.

4. The Number of Existing and Proposed Programs in the Field

An inventory of existing and proposed programs, compiled by the Commission staff from the plans of all segments of postsecondary education, provides the initial indication of apparent duplication or undue proliferation of programs, both within and among the segments. The number of programs alone, of course, cannot be regarded as an indication of unnecessary duplication. Programs with similar titles may have varying objectives; the regional distribution of programs in public institutions is a consideration; and the level of instruction is a factor. In general, each program should be evaluated in relation to all other programs in the subject in order to ascertain if the program under review represents a responsible use of public resources.

5. Total Costs of the Program

The relative costs of a program, when compared with other programs in the same or different program areas, constitute another criterion in the program review process. Included in the consideration of costs are the number of new faculty required and the student/faculty ratios; and the equipment, library resources, and facilities necessary to conduct the program. For a new program, it is necessary to know the source of the funds required for its support, both initially and in the long run.

6. The Maintenance and Improvement of Quality

The public interest demands that educational programs at all levels be of the highest possible quality. While primary responsibility for the quality of programs rests with the institution and the segment, the Commission, for its part, is interested in indications that high standards have been established for the operation and evaluation of the program. In the process, it is necessary to recognize that a proper emphasis on quality may require more than a minimal expenditure of resources.

7. The Advancement of Knowledge

The program review process should encourage the growth and development of creative scholarship. When the advancement of knowledge seems to require the continuation of existing programs or the establishment of program in new disciplines or in new combinations of existing disciplines, such considerations as costs, student demand, or employment opportunities may become secondary.

APPENDIX C

Application Form for Approval of Stand-alone Course

California Community Colleges

Application for Approval of Credit Course

(Please attach official course outline.)

Date of Application: _____ Course to Start (Date): _____

College: _____ District: _____

Contact Person: _____ Phone: _____

Title: _____ E-Mail: _____

Course Title: _____ Course Dept. No.: _____

T.O.P. Code: _____ Permanent Course Identifier (CB00).: _____

Primary Mission Category: Transfer ☐ Vocational/Economic Development ☐

Basic Skills or ESL ☐ Other ☐ _____

Is course: Degree-Applicable ☐ Non Degree-Applicable ☐

Units: _____ Total Hrs. Lecture: _____ Total Hrs. Lab: _____

(Minimum per unit of 48 hours classroom time and out-of-class study, in any combination, required by law. Generally, each lecture hour requires two hours of out-of-class study; laboratory hours require no out-of-class study.)

Open entry/Open exit ☐ Variable Unit Range _____ Independent Study ☐

Other Method of Instruction ☐ _____

(When course is primarily designed for alternative method of instruction, or alternative classroom hours/units relationship.)

Repeatability: May be repeated _____ times (other than for unsatisfactory grade)

Course Fees (*other than enrollment fee*): _____

(Where information appears on course outline, you may write "See course outline.")

Prerequisite(s): _____

General Ed. Category (*Title 5*): Natural Sciences ☐ Social & Behavioral Sciences ☐

Humanities ☐ English Composition ☐ Communication & Analytical Thinking ☐

Other District G.E. Category ☐ _____

Proposed for Transferability: CSU ☐ UC ☐ Other ☐

Proposed for CSU General Ed. Category _____

Proposed for IGETC Category _____

Please complete other side of form.

Application for Approval of Credit Course *(Cont'd.)*

·oposed Catalog Description (*If this appears on course outline, write "See course outline."*):

What evidence of need for this course exists?

Has articulation or planning with neighboring institutions taken place?

Yes ☐ No ☐ N/A ☐ Please comment below if appropriate:

Estimated enrollment, all sections:

First Year _____ Third Year _____

Is course likely to lead to future program:

Yes ☐ No ☐ Uncertain ☐ Please comment below if appropriate:

For course in reading, writing, ESL, or math, indicate where course fits in credit and/or noncredit developmental sequence in applicable discipline. Please attach catalog pages with applicable course descriptions:

Signatures

We certify that this course meets with the standards of Title 5, Section 55002 for its credit category, and has been approved through the appropriate curriculum procedure for this college.

College Curriculum Committee Chair Date	College Chief Instructional Officer Date
Print Name	Print Name
College Chief Executive Officer Date	District CEO (*if applicable*) Date
Print Name	Print Name

Return this form to:

Curriculum Standards and Instructional Services

California Community Colleges, 1102 Q Street, Sacramento, California 95814, tel. (916) 322-6888

Please attach the official course outline.

APPENDIX D

Questions and Answers on Stand-alone Courses

Administrative Memo on Stand-alone Courses

Questions and Answers on Stand-alone Course Approval

(Refer to section on "Local Approval and Chancellor's Office Approval," p. 23; and to administrative memo on "Approval of Stand-Alone Courses," August 28, 2000.)

Curriculum Standards & Instructional Services
November 2000

1. Q: A stand-alone course that we hope will be accepted by CSU or UC for general education or major purposes must be submitted to those systems, according to a periodic schedule, for certification, before we know whether it actually is accepted. Are we authorized to offer such a course under the "blanket approval" while we are awaiting the decision of CSU or UC?

A: In order to avoid duplicative paperwork and an inordinate number of stand-alone course submissions, the Chancellor's Office hereby establishes a blanket limited-duration approval under specified circumstances as follows: When a new community college course, in a non-vocational T.O.P. code, has been identified as similar to a specific course offered for general education or major purposes at a CSU or UC campus, and the community college curriculum committee has applied for the course to be accepted for general education or major purposes at CSU or UC, or for the Intersegmental General Education Transfer Curriculum (IGETC), the community college shall automatically be entitled to offer the course for a period of no more than fifteen months from the date of approval by the curriculum committee, without separate course approval from the Chancellor's Office, while the course is evaluated by CSU or UC for articulation. After that period, if the course is accepted by CSU or UC, or for IGETC, it is authorized under the permanent blanket approval described in the administrative memo of August 28, 2000. If it is not accepted by CSU or UC, the course may not continue to be offered except with individual stand-alone approval from the Chancellor's Office. This automatic limited-duration approval applies only to courses that have been identified as similar to courses offered for general education or major purposes at CSU or UC.

2. Q: If a college has a 30-unit certificate in a vocational T.O.P. code, and then wants to add one 3-unit stand-alone class in that T.O.P. code, is approval required for the stand-alone course because the college has 12 units or more in that T.O.P. code? Or do you only count the stand-alone courses, and not the courses that are part of programs, in determining whether the college has 12 units or more in that T.O.P. code for blanket approval purposes?

A: As noted in the August 28, 2000 administrative memo, blanket approval is provided when a college has "fewer than 12 semester units or 18 quarter units of stand-alone coursework in the same [vocational] T.O.P. code." The number of units offered in that T.O.P. code as part of an approved program does not count. Therefore, in the example, individual Chancellor's Office approval is not required.

The blanket approval applies because only three units of stand-alone coursework are offered in that T.O.P. code, even though there is also a 30-unit approved certificate.

3. Q: Are cooperative work experience courses subject to stand-alone approval?

A: All cooperative work experience is governed by a plan which must be adopted by the district and approved by the Chancellor's Office, and which is required to include specific information and rules, per Title 5, Sections 55250-55257. Because of this, the Chancellor's Office has determined that there is sufficient oversight in this area so that individual stand-alone course approval is not necessary to ensure reasonable State accountability. Therefore, the Chancellor's Office hereby authorizes all colleges in the system to add such courses without individual course approval, but only if the district operates its program in accordance with its cooperative work experience plan as approved by the Chancellor's Office. Contact Ron Selge, Specialist in Workforce Preparation, at (916) 322-1677, or e-mail to rselge@cccco.edu for further information.

4. Q: May experimental courses be offered without stand-alone approval?

A: Experimental courses, special topics courses, and special study courses may be offered without stand-alone approval, provided that a course outline of record for the category is on file locally, all regular local curriculum approval processes are followed, and the categories are used for the purposes intended. In general, an experimental course is one for which full information on some approval criterion, such as feasibility or need, cannot be determined until the course is actually offered on a trial basis. An experimental course should generally be submitted for approval as a regular course, or discontinued, within one year. A special topics course is one which employs a consistent disciplinary framework, but for which the specific focus may change from term to term. An example is a special topics literature course in which the focus is on a different author each term. If a particular topic is offered regularly, it should be approved as a distinct course. A special study course is one that involves an individual student or small group of students in study, research, or activities beyond the scope of regularly offered courses, pursuant to an agreement among the college, faculty member, and student(s).

If a stand-alone course has been submitted for Chancellor's Office approval and has been denied, the college may not thereafter offer that course as an experimental, special topics, or special study course.

5. Q: Does the blanket approval apply if a stand-alone course is accepted for general education or major purposes at an independent four-year institution?

A: No. Only if it is accepted at a campus of CSU or UC.

6. Q: Does the blanket approval apply if a stand-alone course is accepted for general education or major purposes at a public university in another state, such as Nevada or Oregon?

A: No. Only if it is accepted at a campus of CSU or UC.

7. Q: Is stand-alone course approval required for State-required training courses for firefighters and peace officers? These courses are often not "part of an approved program," but are offered according to regulatory or statutory standards and often within the context of a training "academy."

A: In response to this situation, the Chancellor's Office hereby establishes the following additional category of blanket approval: All colleges in the system are hereby authorized, without individual course approval, to offer stand-alone mandated public safety training courses, offered specifically to satisfy certification requirements of the California Commission on Peace Officers Standards and Training, or the California Fire Service Training and Education System, provided such courses are conducted according to the curricula and standards approved and disseminated by those agencies. While this blanket approval shall apply to stand-alone courses of this type, the establishment of a public safety training academy requiring a sequence of coursework totaling 18 semester units or more shall continue to be considered establishment of an occupational program, subject to Chancellor's Office program approval.

8. Q: We stopped offering a certain stand-alone course for a few years, but we kept it on our "inactive" list. Does this course need Chancellor's Office approval?

A: As noted in the August 28, 2000 administrative memo, "If a course has been discontinued and is then re-established, it is considered new.") For this purpose, we consider "discontinued" to mean "has not been offered for more than one year." If it has been more than one year since the course was offered, regardless of what list it may have been kept on locally, it must be submitted for stand-alone approval if it does not fit into one of the blanket approval categories.

9. Q: Although our academic majors do have lists of restricted electives, we list them in our catalog by course department acronym and number, but not by the full course name. Would our restricted electives not be "part of an approved program" because we don't list the full course name?

A: In acknowledgement of the problem described here, the Chancellor's Office hereby modifies the definition published in the administrative memo of August 28, 2000. A course shall be considered to be "part of an approved program" when it is required or is on a list of restricted electives, specified by course name <u>or number</u>, from which students are required to choose to achieve a degree or certificate in a program approved by the Chancellor's Office.

10. Q: Our transfer coursework is mostly organized into a few broad majors, such as "Social and Behavioral Sciences," "Math and Science," and "Humanities and Fine Arts," which are approved on the state inventory. These majors require that a student take any 18 units of coursework in the subjects under those headings. Are all the courses in those subjects considered restricted electives and therefore "part of an approved program"?

A: No. The intent of the definition of what is "part of an approved program" is that only specific lists of restricted electives for specific majors should be considered "part of an approved program." In the case of broad interdisciplinary majors in academic domains, the approved status of the courses should be evaluated according to the blanket approval criteria for stand-alone courses.

11. Q: Does our district board of trustees have to approve a stand-alone course before we can send the application for approval to the Chancellor's Office?

A: Not necessarily. This is a procedure for local determination. Although the Education Code makes local governing boards responsible for approving programs and courses, some boards may delegate authority to approve particular courses to the chief executive. The application for stand-alone course approval, unlike the program approval application, asks the chief executive to certify that the course "has been approved through the appropriate curriculum procedure for this college," rather than to certify specifically that it has been approved by the governing board. It is thus up to the local chief executive and governing board to determine when approval requests may be sent to the Chancellor's Office.

More Questions?

Contact Charlie Klein, Specialist in Academic Planning, at (916) 322-6888, fax (916) 324-4682, or e-mail to cklein@ cccco.edu.

STATE OF CALIFORNIA

CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE
1102 Q STREET
SACRAMENTO, CA 95814-6511
(916) 445-8752
HTTP://WWW.CCCCO.EDU

August 28, 2000

TO: Chief Instructional Officers
Curriculum Committee Chairs

FROM: Victoria P. Morrow, Vice Chancellor
Educational Services and Economic Development

SUBJECT: Approval of Stand-Alone Courses

Pursuant to Education Code Section 70901 and Title 5 Section 55100, courses that are not part of an approved program must be submitted to the Chancellor's Office for approval. These courses are often referred to as "stand-alone courses."

Most of your colleges submitted a form called "Certification of Conditions for Blanket Approval of Stand-alone Courses" for July 1, 1998 through June 30, 2000. When this form was properly signed, the Chancellor's Office provided a blanket approval for all new stand-alone courses introduced during that period at that college.

After June 30, 2000, we will be continuing the practice of granting blanket approval to stand-alone courses, but in a more selective manner. We have devised a set of simple criteria for recognizing which stand-alone courses are eligible for blanket approval, and which need to be submitted for individual approval to the Chancellor's Office. We believe this approach will minimize the time and energy burden on colleges, while allowing the Chancellor's Office to fulfill its legally mandated responsibilities for this area in a responsible way. This memo will inform you of the criteria, and attached you will find a new form to be used for requesting approval of a stand-alone course that does not fall within the blanket approval.

Important Note

At the outset, here are two things to remember:

1) Chancellor's Office approval is only required for *courses that are not part of approved programs.*

2) *Continuing stand-alone courses are not required to be submitted for approval; only new stand-alone courses.* (If a course has been discontinued and is then re-established, it is considered new.)

Courses Part of an Approved Program

A course is considered to be "part of an approved program" when it is required or is on a list of restricted electives, specified by course name, from which students are required to choose to achieve a degree or certificate in a program approved by the Chancellor's Office.

A program is considered "approved by the Chancellor's Office" when it is listed as approved on the Chancellor's Office Inventory of Approved and Projected Programs. The approved status of any program may be verified on the World Wide Web at http://www.cccco.edu/cccco/esed/curric/inventory.htm.

Pursuant to Title 5 Section 55100, the governing board of a community college district may establish policies for, and may approve, courses that are part of an approved program, without separate approval by the Chancellor's Office. However, local approval of courses must include review by the curriculum committee established according to Title 5 Section 55002. The *Curriculum Standards Handbook* includes further information about standards that all courses should meet.

Courses Not Part of an Approved Program

Unless a stand-alone course falls under the blanket approval described below, it must be submitted to the Chancellor's Office for approval. The attached form is provided for this purpose, and the course outline of record must be attached.

Stand-alone courses will be reviewed using the same five broad criteria that are used for program approval, and which are discussed in the *Curriculum Standards Handbook*:

MISSION
NEED
QUALITY
FEASBILITY
COMPLIANCE

The Chancellor's Office will respond to requests for stand-alone course approval within 30 calendar days from the date the request is received by the Chancellor's Office. If no response is provided within 30 days, the course shall be approved. The 30-day response need not always be final approval or denial. In cases where unusual difficulties may arise, the 30-day Chancellor's Office response may be that additional time is required to resolve specific problems.

Blanket Approval of Certain Categories

The Chancellor's Office has determined that, under limited circumstances, review of each individual stand-alone course is not necessary to ensure reasonable State accountability. Therefore, blanket approval is provided in these circumstances.

The Chancellor's Office hereby waives individual approval of new stand-alone courses in the following categories only, and authorizes all colleges in the system to add such courses without individual course approval:

1) Courses in non-vocational T.O.P. codes, which are accepted for major requirements or general education requirements at any California State University or University of California campus. *Courses that are only transferable for elective credit are not included in this blanket approval.*

2) Courses in vocational T.O.P. codes, when the college has fewer than 12 semester units or 18 quarter units of stand-alone coursework in the same T.O.P. code.

Courses that are part of a program that has been disapproved by the Chancellor's Office are not included in the blanket approval, even if they otherwise fit one of the above criteria. Such courses may be submitted for consideration of individual stand-alone approval.

The curriculum committee should review each new course to see that it meets the standards of Title 5 regulations, and should also determine whether the course falls into one of the blanket approval categories. If it does not, or if it is part of a program that has been disapproved by the Chancellor's Office, it must be submitted individually to the Chancellor's Office for approval before being offered.

The Chancellor's Office may from time to time review a sample of stand-alone courses added to the curriculum under the conditions of this blanket approval. If unusual problems are found, the Chancellor's Office may cancel this authorization with respect to an individual college.

Questions?

This memo supercedes the language in the 1995 version of the *Curriculum Standards Handbook* about "delegated authority" for approval of courses, and "regional colloquia." A new edition of the handbook will be produced soon.

Meanwhile, for questions or comments, please contact Charlie Klein, Specialist in Academic Planning, at (916) 322-6888, fax (916) 324-4682, or e-mail to cklein@cccco.edu.

cc: Chief Executive Officers
Academic Senate presidents
Tom Nussbaum, Chancellor
Patrick Lenz, Executive Vice-Chancellor

APPENDIX E

Chancellor's Office Contacts

Program and course approval policies and processes:

Charlie Klein
Specialist in Academic Planning
(916) 322-6888
cklein@cccco.edu

Patricia Laurent
Program Assistant II for Academic Planning
(916) 323-4278
plaurent@cccco.edu

Jose Michel, Dean
Curriculum Standards and Instructional Services
(916) 322-5625
jmichel@cccco.edu

Applications status requests, forms and publications, inventory research:

Stephanie Ricks-Albert
Curriculum Analyst
(916) 323-3093
sricksal@cccco.edu

Noncredit courses and programs:

Norma Morris
Specialist, Noncredit & Community Ed.
(916) 327-5483
nmorris@cccco.edu

Basic Skills and ESL:

Gene Hudson
Specialist, Basic Skills and ESL
(916) 324-2360
ghudson@cccco.edu

Distance education:

Ken Nather
Specialist, Distance Education
(916) 322-9048
knather@cccco.edu

Cooperative Work Experience Education:

Ron Selge
Specialist, Workforce Development
(916) 322-1677
rselge@cccco.edu

Apprenticeship:

Barry Noonan
Apprenticeship Coordinator
(916) 445-8026
bnoonan@cccco.edu

Matriculation and Prerequisites:

Arnold Bojorquez
Matriculation Coordinator
(916) 323-0799
abojorqu@cccco.edu

Articulation and Transfer:

Aiden Ely
Coordinator, Transfer and Articulation
(916) 445-5809
aely@cccco.edu

Academic Senate position papers, studies, resolutions, etc:
Academic Senate, California Community Colleges
910 K Street, Suite 300
Sacramento, CA 95814
(916) 445-4753
asccc@ix.netcom.com

adopted **fall 2002**

2001-2002 Affirmative Action and Cultural Diversity Committee

Dibakar Barua, Chair, Golden West College

Mike Anker, Contra Costa College

Norma Espinosa-Parker, Compton College

Ann Holliday, Coastline College

Gary Holton, San Diego Mesa College

Renee Reyes Tuller, Grossmont College

1992 -93 Ad Hoc Student Equity Committee

Mike Anker, Co-Chair Contra Costa College

Regina Stanback Stroud, Co-Chair, Rancho Santiago College

Kaleta Brown, Cypress College

Patricia Deamer, Skyline College

Jacqueline Dodd, Pasadena City College

Jane Hallinger, Pasadena City College

Bill Scroggins, Chabot College

Ron Selge, Chancellors Office

Marina Valenzuela Smith, Antelope Valley College

Linda Webster, Santa Monica College

STUDENT EQUITY: GUIDELINES FOR DEVELOPING A PLAN

THE ACADEMIC SENATE FOR CALIFORNIA COMMUNITY COLLEGES

TABLE OF CONTENTS

Introduction 1

Section One: The Process of Developing Student Equity Plans—the Basics 4

Section Two: Campus Climate 7

Section Three: Research and Data Collection 8

Section Four: Student Equity and Institutional Finances 10

Section Five: Success Components 13

Conclusion 19

Recommendations 20

References 21

Appendices

Appendix 1: Student Equity Planreview Procedures and Instructions 23

Appendix 2: An example of a student equity plan deemed "outstanding" 32

Appendix 3: Student Equity: Regulations & Guidelines 33

Appendix 4: Glossary 38

INTRODUCTION

California community colleges provide open access to higher education for all students irrespective of ethnicity, gender, age, disability, or economic circumstances. This objective is enshrined in law. A directive issued by the California Legislature in 1991 charged all levels of public education, including California community colleges, to provide educational equity "[n]ot only through a diverse and representative student body and faculty but also through educational environments in which each person ... has a reasonable chance to fully develop his or her potential" (Education Code §66010.2c).

This directive is also reinforced in §66030:

> *66030. (a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments which give each Californian, regardless of ethnic origin, race, gender, age, disability, or economic circumstance, a reasonable opportunity to develop fully his or her potential.*
>
> *(b) It is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law.*

In keeping with these legal requirements, in September of 1992, the Board of Governors of the California Community Colleges adopted a Student Equity Policy to ensure that groups historically underrepresented in higher education have an equal opportunity for access, success, and transfer, enjoining all districts to develop, implement, and evaluate a student equity plan. Subsequently, at its November 1996 meeting, the Board of Governors amended its Student Equity Policy and Regulations to:

1. Establish the adoption of a student equity plan as a minimum standard for receipt of state funding; and
2. Expand its focus beyond historically underrepresented groups in order to promote student success for all students.[1]

(See Appendix 3: Student Equity: Regulations & Guidelines).

[1] "'Historically underrepresented group' means ethnic minorities, women and persons with disabilities. The Board of Governors recognizes that ethnic minorities, women and persons with disabilities have historically faced discrimination and other obstacles that limited their opportunities for education, and academic success." [Appendix 4: Glossary]

The Board of Governors also recommended a set of student equity indicators to assist districts in identifying equity issues, namely, access, course completion, ESL and basic skills completion, degree and certificate completion, and transfer rate.[2] As these indicators were the same ones already collected by the Chancellor's Office, the new regulations did not require additional MIS reporting by the districts. It did, however, require the districts to focus on student achievement by disaggregating the data by demographic group.

In response to the Board of Governors' adopted policy on student equity, the Academic Senate developed and the plenary body adopted the 1993 document *Student Equity: Guidelines for Developing a Plan.* This original paper was intended as a reference for local senates in creating student equity plans. The Senate understood that conscious and careful planning was the first and necessary step toward reaching the highest possible rates of student success. Only if colleges and districts have a plan will they be able to focus the attention of everyone—faculty, administrators, staff, students, and community members—on the challenging but attainable goal of improving the success rates of California's students. More importantly, the Senate understood that only if there is a plan would resources be allocated to achieve this goal.

The Academic Senate has always argued that student equity should be used to evaluate all aspects of the institution from the classroom to the boardroom. Achieving student equity begins with the college writing an effective student equity plan that is focused on increasing access, retention, course completion, and transfer rates for all its student groups, especially those who have traditionally been underrepresented. Under current regulations, district governing boards are required to consult collegially with their local academic senates in developing and implementing student equity plans. Since 1992-1993, when the first edition of this handbook was written, the Academic Senate has taken a leadership role in pursuing the adoption of the student equity regulations, and has strongly urged their implementation.

Furthermore, the Academic Senate has consistently maintained that colleges and districts should regularly evaluate, revise and update their student equity plans. In Fall 2000, the Senate passed resolution 6.01 urging the Board of Governors to strengthen Title 5 Regulations on student equity plan creation and revision.

> *6.01 F00 Therefore be it resolved that the Academic Senate for California Community Colleges urge the Board of Governors to revise Title 5 Regulations §54220 to require that districts submit a current student equity plan no later than one year after revisions are developed and approved by the Board of Governors and that districts revise their plans every three years thereafter.*

At the time of writing this document, the Chancellor's Task Force on Equity and Diversity[3] is considering two important issues: student equity and diversity in faculty hiring. The soon-to-be-published final report of the Task Force emphasizes the link between student equity and faculty and staff diversity, and articulates the need for renewing the mandate for student equity plans:

> *Through a [college] workforce that is diverse, we benefit students of all backgrounds, by exposing them to different ideas, experiences, and worldviews. We thereby improve student success and educational quality.*

[2] For a definition of these terms, see Section Three of this paper.

[3] The Chancellor's Office convened a Task Force on Equity and Diversity in the wake of the Appellate Court decision on the *Connerly* case that invalidated Education Code §§87100 through 87107. The Task Force was charged with proposing innovative ideas for ensuring equal opportunity and diversity in hiring. The final report of the Task Force was adopted by the Board of Governors in November 2002.

The Academic Senate for California Community Colleges will lead efforts to update by October 2002 the 1993 Academic Senate for California Community Colleges document "Guidelines for Developing a Student Equity Plan" and with the assistance of the Chancellor's Office promote and distribute the revised edition. ... The Chief Executive Officers will lead efforts with Local Governing Boards to adopt a Student Equity Plan by March 2004. [4]

Now, ten years after the adoption of the Board of Governors' Student Equity Policy, there is a need to revisit its implementation. This paper revisits that document and is intended to provide an updated guideline for developing a student equity plan.

The ideas in this paper are presented in five sections as summarized below.

- **Section One: The Process of Developing Student Equity Plans—the Basics**
  This section provides a recommended process for developing the student equity plan—the "Who, What, and Why" of plan development, a brief discussion of the components of the plan, and a look at some possible reservations about developing a student equity plan.
- **Section Two: Campus Climate**
  This section addresses considerations of campus climate including the type of research necessary in considering the impact of campus climate on student persistence and success.
- **Section Three: Research and Data Collection**
  This section defines student equity indicators and the means of their measurement. This section also highlights the fact that much of the data needed for developing a student equity plan may already be collected for other required state reports.
- **Section Four: Student Equity and Institutional Finances Resource Information Other Considerations**
  This section includes a discussion of funding approaches and sources.
- **Section Five: Success Components**
  This section outlines various areas of effort on the part of the faculty and the institution that may have an effect on student success, including recognition for faculty who participate in activities specifically designed to foster student equity.

[4] Chancellor's Task Force on Equity and Diversity Recommendation (November 2002)

SECTION ONE: THE PROCESS OF DEVELOPING STUDENT EQUITY PLANS—THE BASICS

This section provides some basic responses to key questions asked regarding student equity plans. The response to these questions provide a recommended process for developing the student equity plan, particularly the "Who, What, and Why" of plan development, as well as a brief discussion of the components of the plan. We will consider the "Why, What, and Who."

WHY DEVELOP A STUDENT EQUITY PLAN?

Title 5 (§51026 and §54220) requires college districts to produce a student equity plan. However, more important than regulatory requirements is the fact that the state's economic and social future depends on integrating all groups into the economic mainstream. The community colleges have an important part to play in that task because most of the students from all population groups begin their higher education at community colleges.

Student equity is an investment in a college's future. When they receive effective matriculation services that include orientation, counseling and correct placement in courses with validated pre-requisites, students are likely to complete their courses, make progress toward their educational and career goals, and complete degrees, certificates, and/or transfer to a four-year university. When the college provides student services such as financial aid and special services, along with a positive academic climate that motivates students to achieve academically, it sets up a positive upward spiral of students leaving the college with career or transfer potential that will enrich the community and economy. Successful education also provides students with an increased sense of personal efficacy, empowering them to contribute to community and civic life. They develop as well inner resources for living richer, more satisfying lives, and resiliency for facing adversity. The cultivation of critical capacities and literacy across all populations is critical to a successful multicultural society for the future. The cost of failure, on the other hand, could be the perpetuation of a permanent underclass with little hope for upward economic and social mobility.

WHAT IS A STUDENT EQUITY PLAN?

"A student equity plan is a written document in which a district's student population is analyzed and specific result-oriented plans and procedures are set forth for ensuring equal opportunity, promoting diversity, and achieving expected representation of qualified members of all population groups" (see Glossary in Appendix 4).

The components of a student equity plan are specified in Title 5 §54220 (See Appendix 3):

1. Campus-based research as to the extent of student equity in the five indicator areas of access, retention, degree and certificate completion, ESL and basic skills completion, and transfer;
2. Goals to address any adverse impact noted in the five indicator areas for the overall student population and for each population group of students as appropriate ("each population group of students" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks, Hispanics, Whites, men, women, and persons with disabilities);
3. Strategies for attaining goals including increased coordination among existing programs;
4. Sources of funds to support implementation of the plan;
5. Process and a schedule for evaluation; and

6. An executive summary, which identifies the district contact persons, target groups, strategies for accomplishing goals, and funding resources.

These components can be grouped into four broad categories: (1) research, (2) goals, (3) implementation, and (4) evaluation.

(1) RESEARCH: A meaningful student equity plan begins with an analysis of the current rates of enrollment, transfer, and completion, and the identification of barriers to student success. Research used to develop a plan should include as a minimum:

- surveys of campus climate;
- reviews of existing data; and
- analysis of potential college barriers to student success.

Additionally, the research should include

- the extent to which additional student support services such as counseling, financial aid, employment, and tutoring can increase student success in the equity indicators; and
- the effect of instructional methodology (i.e., classroom assessment, learning styles assessment, supplemental instruction, mentoring, peer tutoring, group learning environments, or different configurations of the curriculum) on student success in the equity indicators.

If the college carefully analyzes the data and devises programs to address local needs, or adapts successful practices that have worked in analogous situations in other districts, the college is likely to make progress.

(2) GOALS: Student equity goals must be elevated to the maximum level of visibility and importance. They should be integrated into the mission statement, master planning and accreditation. Goals should be set at a level that would allow significant progress in achieving student equity and that are also realistic and attainable. Goals and objectives for a student equity plan should be developed for each of the five indicator areas discussed in Section Three (access, course completion, degree and certificate completion, ESL and basic skills completion, and transfer rate). Baseline data should be established to evaluate the progress and the success strategies in advancing institutional success goals for all students and which may illuminate the extent of student success among diverse sets of student populations.

(3) IMPLEMENTATION: Colleges need not only to develop a good plan but also to implement the plan effectively. Steps for implementing the college's student equity plan should include identifying specific activities (new or existing activities), person(s) responsible for coordinating the activities, and a timeline. For maximal effect, the plan should be very specific about who is doing what and when the activities should be completed. Faculty, students, and staff are all important in achieving these goals. Celebrating progress on student success—for example, publishing regular updates on how the college is doing and making frequent reports to the governing board and to newspapers—can be very effective in helping the equity effort move forward.

(4) EVALUATION: The Chancellor's Office has established criteria for reviewing and evaluating student equity plans. Plans are evaluated for having achievable and measurable goals (in the five indicator areas) based upon well-founded research and viable implementation strategies and institutional outcome measures for achieving the stated goals. (Please see Appendix 1 for details of these review procedures and criteria.)

WHO SHOULD BE INVOLVED IN DEVELOPING A PLAN?

It is very important that all groups, including faculty, students, administrators, and staff be involved in developing the plan so that all groups support and accept responsibility for its success. Additionally, the

oversight for planning should be done at the highest governance levels to ensure the maximum support of all groups and the most effective implementation. Only then will we have the best coordination of activities and the widest involvement of everyone on campus in fostering student achievement and success.

Local academic senates have special responsibility for much that is at the core of any student equity plan. Strategies for student success, educational programs, curriculum as well as processes for budget development and institutional planning are all keys to student equity, and are among the "ten-plus-one" listed items in Title 5, §53200. Indeed, each of these academic and professional matters relates broadly to student equity plans, and thus local academic senates must be active in planning and implementing student equity.

Thoughtful participants will want to maximize the effective participation of staff and students while consulting collegially in the myriad academic and professional matters that will intersect in any well-written student equity plan. The senate needs to play a key role as well in ensuring that otherwise disparate planning efforts are mutually reinforcing and reflect a common focus on student equity.

POSSIBLE RESERVATIONS ABOUT DEVELOPING A STUDENT EQUITY PLAN

WHY DEVELOP A PLAN WHEN LEGAL REQUIREMENTS ARE UNCERTAIN?

Regardless of future legal decisions, community colleges have the major responsibility for educating most of the adults in higher education. Colleges must develop programs that meet the indicators of student success. Access, course completion, degree and certificate completion, ESL and basic skills completion, and transfer are integral parts of the college mission, goals and objectives. Planning provides the best strategy for colleges to offer a positive college environment and meaningful programs for their students and communities. Identifying obstacles, planning new programs, and coordinating our efforts can best be done effectively if we develop plans.

WHY DEVELOP A PLAN IF TITLE 5 REGULATIONS DO NOT REQUIRE THAT THE PLAN BE IMPLEMENTED?

Solid student equity plans based on sound research afford local colleges an opportunity to coordinate existing efforts, validate successful programs and activities, identify problems, set goals, and make further plans. A good, comprehensive plan can mobilize the whole faculty and staff, and can bring the real satisfaction and excitement that comes from attaining a meaningful goal. A good planning process can, at very little dollar cost, develop considerable new energy.

WILL INCREASED STUDENT SUCCESS ENTAIL WEAKENING ACADEMIC STANDARDS?

This question is based on a common misperception. Increasing student success does not mean lowering standards or "giving away" grades. We can have both high standards and equity as long as we do not expect the students to do all the changing. Faculty ought to examine their pedagogy to assess whether their teaching results in genuine learning for all students; we all need to examine if the "way we do our business" disenfranchises the very students we seek to serve. The task is to find ever better ways to help students succeed in securing a challenging college education. With the right plan, adequate support, and effective implementation, success can be improved while increasing access.

SECTION TWO: CAMPUS CLIMATE

Communities, educational or otherwise, which care for and reach out to [their] members and which are committed to their welfare, are also those which keep and nourish [their] members. Their commitment to students generates a commitment on the part of students to the institution. That commitment is the basis of student persistence. (Vincent Tinto, 1988)

Research has shown that a key factor for student persistence and success is a campus that is receptive and supportive. Therefore, a vital part of the research behind a successful student equity plan is to review the campus climate.

Recent studies suggest that California community colleges have had uneven success in promoting educational goals of non-traditional and underrepresented students.[5] The campus climate must be assessed through the eyes of these students to determine just how receptive and supportive each campus is perceived to be. Do students find the campus community—faculty, staff, students and administrators—as well as the physical plant to be friendly or hostile, warm or impersonal, welcoming or inhospitable? The campus climate is inclusive of the entire college—all programs, departments, services, and staff. Therefore, the entire institution should be welcoming and supportive of students. A survey or some other form of assessment should be done in a manner that reveals the students' perception of the campus and specific programs and services.

Since student satisfaction is highly contextual, colleges should look at local variables as well as assess student perceptions of their campus experiences in areas that include, but are not limited to, the following:

- instructional effectiveness,
- academic advising/counseling,
- administrative effectiveness,
- registration effectiveness,
- safety and security,
- academic services,
- admissions and financial aid,
- campus support services,
- responsiveness to diverse populations,
- physical and environmental factors that may adversely affect some populations.

Many colleges have already conducted local student satisfaction research, hired private research firms, or developed program review processes to assess campus climate. Colleges may utilize existing instruments in designing their own campus climate surveys.

A campus climate committee can be entrusted with the task of planning and implementing student satisfaction assessment surveys and studies. The City College of San Francisco research team, commissioned by the State Chancellor's Office to conduct a statewide study of effective and replicable diversity projects, identified several available models. These can be found in the study report, *We Could Do That! A Users' Guide to Diversity Practices in California Community Colleges.*[6]

The campus climate committee should look at various existing campus climate surveys before coming up with its own instrument. A good resource is *Campus Climate: Understanding the Critical Components of Today's Colleges and Universities* edited by Karen W. Bauer. Another highly recommended source is James B. Boyer's *Multi-Cultural Inventory for Enhancing College-University Curriculum.* Boyer's inventory is designed to discover whether the college creates a welcoming environment for a diverse population. The Boyer inventory can help a college to determine if it encourages esteem and communicates in ways that are relevant to diverse and non-traditional student populations in order to promote their learning experience.

[5] During the 2002 Spring Plenary Session of the Academic Senate, California Tomorrow, a non-profit research organization, presented a report entitled "A New Look at the California Community Colleges: Keeping the Promise Alive for Students of Color and Immigrants." The research shows that students of color and immigrants face special challenges or barriers on their way to academic success. For information about California Tomorrow's equity and access related projects, visit the website http://www.californiatomorrow.org.

[6] City College of San Francisco: Statewide Diversity Practices Project: *"We can do that! A users' guide to Diversity Practices in California Community Colleges."*

SECTION THREE: RESEARCH AND DATA COLLECTION

The Board of Governors has identified five measurable student equity indicators. Furthermore, four of the five areas in which statewide goals have been articulated and outcome measures established for the Partnership for Excellence (PFE) program—successful course completion, degrees and certificates awarded, basic skills improvement, and transfers—closely parallel four of the five student equity indicators contained in the Board's student equity policy. The PFE data, however, is not disaggregated by gender, race, ethnicity, etc., so this will have to be done locally.[7] A number of reports submitted annually by each district to the Chancellor's Office can also be useful in laying the research groundwork for the construction of one's student equity plan: the staff data report, the expenditure report, the performance report, the matriculation report, MIS data and transfer center reports.

The five student equity indicators[8] and the means of their measurement are:

ACCESS

Access can be determined as the percentage of each group enrolled compared to the percentage of each group in the adult population within the community served. Information regarding enrolled students is reported in the California Community College Accountability Model report as item 1.11 (General Participation: Credit) and item 1.12 (General Participation: Noncredit).

COURSE COMPLETION

Course completion can be determined as the ratio of the number of courses that students—by group—actually complete at the end of the term to the number of courses in which students in that group are enrolled on the census day of the term.

Note that "course completion" means the successful completion of a credit course for which a student receives a recorded grade of A, B, C, or Cr. The number of courses in which students are enrolled is determined by the total attempted number of credit courses for which each student ultimately receives a recorded grade of A, B, C, D, F, CR, No-Credit, I, or W.

DEGREE AND CERTIFICATE COMPLETION

Degree and certificate completion can be determined as the ratio of the number of students—by group—who receive a degree or certificate to the number of students in that group with the same declared matriculation goal.

ESL AND BASIC SKILLS COMPLETION

ESL and basic skills completion can be determined as the ratio of the number of students—by group—who complete a degree-applicable course after having completed the final ESL or basic skills course in the sequence to the total number in the group who have completed such a final course.[9]

Completion of a final ESL or basic skills course here means the "successful" completion of a pre-collegiate ESL or basic skills course for English equivalent to one level below English 1A with a grade of C or better; or the "successful" completion of a pre-collegiate basic

[7] Although consideration of student equity is not built into PFE, the virtual identity of PFE and student equity goals makes a strong case for using PFE funding to support student equity efforts.

[8] Title 5, §54220 (see Appendix 3).

[9] Note that ESL and basic skills courses should not be lumped together for data collection since there are major differences between ESL students for whom English is not their native language and native speakers of English with developmental needs. Therefore data regarding a final ESL course completion or a final basic skills course completion should be collected and analyzed separately.

skills course for math equivalent to one level below elementary algebra.

Completion of a degree applicable course currently means the "successful" completion of English 1A, elementary algebra or any collegiate course which is transferable to a four-year institution, has a value of three or more units, and meets established academic requirements for rigor in literacy and numeracy.

TRANSFER RATE

In 2001, the Chancellor's Office defined the cohort of transfer-potential students as consisting of those students who have completed a minimum of 12 units in the community colleges and who have attempted a transfer level course in mathematics or English.[10] The transfer rate, as a student equity indicator, is determined as the ratio of the number of students—by group—who actually transfer to a four-year college or university to the total number of students in that group who are in the transfer-potential cohort.

It is important to recognize that data collection and analysis should not be viewed as mere technical compliance. The data collection component of any student equity plan must be ongoing in order to evaluate the qualitative effectiveness of the plan and to determine what works versus what does not work. All data should be shared with all areas of the campus and the community. Programs or services that do not achieve both the goals of the campus and the community should be identified and jointly considered in an effort to reassess student needs, reevaluate goals, and determine new strategies.

[10] See Chancellor's Office report, "Transfer Capacity and Readiness in the California Community Colleges: A Report to the Legislature", March 1, 2002. The report utilizes Student Right to Know data to achieve a more complete picture of transfer behavior that includes transfer to private and out-of-state colleges.

SECTION FOUR: STUDENT EQUITY AND INSTITUTIONAL FINANCES

Since student equity requires institution-wide commitment, funding for student equity is implicit in the use of all institutional funding streams such as general fund, categorical funds, PFE allocations, faculty and staff development allocations, and grants (both internal to the system such as Fund for Instructional Improvement (FII) and Fund for Student Success (FSS), and external to the system as discussed below). In short, because an institution-wide response to student equity is appropriate, we must view all institutional funds as resources to achieve student equity.

It has been noted that PFE data is not disaggregated. PFE goals do not include any requirement for or sub goals that address equity of student achievement. However, local Partnership and/or Student Equity committees can work to ensure that equity is built into PFE programs and projects. If this is done consistently, PFE funding can essentially be used to fund student equity plans. This will be a critical resource particularly given pending budget cuts to many categorical programs.

Several programs in the student services areas already serve functions closely related to student equity; wherever appropriate, their funded programs should be seen as furthering the campus' student equity goals. Some of these programs are:

- Extended Opportunity Programs and Services (EOPS)
- Cooperative Agencies Resources for Education (CARE)
- Disabled Students Programs and Services (DSPS)
- Matriculation
- Transfer Centers
- Financial Aid
- Mathematics, Engineering and Science Achievement/Minority Engineering Program (MESA/MEP)
- CalWORKS
- Puente

The California Tomorrow study, cited earlier, found that these programs were among the important supports referenced by students.

For vocational education and employment training, the Vocational and Technical Education Act (VTEA) and the Workforce Investment Act (WIA) both include provisions for and support of underrepresented and economically challenged students. Additionally, they fund training opportunities for faculty and staff to help them meet the needs of these targeted populations.

Most faculty do not have the time or resources on their own to research and write grants. However, if an equity plan identifies common funding priorities, it can recommend that the college work to provide resources to underwrite the work involved in seeking grants.

RESOURCE INFORMATION

When internal funds are limited, a college may identify and apply for foundation or other grant funding. Careful consideration of student equity concerns can be built into virtually any grant obtained by the college. Local senates are sometimes required to sign off on grant applications, and even where they are not, the Academic Senate has always urged that local senates create grant review processes that include a role for local senates in development or approval of grants that impact student success. We would recommend that local senates work to ensure that student equity concerns are integral to such grant proposals.

The Foundation Center is a national non-profit service organization founded and supported by foundations to provide an authoritative source of information on foundation and corporate giving. The Center's programs are designed to help grant seekers as they begin to select those funds from the over 68,000 active U.S. foundations which may be most interested in their projects. The Foundation Center offers a wide variety of services and comprehensive collections of information on foundations and grants.

The quickest and most convenient source of information about all the services of the Foundation Center is its online service (http://www.fconline.fdncenter.org). For varying fees, the Center provides four online subscription plans: Basic, Plus, Premium, and Platinum.[11]

- Online Basic includes information on the giving priorities of the 10,000 largest U.S. foundations by total giving.
- Online Plus includes the above and also a searchable grants database with approximately 150,000 records of grants of $10,000 or more awarded by the largest 1,200 foundations.
- Online Premium expands the file of foundation records to 20,000 and includes the set of 150,000 searchable grants.
- Online Platinum greatly expands the foundation file to include over 68,000 entries in all. In addition to all known U.S. foundations, it features two categories of funds that can only be found in Online Platinum: direct corporate giving programs, and public charities grants.

A typical foundation record will include the name of the foundation, the mailing address, contact name, telephone number and, where available, an e-mail address and Website link. To provide subscribers with a sense of a foundation's grant priorities, records include such crucial data as the establishment date; names of donors; purpose and activities statements; fields of interest; types of support; application information; a link to the foundation's 990-PF (IRS return); and, where available, a selected grants list.

Grant records feature vital facts about the grant recipient: the name of the organization, the city and state in which it is located; and the type of recipient. Grant details include: the amount, the duration where applicable, a brief description of the grant (in most cases), the type of support provided, and the subject classification of the grant. The foundation and grants information is updated monthly.

OTHER RESOURCE-RELATED CONSIDERATIONS

In creating or revising student equity plans, many existing community college services and functions could be modified to increase their impact on student equity. Ideally, all disparate pieces of the institution should be analyzed to determine how to advance student equity goals. The following illustrate existing possibilities:

- **Use of Facilities/Facility Development:** Monitor the impact that clustering classrooms by academic area might have on some student equity target groups. For example, all vocational education automotive courses held in a remote facility might isolate female students from their peers and student services.
  Ensure that the physical environment and logistical arrangements for enrollment and study are "user-friendly" and supportive of student

[11] As of the publication of this document, the cost for annual subscription is $195 for the Foundation Directory Online Basic, $295 for the Foundation Directory Online Plus, $595 for the Foundation Directory Online Premium, and $995 for the Foundation Directory Online Platinum. Monthly subscriptions and multiple user plans are also available. For answers to other questions about the Foundation Directory Online Subscription Service, call 1-800-424-9836, M-F 9:00 a.m.-5:00 p.m. EST, or send an e-mail to fdonline@fdncenter.org.

access, retention and success. For example, consider placing the career/transfer center near counseling.

- **Student Mentoring:** Integrate students more effectively into the institution and community through a mentor program, as modeled by Puente, in which students are matched with faculty or community members representing a discipline or occupational areas of interest to the students. Mentors provide an occasion for students to understand the demands of a career area while gaining self-esteem through the support of a role model with whom they can identify.
- **Advisory Committee:** Incorporate the promotion of student equity into the mandates of advisory committees, such as basic skills, vocational, and matriculation advisory committees. Have committees review results of the climate surveys as they plan the year's goals; ensure that those committees reflect the diversity of the college community.
- **Personnel Assignments:** Consider the creation of a position of "Student Equity Ombudsperson" in the community college with the responsibility—and authority—to advocate in all aspects of institutional operations to promote student equity.
- **Community Activities/Community Outreach:** Shape the community college's relationship with the external community to achieve an outcome needed for student equity, through, for example, the creation of internships with minority owned businesses, outreach to high schools, or community service.
- **Personal Development Courses/Life Skills:** Develop curriculum and programs to prepare all students, including re-entry students, for the transition from high school or work to college and for the rigors of college. Help students understand the support services available as well as their options for careers, majors, and occupational/vocational and transfer programs.

SECTION FIVE: SUCCESS COMPONENTS

This section describes a number of activities colleges can initiate or improve upon to promote student equity.

MATRICULATION

Matriculation is at the core of the mission of the California Community Colleges in that a primary mission of the colleges is to provide open access to any California resident over 18 years of age who is capable of profiting from the instruction. In 1986, the Legislature passed Assembly Bill 3—the Seymour-Campbell Matriculation Act—which established the matriculation program in the California community colleges, and is currently incorporated in the Education Code §§78210-78218.

The major component areas of a matriculation program as specified in the Seymour-Campbell Act are admissions, assessment (placement testing), orientation, counseling and advising, student follow-up, coordination and training, research and evaluation, and prerequisite validation and enforcement. Five of these components designate services provided directly to students to enhance their educational success. Two components relate to efforts of colleges and districts to improve institutional effectiveness and accountability and to develop capabilities for evaluation, coordination, and training.

The purpose of matriculation is to provide students with accurate, timely information and to help them define educational goals that are realistic and attainable. The matriculation process is intended to assure all students access to higher education opportunities. An additional purpose is to increase institutional effectiveness and to more efficiently utilize taxpayer support for community college students by ensuring that students are appropriately placed in courses.

The matriculation process requires that the colleges assist students to make their course placement and other educational choices with professional guidance, emphasizing the use of multiple assessment measures and conscientiously applied support services. Students should be offered access to tools designed to help them identify their attitudes, interests, values, personality types and abilities. Considerations of instructional style and learning style may be major factors in student success. Consequently these same considerations necessitate attention at the time of placement and advising.

SUPPORTING STUDENTS WITH LIMITED ENGLISH PROFICIENCY (LEP)

An individualized approach is required for LEP students because they come with such diverse educational histories. Some students have foreign degrees and established professional careers, while others are not literate in their native language. Like all students, LEP students need to know how the community college system works and to have ready access to information about classes, programs, services, processes for enrollment, petitioning for special requests, and obtaining permits for the use of facilities.

ESL programs should be targeted to the demographic needs of the local population. If possible, the college should publish and distribute second language materials to homes and businesses in targeted neighborhoods. Providing these materials would encourage potential students to investigate and enroll in college programs.

Access for LEP students could be increased through specific efforts to transition them successfully from adult education programs. Due to the large population of LEP students working multiple jobs and long hours,

flexible course offerings on weekends, late evenings, and at convenient sites should be considered. We also recommend publishing the application and portions of the class schedule and college catalog in other languages, and providing bilingual taped telephone messages giving general information.

Orientation should include information that outlines programs and services specifically intended to support non-native English-speaking students. LEP students need information regarding specialized curriculum offerings, pre-collegiate basic skills courses, and programs in English as a Second Language. Audiotapes, videotapes, CD-ROMs, and printed information in the students' first languages would be very helpful. Supportive orientation information specifically designed for the LEP student may include a description of the ESL (or LEP) program; telephone number, location, hours of operation of the ESL office; names, office numbers and telephone numbers of bilingual counselors, faculty and staff; information about appropriate clubs; and how to access these activities.

Assessment is required of all matriculating students. In the case of non-native English speakers, the colleges may provide modified or alternative measurement processes as necessary to accurately assess language ability. Appropriate multiple measures for placement of LEP students will take into account the cultural and linguistic differences between second language learners and other students. Counseling and advisement should be required of all entering LEP students, regardless of their educational intentions. Caution is required in the area of LEP student advising since services must be based on the full range of students' listening, speaking, reading, and writing skills, and not just on perceived communication abilities.

LEARNING STYLES

Research indicates that people do not all learn in the same way. Some learners find certain methods of learning more appealing and effective than attending lectures or reading texts, preferring a visual approach to studying. Others learn better from physical activities and the manipulation of objects. Litzinger and Osif describe these learning styles "as the different ways in which children and adults think and learn" (1992, 73). A number of people have tried to classify and categorize the ranges of learning styles. Two of the best known are David Kolb (1984) and Howard Gardner (1989, 1991).

Kolb thought of learning styles as a continuum that one moves through:

- Concrete experience: being involved in a new experience;
- Reflective observation: watching others or developing observations about one's own experience;
- Abstract conceptualization: creating theories to explain observations; and
- Active experimentation: using theories to solve problems and make decisions.

However, most people come to prefer one style over the others, and these styles are what instructors have to be aware of when creating instructional materials. In order to find out more about Kolb's analysis of learning styles and how to teach to them, we recommend *The User's Guide for the Learning-Style Inventory: A Manual for Teachers* by Donna Smith and David Kolb (1986).

Howard Gardner (1983) chose to look at learning styles in a different light, through a theory of multiple intelligences. Gardner expanded the concept of intelligence to also include such areas as music, spatial relations, and interpersonal knowledge in addition to mathematical and linguistic ability. Amy Brualdi (1996) provides the following summary of Gardner's Multiple Intelligences:

- **Logical-Mathematical Intelligence**—consists of the ability to detect patterns, reason deductively

and think logically. This intelligence is most often associated with scientific and mathematical thinking.

Linguistic Intelligence—involves having a mastery of language. This intelligence includes the ability to effectively manipulate language to express oneself rhetorically or poetically. It also allows one to use language as a means to remember information.

Spatial Intelligence—gives one the ability to manipulate and create mental images in order to solve problems. This intelligence is not limited to visual domains—Gardner notes that spatial intelligence is also formed in blind children.

Musical Intelligence—encompasses the capability to recognize and compose musical pitches, tones, and rhythms. (Auditory functions are required for a person to develop this intelligence in relation to pitch and tone, but it is not needed for the knowledge of rhythm.)

Bodily-Kinesthetic Intelligence—is the ability to use one's mental abilities to coordinate one's own bodily movements. This intelligence challenges the popular belief that mental and physical activities are unrelated.

The Personal Intelligences—includes interpersonal feelings and intentions of others—and intrapersonal intelligence—the ability to understand one's own feelings and motivations. These two intelligences are separate from each other. Nevertheless, because of their close association in most cultures, they are often linked together.

These various ways of classifying learning styles tell us that it is essential in early planning to give attention to the characteristics, abilities, and experiences of the learners as a group and as individuals. There are examples of instructional strategies that can accommodate different learning styles. For a detailed discussion of teaching methods, we recommend Paulsen (1995).

Colleges should make an effort to educate both students and faculty in assessing their own learning styles and about learning strategies for various types of learners. This can be done though training seminars for faculty and students and through interactive web pages. (For an example of a community college website on learning styles see Diablo Valley College online at http://www.metamath.com/lsweb/fourls.htm.)

DEVELOPING CLASSROOM ASSESSMENT TECHNIQUES

Thomas Angelo and Patricia Cross (1993) developed an approach to facilitate ongoing assessment of teaching and learning within the classroom.[12] One of the purposes of classroom assessment is to improve student learning, especially in higher cognitive skills such as synthesis and evaluation, and to revitalize faculty engagement in their students' learning. Such attention to classroom assessment can help faculty discover whether and how they are addressing the needs of the many diverse students in a given class.

There are different classroom assessment techniques (CATs) for faculty that are simple to use and easy to interpret—for example, the one-sentence summary, self-assessment, the minute paper, the muddiest point and so on. CATs are aimed at course improvement rather than at assigning grades. The primary goal is to better understand students' learning and to improve teaching.

For faculty, frequent use of CATs can:

- Provide short-term feedback about the day-to-day learning and teaching process when it is still possible to make mid-course corrections.
- Provide useful information about student learning with a much lower investment of time compared to other means of learning assessment.
- Help foster good rapport with students and increase the efficacy of teaching and learning.

[12] Angelo and Cross (1993) *Classroom Assessment Techniques*

- Encourage the view that teaching is a formative process that evolves over time with feedback.

For students, frequent use of CATs can:

- Help them become better monitors of their own learning.
- Help break down feelings of anonymity, especially in larger courses.
- Point out the need to acquire study skills.
- Provide concrete evidence that the instructor cares about learning.

Angelo and Cross recommend that to begin this kind of assessment only one or two of the simplest CATs be tried in only one class. Trying out a simple CAT will require only five to ten minutes of class time. After trying one or two quick assessments, the decision as to whether this approach is worth further investments of time and energy can be made. They suggest a three-step process for starting small:

STEP 1: PLANNING

Select one, and only one, of your classes in which to try out the Classroom Assessment. Decide on the class meeting and select a Classroom Assessment Technique. Choose a simple and quick one.

STEP 2: IMPLEMENTING

Make sure the students know what you are doing and that they clearly understand the procedure. Collect the responses and analyze them as soon as possible.

STEP 3: RESPONDING

To capitalize on time spent assessing, and to motivate students to become actively involved, "close the feedback loop"

LEARNING COMMUNITIES

As noted before, Tinto has found that a sense of connection is one of the most critical factors in enhancing student success. Learning communities create cohorts of connection that can positively reinforce student retention. Breaking down a sense of isolation for both students and faculty is a key benefit of learning community approaches.

A learning community is a curricular structure that links together two or more existing courses. A typical learning community may involve several instructors in different disciplines working with the same students in order to facilitate connections between subjects or disciplines and a curriculum often based on a common theme. The concept suggests that learning is multi-dimensional with the students performing some instructional functions and the faculty engaging in the learning process along with the students. Students find greater coherence in what they are learning, as well as increased intellectual interaction with faculty and fellow students. Learning communities are powerful curricular innovations and certainly help to revolutionize the learning process.

Learning communities were first offered in the Experimental College at the University of Wisconsin in 1927. More recently, the community colleges in Washington State, Daytona Beach Community College in Florida, and LaGuardia Community College in New York have been leaders in developing various forms of learning communities.

"Leaning Community Commons," a website for the National Learning Communities Project at http://learningcommons.evergreen.edu, contains a searchable learning communities directory, an online Learning Communities journal and other resources.

ACADEMIC MENTORING

The Academic Senate for California Community Colleges has developed a *"Primer on Faculty Mentoring."* This paper is designed to help faculty in local districts plan and implement faculty-student mentoring activities. The paper can be downloaded from the Academic Senate Website http://www.academicsenate.cc.ca.us.

Faculty can be matched to students based on institutional assessment, local resources, and probability of failure without intervention. Early alert systems may identify students who are at risk for dismissal or failure. The objectives of the mentoring should be developed locally, but developing "self-reliance" techniques for coping more effectively with academic and other demands of college life will ordinarily be a part of the mentoring activity.

A rapport between the mentor and student ought to be characterized by open communication, responsibility, and motivation. The mentor and the student should be the major decision makers regarding the duration of their interactions. Expectations, interest, and academic ambitions should be taken into consideration as the faculty and students are matched. It would be ideal if the students requested particular faculty members and the latter were aware that the students had chosen them based on experience, accomplishment, or academic preparation.

Clearly, participation in the mentor relationship should be strictly voluntary. The mentorship program should make clear to all its participants the general philosophy and guidelines of the activity. Guidelines may include information regarding suggested interactions, lengths of meetings, activities, reporting functions, and a mutual respect for commitments made.

STUDYING EFFECTS OF DISTANCE EDUCATION AND TECHNOLOGY ON STUDENT EQUITY

While there have been many studies on the success of students who have taken courses in a non-traditional distance education modality, little attention has been given to the equity dimension of distance education and technology. Many community college students come from families that do not have computers or up-to-date technology in their homes, and this is particularly true of students who are currently underrepresented in the community college system. The term "digital divide" is used to refer to a gap between those who can effectively use new information and communication tools, such as the Internet, and those who cannot. While a consensus does not exist on the extent of the divide (and whether the divide is growing or narrowing), researchers are nearly unanimous in acknowledging that some sort of divide exists at this point in time. More research to determine the impact of technology on student equity would be useful.[13]

---

[13] During the Spring 2001 Plenary Session of the Academic Senate in San Francisco, a resolution urging research in this area of "digital divide" was adopted:

Whereas, There is growing national concern regarding the digital divide and differential access to technology, which adversely impacts students of various ethnic and socioeconomic backgrounds as well as those with disabilities;

Whereas, The availability of technology is a student access and equity issue; and

Whereas, The ability to understand and utilize information technology and tools is an essential skill for all students;

Resolved, That the Academic Senate for California Community Colleges conduct research to investigate the impact of technology on student access and success in the California Community College System, particularly as it related to ethnic and socio-economic diversity and students with disabilities; and

Resolved, That the Academic Senate for California Community Colleges report back in a paper the research findings and recommended solutions to any problem identified.

SUPPORT FOR FACULTY

Finally, it is also desirable that faculty are supported in their efforts to promote student equity as well as to integrate cultural diversity into the curriculum, including their efforts to address differences in learning styles and increase students' effective use of instructional technology. Colleges should recognize faculty who acquire a new language, take additional courses in their discipline that emphasize diverse contributions and perspectives, or expand methodological approaches deemed effective for all students, and especially for students from historically underrepresented groups in higher education.

Staff development programs on many campuses recognize teaching excellence. New or existing programs can be tailored to support faculty for taking part in activities that enhance student equity. Additional incentives, like the following, may also be offered:

1. Credit toward rank change;
2. Consideration of activities that increase student equity as part of basic teaching load;
3. Flex day credit for workshop development and participation;
4 Reassigned time or stipends for mentoring activities;
5. College foundation funds devoted to mini-grants for faculty projects that integrate cultural diversity into courses;
6. An honorary dinner with tributes for outstanding service and projects that further student equity; and
7. A departmental system of awards for the development of activities that increase student equity within disciplines.

Some of these incentives will have to be negotiated, and thus consultation with the bargaining units will be necessary.

CONCLUSION

Student equity is not a new goal for California community colleges. The ideal is as old as the Master Plan for Higher Education in California, 1960-1975, which designed the community colleges to be open access institutions. If we are truly open to all, then we must serve all our students well, leaving no one behind. That is the essence of student equity. Everything else we do in the name of student equity is merely a means to that end.

To further that end, the Academic Senate endorses the recommendation of the Chancellor's Task Force on Equity and Diversity that the Board of Governors reinvigorate and reinforce the student equity planning process by requiring colleges to periodically reevaluate and revise their student equity plans. Further, we recommend that the Board of Governors review the existing criteria for evaluation of these plans by the Chancellor's Office. Finally, we recommend that the Board of Governors enforce the regulation that development of a student equity plan that meets those criteria be a minimum condition for receipt of state funds.

Even absent a requirement from the state, however, planning for student equity is essential. Only with planning can we hope to achieve student equity and success. Only then can we ensure that no one and no group is left behind. Regardless of mandates from above, planning for student equity is essential, simply because the cost of failing any part of California's population would be a disaster for all Californians.

RECOMMENDATIONS

RECOMMENDATIONS TO THE BOARD OF GOVERNORS AND CHANCELLOR

1. The Chancellor and the Board of Governors must assert that in creating or revising an equity plan, the intent is not mere production of a plan, but to make a difference in the lives of our students.
2. The Board of Governors should again require districts and colleges to re-evaluate and review periodically their student equity plans. The Board should also specify a time period for such review and evaluation.
3. The Board of Governors should require districts and colleges to implement and develop those plans as a minimum condition for funding and should direct the Chancellor's Office to enforce that condition.

RECOMMENDATIONS TO LOCAL SENATES

Academic Senate for the California Community Colleges recommends to local academic senates that they:

1. conduct research to establish baseline data in the 5 student equity indicator areas.
2. set high but reasonable, achievable, measurable goals in the five student equity indicator areas.
3. implement their college student equity plan by establishing a timetable and identifying individuals responsible for implementation.
4. raise the visibility and progress of the plan and its implementation within the college community.
5. recommend that multi-language materials, information, orientations, and services for non-English speaking populations are provided and that courses are offered at more flexible times and at convenient sites.
6. include learning styles inventories as part of student matriculation and placement services.
7. ensure that faculty and staff development programs provide training in the following:
   - Needs of target populations;
   - Learning and teaching styles;
   - CATs;
   - Use of technology and issues of access; and
   - Innovative teaching styles.
8. conduct periodic reviews by including student equity goals as part of program reviews and establishing periodic review of the student equity plan, revising as necessary or as called for by any existing Board of Governors regulation.
9. foster academic mentoring and job shadowing for students, particularly those in targeted populations or at risk groups.
10. examine, as part of facilities master planning, the impact of facilities on equity goals or objectives.
11. work to ensure that sufficient numbers of basic skills classes are offered to meet student needs.
12. incorporate student equity as a primary focus of their staff development programs and orientations of all faculty.
13. research the link between student equity and faculty and staff diversity.

REFERENCES

Academic Senate for California Community Colleges. *A Primer on Faculty Mentoring.*

Academic Senate for California Community Colleges. (1993). *Student Equity: Guidelines for Developing a Plan.*

Angelo, T.A. & Cross, P. K. (1993). *Classroom Assessment Techniques* (2nd ed.). San Francisco: Jossey-Bass.

Bauer, K. W. (1998) *Campus Climate: Understanding the Critical Components of Today's Colleges and Universities: New Directions for Institutional Research #98.* San Francisco: Jossey-Bass.

Boyer, J. B. (1981). *Multi-cultural Instructional Inventory for Enhancing College University Curriculum.* Kansas State University.

Brualdi, A (1996). Multiple Intelligences: Gardner's Theory. ERIC DIGEST. http://ericae.net/edo/ED410226.htm

California Tomorrow. (2002). *A New Look at the California Community Colleges: Keeping the Promise Alive for Students of Color and Immigrants.* A report presented at the Spring 2002 Plenary Session of the Academic Senate for California Community Colleges.

Chancellor's Office California Community Colleges. (1996). Human Resources. Student Equity: A Status Report.

Chancellor's Office California Community College. (November 2002). *Task Force on Equity & Diversity: Recommendations.*

Chancellor's Office California Community College. (March 1, 2002). "Transfer Capacity and Readiness in the California Community Colleges: A Report to the Legislature."

City College of San Francisco: Statewide Diversity Practices Project: "We can do that! A users' guide to Diversity Practices in California Community Colleges." 2002.

Gardner, H. (1991). *The Unschooled Mind: How Children Think and How Schools Should Teach.* New York: Basic Books Inc.

Gardner, H., & Hatch, T. (1989). *Multiple Intelligences go to School: Educational Implications of the Theory of Multiple Intelligences.* Educational Researcher, 18(8), 4-9.

Kolb, D. A. (1984). *Experiential Learning: Experience as the Source of Learning and Development.* Prentice-Hall, Inc., Englewood Cliffs, N.J.

Litzinger, M. E., and Osif B. (1993). Accommodating diverse learning styles: Designing instruction for electronic information sources. In *What is Good Instruction Now? Library Instruction for the 90s.* ed. Linda Shirato. Ann Arbor, MI: Pierian Press.

Smith, D. M., and Kolb, D. A. (1986). *The User's Guide for the Learning-Style Inventory A Manual for Teachers and Trainers.* McBer & Company. Boston, MA.

APPENDIX 1: STUDENT EQUITY PLAN REVIEW PROCEDURES AND INSTRUCTIONS

The following instructions are written to provide reviewers with a general overview of the responsibilities and procedures associated with the review of Student Equity Plans.
Listed below are key areas of the review process. Use this text as a reference throughout the review process. If you have any questions during the review, direct them through the team leader.
The review process is divided into two areas: orientation and program plan review.

READERS RESPONSIBILITIES

The major responsibility of a reviewer is to review and evaluate plans in a fair and equitable manner. Reviews are responsible for the following:

1. Determination whether a district's Student Equity Plan is sufficiently developed to move forward into an annual review process. Consequently a districts plan should have:
   - Achievable and measurable goals based upon well founded research which clearly has identified valid student equity issues; and
   - Viable implementation strategies and outcome measures for achieving their stated goals and recording the outcomes of their progress.
2. Assessment utilizing the approved Student Equity Rating Sheet. The reviewer is to indicate whether selected items are contained in the plan, and provide comments when evaluating each program element. There are six additional questions each reviewer is expected to respond to and comment on and make an overall assessment of the program plan.
3. All plans must be read by a team of at least two reviewers.
4. Read all plans separately and do not discuss them with any other team member until the team subcommittee meeting and the plan is up for discussion.

RATING A PLAN

Each reviewer rates the elements within each plan on the basis of how well it addresses the issues noted in each of the 21 questions posed by the rating sheet The rating scale assigned may be as follows:

- Outstanding - Significantly exceeds requirements of an acceptable program plan.
- Acceptable - Addresses the basic requirements of a program plan.
- Needs Improvement — Improvements needed to meet the requirements of a program plan.

A consensus rating will be obtained for the overall plan and the basic program elements within each plan:

1. Basic Research
2. Goals
3. Implementation
4. Budget
5. Evaluation

STUDENT EQUITY PLAN REVIEW SHEET

District: _____

College: _____

Reader: _____

Date: _____

I. PLAN ELEMENTS

A. RESEARCH

1. Basic research elements are based on:

- ☐ Demographic data
- ☐ Campus climate study
- ☐ Review of existing plans, policies, goals, and objectives
- ☐ Other

2. Reviewer's Assessment and Comment

ASSESSMENT 1: Is the basic research sufficient to formulate legitimate and substantive issues of access, success, and transition and derive valid and meaningful conclusions in the development of the student equity plan?

☐ Yes ☐ No

Comment: _____

_____

_____

ASSESSMENT 2: Is the basic research broad enough to assure assessment of the status of historically underrepresented groups in the institution's service area?

☐ Yes ☐ No

Comment: _____

_____

_____

3. Overall Assessment of Research

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

B. ACCESS

1. Are student access issues identified?

☐ Yes ☐ No

If so, are the goals to address them formulated on the basis of:

- ☐ Comparison of institutional enrollment data with that of service area-based population data
- ☐ Assessment of enrollment trend data
- ☐ Campus climate study
- ☐ Other _____

_____

2. Are barriers to access identified?

☐ Yes ☐ No

If so, are the goals to address them formulated on the basis of:

- ☐ Comparison of institutional enrollment data with that of service area-based population data
- ☐ Assessment of enrollment trend data
- ☐ Campus climate study
- ☐ Other _____

_____

_____

3. Reviewer's Assessment and Comment

ASSESSMENT 3: How well do access goals reflect a logical and reasonable outgrowth of the institution's basic research and findings?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 4: How well are access goals clearly stated with measurable outcomes?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 5: How appropriate are access goals for the student access issues and barriers noted?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

4. Overall Assessment of Access

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

C. RETENTION/COMPLETION

1. Are student retention/completion issues identified?

☐ Yes ☐ No

If so, are the goals to address them formulated on the basis of:

- ☐ Comparison of institutional enrollment data with that of service area-based population data
- ☐ Assessment of enrollment trend data
- ☐ Campus climate study
- ☐ Other:

2. Are barriers to course, degree/certificate, and ESL/basic skills completion identified?

☐ Yes ☐ No

If so, are the goals to address them formulated on the basis of:

- ☐ Comparison of institutional enrollment data with that of service area-based population data
- ☐ Assessment of enrollment trend data
- ☐ Campus climate study
- ☐ Other:

3. Reviewer's Assessment and Comment

ASSESSMENT 6: How well do retention/completion goals reflect a logical and reasonable outgrowth of the institution's basic research and findings?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 7: How appropriate are barriers to retention/completion goals for the retention/completion issues and barriers noted?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____
_____
_____

4. Overall Assessment of Access

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

D. TRANSFER/TRANSITION

1. Are student transfer/transition issues identified?

☐ Yes ☐ No

If so, are the goals to address them formulated on the basis of:

- ☐ Comparison of course completion data with that of base institutional enrollment data
- ☐ Assessment of completion trend data
- ☐ Campus climate study
- ☐ Other:

2. Are barriers to transfer/transition identified?

☐ Yes ☐ No

If so, are the goals to address them formulated on the basis of:

- ☐ Comparison of course completion data with that of base institutional enrollment data
- ☐ Assessment of completion trend data
- ☐ Campus climate study
- ☐ Other_____
_____
_____

3. Reviewer's Assessment arid Comment

ASSESSMENT 8: How well do transfer/transition reflect goals a logical and reasonable outgrowth of the institution's basic research and findings?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____
_____
_____

ASSESSMENT 9: How well are transfer/transition goals clearly stated with measurable outcomes?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 10: How appropriate are transfer/transition goals for the transfer/transition issues and barriers noted?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

4. Overall Assessment of Transfer/Transition

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

E. IMPLEMENTATION

1. Are implementation strategies described to address goals?

☐ Yes ☐ No

2. Strategies are reflected:

- ☐ Planned efforts for further study and data collection of student equity needs
- ☐ Maintain or expand existing student equity efforts
- ☐ Develop new approaches to promote student equity
- ☐ Other:

3. Reviewer's Assessment and Comment

ASSESSMENT 11: How clearly are implementation strategies defined?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 12: How achievable are the desired outcomes through the described activities?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 13: How measurable are the desired results in an outcome data format?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

4. Overall Assessment of Implementation

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

F. BUDGET RESOURCES

Are budget resources to support these planned activities identified?

☐ Yes ☐ No

If so, are they set aside from:

- ☐ Existing general fund and categorical aid program resources
- ☐ New general fund appropriations
- ☐ New grants or special program awards
- ☐ Other:

2. Reviewer's Assessment and Comment

ASSESSMENT 14: How well does the resource utilization pattern reflect a feasible effort to achieve the stated student equity goals and objectives?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

3. Overall Assessment of Budget Resources

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

G. Procedures and Schedule for Evaluation

Are procedures and schedule for evaluation noted?

☐ Yes ☐ No

If so, does it include:

- ☐ Timelines for accomplishment of goals and activities
- ☐ Responsibility for performance clearly assigned
- ☐ Clearly identified success indicators which are measurable in the form of outcomes
- ☐ Other _____

_____

_____

2. Reviewer's Assessment and Comment

ASSESSMENT 15: How feasible is evaluation methodology?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 16: How clearly defined are outcomes/measures?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

ASSESSMENT 17: How well does the evaluation process incorporate an annual review model?

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

Comment _____

_____

_____

3. Overall Assessment of Procedures and Schedule for Evaluation

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

II. REVIEWER'S GENERAL PERCEPTION

A. Did the district board approve the plan? ☐ Yes ☐ No

B. Was the planning process broadly representative? ☐ Yes ☐ No

- ☐ Administration
- ☐ Faculty/Certificated Staff
- ☐ Classified Staff
- ☐ Students
- ☐ Community Representatives

C. Has the established responsibility for oversight been assigned at an appropriate level?

☐ Yes ☐ No

D. Is the plan cohesive and realistic? ☐ Yes ☐ No

E. Greatest strength

F. Greatest weakness

G. Other comments

H. Overall Assessment of Student Equity Plan

- ☐ Needs improvement
- ☐ Acceptable
- ☐ Outstanding

APPENDIX 2: AN EXAMPLE OF A STUDENT EQUITY PLAN DEEMED "OUTSTANDING" BY THE CHANCELLOR'S REVIEW COMMITTEE

A team of 12 readers was assembled in Sacramento on April 26-28, 1994 to participate in a comprehensive review of plans. The review team included students, campus research and planning officers, chief instructional and student services officers, and members of the Chancellor's staff. Each plan was evaluated utilizing a review instrument and set of instructions designed to determine the extent to which colleges addressed those elements recommended by the Board for inclusion in their student equity plan (See Appendix I).

The team reviewed 104 plans (three colleges had not submitted a plan) and deemed that

- Five were "outstanding,"
- Thirty were "acceptable,"
- Sixty-nine "need[ed] improvement."

The five outstanding plans were submitted by Columbia College, Modesto Junior College, College of Marin, Rancho Santiago College, and Riverside College. The Modesto Junior College plan is available in the Senate Office.

APPENDIX 3: STUDENT EQUITY: REGULATIONS AND GUIDELINES

OVERVIEW

This document sets forth regulations related to student equity which were adopted by the Board of Governors at its November 14, 1996 meeting and technically revised on May 14, 1997. Accompanying each regulation (where applicable) is a guideline developed by Chancellor's Office staff that explains and clarifies the implementation of the associated regulation. These guidelines are not part of the regulations and, therefore, do not have the force and effect of law. They represent the Chancellor's interpretation of the regulations and respond to questions raised during the consultation process and the public comment period. They can and will be revised by the Chancellor as deemed necessary.

51026. STUDENT EQUITY

In accordance with the provisions of Section 54220, the governing board of a community college district shall adopt a student equity plan.

GUIDELINES FOR SECTION 51026

This section sets forth the adoption of a student equity plan as a minimum standard for the governing board of a community college district and must be met as a condition for receiving state aid.

54220. STUDENT EQUITY

(a) In order to promote student success for all students, the governing board of each community college district shall adopt, by July 1, 1993, a student equity plan which includes, for each college in the district:

(1) Campus-based research as to the extent of student equity in the five areas described in paragraph (2) and the determination of what activities are most likely to be effective;

(2) Goals for access, retention, degree and certificate completion, ESL and basic skills completion, and transfer for the overall student population and for each population group of students, as appropriate. Where significant underrepresentation is found to exist in accordance with standards adopted by the Board of Governors, the plan shall include race-neutral measures for addressing the disparity, and, when legally appropriate race-conscious measures for addressing the disparity;

(3) Implementation activities designed to attain the goals, including a means of coordinating existing student equity related programs;

(4) Sources of funds for the activities in the plan;

(5) Schedule and process for evaluation; and

(6) An executive summary that includes, at a minimum, the groups for whom goals have been set, the goals, the initiatives that the college or district will undertake to achieve these goals, the resources that have been budgeted for that purpose, and the district official to contact for further information.

(b) These plans should be developed with the active involvement of all groups on campus as required by law, and with the involvement of appropriate people from the community.

(c) The Board-adopted plan shall be submitted to the Office of the Chancellor, which shall publish all executive summaries, sending copies to every college and district, the chair of each consultation group that so requests, and such additional individuals and organizations as deemed appropriate.

(d) For the purposes of this section, "each population group of students" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks, Hispanics, Whites, men, women, and persons with disabilities. A person shall be included in the group with which he or she identifies as his or her group.

GUIDELINES FOR SECTION 54220

This provision generally requires community college districts to adopt a student equity plan and submit a copy of the plan to the Office of the Chancellor.

It is recommended that the district establish a success/equity advisory committee, including representation from all groups on campus and appropriate representatives from the community, to assist in development of the student equity plan. This advisory body is intended to be actively involved in college district planning at the highest governance levels to ensure the most effective means of implementing identified success strategies. This regulation requires the identification of an official contact person and the inclusion of an ongoing evaluation process. This reflects the intent of the Board of Governors that the planning process be an ongoing effort designed to incorporate the results of institutional self study to promote continuous improvement of the college or district.

Student success and especially the success of students from underrepresented groups should become the standard way districts and CEOs measure and advertise their achievements during the next decade.

The regulation further describes the component parts each student equity plan shall contain. Subsection (a)(1) requires a student equity plan to include basic research to determine the extent to which equity issues are revealed. This may include but is not limited to an assessment of success indicators, campus climate studies, or other effective means of identifying areas in which historically underrepresented groups may or may not be best served through the community college. By conducting a study of the problem, it is expected that a college or district will be able to detect things about the way the college is organized, the quality of its instruction, or the availability of services which create obstacles to student success.

The Board of Governors has identified five measurable success indicators it feels are key in determining the success various population groups are achieving access, course completion, degree/certificate completion, ESL/Basic Skills completion, and Transfer. Data in these areas should be periodically reviewed and efforts should be made to address any problems that should be identified.

Subsection (a)(2) allows community colleges and districts to set goals to ensure student equity when underrepresentation is noted within any success indicator area for any student population group. Goals are usually written expressions formulated to achieve a desired outcome.

When goals are adopted, they should include specific measures for determining progress toward achieving the desired outcomes. Such measures should identify the baseline data findings from the basic research that forms the bases for noting an equity issue, as well as the amount and direction of change expected to reflect the desired outcome or amount of progress to be achieved.

Goals are typically accompanied by target dates and/or timetables to establish a time frame for assessing the effectiveness in achieving expected educational outcomes.

Colleges may establish goals and target dates to eliminate noted underrepresentation whenever it is found, as long as its methods are limited to race/gender neutral considerations. Non-discriminatory and equal opportunity practices are intended to protect the rights of everyone and consequently are expected to be race/gender neutral.

Although the Board supports the use of race-neutral methods to promote student success/ equity, it recognizes that under certain conditions, colleges may have a legal obligation under federal law to do more.

Corrective action, however, is an affirmative measure that must be taken in accordance with this regulation when there is significant underrepresentation (below the 70% level of expected representation). When such evidence is found community colleges must go beyond complying with the nondiscrimination laws and take active steps to promote student equity. Corrective action measures may include race/gender neutral as well as methods, which take race and gender into account.

WHEN A DISTRICT DETERMINES THAT SIGNIFICANT UNDERREPRESENTATION EXISTS IT SHALL:

(1) review its practices and procedures and identify and implement any additional measures which might reasonably be expected to address the needs of significantly underrepresented groups in the success indicator areas in question;

(2) consider various other means of reducing the underrepresentation, which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective;

(3) establish target dates for achieving expected outcomes.

It should be noted, however, that race/gender conscious methods may not be used until the district has tried race/gender neutral approaches for the reasonable period of time and found that the significant under representation persists. The Chancellor's Office recommends that race/gender neutral methods be tried for at least 3 years before consideration is given to mechanisms that take race or gender into account.

Subsection (a)(3) calls for the identification of implementation strategies to be undertaken to address student equity goals. California community colleges currently offers a variety of programs and services which, although race neutral, provide support and meet the needs of a variety of underrepresented groups. Many of these as well as others may be considered for inclusion in the student equity plan when these activities are determined to be feasible and potentially effective in the elimination of significant underrepresentation.

WHEN ESTABLISHING GOALS FOR STUDENTS WITH DISABILITIES:

Districts may concurrently utilize disability conscious measures without waiting to prove that disability neutral measures do not or will not work.

Nothing in this regulation shall be construed to prohibit a district from taking any other steps it concludes are necessary to ensure student equity, provided that such actions are consistent with the requirements of federal and state constitutional and statutory nondiscrimination law.

Subsection (a)(4) calls for the identification of resources budgeted to carry out the plan. Student equity is an institution-wide mode of operation, its funding is implicit in the use of all institutional funds which may include but is not limited to federal and/or state resources, general fund revenue, private grants, or in kind services.

Because an institution-wide response to student equity is appropriate, all institutional funds can be viewed as resources for student equity. There are already substantial categorical monies that could be coordinated more effectively with all parts of the campus such as:

- Equal Opportunity Programs and Services
- Cooperative Agencies Resource Education
- Disabled Students Programs and Services
- Matriculation
- Financial Aid

For vocational education and employment training, the Vocational and Technical Education Act and the Job Training Partnership Act both include major provision for the support of underrepresented and economically challenged students.

Within the Chancellor's Office Education Standards and Evaluation program area, several ongoing programs working towards student equity goals are available:

- California Academic Partnership Program
- MESA/MEP - Mathematics, Engineering and Science achievement/Minority Engineering Program

Other specific statewide system funds may be utilized to support the student equity effort include:

- Faculty and Staff Development fund
- Fund for Instructional Improvement
- Underrepresented Student Special Projects Fund
- Student Success Project Fund

Local student equity planners are encouraged to devise new ways to better coordinate these programs to support student equity efforts. There may be ways to save money by using new, more effective teaching strategies or technology, Improved advising and counseling may help student make better decisions on course selection. Effective implementation of probation and dismissal policies may also permit more effective use of the colleges' limited resources.

Subsection (a)(5) requires each district to establish a schedule and process for its evaluation. It is intended that the data collection component of any student equity plan be an on going effort and each community college district is expected to annually survey its student population to gather ethnicity, gender and disability data for use in evaluating its progress in implementing the goals set forth in its plan.

The schedule should be very specific about who is doing what and when they should be doing it. The schedule should also include how often the plan itself will be evaluated.

Each district is further required by subsection (a)(6) to develop an executive summary which identifies the groups for whom goals have been set; the goals and initiatives to be undertaken by the college or district; the resources budgeted for this purpose; and the official contact person responsible for this effort. It is intended that the designated contact be responsible for the monitoring, review, and evaluation of student success for all students as well as guiding the planning and development process to promote student success. He/she should therefore compile the results of the periodic review process to determine effective success strategies and annually report these findings to the success/equity advisory committee for consideration in their planning to promote continuous improvement of the college or district. A copy of this report along with any resulting committee or board action should also be submitted to the Office of the Chancellor.

APPENDIX 4: GLOSSARY

Definition of terms, developed by the Chancellor's staff, commonly used in conjunction with these provisions include:

DIVERSITY. "Diversity" means a condition each district should strive to achieve in which the district's student body includes men and women, persons with disabilities, and individuals from all ethnic groups in numbers adequate to ensure that the community college provides an inclusive educational environment which fosters cooperation, acceptance, democracy and the free exchange of ideas. Although there is no universal or specific measure for determining when diversity has been achieved, the demographics of the adult population of the state and of the community served by the district should both be considered.

EQUAL OPPORTUNITY. "Equal opportunity" means that all qualified individuals have a reasonable chance to fully develop his or her potential through equal access to education and a full and fair opportunity to achieve student success and academic excellence.

ETHNICITY. "Ethnicity" means the ethnic group in which an individual is included or with which an individual identifies. A person shall be included in the group with which he or she identifies as his or her group, but may be counted in only one ethnic group. These groups shall be more specifically defined by the Chancellor and consistent with state and federal law.

ETHNIC MINORITIES. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks, and Hispanics.

EXPECTED REPRESENTATION. "Expected representation" means that the percentage of persons from an historically underrepresented group is substantially the same as the percentage that members of that group would be expected to represent given the number of persons from that group in the pool of persons who are determined by the Chancellor to be available in the service population in question.

GOAL. "Goal" means a statement that the district will strive to attract and serve additional qualified members of an historically underrepresented group in order to achieve the level of expected representation for that group by a target date established by taking into account the expected turnover in enrollment and the availability of persons from that group who are qualified members of its service population. Goals are not "quotas" or rigid proportions.

HISTORICALLY UNDERREPRESENTED GROUP. "Historically underrepresented group" means ethnic minorities, women and persons with disabilities. The Board of Governors recognizes that ethnic minorities, women, and persons with disabilities have historically faced discrimination and other obstacles that limited their opportunities for education, and academic success.

PERSON WITH A DISABILITY. "Person with a disability" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an

impairment. A person with a disability is "substantially limited" if he or she is likely to experience difficulty in securing access to the college or achieve success.

POPULATION GROUP. "Population group" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks, Hispanics, Whites, men, women, persons with disabilities, or other identifiable groups. A person shall be included in the group with which he or she identifies as his or her group.

RACE/GENDER/DISABILITY CONSCIOUS MEASURES: Where race, gender, or disability is included as a factor for selection or granting of a benefit of one group over another.

REASONABLE ACCOMMODATION. "Reasonable accommodation" means the efforts made on the part of the district to remove artificial or real barriers that prevent or limit educational access or success of persons with disabilities.

SIGNIFICANTLY UNDERREPRESENTED GROUP: "Significantly underrepresented group" means any historically underrepresented group for which:

1. the percentage of persons from that group served by the district in any enrollment or service category listed is below seventy percent (70%) of the percentage that members of that group would be expected to represent given the service population in question; or
2. the number of persons from that group served by the district in any enrollment or service category is lower than the number that would be expected given the number of persons from that group in the service population in question, and that discrepancy is found to be statistically significant to the #1 level using the chi square test or any other statistical test the Chancellor determines to be appropriate for this purpose; or
4. where small numbers are involved, both (1) and (2) are satisfied.

STUDENT EQUITY INDICATOR: A "student equity indicator" means a statistical measure that may be utilized to determine areas for which target population groups may or may not achieve equal education access or success. The Board of Governors has identified five measurable student equity indicators:

1. ACCESS: Access can be determined as the percentage of each group enrolled compared to the percentage of each group in the adult population within the community served.
2. COURSE COMPLETION: Course completion can be determined as the ratio of the number of courses that students—by group—actually complete at the end of the term to the number of courses in which students in that group are enrolled on the census day of the term.
3. ESL AND BASIC SKILLS COMPLETION: ESL and basic skills completion can be determined as the ratio of the number of students—by group—who complete a degree applicable course after having completed the final ESL or basic skills course in the sequence to the total number in the group who have completed such a final course.

4. DEGREE AND CERTIFICATE COMPLETION: Degree and certificate completion can be determined as the ratio of the number of students—by group—who receive a degree or certificate to the number of students in that group with the same declared matriculation goal.

5. TRANSFER: The Chancellor's Office has defined the cohort of transfer-potential students as consisting of those students who have completed a minimum of 12 units in the community colleges and who have attempted a transfer level course in Mathematics or English. The transfer rate, as a student equity indicator, is determined as the ratio of the number of students—by group—who actually transfer to a four-year college or university to the total number of students in that group who are in the transfer-potential cohort.

STUDENT EQUITY PLAN. A "student equity plan" is a written document in which a district's student population is analyzed and specific result-oriented plans and procedures are set forth for ensuring equal opportunity, promoting diversity, and achieving expected representation of qualified members of all population groups.

STUDENT EQUITY PROGRAM: "Student Equity Program" means all the various methods by which a diverse and representative student body is to be achieved for qualified members of historically underrepresented groups. Such methods include, but are not limited to, using nondiscriminatory practices to promote student success, actively recruiting, monitoring and taking other steps to ensure equal opportunities, promoting diversity, and taking corrective action where significant disparities in student success levels are identified.

TARGET DATE. "Target date" means a point in time by which the district plans to meet an established goal and achieve expected representation for a particular historically underrepresented group in a particular indicator area.

EXHIBIT 6

Informational Exhibits

Board of Governors
California Community Colleges
July 8-9, 2002

TITLE 5 REGULATIONS: EQUAL EMPLOYMENT OPPORTUNITY

11

ACTION SCHEDULED

Committee of the Whole

Presentation: *Ralph Black*
General Counsel

Issue

This item presents a request for adoption of the proposed Title 5 equal employment opportunity regulations reviewed by the Board of Governors at its January, March and May meetings.

Background

On September 4, 2001, the California Court of Appeal for the Third District reversed the judgment of the trial court in the case of *Connerly v. State Personnel Board* (2001) 92 Cal.App.4th 16, with respect to statutes that include certain affirmative action requirements for the California community college districts. The Court considered a facial challenge to the constitutionality of these sections, and it found that the statutes were inconsistent both with equal protection guarantees and with the prohibitions established in article 1, section 31 of the California Constitution (Proposition 209).

In finding that the statutes are unconstitutional, the Court invalidated sections 87100 through 87107 of the *Education Code*. These sections serve, at least in part, as the current statutory basis for the Title 5 regulations which are proposed for amendment in this item. However, the Board is still obligated to provide supervision to the system in various areas of employment, and it is specifically obligated to regulate in particular employment areas. Thus, the failure of sections 87100 through 87107 to pass constitutional muster does not relieve the Board of Governors of obligations related to employment equity and diversity.

Analysis

There are a number of statutes which require the Board of Governors to ensure that community colleges utilize nondiscriminatory employment practices and/or ask the Board of Governors or local districts to promote workforce diversity. These statutes were discussed at length in the March Board agenda item and are set forth in the Attachment for convenient reference. Through these various directives, the Legislature has sent a clear message that unlawful employment discrimination will not be tolerated and that diversity remains a system goal. Therefore, when the Court of Appeal struck down certain portions of the Legislature's guidance to the system, it did not remove the Legislature's overriding commitments in these areas. The proposed regulations rely on these alternative statutory provisions for their authority.

The revised regulations focus on careful data collection, monitoring for adverse impact, and appropriate inclusive outreach efforts. These strategies are all consistent with the *Connerly* decision.

Even as it was invalidating *Education Code* sections 87100 through 87107, the Court of Appeal acknowledged that,

> "[g]overnmental entities remain under a duty to eliminate the vestiges of segregation and discrimination. [Citation omitted.] All of the justices agree that governmental entities may use race and gender-neutral methods of fostering equal opportunity and that, in some instances, even race and gender-specific remedies may be employed. Accurate and up-to-date information is the sine qua non of intelligent, appropriate legislative and administrative action." (*Connerly v. SPB, supra,* 92 Cal.App.4th 16, 46.)

In more specific terms, the Court of Appeal addressed the collection of data concerning the participation of women and ethnic minorities in public employment, as well as outreach and recruitment efforts. With respect to data collection, the Court noted,

> "Respondents contend that monitoring programs which collect and report data concerning the participation of women and minorities in governmental programs do not violate equal protection principles. We agree.
>
> . . . Assuming that strict scrutiny is required, a monitoring program designed to collect and report accurate and up-to-date information is justified by the compelling governmental need for such information." (*Id.*, at p. 46.)

The Court further explained the significance of accurate data collection:

> "In other words, portions of the [state civil service] statutory scheme that provide for data collection and reporting do not suffer a constitutional defect because a determination of the underutilization of minorities and women in state service can serve legitimate and important purposes. Such a determination may indicate the need for further inquiry to ascertain whether there has been specific, prior

> discrimination in hiring practices. It may indicate the need to evaluate applicable hiring criteria to ensure that they are reasonably job-related and do not arbitrarily exclude members of the underutilized group. And it may indicate the need for inclusive outreach efforts to ensure that members of the underutilized group have equal opportunity to seek employment with the affected department."
> (*Id.*, at p. 56.)

Required recruitment efforts are an important aspect of the system's regulations. The Court of Appeal verified that,

> "outreach or recruitment efforts which are designed to broaden the pool of potential applicants without reliance on an impermissible race or gender classification are not constitutionally forbidden." (*Id.*, at p. 46.)

However, the Court emphatically rejected the mandated use of goals and timetables for the hiring of minorities and women as well as the financial incentives or detriments related to success or failure in meeting such goals and timetables. It also rejected focused outreach only to women and minority applicants and the ability to use limited in-house recruitment based on the parity of women and minority employees in a district's employment environment. Reopening or delaying hiring processes solely to increase the participation of women and minority candidates were found to be improper preferential techniques. Finally, the consideration of an applicant's status as a woman or minority in hiring decisions when significant and extended underutilization persists within a district's workforce was also rejected as an impermissible preferential scheme.

Thus, the *Connerly* decision necessitated changes to specific provisions of the Board's affirmative action and equal employment opportunity regulations, but the basic framework of the regulations and their requirement for monitoring and outreach has been preserved. The proposed changes to the regulations include:

1. Updating the legal references and authorities that support the promulgation of the regulations;

2. Focusing on equal employment opportunity and removing references to affirmative action and diversity;

3. Removing language that may be interpreted as providing an improper preference or authorizing discrimination on an impermissible basis;

4. Eliminating the requirement of district goals and/or timetables for the hiring of minorities and women; and

5. Ensuring that locally-established hiring qualifications beyond state minimum qualifications are properly validated if they result in an adverse impact on identified groups.

The requirements for nondiscrimination in district hiring processes remain in the regulations, and, in fact, become the focus of the proposed revisions.

The initial draft of proposed regulatory changes was presented to the Consultation Council and to the Board for informational purposes in January 2002. The Human Resources Advisory Committee reviewed the regulations in January and April. The proposed regulations were also reviewed by the Equity and Diversity Task Force.

The regulations, as originally proposed, were noticed for public comment at the beginning of March. In addition, an advisory to the field was issued about the status of district equal opportunity and diversity responsibilities under the *Connerly* decision and about the proposed regulatory provisions.

Although the Board of Governors was scheduled to adopt the revised regulations at its March, 2002 meeting, some system human resources professionals requested additional time to review and comment on the regulations prior to Board action to ensure that the regulation changes would fully address the requirements of Proposition 209 and the *Connerly* decision. To accommodate that request, Board action was deferred. Staff subsequently met with a group of human resources and affirmative action administrators from a number of districts, received their comments, and made additional changes to the regulatory language. In addition, the regulations were taken to the Consultation Council three more times, in February, March, and April. Suggestions that have been received through these numerous processes have been considered and, in various areas, incorporated into the regulations. For example, recommendations to better consolidate provisions that apply to persons with disabilities have been incorporated into the proposed revisions. Regulatory language regarding the validation of hiring criteria was revisited and adjusted in response to concerns expressed by representatives of the Academic Senate that the process could be unnecessarily technical and burdensome. Further revisions were made to ensure that nothing in the regulations is perceived as problematic under Proposition 209 or *Connerly*.

The revised regulations were again noticed for public comment in late April and presented to the Board as a public hearing item at its May meeting. The Chancellor asked the Board to defer action because the comment period was not yet over and the Superior Court had not issued its order implementing the decision of the Court of Appeal in the *Connerly* case. The comment period has now ended. Only two comments were received. They both expressed concern about the elimination of the term "diversity" from the regulations and argued that this was not compelled by the *Connerly* decision. It is true that the *Connerly* decision does not prohibit the use of the term "diversity," but it does make clear that even if the need to achieve diversity could justify race or gender conscious action under the United States Constitution, such measures would not be permitted under Proposition 209.

Earlier versions of the regulation changes attempted to retain the use of the term "diversity" while telling districts they could not use it to justify any action that wouldn't fit into an equal opportunity framework. However, the Chief Human Resources Officers and outside attorneys with whom we consulted advised that this strategy was confusing and risked renewed litigation against the Board of Governors and the districts. The version of the regulations presented at the

May meeting addresses this problem by eliminating the use of the term "diversity" while taking the portions of the definition of diversity which are not objectionable under Proposition 209 and including them in the definition of the term "equal employment opportunity." This emphasizes that true equality of opportunity can only be achieved in an environment which fosters diversity and is welcoming to people of all backgrounds. At the same time, it makes clear that any actions taken to create this climate must fit within the framework of equal opportunity. This will help ensure that the restrictions of Proposition 209 are respected and avoid the possibility of litigation over potentially controversial terminology.

Staff believes this rationale is still persuasive and is the prudent approach. Moreover, a return to the earlier formulation would undoubtedly rekindle opposition from others. Therefore, despite the two comments which were received, no further changes are proposed to the regulations. In addition, the Superior Court has now issued its judgment requiring that the Chancellor and Board of Governors "refrain from implementing and enforcing Education Code sections 87100 through 87107 to the extent that, as specified in the opinion of the Court of Appeal (92 Cal.App.4th at pp. 59-61), these sections require respondent chancellor and respondent board, in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and section 31 of article I of the California Constitution, to give preferences to minorities and women in the recruitment and selection of community college employees." This judgment is, as we had requested, narrowly confined to the holding of the Court of Appeal and is entirely compatible with the proposed regulations.

Recommended Action

That the Board approve the proposed regulations, as presented.

Staff: *Virginia Riegel*
Staff Counsel

Proposed Revisions to Title 5 Regulations on Equal Employment Opportunity

1. Section 51010 of subchapter 1 of chapter 2 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

51010. ~~Affirmative Action~~ Equal Employment Opportunity

The governing board of a community college district shall:

(a) adopt a district policy which describes its ~~affirmative action~~ equal employment opportunity program and meets the requirements of ~~Section~~section 53002;

(b) develop and adopt a district ~~faculty and staff diversity~~ equal employment opportunity plan which meets the requirements of ~~Section~~section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by ~~Section~~section 53004;

(d) ensure that a program of recruitment is carried out as required by ~~Section~~ section 53021; ~~and~~

(e) ensure that screening and selection procedures are developed and used in accordance with ~~Section~~ section 53024;

(f) ensure that, where necessary, ~~corrective action is~~ additional steps are taken consistent with the requirements of ~~Section~~ section 53006;

(g) ensure that the pattern of hiring and retention, when viewed over time, ~~furthers~~ is consistent with the ~~goals~~ objectives established in the district's ~~faculty and staff diversity~~ equal employment opportunity plan; and

(h) substantially comply with the other provisions of ~~Subchapter~~ subchapter 1 (commencing with ~~Section~~ section 53000) of ~~Chapter~~ chapter 4.

NOTE: Authority cited: Sections 66271.1, 66700, and 70901 ~~and 87105~~, Education Code~~,~~; and ~~S~~section 11138, Government Code. Reference: ~~Article 4 (commencing with Section 87100) of Chapter 1, Part 51~~ Statutes 1988, chapter 923, section 4, Sections 66010.2, 66030, 66071, 66270, and 87360, Education Code~~,~~; and ~~S~~sections 11135-11139.5, Government Code.

2. The heading of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

Subchapter 1. ~~Affirmative Action and~~ Equal Employment Opportunity Programs

3. Section 53000 of article 1 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53000. Scope and Intent.

(a) This ~~Subchapter~~subchapter implements and should be read in conjunction with Government Code ~~Sections~~sections 11135-11139.5, Education Code ~~Section~~sections

66010.2, 66030, and 200 et seq., Education Code Sections 87100 et seq.,Chapter 4.5 of Part 40 of Title 3, commencing with section 66250; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101). Nothing in this subchapter shall be construed to conflict with or be inconsistent with the provisions of article 1, section 31 of the California Constitution or to authorize conduct that is in conflict with or is inconsistent with such provisions.

(b) The regulations in this Subchaptersubchapter require affirmative steps to promote faculty and staff diversity equal employment opportunity which are in addition to and consistent with the nondiscrimination requirements of state or federal law. Therefore, compliance with these regulations or approval of the district's faculty and staff diversity equal employment opportunity plan pursuant to Sectionsection 53003 does not imply and should not be construed to mean that a district has necessarily complied with its obligations under any other applicable laws or regulations. The Chancellor shall assist districts in identifying other applicable state or federal laws which may affect district affirmative actionequal employment opportunity or nondiscrimination policies.

NOTE: Authority cited: Sections 66271.1, 66700, and 70901 and 87105, Education Code; and section 11138, Government Code. Reference: Sections 200 et seq. Statutes of 1988, chapter 923, section 4; sections 66010.2, 66030, 66071, 66270, and 87360 and 87100 et seq., Education Code; Ssections 11135-11139.5, Government Code; Title 20, United States Code, Ssection 1681; Title 29, United States Code, Section 794; and Title 42, United States Code, Ssections 2000d, 6101 and 12100, et seq.

4. Section 53001 of article 1 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53001. Definitions.

As used in this Subchaptersubchapter:

(a) Adverse Impact. "Adverse impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnic group identification, gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if the numbers involved are too small to permit a meaningful comparison.

Affirmative Action Employment Programs. "Affirmative action employment programs" means all the various methods by which equal employment opportunity is ensured and expected representation is to be achieved for qualified members of historically underrepresented groups. Such methods include, but are not limited to, using nondiscriminatory employment practices, actively recruiting, monitoring and taking other steps to ensure equal employment opportunities, promoting diversity in the work force, and taking corrective action consistent with the requirements of Section 53006.

(b) ~~Faculty and Staff Diversity Plan. A "faculty and staff diversity plan" is a written document in which a district's work force is analyzed and specific result-oriented plans and procedures are set forth for ensuring equal employment opportunity, promoting diversity, and achieving expected representation of qualified members of historically underrepresented groups.~~

~~(c)~~ Business Necessity. "Business necessity" means circumstances which justify an exception to the requirements of ~~Section~~section 53021 because compliance with that ~~Section~~section would result in substantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than does mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

(~~d~~c) Equal Employment Opportunity. "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the district. Equal employment opportunity should exist at all levels and in all job categories listed in section 53004(a). Ensuring equal employment opportunity also involves creating an environment which fosters cooperation, acceptance, democracy, and free expression of ideas and is welcoming to men and women, persons with disabilities, and individuals from all ethnic and other groups protected from discrimination by this subchapter.

(d) Equal Employment Opportunity Plan. An "equal employment opportunity plan" is a written document in which a district's work force is analyzed and specific plans and procedures are set forth for ensuring equal employment opportunity.

(e) Equal Employment Opportunity Programs. "Equal employment opportunity programs" means all the various methods by which equal employment opportunity is ensured. Such methods include, but are not limited to, using nondiscriminatory employment practices, actively recruiting, monitoring and taking additional steps consistent with the requirements of section 53006.

(~~e~~f)(1) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks/African-Americans, and Hispanics/Latinos.

(2) ~~Ethnicity. "Ethnicity" means the ethnic group in which an individual is included or with which an individual identifies. A person shall be included in the group with which he or she identifies as his or her group, but may be counted in only one ethnic group.~~ Ethnic Group Identification. "Ethnic group identification" means an individual's identification in one or more of the ethnic groups reported to the Chancellor pursuant to section 53004. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

(~~f~~g) Goals for Persons with Disabilities. "Goals for persons with disabilities" means a statement that the district will strive to attract and hire additional qualified ~~members of an historically underrepresented group~~ persons with a disability in order to achieve the level of ~~expected~~ projected representation for that group by a target date established by taking into account the expected turnover in the work force and the availability of persons ~~from that group~~ with disabilities who are qualified to perform a particular job. Goals are not "quotas" or rigid proportions.

(h) In-house or Promotional Only Hiring. "In-house or promotional only" hiring means that only existing district employees are allowed to apply for a position.

(i) Monitored Group. "Monitored group" means those groups identified in section 53004(b) for which monitoring and reporting is required pursuant to section 53004(a).

(gj) Person with a Disability. "Person with a disability" means any person who (1) has a physical or mental impairment as defined in Government Code section 12926 which ~~substantially~~ limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "~~substantially~~ limited" if ~~he or she is likely to experience difficulty in securing, retaining or advancing in employment because of such an impairment~~ the condition makes the achievement of the major life activity difficult.

~~(h) Historically Underrepresented Group. "Historically underrepresented group" means ethnic minorities, women and persons with disabilities. The Board of Governors recognizes that ethnic minorities, women and persons with disabilities have historically faced discrimination and other obstacles that limited their opportunities for education, employment and upward mobility. The Board of Governors further acknowledges that as early as 1983 evidence became available documenting that these groups were underrepresented in many job classifications in many community college districts throughout the system.~~

(k) Projected Representation. "Projected representation" means the percentage of persons from a monitored group determined by the Chancellor to be available and qualified to perform the work in question.

(il) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the~~employer~~ district to remove artificial or real barriers which prevent or limit the employment and upward mobility of persons with disabilities. "Reasonable accommodations" may include the items designated in section 53025.

~~(j) Expected Representation. "Expected representation" means that the percentage of persons from an historically underrepresented group in the applicable work force is substantially the same as the percentage that members of that group would be expected to represent given the number of persons from that group in the pool of persons who are determined by the Chancellor to be available and qualified to perform the work in question.~~

~~(k) In-house or Promotional Only Hiring. "In-house or promotional only" hiring means that only existing district employees are allowed to apply for a position.~~

(lm) Screening or Selection Procedure. "Screening or selection procedure" means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

~~(m) Adverse or Disparate Impact. "Adverse impact" or "disparate impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnicity gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if:~~

~~(1) the numbers involved are too small to permit a meaningful comparison; or~~

~~(2) the disparity is attributable to the fact that affirmative action recruitment resulted in large numbers of persons from historically underrepresented groups in the applicant pool; or~~

~~(3) the disparity occurs because the district is taking corrective action pursuant to Section 53006 to overcome the significant underrepresentation of another group.~~

~~(n) Diversity. "Diversity" means a condition each district must strive to achieve in which the district's work force includes men and women, persons with disabilities, and individuals from all ethnic groups in numbers adequate to ensure that the community college provides an inclusive educational and employment environment which fosters cooperation, acceptance, democracy and free expression of ideas. Diversity should exist at all levels and in all job categories listed in Section 53004(a). Although there is no universal or specific measure for determining when diversity has been achieved, the demographics of the adult population of the state and of the community served by the district should both be considered.~~

~~(o) Target Date. "Target date" means a point in time by which the district plans to meet an established goal and achieve expected representation for a particular historically underrepresented group in a particular job category.~~

~~(p) Timetable. "Timetable" means a set of specific annual hiring objectives that will lead to meeting a goal by a projected target date.~~

(~~q~~n) Significantly Underrepresented Group. "Significantly underrepresented group" means any ~~historically underrepresented~~ monitored group for which~~:~~

~~(1)~~ the percentage of persons from that group employed by the district in any job category listed in ~~Section~~section 53004(a) is below ~~seventy~~eighty percent (~~70~~80%) of the ~~percentage that members of that group would be expected to represent given the pool of persons who are available and qualified to perform the work~~ projected representation for that group in the job category in question~~; or~~.

~~(2) the number of persons from that group employed by the district in any job category listed in Section 53004(a) is lower than the number that would be expected given the number of persons from that group in the pool of persons available and qualified to perform the work in question, and that discrepancy is found to be statistically significant using the chi square test or any other statistical test the Chancellor determines to be appropriate for this purpose; or~~

~~(3) where small numbers are involved, both (1) and (2) are satisfied. The Chancellor shall issue guidelines to assist districts with the proper application of these rules in determining significant underrepresentation.~~

(o) Target Date. "Target date" means a point in time by which the district plans to meet an established goal for persons with disabilities and thereby achieve projected representation in a particular job category.

(p) Timetable. "Timetable" means a set of specific annual hiring objectives that will lead to meeting a goal for persons with a disability by a projected target date.

NOTE: Authority cited: Sections 66271.1, 66700, and 70901~~ and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; S~~s~~ections ~~87101,~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; S~~s~~ections 11135-11139.5, 11092, and 12926 Government Code; 29 C.F.R. 1602.48 (1981); 29 C.F.R. 1607, 29 U.S.C. 793; 41 C.F.R. 60-741-2 (1980).

Section 53002 of article 1 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53002. Policy Statement.

The governing board of each community college district shall adopt a policy statement setting forth the district's commitment to an ~~affirmative action employment~~ equal employment opportunity program. This statement may also incorporate the nondiscrimination policy statement required pursuant to ~~Section~~section 59300 and other similar nondiscrimination or equal employment opportunity statements which may be required under other provisions of state and federal law.

NOTE: Authority cited: Sections 66271.1, 66700, and 70901~~ and 87105~~, Education Code; and 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; S~~s~~ections ~~87100 et seq.~~, 66010.1, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

6. Section 53003 of article 1 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53003. District Plan.

(a) The governing board of each community college district shall develop and adopt a district-wide written ~~faculty and staff diversity~~ equal employment opportunity plan to implement its ~~affirmative action employment~~ equal employment opportunity program. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) ~~This plan shall include the goals and timetables, as appropriate for hiring and promotion of members of historically underrepresented groups developed pursuant to Section53006 for each college in the district and for the district as a whole.~~ Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the Chancellor's Office for approval. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its plan.

(c) In particular, the plan shall include all of the following:

(1) the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this ~~Subchapter~~ subchapter pursuant to ~~Section~~ section 53020;

(2) the procedure for filing complaints pursuant to ~~Section~~ section 53026 and the person with whom such complaints are to be filed;

(3) a process for notifying all district employees of the provisions of the plan and the policy statement required under ~~Section~~ section 53002;

(4) a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this ~~Subchapter~~ subchapter and of state and federal nondiscrimination laws;

(5) a process for providing annual written notice to appropriate ~~community~~ community-based and professional organizations concerning the district's plan and the need for assistance from the community and such organizations in identifying qualified applicants ~~members of historically underrepresented groups for openings with the district~~;

(6) an analysis of the number of persons from ~~historically underrepresented~~ monitored groups who are employed in the district's work force and those who have applied for employment in each of the job categories listed in ~~Section~~ section 53004(a);

(7) an analysis of the degree to which ~~women, ethnic minorities, and persons with disabilities~~ monitored groups are underrepresented in comparison to the numbers of persons from such groups whom the Chancellor determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;

(8) ~~the steps the district will take to achieve diversity in its work force;~~

~~(9)~~ ~~goals~~methods for addressing any underrepresentation identified pursuant to ~~Subparagraph~~subparagraph (7)~~; and~~

~~(10) a plan of corrective action~~ (9) additional steps consistent with ~~Section~~section 53006~~, including goals and timetables for hiring and promotion, if necessary,~~ to remedy any significant underrepresentation identified in the plan ~~by achieving expected representation for all historically underrepresented groups in all job categories listed in Section53004(a)~~; and

(10) any other measures necessary to further equal employment opportunity throughout the district.

(d) The plan shall include any goals for hiring persons with disabilities that are required by section 53025.

(e) The plans submitted to the Chancellor shall be public records.

(~~e~~f) Each community college district shall make a continuous good faith effort to comply with the requirements of the plan required under this ~~Section~~section.

(~~f~~g) In developing the availability data called for in ~~Subsection~~subsection (c)(7), the Chancellor shall work through the established Consultation Process.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 973, section 4; ~~S~~sections ~~87100 et seq~~.66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

7. Section 53004 of article 1 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53004. District Evaluation and Report to Chancellor.

(a) Each district shall annually survey its employees and shall monitor applicants for employment on an ongoing basis in order to evaluate ~~its progress in~~ the ~~implementing~~ implementation of its ~~faculty and staff diversity~~ equal employment opportunity plan and to provide data needed for the analyses required by ~~Sections~~sections 53003, 53006, 53023, and 53024. Each district shall annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of employees at each

college in the district. Each employee shall be reported so that he or she may be identified as belonging to one of the following seven job categories:

(1) executive/administrative/managerial;
(2) faculty and other instructional staff;
(3) professional nonfaculty;
(4) secretarial/clerical;
(5) technical and paraprofessional;
(6) skilled crafts; and
(7) service and maintenance.

(b) For purposes of the survey and report required pursuant to ~~Subsection~~ subsection (a) of this ~~Section~~section, each applicant or employee shall be afforded the opportunity to identify his or her gender, ~~ethnicity~~ethnic group identification and, if applicable, his or her disability. A person may designate multiple ethnic groups with which he or she identifies, but shall be counted in only one ethnic group for reporting purposes. Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are to be counted and reported as part of the Asian/Pacific Islander group as well as in separate subcategories. However, in determining whether ~~corrective action is~~ additional steps are necessary to ensure that monitored groups have not been excluded on an impermissible basis, analysis of the separate subgroups is not necessary.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 and 87105, Education Code; and Section 11138, Government Code. Reference: Statutes 1988, chapter 923, section 4; ~~Sections 87100 et seq.,~~ Sections 66010.2, 66030, 66071, 66270, and 87360, Education Code; and Sections 8310.5 and 11135 - 11139.5, Government Code.

8. Section 53005 of article 1 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53005. Advisory Committee.

Each community college district shall establish an ~~Faculty and Staff Diversity~~ Equal Employment Opportunity Advisory Committee to assist the district in developing and implementing the plan required under ~~Section~~section 53003. This advisory committee shall include ~~members of all historically underrepresented groups~~ a diverse membership whenever possible.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; ~~S~~sections ~~87100 et seq.~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

9. Section 53006 of article 1 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53006. ~~Corrective Action~~ Additional Steps to Ensure Equal Employment Opportunity.

(a) ~~Continuation of Existing Goals. If a district established a goal prior to the effective date of this Section and significant underrepresentation still exists, it shall update that goal, set a new target date for achieving expected representation for that group in the category or categories in question, and concurrently do the following:~~

~~(1) review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group;~~

~~(2) consider various other means of reducing the underrepresentation which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective; and~~

~~(3) Ccomply with Subsection (c) of this Section.~~

~~(b) New Goals~~If a district determines~~, pursuant to Section 53003(c)(7),~~ that a particular monitored group is significantly underrepresented with respect to one or more job categories, ~~and no goal has previously been set,~~ the district shall take ~~corrective action~~ additional steps consistent with this ~~Section~~section. At a minimum, the district shall:

(1) review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group;

(2) consider various other means of reducing the underrepresentation which do not involve taking ~~underrepresented~~ monitored group status into account, and implement any such techniques which are determined to be feasible and potentially effective;

(3) determine whether the group is still significantly underrepresented in the category or categories in question after the measures described in (1) and (2) have been in place a reasonable period of time; and

(4) if significant underrepresentation persists, the ~~district shall set a goal with a target date for achieving expected representation for the significantly underrepresented group in each job category where significant underrepresentation persists. The~~ staffing rate for the significantly underrepresented group in the specified job category or categories shall be monitored on an ongoing basis ~~and the use of goals shall be discontinued when~~ until the projected ~~expected~~ representation has been achieved for that group in the category or categories in question.

(c~~b~~) ~~Additional Measures.~~ If a ~~goal has been set, and after a~~ reasonable period of time passes and significant underrepresentation persists for a particular group in the job category in question, the district shall: ~~establish a specific timetable to project the levels of annual hiring of persons from the significantly underrepresented group which will be necessary to meet the goal by the target date. In addition, the district shall implement one or more of the following additional corrective measures until expected representation has been achieved for that group in the category in question.~~

~~(1) include in the applicant pool applicants from significantly underrepresented groups who were initially screened out because they failed to meet locally established~~

~~"desirable or preferred" qualifications beyond state minimum qualifications, where such applicants can be expected to meet the additional qualifications through appropriate training or experience within one year.~~

~~(2) consider, as one factor in the final selection process, the fact that a candidate is a member of a significantly underrepresented group, provided that the qualifications of the candidates under consideration are reasonably considered to be substantially equivalent.~~

(1) review each locally established "required," "desired" or "preferred" qualification being used to screen applicants for positions in the job category to determine if it is job-related and consistent with business necessity through a process meeting the requirements of federal law or is among those qualifications which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system;

(2) discontinue the use of any locally established qualification that has not been found to satisfy the requirements set forth in paragraph (1) of this subdivision; and

(3) continue using qualification standards meeting the requirements of paragraph (1) only where no alternative qualification standard is reasonably available which would select for the same characteristics, meet the requirements of paragraph (1) and be expected to have a less exclusionary effect.

~~(d) New Goals for Women or Persons with Disabilities. Where either women or persons with disabilities are found to be significantly underrepresented, and no goal has previously been set for that group, the measures required under Subsections (b)(1) and (b)(2) shall be implemented concurrently with setting a goal with a target date for achieving expected representation for that group in each job category where the underrepresentation was found to exist. Goals shall remain in effect only until expected representation has been achieved for that group in the category or categories in question. Until the Chancellor's Office provides data regarding the availability of persons with disabilities by job category, an aggregate labor force availability rate shall be utilized for setting goals for hiring persons with disabilities with respect to the total district work force. The district may also concurrently take other corrective action which takes gender or disability into account, so long as such measures are discontinued when expected representation is achieved for that group in the category or categories in question.~~

~~(e)~~(c) ~~Definition of Reasonable Period.~~ For purposes of this ~~Section~~section, "a reasonable period of time" means three years, or such longer period as the Chancellor may approve, upon the request of the ~~faculty and staff diversity~~ equal employment opportunity advisory committee and the chief executive officer, where the district has not filled enough positions to appreciably ~~alter the composition of~~affect its work force in the job category in question.

~~(f)~~(d) ~~Other Voluntary Measures.~~ Nothing in this ~~Subchapter~~subchapter shall be construed to prohibit a district from taking any other steps it concludes are necessary to ensure equal employment opportunity, provided that such actions are consistent with the requirements of federal and state constitutional and statutory nondiscrimination law.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and ~~S~~section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; ~~S~~sections ~~87100 et seq.~~66010.2, 66030, 66071, 66270, and 87360, Education Code; and ~~S~~sections 11135-~~11139.5~~ 11139.5, Government Code.

10. Section 53020 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53020. Responsibility; Delegation of Authority; Complaints.

(a) The governing board of each community college district is ultimately responsible for proper implementation of this ~~Subchapter~~subchapter at all levels of district and college operation and for making measurable progress toward ~~the goals~~equal employment opportunity ~~established~~ by the methods described in the district's ~~faculty and staff diversity~~ equal employment opportunity plan. In carrying out this responsibility, the governing board, upon the recommendation of the chief executive officer, shall ensure that an ~~affirmative action~~ equal employment opportunity officer is designated to oversee the day-to-day implementation of the requirements set forth in this ~~Subchapter~~ subchapter.

(b) The administrative structure created by any delegation of authority to the ~~affirmative action~~equal employment opportunity officer or others shall be described in the district's ~~faculty and staff diversity~~ equal employment opportunity plan submitted pursuant to ~~Section~~section 53003 and shall be designed in such a manner so as to ensure prompt and effective implementation of the requirements of this ~~Subchapter~~subchapter. The plan shall also designate a single officer, who may be the ~~affirmative action~~equal employment opportunity officer, who shall be given authority and responsibility for receiving complaints filed pursuant to ~~Section~~section 53026, for ensuring that such complaints are promptly and impartially investigated, and ensuring that selection procedures and the applicant pool are properly monitored as required by ~~Sections~~ sections 53023 and 53024.

(c) Any organization or individual, whether or not an employee of the district, who acts on behalf of the governing board with regard to the recruitment and screening of personnel is an agent of the district and is subject to all of the requirements of this ~~Subchapter~~subchapter.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901~~ and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; S~~s~~ections ~~87100 et seq.~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

11. Section 53021 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53021. Recruitment.

(a) Except as otherwise provided in this ~~Section~~section community college districts shall actively recruit from both within and outside the district work force to attract qualified applicants for all new openings. This shall include ~~focused~~outreach designed to ~~historically underrepresented~~ ensure that all persons, including persons from monitored groups, are provided the opportunity to seek employment with the district. The

requirement of open recruitment shall apply to all new full-time and part-time openings in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer, and all other executive/administrative/ managerial positions. Recruitment for full-time faculty and educational administrator positions shall be at least statewide and, at a minimum, shall include seeking qualified applicants listed in the California Community Colleges ~~Faculty and Staff Diversity~~ Equal Employment Opportunity Registry. Recruitment for part-time faculty positions may be conducted ~~separtely~~separately for each new opening or by annually establishing a pool of eligible candidates, but in either case full and open ~~affirmative action~~recruitment is required consistent with this ~~Section~~section.

(b) "In-house or promotional only" recruitment shall not be used to fill any new opening except when:

~~(1) the pool of eligible district employees has achieved expected representation for all historically underrepresented groups and the district has an upward mobility program which is included in the faculty and staff diversity plan approved by the Chancellor;~~

~~(2)~~ the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceed one year in duration. The Chancellor may approve an extension of up to one additional year if the district demonstrates "business necessity" as defined in ~~Section~~section 53001(~~e~~b).

(c) If a district believes justification exists for use of ~~any of the exceptions~~exception listed in ~~Subsections~~subsection (b), it shall so notify the ~~Faculty and Staff Diversity~~ Equal Employment Opportunity Advisory Committee established pursuant to ~~Section~~section 53005 and the Chancellor at least ten (10) working days prior to offering the position to a candidate.

(d) Even where in-house or promotional only recruitment is permitted pursuant to ~~Subsections~~subsection (b), the district shall comply with its established hiring procedures and all qualified district employees shall be afforded the opportunity to apply.

(e) For purposes of this ~~Section~~section, a new opening is not created when:

(1) there is a reorganization or series of lateral transfers that do not result in a net increase in the number of employees;

(2) a position which is currently occupied by an incumbent is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;

(3) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term;

(4) the position is filled by a temporary, short-term, or substitute employee appointed pursuant to Education Code ~~Sections~~sections 87422, 87480, 87482.5(b), 88003, 88106 or 88109; or

(5) a part-time faculty member is assigned to teach the same or fewer hours he or she has previously taught in the same discipline without a substantial break in service. For purposes of this ~~Section~~section "a substantial break in service" means more than one calendar year or such different period as may be defined by a collective bargaining agreement.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901~~and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923,

section 4; ~~S~~sections ~~87100 et seq.~~66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

12. Section 53022 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53022. Job Announcements and ~~Required~~ Qualifications.

Job announcements shall state clearly job specifications setting forth the knowledge, skills, and abilities necessary to job performance. For faculty and administrative positions, job requirements shall include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students. Job specifications, including any ~~"desired" or~~ "required," "desired" or "preferred" qualifications beyond the state minimum qualifications (set forth in ~~Subchapter~~subchapter 4, commencing with ~~Section~~ section 53400 of this ~~Chapter~~chapter) which the district wishes to utilize, shall be reviewed before the position is announced, to ensure conformity with the requirements of this ~~Subchapter~~subchapter and state and federal nondiscrimination laws.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 973, section 4; ~~S~~sections ~~87100 et seq.~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

13. Section 53023 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53023. Applicant Pool.

(a) The application for employment shall afford each applicant an opportunity to voluntarily identify his or her gender, ~~ethnicity~~ethnic group identification and, if applicable, his or her disability. This information shall be kept confidential and shall be used only in research, validation, monitoring, evaluating the effectiveness of the district's ~~affirmative action employment~~ equal employment opportunity program, or any other purpose specifically authorized in this ~~Subchapter~~ subchapter, or by any applicable statute or regulation.

(b) After the application deadline has passed, the composition of the initial applicant pool shall be analyzed to ensure that ~~expected representation has been achieved for historically underrepresented groups~~ any failure to obtain projected representation for any monitored group is not due to discriminatory recruitment procedures. If necessary, the application deadline shall be extended and additional ~~focused~~ recruitment shall be conducted ~~for any historically underrepresented group for which expected representation has not been achieved~~ that eliminates discriminatory recruitment procedures and ensures that recruitment efforts provide a full and fair opportunity for participation to a wide diversity of potential applicants. When ~~the expected representation of historically underrepresented groups is achieved,~~ recruitment efforts have offered an opportunity for

participation to a wide diversity of potential applicants or further recruitment efforts would be futile, applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement.

(c) Before the selection process continues, the composition of the qualified applicant pool shall be analyzed to ensure that no monitored group~~, defined in terms of ethnicity, gender or disability,~~ is adversely impacted pursuant to ~~Section~~ section 53001 (~~ma~~). If adverse impact is found to exist, the chief executive officer or his or her designee shall take effective steps to address the adverse impact before the selection process ~~is begun~~ continues. Such steps may include, but are not limited to:

(1) extending the deadline ~~is extended and additional recruitment, focused on historically underrepresented groups is undertaken~~ and undertaking inclusive outreach efforts to ensure that members of the adversely impacted group have equal opportunity to seek employment with the district;

(2) including all applicants who were screened out on the basis of any locally established qualifications beyond state minimum qualifications ~~are modified or removed and the application deadline is extended~~ which have not been specifically demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law or which are not among those which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system.

(~~ed~~) If adverse impact persists after taking steps required under subdivision (~~bc~~), the selection process may proceed only if:

(1) the job announcement does not require qualifications beyond the statewide minimum qualifications; or

(2) locally established qualifications beyond state minimum qualifications, if any, are ~~validated as~~demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law and suitable alternative selection procedures to reduce the adverse impact were unavailable; or

(3) the particular ~~requirements~~ qualification beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system.

(e) The district may not advertise or utilize in future hiring processes for the same position or a substantially similar position any locally established qualifications beyond state minimum qualifications that the district was unable to verify under subsection (b)(2) unless such qualifications are so verified in advance of commencing any such future hiring process.

NOTE: Authority cited: Sections 66271.1, 66700, and 70901~~ and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; S~~s~~ections ~~87100 et seq.~~66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code; 42 U.S.C. 2000e-2.

14. Section 53024 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53024. Screening or Selection Procedures.

(a) All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, shall be:

(1) provided to the Chancellor upon request;

(2) designed to ensure that for faculty and administrative positions, meaningful consideration is given to the extent to which applicants demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;

(3) based solely on job-related criteria~~, except as authorized by Section 53006~~; and

(4) designed ~~and monitored~~ to ~~ensure that they do not have~~ avoid an adverse impact, as defined in ~~Section~~section 53001~~(m)~~(a), and monitored by means consistent with this section to detect and address any adverse impact which does occur for ~~on~~ any monitored group~~ defined in terms of ethnicity, gender, or disability~~.

(b) If monitoring pursuant to subsection (a)(4) reveals that any selection technique or procedure has adversely impacted any such group, the chief executive officer or his/her designee shall suspend the selection process and timely and effective steps shall be taken to remedy the problem before the selection process resumes. The ~~affirmative action~~equal employment opportunity officer, or other official charged with responsibility for monitoring selection procedures, may assist the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures which have produced an adverse impact, provided that confidential information about individual candidates is not disclosed. If adverse impact results from locally established qualifications beyond state minimum qualifications that have not been verified as described in section 53023(c)(2) or replaced with suitable alternatives having a lesser adverse impact, the use of such qualifications shall be immediately discontinued and any applicant eliminated on the basis of that qualification shall be continued in the hiring process. Where necessary, the position may be re-opened at any time and a new selection process initiated in a way designed to avoid adverse impact.

(c) A district may not designate or set aside particular positions to be filled by members of any group defined in terms of ~~race, ethnicity, gender, age, or disability~~ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry or sexual orientation, or engage in any other practice which would result in discriminatory or preferential treatment prohibited by state or federal law. Nor may a district apply ~~the goals, if any, set forth in~~ the district's ~~faculty and staff diversity~~ equal employment opportunity plan in a rigid manner which has the purpose or effect of so discriminating.

(d) Seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion, and is included in the job announcement consistent with the requirements of ~~Section~~section 53022.

(e) Selection testing for employees shall follow procedures as outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures."

(f) ~~Selection~~Whenever possible, screening committees shall include ~~members of historically underrepresented groups, whenever possible~~ a diverse membership which will bring a variety of perspectives to the assessment of applicant qualifications.

(g) Notwithstanding any other provision of this ~~Division~~division, the governing board or its designee shall have the authority to make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee. This includes the right to reject all candidates and to order further review by the screening committee or ~~reopening of~~to reopen the position where necessary to further achievement of the ~~goals, if any, established in~~objectives of the ~~faculty and staff diversity~~ equal employment opportunity plan or to ensure equal employment opportunity. However, a consistent ~~failure to select~~ pattern of not hiring qualified candidates from ~~historically underrepresented~~ a monitored groups who are recommended by screening committees ~~shall constitute a violation of Section 51010 of this Division~~ may give rise to an inference that the selections are not consistent with the objectives of equal employment opportunity that are required by this subchapter.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; Sections ~~87100 et seq.~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and Sections 11135-11139.5, Government Code.

15. Section 53025 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53025. Persons with Disabilities.

(a) Districts shall ensure that applicants and employees with disabilities receive reasonable accommodations consistent with the requirements of Government Code ~~Sections~~sections 11135 et seq. and 12940(m), ~~Section~~section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. Such accommodations may include, but are not limited to, job site modifications, job restructuring, part-time work schedules, flexible scheduling, reassignment to a reasonably equivalent vacant position, adaptive equipment, and auxiliary aids such as readers, interpreters, and notetakers. Such accommodations may be paid for with ~~faculty and staff diversity~~ funds provided pursuant to ~~Article~~article 3 (commencing with ~~Section~~section 53030) of this ~~Subchapter~~ subchapter.

(b) If a district established a goal for persons with disabilities prior to the effective date of this subsection and if significant underrepresentation still exists, it shall update that goal, set a new target date for achieving projected representation in the category or categories in question, and concurrently comply with subsections (a)(1), (a)(2) and (b) of section 53006 with respect to persons with disabilities.

(c) Where persons with disabilities are found to be significantly underrepresented, measures required under subsections (a)(1) and (a)(2) of section 53006 shall be implemented concurrently with setting a goal with a target date for achieving projected representation for persons with a disability in each job category where the underrepresentation was found to exist. Goals shall remain in effect only until projected

representation has been achieved for that group in the category or categories in question. Until the Chancellor's Office provides data regarding the availability of persons with disabilities by job category, an aggregate labor force availability rate shall be utilized for setting goals for hiring persons with disabilities with respect to the total district work force. The district may also concurrently take other additional steps which take disability into account, so long as such measures are discontinued when projected representation is achieved for persons with disabilities in the category or categories in question.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; ~~S~~sections ~~87100 et seq.~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; ~~S~~sections 11135 ~~et seq.~~ 11139.5, Government Code; 29 U.S.C. 794; 42 U.S.C. ~~S~~sections 12101, et seq.

16. Section 53026 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53026. Complaints.

Each community college district shall establish a process permitting any person to file a complaint alleging that the requirements of this ~~Subchapter~~ subchapter have been violated. A copy of the complaint shall immediately be forwarded to the Chancellor who may require that the district provide a written investigative report within ninety (90) days. Complaints which also allege discrimination prohibited by Government Code ~~Sections~~sections 11135 et seq. shall be processed according to the procedures set forth in ~~Subchapter~~subchapter 5 (commencing with ~~Section~~section 59300) of ~~Chapter~~chapter 10 of this ~~Division~~division.

NOTE: Authority Cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and ~~S~~sections ~~11135 et seq~~ 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; ~~S~~sections ~~87100 et seq.~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

17. Section 53027 of article 2 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53027. Applicability to Districts Operating on the Merit System.

Nothing in this ~~Subchapter~~subchapter shall be construed to conflict with or be inconsistent with the provisions of ~~Article~~article 3 (commencing with ~~Section~~section 88060) of ~~Chapter~~chapter 4 of ~~Part~~part 51 of the Education Code which apply to districts operating a merit system for classified employees.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87105~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923,

section 4; Ssections ~~87100 et seq.~~66010.2, 66030, 66071, 66270, 87360 and 88060 et seq., Education Code; and sections 11135-11139.5, Government Code.

18. Section 53030 of article 3 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53030. Equal Employment Opportunity Fund Allocation.

~~Before the end of the fiscal year preceding the year of allocation, the Chancellor shall recommend to the Board of Governors an allocation formula for distribution of the Faculty and Staff Diversity Fund established pursuant to Education Code Section 87107. The allocation shall be~~ Resources provided to the Board of Governors for the purpose of promoting equal employment opportunity in hiring and promotion within the system shall be placed in an Equal Employment Opportunity Fund and shall be allocated consistent with the following:

(a) A portion of the fund, but not more than 25 percent, shall be set aside ~~for the purposes of Education Code Section 87107(c) provided that:~~

~~(1) sufficient funds~~ to provide technical assistance, service, monitoring, and compliance functions. ~~shall be designated from these monies; and~~

~~(2) the remainder of these funds shall be distributed on the basis of the full-time equivalent students of each district as a proportion of the total full-time equivalent students for all districts. These funds are to be used to reimburse costs as specified in Education Code Section 87107.~~

(b) That portion of the funds not allocated pursuant to ~~Subsections~~subsection (a) may be allocated to the districts in the following ~~five~~ categories:

(1) an amount proportional to the full-time equivalent students of each district to the total full-time equivalent students for all districts;

(2) an equal dollar amount to each district;

(3) an amount related to success in promoting ~~diversity~~ equal employment opportunity. Multiple methods of measuring success shall be identified by the Chancellor working through the established Consultation Process.

(c) funds provided pursuant to this section may be used for:

(1) outreach and recruitment;

(2) in-service training on equal employment opportunity;

(3) accommodations for applicants and employees with disabilities pursuant to section 53025; and

(4) other activities to promote equal employment opportunity.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87107~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; Ssections ~~87107~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

19. Section 53033 of article 3 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53033. Failure to Report.

Any district failing to provide the data required under Section 53004 is not in compliance with this ~~Subchapter~~subchapter. ~~Faculty and Staff Diversity~~ Equal Employment Opportunity funds for any given fiscal year, other than those under ~~Section~~ section 53030(a), shall not be granted unless the district provides the data no later than March 31st of the preceding fiscal year or receives an extension of the deadline from the Chancellor.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87107~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; S~~s~~ections ~~87107~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

20. Section 53034 of article 3 of subchapter 1 of chapter 4 of division 6 of title 5 of the *California Code of Regulations* is amended to read:

53034. Required Report.

Districts shall submit a report on the use of ~~Faculty and Staff Diversity~~ Equal Employment Opportunity funds to the Chancellor's Office no later than September 30th of the fiscal year following the use of the funds. Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required under ~~Section~~section 53004, districts will report that rate by a separate survey conducted, as directed by the Chancellor's Office.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901 ~~and 87107~~, Education Code; and section 11138, Government Code. Reference: Statutes of 1988, chapter 923, section 4; ~~Section~~sections ~~87107~~ 66010.2, 66030, 66071, 66270, and 87360, Education Code; and sections 11135-11139.5, Government Code.

ATTACHMENT

Relevant Provisions of Law

Uncodified Legislative Intent
AB 1725 (Stats. 1988, c. 973)

Section 4(a)(3)
Given the emerging turnover in faculty vacancies, the next 15 years represent the last major "window of opportunity" to significantly change the ethnic mix of the faculty during the next 30 years. It will be imperative for the faculty to be sympathetic and sensitive to cultural diversity in the colleges especially when the student body is continually changing. One means of ensuring this is for the faculty to be culturally balanced and more representative of the state's diversity.

Section 4(p)(1)
The laws, regulations, directives, or guidelines should help the community colleges ensure that the faculty and administrators they hire and retain are people who are sympathetic and sensitive to the racial and cultural diversity in the colleges, are themselves representative of that diversity, and are well prepared by training and temperament to respond effectively to the educational needs of all the special populations served by community colleges.

Section 4(r)(1)
The pool of underrepresented individuals interested in faculty and administrative positions in the community colleges should be increased. Furthermore, practical and effective ways of finding and recruiting those individuals should be developed and maintained. The state's leadership in this effort is appropriate and urgently needed.

Education Code

Section 66010.2.

The public elementary and secondary schools, the California Community Colleges, the California State University, the University of California, and independent institutions of higher education share goals designed to provide educational opportunity and success to the broadest possible range of our citizens, and shall provide the following:

(a) Access to education, and the opportunity for educational success, for all qualified Californians. Particular efforts should be made with regard to those who are historically and currently underrepresented in both their graduation rates from secondary institutions and in their attendance at California higher educational institutions.

(b) Quality teaching and programs of excellence for their students. This commitment to academic excellence shall provide all students the opportunity to address issues, including ethical issues, that are central to their full development as responsible citizens.

(c) Educational equity not only through a diverse and representative student body and faculty but also through educational environments in which each person, regardless of race, gender, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential.

Section 66030.

(a) It is the intent of the Legislature that public higher education in California strive to provide educationally equitable environments which give each Californian, regardless of ethnic origin, race, gender, age, disability, or economic circumstance, a reasonable opportunity to develop fully his or her potential.

(b) It is the responsibility of the governing boards of institutions of higher education to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment, in accordance with state and federal law.

Section 66071

In enacting this article, it is the intent of the Legislature to urge the continued development and implementation of assessment processes whereby institutions of higher education establish mechanisms, through program review and improvement, for the assessment of their performance in attempting to improve student learning and comprehension and achieving the expressed state policy goals for higher education of quality, educational equity, employee diversity, student transfer, and student retention. The primary purposes of assessment shall be to improve teaching and learning as well as academic advising. Assessment programs shall be focused on activities that are campus- based, faculty-centered, and student-responsive. Faculty, students, and academic administrators are encouraged to work together in developing assessment programs.

Section 66072

It is the intent of the Legislature to monitor the performance of the University of California, the California State University, and the community colleges in the following areas:

(a) Diversification of student bodies.

(b) Improved student transfer rates.

(c) Improved student retention rates.

(d) Diversification of faculty, nonfaculty academic staff, and administrative positions.

(e) As a part of program review, enhanced student learning, as demonstrated through mechanisms designed to explore improvements in knowledge, skills, and abilities.

Section 66270

No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

Section 66271.1

The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, and the Regents of the University of California may, adopt regulations as required by law to implement this chapter.

Section 87360

(a) In establishing hiring criteria for faculty and administrators, district governing boards shall, no later than July 1, 1990, develop criteria that include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students.

(b) No later than July 1, 1990, hiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by representatives of the governing board, and the academic senate, and approved by the governing board.

(c) Until a joint agreement is reached and approved pursuant to subdivision (b), the existing district process in existence on January 1, 1989, shall remain in effect.

Government Code

Section 11135

(a) No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, funded directly by the state, or receives any financial assistance from the state.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) As used in this section, "disability" means any mental or physical disability as defined in Section 12926.

Section 11138

Each state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state and that enters into contracts for the performance of services to be provided to the public in an aggregate amount in excess of one hundred thousand dollars ($100,000) per year shall, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of this part, adopt such rules and regulations as are necessary to carry out the purpose and provisions of this article.

Board of Governors
California Community Colleges
November 12-13, 2002

APPROVAL OF COLLEGE STATUS FOR FOLSOM LAKE CENTER, LOS RIOS COMMUNITY COLLEGE DISTRICT

11

ACTION SCHEDULED

Committee of: *The Whole*
Richard H. Leib, President

Presentation: *Robert Turnage, Vice Chancellor*
Fiscal Policy

Issue

This item presents a request by the Los Rios Community College District (LRCCD) to transition its Folsom Lake Center (FLC) instructional operation from center status to college status pursuant to Title 5, California Code of Regulations, section 55828.

Background and Chronology

At its January 1991 meeting, the Board of Governors approved a *Long-Range Capital Outlay Growth Plan.* Among the facility needs identified in the plan was a new college to serve the eastern portion of the LRCCD. Specifically, the plan forecast 46 percent enrollment growth for LRCCD within the ensuing 15 years. The 1991 plan states: "Serving one of the nation's fastest growing metropolitan areas (Sacramento), this 49,000-student district...is expected to grow *to 72,000* students by 2005. The service area is large (2,400 square miles) and at least one new center in the near term, in Folsom—to become a campus in the long term—is indicated." The LRCCD will easily meet or exceed the projected growth of 72,000 students by 2005. As of Spring 2002, the LRCCD enrolled 69,000 students.

Since 1964, LRCCD has been involved in planning for an educational facility to meet the needs of the Folsom region. In 1967, the district acquired land to be preserved for a future Folsom Lake College. By 1991, Folsom was identified as the fourth fastest growing city in California. District enrollment projections, as well as an interest survey among Folsom area residents and businesses, clearly support the development of a new college in accordance with state criteria. Considering the distances that residents of the eastern portion of the district must currently travel to receive services, and the fact that existing facilities have been facing enrollment demands in

excess of capacity, it is clear that large numbers of unserved and underserved individuals may t have access if this college is not built. Since 1993, FLC has been operating in portables at e actual site, as well as in leased space in Folsom, and nearby Rancho Cordova and El Dorado Hills.

The educational plan for the proposed FLC reflects the existence of two major subpopulations of prospective students: the more traditional, younger students focusing on general education and transfer programs, along with entry-level vocational programs; and working, older adult students (including many single parents). Along with traditional programs, the college will have the dual focus of serving as an instructional delivery system aimed at meeting the needs of local business and industry, with requisite flexibility in scheduling and support services. Varied instructional modalities and technologically-advanced delivery modes will be emphasized providing even greater access than what typically occurs in traditional college settings.

The local communities have demonstrated strong interest and support for the proposed college. It will increase the accessibility of services for many current and potential students. The business community is likewise supportive of a planned educational program reflective of the technologies active in the area. There is also strong interest in the programs planned to offer direct assistance to local businesses through contract education and on-site open credit courses. Finally, there is strong support from the secondary and postsecondary institutions in the area.

In Fall 1992, the LRCCD submitted a proposal seeking college status for its existing FLC in Folsom. The proposal was approved by the Board of Governors in November 1992 provided that the California Postsecondary Education Commission (CPEC) general guidelines for the definition of a college have been met, subject to written approval by the Chancellor, on or before July 1, 1997. In December 1992, CPEC approved the Folsom Lake site as the fourth college of the LRCCD.

Originally, the LRCCD established July 1, 1997, as the target date for FLC to become a college. Because of funding constraints on capital outlay projects, LRCCD asked for and received an extension from the Chancellor's Office. In September 1995, the Board approved the district's request for the extension from July 1, 1997, to July 1, 2005. With the passage of Proposition 203 in 1997, capital outlay funds became available for the FLC. Funds were approved for the plans and site planning. In Fall 1999, funds were available for the construction of Phase IA, the first instructional building, which became operable in Fall 2001. The second phase was approved for construction in 2001-02 with plans to commence building in Spring 2003. Additional funds have also been made available for the planning and design of the third phase of facilities. The passage of Measure A, a local bond, in March 2002 provides for the necessary local contribution to complete the construction of these new college facilities. FLC was granted eligibility status by the Western Accreditation of Schools and Colleges Commission (WASC) to begin the self-study process, with a scheduled site visit in Fall 2003 along with the other colleges within the district.

Analysis

Population and Enrollment Projections

The district serves the greater Sacramento metropolitan area, including all of Sacramento County, as well as parts of El Dorado, Yolo, Placer and Solano counties. Its service area covers a diverse 2,400 square miles, comprised of densely-populated metropolitan communities, rapidly expanding suburbs, small Sierra foothill towns, agricultural areas, and national forest and state park regions.

The site, a 151-acre parcel owned by the LRCCD, is located to the southeast of the City of Folsom, on East Bidwell Street, approximately halfway between the city and State Highway 50. The City of Folsom is currently striving to extend Sacramento's Regional Transit light-rail network to Folsom. Prospective commute times from neighboring communities range from approximately 10 minutes from the City of Folsom, to 40 minutes from Citrus Heights. A study by the district planning staff of Folsom-area students currently enrolled revealed the following characteristics:

- Sixty percent are women;
- Almost 43 percent are 30 years old or older. The second largest group, at 34 percent, is between 18 and 24 years of age; and
- Approximately 76 percent of the students are white, with 21 percent from ethnic minority populations (9.1 percent Asian American; 7.2 percent Latino; 2.8 percent African-American; and 1.9 percent Native American).

The Chancellor's Office Research and Planning Unit and the LRCCD both project strong growth for FLC through the year 2015 as reflected below:

Year	Enrollment	WSCH	Full-time Equivalent Students (FTES)
2002	9,545	81,987	5,466
2003	10,557	90,682	6,045
2004	10,948	94,042	6,269
2005	13,046	112,068	7,471
2010	18,074	155,253	10,350
2013	20,124	172,864	11,524
2014	21,087	181,136	12,076
2015	21,772	187,020	12,468

lternatives to Converting the Folsom Lake Site from Center Status to College Status

- Expanding existing district colleges: all three of LRCCD's existing colleges (Sacramento City, American River, and Cosumnes River) far exceed their planned enrollment capacities and have serious space limitations. None of these colleges could expand much beyond their existing enrollment without serious degradation of educational quality. The existing campuses are forty-five minutes to one hour from the growing Folsom population. The attendant traffic and air pollution that excessive commute times and distances create would be a negative by-product.

- In past years, the use of other higher education facilities has been a matter of considerable discussion between LRCCD and its neighboring public universities. However, such an option does not appear feasible since both California State University, Sacramento (CSUS) and University of California, Davis (UCD) have contacted the district to ascertain whether the district has the capacity to handle their students who cannot get into classes or have been denied admittance altogether as a result of budgetary constraints on those institutions.

- The LRCCD currently utilizes nontraditional instructional delivery systems, providing increased access, particularly for students in remote areas. There are very high equipment costs for such methodologies, with additional support and technical staff needed beyond the usual faculty/instructional assistant situation. Students served by telecommunicated courses have very limited access to the kinds of support services that they may need to successfully complete the classes. Distance learning is an important adjunct to—not substitute for—a regular college educational environment.

Arguments for College Status Include

The conversion of the Folsom site from center to college is considered to be the most feasible alternative to effectively and equitably provide full services and comprehensive educational programs to the citizens of the eastern region of the LRCCD.

Residents of the eastern section of the district currently have several service options—all of which are inadequate or will soon be so. Those choosing to attend one of the three existing college campuses in the district face extended commute times, to arrive at programs already at capacity. The El Dorado Center (EDC) located in Placerville, which does not offer a full range of classes and services, will reach and probably exceed capacity within the next few years. Local outreach programs also are necessarily limited in the scheduling and scope of their offerings. Finally, the local business community is best served by the availability of a local college with programs and services tailored to meet local needs.

The district is proposing a multi-phased development approach for the proposed Folsom Lake College. During Phase IA construction was completed for Fall 2002, with the scheduling emphasis aimed at meeting the needs of the expected large numbers of older, working students.

Phase IB, already in the funding stream with construction to begin Spring 2003, will enable the site to meet enrollment capacity and begin to offer a full-service program.

- A full service college would better serve the local population, which includes traditionally underserved groups.
- The acquisition of 151 acres of land for this site was motivated by the plan for a full-service college in the Folsom community.
- The City of Folsom's partnership in sharing costs of the current joint-use fields was precipitated, in part, by the anticipation that its residents would also enjoy a full service higher education facility.
- The conversion from center to college status will open the doors to additional grants and endowments that will benefit the region's populations.
- College status, with a significant increase in course offerings to match expected enrollment, is central to the LRCCD collaborative agreement with CSUS and UCD allowing for dual enrollments and a near seamless transfer of students from one institution to the other.

Despite the advantages, LRCCD is keenly aware of the increased costs that will accompany the expansion and change of status and has been consistently planning for such a change during the last ten years:

- Operational and support costs will increase;
- The expense of a separate accreditation status is anticipated;
- New construction and other improvements for the proposed college will have to be funded locally. These improvements are likely to grow substantially beyond those required for maintaining center status; and
- New, revised funding approaches to the distribution of district revenue must be developed.

LRCCD has studied the issues, contacted other small colleges that have been through the process, and begun the accreditation process. With all that has been learned and accomplished, the LRCCD Board, administrative staff, faculty, students and the community are in agreement that college status is an appropriate goal. The site has begun the WASC accreditation process with a self-study to be completed by August 2003, WASC site visit scheduled for Fall 2003, and WASC board review and approval by January 2004.

Serving Underrepresented Students

LRCCD's colleges are enrolling a growing number of new, young students who are ethnic minorities, particularly those in Sacramento and Yolo counties. Some of these new students may

also be either economically disadvantaged or educationally disadvantaged and many may be both. This increasingly diverse population is currently reflected in the total enrollment of LRCCD, which is 45 percent ethnically diverse. In addition, increasing numbers of those students enrolled in the LRCCD have disabilities (3%) requiring appropriate academic adjustments or auxiliary aids (1998). According to the LRCCD's Office of Institutional Research (2000), the trend toward a more ethnically diverse population is projected to continue to grow over the next ten years and beyond. Almost half of the population in the four-county area served by the district will be nonwhite by 2040, though Sacramento and Yolo counties are far more ethnically diverse. Of particular interest to FLC is the fast growing population of legal immigrants. Sacramento County ranked 8th among all California counties for the number of legal immigrants in 1996 with 7,342 immigrants residing within the county. Also, in 1996, approximately 300 legal immigrants settled in El Dorado County. The country of birth of the 1996 legal immigration population to Sacramento County is as follows: 17.8 percent from Mexico, 8.7 percent from Vietnam, 7.6 percent from the Ukraine, 7.5 percent from the Philippines, 6.6 percent from India, 5.2 percent from China, 3.9 percent from Fiji, 3.0 percent from Laos, and 39.7 percent from other countries. These increases have been reflected in the increased enrollments of Russian and Ukrainian immigrants at the Rancho Cordova Center (RCC). And though the population in both El Dorado and Placer counties are projected to have low proportions of non-White residents (only 18 percent for each, by 2030), an effort to identify the hidden Hispanic population is underway.

LRCCD's student support services programs are uniquely designed to address the needs of students from the service area. A comprehensive cadre of services assist students in reaching high levels of academic achievement, regardless of their family's educational or socioeconomic profile. The program plan and scope of activities give priority to strengthening of both basic and high-level skills in mathematics, reading, writing, and science. Assessment and monitoring of skill levels, grades, activities, financial assistance and follow-up of graduates after transfer or completion of their course of studies are all key factors in the successful operation of this program.

The changing environment of LRCCD, and specifically at FLC, clearly indicates continuing increases of low income and first generation students. This is most evident at the Rancho Cordova Center where the number of Board of Governors' Fee Waiver recipients has increased 85 percent from FY 2000-01 to FY 2001-02. Programs and services at the FLC and EDC are focused on addressing the needs of all students, including at-risk students. Student success including increased transfer rates and retention rates are at the core of this center's existence. Perhaps most significantly, the numbers of students eligible for student support services continue to increase. The district has taken necessary steps to meet the challenges.

Student development at FLC, EDC and RCC is designed to enhance student access, retention, equity, and successful goal fulfillment. Student development staff provide leadership and service delivery in the development and implementation of specific policy, program and budget matters that impact student enrollment and student success at our colleges. Most importantly, student development staff contributes significantly to the teaching and learning process that occurs at the college. The comprehensive constellation of college programs and services supported by the Student Development Unit include, but are not limited to: counseling, career planning, student activities, student government, admissions and records, matriculation, transfer and articulation,

EOPS, CARE, disabled students programs and services (DSPS), student financial aid, CalWORKs, child development center, outreach and recruitment, and grant coordination. The Student Development Unit also works in partnership with the instructional area to ensure adequate tutoring is provided for all students in need of such services.

Staff administers categorical programs and special services, which are essential to providing access and success for low-income and underrepresented students. Student development administers over $1.9 million appropriated annually to the college to implement a comprehensive network of support programs and services. Current programs and services include, but are not limited to: assessment, counseling, programs and services for the disabled, EOPS, CalWORKs, financial aid and tutoring.

Probable Effects on Adjoining Districts

Community college districts contiguous to LRCCD include Sierra, San Joaquin Delta, Yuba, Lake Tahoe and Solano. Distances from their colleges to the FLC and the commute congestion on the local streets and highways are well beyond a reasonable commute. So far, none have suffered enrollment losses as a result of the FLC, nor are they likely to in the future should college status for FLC be achieved. None of LRCCD's colleges is likely to experience enrollment loss since the distance between the other three colleges is approximately 25 miles (45 minute commute).

There is also strong support for cooperative partnership between CSUS and FLC. CSUS, with whom FLC has collaborative agreements for transfer, dual enrollment and other matters, is 35 miles away. Due to budgetary constraints, CSUS has been forced to turn away applicants for freshman and lower-division transfer status and has been in constant contact with LRCCD to inquire whether the community college district could accommodate some of the university students in their classes.

The UCD has also been forced to turn away students and has asked LRCCD about the possibility of handling some of its students. Sacramento City College is now offering classes on the UCD campus, and the two institutions have created various cooperative relationships, the intent of which is to expand transfer opportunities, particularly for disadvantaged students.

The local high school districts will benefit in at least two ways. First, students in these districts will have another option for higher education. This option not only provides more convenient physical access to a college campus, but also, more importantly, provides an entry into higher education, which is becoming more restricted at four-year institutions. Secondly, as a practical consideration, some of the high school campuses will also benefit by regaining the use of their facilities, which have been used by community college programs.

LRCCD, including the FLC, continues its open invitation to local four-year colleges/universities and high schools to participate in the planning and coordination of programs, the joint use of facilities, the mixing of faculty and students, and the exciting possibilities for seamless transfer of students.

All of the districts that are contiguous to LRCCD support the proposed change. Letters of upport from these institutions, along with similar letters from local community leaders and ducational institutions and government officials from Folsom, are contained in the district's application for college status.

Academic Planning and Program Justification

The educational master plan developed for the proposed FLC is based on the LRCCD mission and vision statements, with the primary goal in mind—to offer quality educational programs and services supported with state-of-the-art technology and focused on increased access for the growing surrounding communities of eastern Sacramento and El Dorado counties. The process for developing the educational master plan included input from faculty, staff, students, administrators, and citizens across the LRCCD. The final product resulted from their dedication and commitment. It not only fulfills the needed student requirement but also provides a blueprint for guiding and managing the expected rapid growth over the next five to ten years. The document and process are dynamic because they provide an overall master plan while being flexible, allowing for adjustments and change.

The planned curriculum and services encompass general education (transfer), associate degree, occupational programs, developmental skills, basic skills, and a full offering of student services, including counseling and advising, EOPS, DSPS, CalWORKs, financial aid, library and learning resources, and assessment. The educational master plan provides detailed information on current programs and services, as well as new programs and services projected through 2015. The educational goals, the learning environment needed to meet these goals, the spaces required to provide the learning environment, and the support services required are described. The facilities, staff, support, and technology required for the proposed curriculum are identified.

Nontraditional scheduling of classes will continue to be available to meet the needs of the increasing numbers of older, part-time, working adults and younger students seeking postsecondary education opportunities. A key focus for the FLC is also an instructional delivery system aimed at meeting the needs of local business and industry. The flexible scheduling of program offerings is an important component of this system.

Career field projections from several sources indicate that California's economy is increasingly information based; that is, an economy based on creating, processing, storing, retrieving, and analyzing information—with the computer as the crucial operational tool. The curriculum and course presentation methods at the new college will heavily emphasize the development and implementation of such skills. The recommended general education core pattern will be a cross-disciplinary approach, concentrating problematic social and/or environmental issues. A critical variable is the identification and selection of a faculty and staff that are willing to commit to the concept of creative instructional packaging and delivery. Collaborative learning groups and computer assisted instruction are strongly encouraged.

Student support services will also reflect an appropriate reformation to respond to the new demographics and the use of technology. The matriculation program and other support services

will continue, but delivery of such services will extend beyond the traditional on-site format. Many services will also be accessible via advanced technological delivery modes.

The partnership arrangements that have been established with CSUS, UCD, the Folsom-Cordova Unified School and El Dorado School districts promise rewarding collaborations.

The district is aware of the Chancellor's Office approval requirements for other planned future programs and will be working closely with the Chancellor's Office staff to ensure appropriate processing and approval of the curriculum and programs.

The array of current academic and vocational disciplines and the extent of coursework offered within disciplines are characteristic of a full college as opposed to a center. Ample coursework is provided in general education and common academic majors to support a viable transfer function. English as a Second Language and basic skills classes are available to bring students up to the college level, and vocational programs appropriate to the economy of the area are provided. The use of distance education has been included in the discussions for each curriculum area and where appropriate, is also being implemented.

Collaborations and Partnerships

Collaborations and partnerships appear to have been the cornerstone of the philosophy and mission of the FLC. For example:

- *CSUS*: Preliminary discussions have occurred for CSUS to consider alternative access for students in the Folsom area by offering upper division and some graduate-level coursework at the proposed Folsom Lake College. The goal is to coordinate class scheduling so students can complete their bachelors degrees at the FLC. Dual admission, access to CSUS advisors, and other benefits are a part of this partnership.

- *UCD*: Dual admission, access to UCD advisors, and transfer agreement opportunities are continuing to increase.

- *The City of Folsom*: Joint use of facilities has and will continue to enhance positive relationships and meet joint needs. A joint-use agreement for the development of recreational facilities at the college site was adopted in February 1992. Under the terms of this agreement, the city contribution towards the recreation facilities was $1.5 million for the development of utility requirements and athletic playing fields.

- *Local business and industry*: The local chambers of commerce have had an active role in lobbying for the college. There is strong interest in the programs planned to offer direct assistance to local businesses.

Financial Implications

Facilities

Funding for the Folsom Lake College facilities is expected to be primarily from two sources: state funds and local bond funds. In March 2002, the LRCCD was successful with the passage of its bond—Measure A. The funding identified for Folsom Lake College totals approximately $163 million, of which $81 million is from LRCCD local contributions.

The first phase of permanent facilities, Phase IA, consisted of 33,428 assignable square feet (asf). Construction began in Fall 1999 and opened with classes and student support services in Fall 2001. This first phase was funded primarily by the state. The district funded approximately $2 million for site and parking improvements. This first phase includes 5,524 asf in lecture, 12,000 asf in laboratory, 8,090 asf in library, 5,704 asf in office and 2,111 asf in AV/TV. All classrooms are wired and equipped with the latest technology and are designed with the concept of "flexibility" of space, allowing for maximum use and any necessary future conversion.

Future capital outlay projects requesting state funding include the following projects:

- Phase IB Facilities totaling 63,050 asf includes 38,850 asf for laboratory/lecture spaces, 8,480 asf in office, 1,940 asf in expanded student services and 13,720 asf in expanded library space. Funding for the construction phase has been appropriated and is scheduled to begin in Spring 2003 with opening by Spring 2005.

- Phase IC Facilities planning is currently underway. ASF totals approximately 50,162 and includes 35,227 asf for additional lecture/laboratory space, office space and 14,935 asf of needed support space.

Future capital outlay projects that will be funded with local bond funds include the following projects:

- Lecture/Laboratory Space, Bookstore, Cafeteria, Police Services, Gymnasium

- Fine and Performing Arts Complex

Since 1993, FLC has also had a very cooperative partnership with the City of Folsom. Joint-use facilities include outdoor tennis courts, soccer fields and softball fields. Future plans will expand the tennis courts and enhance the fields as the college's physical education curriculum expands to meet the demand.

The following is a list of all the projects including the anticipated cost and funding source that are currently planned at Folsom Lake College:

Folsom Lake College
Proposed Capital Outlay Projects

Proposed New Projects	Year	Total Cost	Possible Funding Source		
			Local Bonds	State Bonds	District/ Other
New Instructional and Library Spaces	2003-15	$97,832,000	$31,545,500	$65,920,500	$366,000
New Student/Faculty Support and Phys. Educ. Facilities	2003-15	25,604,000	21,422,000	3,091,000	1,091,000
Transportation, Access and Parking Improvements	2004-15	8,055,000	8,055,000	-	-
New Fine and Performing Arts Spaces	2005-07	19,698,000	8,864,100	8,864,100	1,969,800
Folsom Lake College Total		**$151,189,000**	**$69,886,600**	**$77,875,600**	**$3,426,800**

The district has submitted a 2003-04 Final Project Proposal (FPP) for Phase IC Facilities, a 2004-05 FPP for the Physical Education Facility, and a 2005-06 Initial Project Proposal for the Fine and Performing Arts Center. The ability to fund these proposals depends on the amount of a future capital outlay bond, district contribution and the site's continued eligibility.

Fiscal

FLC's transition to full college status has been and continues to be a priority component of the LRCCD's long-range planning process. This planning includes the provision of adequate staffing and operational funds to ensure students receive the full complement of instructional, student and administrative support services necessary for a quality educational experience. The transition to operation as a college in terms of independent management of programs, staffing and operations has already occurred. In that respect, the current operational budget of the district already provides for FLC's operation in most aspects necessary as a full college. Therefore, the transition will not result in an impact on LRCCD's ability to sustain its current operations nor to provide for future growth. The LRCCD has a long history of prudent fiscal management and a planning process that links the allocation of resources to the strategic plan of the District.

The passage of bond Measure A in March 2002 provides the required local contribution needed to complete all capital outlay projects for a new college.

Conclusion

The greater Sacramento metropolitan area, served by the LRCCD, is one of the fastest-growing regions in the state. As a result, all of the existing district facilities are already at enrollment capacity, with problems of congestion and insufficient availability of student services. The development of a new campus is essential to provide access and quality education to the service area.

The LRCCD had the foresight to purchase an appropriate site for a new college campus in 1967. The Folsom area is experiencing an unprecedented population growth. At the same time, it is experiencing an influx of new businesses and industries. The Folsom Lake site is an ideal location for a new college, as it would provide local services to the residents of the eastern portion of the district who currently have excessive commutes and to the workers and business communities of the region who would benefit from an education plan tailored to their needs.

No other alternatives were found to be feasible for providing full educational opportunity through the LRCCD, particularly to the eastern regions. All of the neighboring institutions of higher education are supportive, as is the local community.

In summary, on the basis of the information provided by district planning, the transition from this long-established center to a fully functioning campus should go very smoothly. District and center staff are confident that past, present and future planning efforts of Folsom Lake College will continue with focused attention to ensure the delivery of a quality community college.

Recommended Action

That the Board of Governors approve the transition of the Folsom Lake Center to the Folsom Lake College.

Staff: *Gin Yang-Staehlin, Specialist*
Facilities Planning

MATRICULATION STANDARDS

Chancellor's Office
California Community Colleges
Student Services and Special Programs Division

1. ADMISSIONS COMPONENT

AB 3	Title 5	Component Standards
78212(b)(l)	55520(a)	1. Provide a procedure for the processing of the admission application.
	55522	2. Provide modified or alternative services for the matriculation process (if necessary) for ethnic and language minority students and students with disabilities.
	555 1 O(a)(4)	3. Utilize computerized information services to implement or support admissions services.

2. ORIENTATION COMPONENT

AB 3	Title 5	Component Standards
782 12(b)(2)	55502(j)	1. Provide students and potential students with information concerning college programs, services, financial assistance, facilities and grounds, academic expectations, course scheduling and institutional procedures in a timely manner.
78212(a)	55530(b)(d)	2. Provide written definitions informing students of their rights and responsibilities.
	5520 1 (f),(g)) 58106(c),(d),(e)	3. Promptly inform students of their right to challenge (on specified grounds) a pre- or co-requisite or limitation on enrollment; their responsibility for showing that grounds exist for the challenge; and their right to file a complaint of unlawful discrimination.
	55534(b)	4. Inform students of procedure for alleging unlawful discrimination in the implementation of matriculation practices.
	55534(a)	5. Provide students with or direct them to written district procedures for: challenging matriculation regulatory provisions; district investigation and attempted resolution of complaints; and methods by which district maintains such complaints.
	55522	6. Provide modified or alternative services for the matriculation process (if necessary) for ethnic and language minority students' and students with disabilities.
782 14(b)(3)	55532(a) 55510 (a)(5)	7. Adopt District governing board policies specifying criteria for exemption.
	55532(c)	8. Make exempted students aware that they may choose whether or not to participate in this component.
	55532(d)	9. Ensure that exemptions from this component are not based upon specified sole criterion.
	555 1 O(a)(4)	10. Utilize computerized information services to implement or support orientation activities.

13. ASSESSMENT COMPONENT

AB 3	Title 5	Component Standards
	55520(c)	1. Conduct assessment for all non-exempt students.
78212(b)(3)(A)		2. Administer assessment instruments to determine student competency in computational and language skills.
782 12(b)(3)(B)		3. Assist students to identify their aptitudes, interests, and educational objectives.
78212(b)(3)(C)		4. Evaluate students' study and learning skills.
78213(a)	55521(a)	5. Use assessment instruments approved by the Chancellor.
	5552 1(b)	6. Use assessment instruments only for purpose for which they were developed or validated.
	55521(c)	7. Use multiple measures (other than two or more highly correlated instruments) for placement, required and appropriate referral, or subsequent evaluation.
78213(b)(2)	55521(e)	8. Use assessment instruments, methods or procedures in an advisory manner in the selection of academic courses and educational programs.
	55522	9. Provide modified or alternative services for the matriculation process (if necessary) for ethnic and language minority students and students with disabilities.
78214(b)(3)	55532(a) 555 1 O(a)(5)	10. Adopt District governing board policies specifying criteria for exemption.
	55532(c)	11. Make exempted students aware that they may choose whether or not to participate in this component.
	55532(d)	12. Ensure that exemptions from this component are not based upon specified sole criterion.
	555 10(a)(4)	13. Utilize computerized information services to implement or support assessment services.

4. COUNSELING/ADVISEMENT COMPONENT

AB 3	Title 5	Component Standards
78212(b)(3)(D)	55520(g)(1),(2)	1. Make appropriate referral(s) to available support services and curriculum offerings.
78212(b)(3)(E)	55520(d) 55523(a)(4)	2. Provide advisement concerning course selection.
782 12(b)(4)	55523(a)(l) 55526	3. Make reasonable efforts to ensure that probationary non-exempt students participate in counseling.

782 12(b)(4)	55523(a)(2) 55526	4. Make reasonable efforts to ensure that non-exempt students without a declared educational goal participate in counseling.
78212(b)(4)	55523(a)(3) 55526	5. Make reasonable efforts to ensure that non-exempt students enrolled in pre-collegiate basic skills courses participate in counseling or advisement.
	55520(d) 55523(a)(4)	6. Make counseling or advisement available to all non-exempt students.
	55523(b)	7. Provide counseling or advisement by appropriately trained counselors or staff in areas deemed appropriate by the district.
	55520(e) 55525(a),(b) 55530(d)	8. Provide assistance in selection of a specific educational goal and development of the student educational plan, including student responsibilities.
	55525(c)	9. Record the student educational plan in written or electronic form.
	55525(c)	10. Review, as necessary, the student educational plan, its implementation, and its accuracy related to students' needs.
	55201(f),(g) 58106(c),(d),(e)	11. Promptly inform students of their right to challenge (on specified grounds) a pre- or co-requisite or limitation on enrollment; their responsibility for showing that grounds exist for the challenge; and their right to file a complaint of unlawful discrimination.
	55534(b) 55525(d)	12. Inform students of procedures for filing complaint alleging unlawful discrimination in the implementation of matriculation practices, including alleged violation of process for developing student educational plan.
	55534(a) 55525(d)	13. Provide students with or direct them to written district procedures for: challenging matriculation regulatory provisions; district investigation and attempted resolution of complaints; and methods by which district maintains such complaints.
	55522	14. Provide modified or alternative services for the matriculation process (if necessary) for ethnic and language minority students and students with disabilities.
782 14(b)(3)	55532(a) 55510(a)(5)	15. Adopt District governing board policies specifying criteria for exemption.
	55532(c)	16. Make exempted students aware that they may choose whether or not to participate in this component.
	55532(d)	17. Ensure that exemptions from this component are not based upon specified sole criterion.
	55510(a)(4)	18. Utilize computerized information services to implement or support counseling/advising activities.

5. STUDENT FOLLOW-UP COMPONENT

AB 3	Title 5	Component Standards
782 12(b)(4)	55520(f) 55526 55523(a)(1-3)	1. Provide post-enrollment evaluation of each non-exempt student's academic progress enrolled under specific academic conditions.
	55526	2. Establish a follow-up system that ensures regular monitoring for early detection of academic difficulty.
	55520(g) 55526	3. Make referral to appropriate services and curricula as necessary.
	55522	4. Provide modified or alternative services for the matriculation process (if necessary) for ethnic and language minority students with disabilities.
	55510(a)(4)	5. Utilize computerized information services to implement, support, monitor and/or track follow-up services.

6. COORDINATION AND TRAINING COMPONENT

AB 3	Title 5	Component Standards
782 16(b)(c)(3)	555 16 55510(a)(3) 55523(b)	1. Develop and implement a program for providing all faculty and staff with training appropriate to their needs with respect to provision of matriculation services. a) Admissions b) Orientation c) Assessment d) Counseling/Advisement e) Follow-up f) Research and Evaluation g) Pre- and Co-requisites and Advisories
	55510(a)(4)	2. Utilize computerized information services to implement or support coordination and training activities.

17. RESEARCH AND EVALUATION COMPONENT

AB 3	Title 5	Component Standards
78214(a)	555 12(a)	1. Establish and maintain institutional research for evaluating efficacy of matriculation services and remedial programs and services.

	55512(a)	2. Evaluate all assessment instruments to ensure that they minimize or eliminate cultural or linguistic bias and are being used in a valid manner.
	55512(a)	3. Determine whether any assessment instrument, method or procedure has a disproportionate. impact on particular groups of students described in terms of ethnicity, gender, age or disability; where unjustified disproportionate impact is found, develop plan to correct it.
	55512(a)(1)	4. Analyze degree of matriculation's impact on particular courses, programs and facilities.
78214(c)(1) 782 14(b)(2)	55512(a)(2)	5. Analyze degree to which matriculation helps students to define their educational goals and objectives.
782 14(b)(6)	55512(a)(3) 555 14(d)	6. Analyze extent to which matriculation promotes student success as evidenced by student outcomes, persistence, skill improvement, grades, and goal attainment.
782 14(c)(2)	55512(a)(4)	7. Analyze degree to which matriculation assists district efforts to assess educational needs.
782 14(c)(3)	555 12(a)(5)	8. Analyze degree to which matriculation matches district resources with students' educational needs.
782 14(b)(4) 78214(c)(4)	555 12(a)(6) 55520(g)	9. Analyze degree to which matriculation provides students the specialized support services and programs to which they are referred.
782 14(b)(5)		10. Determine ethnicity, sex and age of credit students.
	55514(a)	11. Determine proportion of students of ethnic, gender, age and disability groups placed in pre-collegiate, associate degree-applicable, or transfer courses in reading, writing, computation, or ESL.
	555 14(b)	12. Determine proportion of students of ethnic, gender, age and disability groups who enter and complete pre-collegiate basic skills courses.
	555 14(c)	13. Determine proportion of students of ethnic, gender, age and disability groups who complete pre-collegiate basic skills course and who subsequently enter and complete associate degree-applicable courses.
	55532(a) 55514(f)	14. Record number of students exempted by category and grounds for exemption.
	555 14(g)	15. Maintain numbers of students filing complaints (re: 55534) and the bases of those complaints.
	55514(h)	16. Document particular matriculation services received by each non-exempt student.
	555 1 O(a)(4)	17. Utilize computerized information services to implement or support research and evaluation activities.

8. PREREQUISITES, COREQUISITES, AND ADVISORIES ON RECOMMENDED PREPARATION

Title 5	Component Standards

58 106(b) 1. District ensures open enrollment subject to health and safety considerations, facility limitations, etc., consistent with Board-adopted policies that identify such limitations and which require fair and equitable procedures for determining who may enroll in such courses.

_____ Local policies/procedures follow District Model exactly
(see sections I.A. and II.C. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55201(b)(1) 2. Board-adopted policy establishes the process for establishing necessary and appropriate prerequisites, corequisites and advisories and their respective level of scrutiny, including data collection where appropriate.

_____ Local policies/procedures follow District Model exactly
(see sections I.C., B.A. and II.B. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55002(a)(2)(D) 3. Curriculum committee reviews course outline of record to determine if associate degree credit course shall require pre- and co-requisite to enhance students' likelihood of success.

_____ Local policies/procedures follow District Model exactly
(see sections I.C.2. and I.C.3. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55201(e)
55510(a)(6) 4. Communication or computation pre- or co-requisites for any course other than a communication or computation course are based on content review, sound data-gathering research practices, and demonstration that student is highly unlikely to succeed without the pre- or co-requisite.

Local policies/procedures follow District Model exactly
(see sections I.C.2., I.C.3., II.A.1.c., II.A.1.g., and [where appropriate] II.A. 1.d. and/or 1 .e. and/or 1 .f of Model)
_____ Local policies/procedures differ from District Model (see attached)

55002(a)(2)(E) 5. If the curriculum committee determines that success in associate degree credit course is dependent on communication or computation skills, it establishes eligibility for enrollment in associate degree credit course(s) in English and/or mathematics as pre- or co-requisite(s).

_____ Local policies/procedures follow District Model exactly
(see sections I.C.2., I.C.3., II.A.1.a. or 1.b. or 1.c. and 1.g., and [where appropriate] II.A. 1 .d. and/or 1 .e. **and/or** 1 .f. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55002(b)(2)(D) 6. Curriculum committee recommends establishment of pre- or co-requisite for **non-degree-applicable** course, where appropriate.

_____ Local **policies/procedures follow** District Model exactly
(see section I.C.2., I.C.3., II.A.1.b. or 1.c. and 1.g., and [where appropriate] II.A.1.d. and/or 1.f. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55201(b)(3) 7. Board-adopted policy specifies the process for periodically reviewing pre- and co-requisites (at least once every six years) and advisories, including level of scrutiny and frequency of review.

_____ Local policies/procedures follow District Model exactly
(see section I.D. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55002(a)(4) 8. District ensures that associate degree credit courses and precollegiate basic skills courses (including those with pre- and co-requisites) are taught by qualified instructors and in accord with course outline of record, particularly those aspects of the course that are the basis for the pre- or co-requisite.
55002(b)(4)
55201(b)(2)

Local policies/procedures follow District Model exactly
(see section I.F. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55202(g) 9. District determines students' satisfaction of a prerequisite prior to enrollment or permits enrollment pending verification, and ensures that enrollment fees are promptly refunded to students who are involuntarily dropped **from** course for failure to successfully complete the prerequisite.

Local policies/procedures follow District Model exactly
(see section I.E. of Model)
_____ Local policies/procedures differ from District Model (see attached)

58106 10. District establishes procedures for determining who may enroll in courses for which there are limitations on enrollment, provides for student challenges to the limitations on the grounds specified in Title 5, handles challenges to enrollment limitation in a timely manner, and waives the enrollment limitation if the challenge is upheld.

_____ Local policies/procedures follow District Model exactly
(see section I.A.2. and I.B. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55201(f) 11. College resolves challenges (made on specified grounds) to pre- and co-requisites in a timely manner and, if the challenge is upheld, the student is allowed to enroll in the course or program.
_____ Local policies/procedures follow District Model exactly
(see section I.A.2. and I.B. of Model)
_____ Local policies/procedures differ from District Model (see attached)

55202(a) 12. Pre- and co-requisites and advisories are identified in college publications and in the respective course outline(s) of record.

_____ Local policies/procedures follow District Model exactly
(see section LA. and I.C. of Model)

_____ Local policies/procedures differ from District Model (see attached)

College publications will reflect new policies/procedures by Fall 1994 catalog and course schedule, or by: (date)_____

55202(d) 13. District ensures that precollegiate basic skills reading, writing or math courses that serve as pre- or co-requisites are offered with reasonable frequency and that the number of available sections is reasonable given student need.

_____ Local policies/procedures follow District Model exactly
(see section II.A.2. of Model)

_____ Local policies/procedures differ from District Model (see attached)

BUDGET

AB 3	Title 5	Component Standards
782 11.5(b)		1. State matriculation allocation is used only for matriculation services approved by the Chancellor.
78211.5	55518(b)	2. District provides at least three-to-one dollar match of state matriculation allocation.
	55512(b)	3. District provides for a review of the revenue and expenditures of matriculation as part of annual district audit.

POLICIES AND PROCEDURES

A. District ensures that no matriculation practice subjects any person to unlawful discrimination - Title 5, §55521(f)(a)(6).

B. District takes steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs - Title 5, §55530(c).

C. District and/or college has developed matriculation plan through consultation with representatives of academic senate, students, and staff - Title 5, $555 10(b).

D. In multi-campus district, the district makes arrangements for coordinating the various college matriculation plans - Title 5, §55510(a)(7).

E. Each pre- or co-requisite is established for at least one of the following reasons: 1) required or authorized by statute or regulation; 2) the prerequisite assures that the student has the skills or knowledge without which success in the subsequent course (or specific course within a program) is highly unlikely; 3) the corequisite assures that the student will acquire the skills or knowledge without which success in the subsequent course (or specific course within a program) is highly unlikely; or 4) necessary to protect the health and safety of the student or others - Title 5, §55201(c)(1-4).

F. District has adopted clear written policies that define student responsibilities and the consequences of failing to fulfill such responsibilities - Title 5, §55530(d).

G. All computational and communication pre- and co-requisites are established on a course-by-course basis - Title 5, §55202(b).

H. Student's satisfaction of pre- or co-requisite is based on successful completion of appropriate course or multiple-measures assessment. Any assessment instrument used shall be selected and used in accord with Title 5, §55521. - Title 5, $55202(c).

I. District ensures that no exit test outside of a course is required to satisfy a prerequisite or co-requisite. - Title 5, §55202(f).

J. Each course outline of record contains specific content and other required information is made available to the instructor. - Title 5, §55002(a)(3), 55002(b)(3)

K. Records of all student complaints of alleged violation of matriculation regulatory provisions are retained for at least three years after the complaint has been resolved. - Title 5, §55534(a)

L. Board has adopted policy on limitations on number of units or selected courses in which students on probationary or dismissal status may enroll, or requirement that they follow a prescribed educational plan. - Title 5, §58 106(b)(5).

M. Board-adopted policies identify limitations on enrollment. - Title 5, §58 106(a),(b)

N. District ensures that there are sufficient numbers of co-requisite sections to accommodate students or the requirement is waived for individual students for whom space is not available. - Title 5, §55201(e)

0. Board-adopted policy specifies the bases and process for a student to challenge the application of a pre-or co-requisite. - Title 5, §55201(b)(4) and (f)

P. Board-adopted district policies and procedures related to pre- and co-requisites and advisories are included in the college's matriculation plan. - Title 5, §55510(a)(6)

Q. District policy ensures open enrollment (subject to meeting pre-and/or co-requisites); policy is in catalog, schedule of classes, and on file with state Chancellor. - Title 5, §5 1006(b) and 58106(a)

R. District permits students, whenever possible, to avoid additional testing by submitting scores on recently taken tests which correlate with those used by the district - Title 5, §55530 (c).

S. No portion of the district's assessment process is used to exclude students from admission to the college - AB 3, 782 13(b)(3); Title 5, §5552 l(d).

Board of Governors
California Community Colleges
July 8-9, 2002

STUDY SESSION ON BASIC SKILLS 13

INFORMATION

Committee of the Whole

Presentation: *Judith James, Vice Chancellor, Student Services and Special Programs*

Victoria P. Morrow, Vice Chancellor, Educational Services

Patrick Perry, Interim Vice Chancellor, Technology, Research and Information Services

Issue

This item presents a response to the Board's request for information on system basic skills instruction and support services activities. It presents a wide array of information on relevant college and system performance, as well as on related policy issues and trends. This initial study session is designed to provide the Board with a foundation in this area, and to allow for the identification of possible next steps, further inquiry, subsequent Board study or other action.

Background

Basic skills instruction and services are the primary means by which California Community Colleges have sought to balance the goal of educational quality with the goal of increasing access to postsecondary education for underprepared students, and for students from groups which are underrepresented in the state's colleges and universities. The community college mission statement in Education Code section 66010.4 affirms the importance of basic skills instruction and support services that help students succeed at the postsecondary level. The mission statement identifies the system's delivery of basic skills instruction and services as "essential functions" which are integral to college and system performance in achieving transfer and occupational education.

The Board of Governors has consistently recognized that providing underprepared and underrepresented students with opportunities to gain the skills foundational to success in college level work, either before or early in their college experience, is critical to achieving educational equity, and to maintaining quality in community colleges certificate, degree, and transfer programs. Likewise, this investment in underprepared students, many of whom are immigrants, English language learners, CalWORKs participants, underemployed, and/or unemployed,

contributes to the colleges' economic development mission, and to the state's long-term social and economic health.

1. Terminology and Conceptual Distinctions

"Basic skills," "remediation," "transitional instruction," "foundation skills," and "developmental education" are all terms used to describe the subject of this study session. Nonetheless, for purposes of this discussion, we will primarily use the term "basic skills" and define it as describing English reading and writing courses, mathematics courses, and English as a Second Language (ESL) courses designed for students not meeting the skill prerequisites for A.A. Degree, certificate, and transfer courses. We are including certain portions of the ESL curriculum within the concept of basic skills, consistent with the Board's May 1985 action, which defined basic skills as:

> "Courses designed to develop reading or writing skills at or below the level required for enrollment in English courses one level below freshman composition, computational skills required in mathematics courses below Algebra, and ESL courses at levels consistent with those defined for English."

Basic skills is the term used throughout most documents and reports of the Board of Governors and the California Community Colleges, in Title 5 regulations, and by the Community Colleges Management Information System (MIS), to describe instruction for under-prepared students. Nationally, however, "developmental education" is now the preferred term among educators and researchers. Learning and/or student development are processes that may include, but are not limited to, instruction that parallels the content of high school English and mathematics classes. In addition to being more descriptive of the broad aims of the curriculum, developmental education is inclusive of the many non-instructional support services community colleges provide for underprepared students.

2. The Curriculum

California Community Colleges offer basic skills English, mathematics, and basic skills level ESL instruction in two modes:

- non-degree applicable credit courses referred to as Precollegiate Basic Skills (PBS);
- noncredit basic skills (BS).

Precollegiate Basic Skills (PBS) courses are defined in Board-adopted Matriculation Regulations (Title 5, §55502) and in the Standards and Criteria for Courses and Classes (Title 5, §55002). That definition states: "Precollegiate basic skills courses are those courses in reading, writing, computation, and English as a Second Language which are designated by the community college district as non-degree credit courses pursuant to section 55002(b)."

Noncredit basic skills (BS) courses comprise that portion of the curriculum referred to as Adult Basic Education (ABE), which is subdivided into elementary and secondary basic skills categories. ABE is defined in Education Code section 8510 as "education in communication and computational skills up to and including the 12th grade level, including English as a Second Language and citizenship." Noncredit basic skills courses are further distinguished from precollegiate basic skills courses by Title 5 regulations governing course standards, course repetition, and attendance accounting.

3. Precollegiate Basic Skills Courses and the Remedial Limit Policy

The remedial limit policy, enacted by the Legislature as part of AB 1725 system reforms in 1988, grew out of the Board's interest in assuring that the design and sequencing of PBS courses was effective in moving students into the college level and degree credit curriculum. That policy, now codified in Title 5, section 55756.5, includes both the requirement that PBS courses maintain rigorous standards for student performance and that students who over time demonstrate their inability to succeed at college-level work shall be referred to adult education schools. With one major exception, the policy prohibits further enrollment in credit courses for students who exhaust the unit limitation without achieving college-level skill proficiencies. The policy sets the enrollment block at 30 semester/45 quarter units of PBS course work, but excludes from the calculation all units earned by students continuing to take any ESL instruction and by students with verified learning disabilities.

4. Students Enrolled in Basic Skills

This section provides some key background data on our basic skills students. Appendix I is the source for some of the material below; other sources are referenced in the text.

In the early nineties, basic skills students were somewhat older than other community college students, and less likely to be recent high school graduates or to be seeking a degree, according to *"Basic Skills Instruction in the California Community Colleges: Emerging Trends in Intersegmental and Intrasegmental Practices,"* March 1995. More recently, MIS reported in May 2002 that basic skills students were over-represented in the 18-19 age group and slightly over-represented among students with goals of degree/certificate/transfer.

The May 2002 report also found that the percentage of students enrolled in basic skills courses had remained fairly stable at about 20 percent from 1993-94 to 2000–2001, ranging from 19.7 percent to 20.1 percent, respectively. (See Appendix I for these data.) In any given year, MIS reported that 1 in 5 students enrolled in at least one basic skills course; and that during Fiscal Year 2000-01, 523,883 students, out of a total 2.6 million students, enrolled in at least one basic skills course. According to the same report, students enrolled in BS/PBS were also more likely to enroll in noncredit courses and/or to be enrolled full-time, compared to non-BS/PBS students. Of the first time students in 1995, however,

about 35 percent attempted at least one basic skills offering during the six-year period from 1995-2001.

The basic skills background data in Appendix I also show a slightly higher percentage of female students enrolled in basic skills--57.5 percent compared to 53.2 percent females enrolled in no basic skills. Basic skills students were over-represented among students receiving Board of Governors Fee Waivers for financial aid. MIS also reported that basic skills students who took the SAT-9 test as high school juniors achieved average scores at the 42.9th percentile, nationally, compared with average scores at the 52.4th percentile for non-basic skills students.

While Black and Asian students were over-represented among basic skills students, compared to students with no basic skills enrollment and to their representation among all community college students, MIS reported much greater over-representation of Hispanic students. Basic skills students were over-represented among students who were non-U.S. citizens. These findings are depicted in the following charts, which are also taken from the May 2002 MIS report:

	BS/PBS	No BS/PBS	All CCC Students
Asian/Filipino/PacIslander	18.3%	14.7%	15.4%
Black	7.9%	7.2%	7.3%
Hispanic	38.8%	21.8%	25.3%
Native American	0.8%	1.0%	1.0%
Other Non-White	1.7%	1.9%	1.9%
White	24.8%	44.6%	40.6%
Unknown	0.7%	1.9%	1.6%

	BS/PBS	No BS/PBS	All CCC Students
US Citizen	64.5%	86.5%	82.2%
Non-U.S. Citizen	35.5%	13.5%	17.8%
Percent of column	100.0%	100.0%	100.0%

It is important to note that the overrepresentation of Hispanic students and of non-U.S. citizens in basic skills within these data is likely an artifact of including ESL courses as part of those defined as basic skills.

Analysis

1. Outcomes Achieved by Students

MIS reported the following outcomes for basic skills students who began their academic career as first-time students as part of the fall 1995 cohort. These findings are derived from data provided in Appendix I under "Outcomes of BS/PBS Students."

- 34.8% had enrolled in at least one basic skills course, within 6 years;
- The retention rate for basic skills students was 81.1% in all enrollments and 81.0% in basic skills courses, compared to a retention rate of 83.2% in all enrollments for non-basic skills students;
- Basic skills students achieved a success rate of 64.5% in all enrollments and 60.7% in basic skills courses, compared with a success rate of 70.0% in all enrollments achieved by non-basic skills students;
- 46.7% of basic skills students who started in Fall 1995 were still enrolled in Spring 1997, compared to 25.1% of non-basic skills students;
- 37.7% of basic skills students and 31.1% of non-basic skills students declared goals of degree/certificate and/or transfer.
  - Of students with those goals, within six years, 17.4% of the basic skills cohort and 13.1% of the non-basic skills cohort had earned an AA/AS/Certificate, and
  - 21.0% of basic skills students and 27.5% of non-basic skills students had transferred to a four-year institution;
- The distribution of transfers by sector and student basic skills status was as follows:

Institutions to Which Students Transfer			
Basic Skills Students		**Non-Basic Skills Students**	
CSU	64.6%	**CSU**	52.3%
UC	13.1%	**UC**	18.9%
In State Private	13.0%	**In State Private**	15.1%
Out of State	9.3%	**Out of State**	13.7%

2. Chronology of Key Policy Affecting Our Approach to Basic Skills

Although there is very little statute or regulation specifically addressing basic skills, there is an extensive body of reports detailing the systems development of basic skills/ESL related policies, beginning in 1983-85 and continuing through 1994.

A chronology of the key policy is provided below.

January 1983	CPEC issues *"Promises to Keep: "Remedial Education in California's Public Colleges and Universities."* The report contained recommendations and actions to be taken by community colleges. (Over time, three additional CPEC reports, summarizing the colleges' progress in implementing recommendations in *Promises to Keep*, were produced in 1984, 1985, and 1986.)
April 1983	The Chancellor appoints a Task Force on Academic Quality to develop a model student matriculation process, to suggest responses to *Promises to Keep*, to make recommendations about the future of remediation in California community colleges, and to recommend standards of academic rigor.
July 1983	Board of Governors policies come into effect that increase the number of units required in the General Education component of the associate degree and require students receiving associate degrees to have demonstrated competencies in reading, writing and mathematics.
October 1983	Board of Governors adopts Title 5 regulation revisions strengthening minimum standards for credit courses.
December 1983	Board of Governors adopts Mission Statement declaring that colleges "should provide remedial and basic skills education."
April 1984	Board of Governors approves student matriculation plan.
January 1985	The Chancellor's Task Force on Academic Quality presents two reports for review by the Board of Governors: *"Remediation in the CCC: A Proposal for Board Policies/Actions,"* and another item entitled *"Strengthening the Associate Degree in the CCC."*
April 1985	After review and comment by the field, an information item containing staff's analysis and recommendations derived from the reports produced by the Task Force on Academic Quality is presented to the Board of Governors.

May 1985	The Board of Governors approves recommendations responding to issues raised in *Promises to Keep*, and stipulates that the sole purpose of remediation in the credit mode at community colleges is to assist students to attain the learning skills necessary to succeed in college transfer, certificate, and/or degree courses and programs. This policy was also perceived as establishing criteria for evaluating the effectiveness of basic skills courses in terms of the extent to which students completing those courses were able to succeed in college-level work. Board action also prohibited the award of degree credit for courses at levels defined as remedial.
September 1986	The Matriculation Act passed (AB 3), requiring colleges to administer assessments to determine student competencies in computation and English language skills. The Act limited assessment instruments that could be used by colleges to those authorized by the Chancellor's Office, established criteria for use of assessment instruments, and directed that such instruments be used as an "advisory tool."
May 1988	The Mexican American Legal Defense and Education Fund (MALDEF) filed suit against the Chancellor's Office and several colleges alleging that assessment instruments were being used for placement in violation of matriculation law.
May 1990	Matriculation regulations were adopted by the Board of Governors implementing AB 3, Title 5 sections 55500-55534. The regulations became effective in July 1990.
November 1993	Revisions to the matriculation regulations became effective. The revisions clarified how prerequisites should be established to ensure that they were "necessary and appropriate" and not arbitrary. Necessary and appropriate was defined as meaning "that there is a strong rational basis for concluding that a prerequisite or corequisite is reasonably needed to achieve the purpose it purports to serve." A Model District Policy was adopted by the Board for voluntary use by districts.

3. Programmatic Issues Confronting the Colleges, the Chancellor's Office, and the Board

English as a Second Language: ESL is the fastest growing area of community college curriculum, and workforce preparation efforts targeting immigrants will continue to fuel this trend. Notwithstanding that observation, this study session does not provide in depth information on ESL instruction, as such, but rather focuses on that portion of ESL which is either non-degree applicable or noncredit instruction.

ESL issues are complex and may merit examination in a separate study, not constrained by the time limitations in a more general study session on basic skills. Some of the issues related to ESL include, but are not limited to, these:

- What are the state supportable purposes of ESL instruction and services?
- What kinds of students are best served by ESL courses?
- Should the boundaries between what is considered non-degree credit as opposed to degree credit be the same within the ESL and the English Language Arts curriculum?
- Should ESL courses be exempt from the remedial limit?
- Should course standards prescribed in Title 5 regulation include specific standards for ESL?
- What are the differences between ESL and foreign language instruction?
- How much time should students spend in noncredit and non-degree credit ESL courses before undertaking degree credit instruction and how does that amount of time affect student persistence and retention in the credit curriculum?
- Are separate tracks in ESL and English, from the lowest levels through and inclusive of the transfer level, educationally and fiscally appropriate?

Effectiveness/Accountability Questions: Prior Board action in May 1985 declared that the sole purpose for providing remediation (basic skills) in community colleges in the credit mode (PBS) is "to assist students to attain those skills necessary to succeed in college transfer, certificate, or degree courses and programs." Accordingly, accountability questions should focus on the relative success of basic skills instruction in transitioning students into programs that lead to expected college outcomes. However, using only that criterion would limit our ability to capture/portray the myriad other goals/successful outcomes achieved by students enrolled in basic skills courses, including the many short-term vocational goals of students enrolled in credit and noncredit basic skills. There may be some value in assessing how effective our curriculum and teaching methods are for

students seeking short-term and/or intermediate goals, rather than just degrees and/or certificates, since so many of our students fall into this category.

Other research/accountability questions include these:

- Are there sufficient numbers of basic skills courses/sections, at needed levels?
- What are the accountability impacts of wide differences in staffing and support services, and of inconsistent administration/compliance with State/local policies, across colleges?
- Does the Partnership for Excellence (PFE) Basic Skills Improvement Goal provide sufficient data to identify districts/colleges not "performing well" on the basic skills mission, however that term is ultimately defined?
- What additional information, if any, is needed to assist under-performing colleges?
- How should we define and measure the effectiveness of non-instructional student services provided to basic skills students?

The bottom line is that effectiveness is about more than just numbers. What we say about effectiveness, including how we measure and report it, is crucial to public perception that providing access via quality instruction in basic skills is a priority for community colleges.

Matriculation, Assessment, Placement, Prerequisites, and Open Access: National trends and research assessing the effectiveness of postsecondary developmental/remedial instruction appears to suggest that underprepared students are better served by mandatory assessment/placement, and enforcement of prerequisite policies. Yet in California Community Colleges there is no uniform practice because current standards provide districts some discretion. The lack of consistency in community colleges' assessment, placement, and prerequisite practices makes statewide assessment of basic skills instruction extremely difficult, and calls into question the reliability of statewide accountability data on this subject. The large number of assessment instruments in use across the colleges, in combination with the wide variety of companion measures used to meet the multiple measures requirement presents a substantial barrier to consistent data collection/reporting, and to state level basic skills program assessment. In addition, not all students are assessed for basic skills competencies, nor do all students assessed as needing basic skills instruction choose to enroll in such courses. Yet we can only define the basic skills population in terms of those who actually enroll and receive this instruction. Drawing conclusions from these data is further complicated by the fact that some students self-refer to basic skills, resulting in potentially inappropriate placement decisions and unsuccessful outcomes.

A more complete statement of the Matriculation standards and procedures that govern current assessment, placement and prerequisite practices is included in Appendices II and

III. Appendix II, "*The California Community College Matriculation Process,*" provides an overview of all seven student service components enacted to assist community college students to determine the most appropriate path for them to succeed in their academic, vocational and skill-building programs. These components include admissions, orientation, assessment, counseling and advising, student follow-up, research and evaluation, and coordination and training. Appendix III, "*Matriculation Assessment in the California Community Colleges,*" provides greater detail on existing assessment and placement services.

4. Fiscal Issues

Determination of the cost of community college basic skills instruction is complex, due to significant disparities in resources, practices, and procedures across colleges and districts. Prior reports and studies have posited that expenditures for community colleges basic skills represent 8-10 percent of total college funding. This is consistent with national research, which reports that average expenditures for such programs represent 8 percent of institutional budgets. Given the size of this enterprise in California; the ethnic and language diversity of basic skills students; the impacts of welfare and immigration reform; job market constraints, particularly at lower skill levels; and the education reform based move towards strengthened standards, we might reasonably expect costs to be higher.

Some factors that contribute to keeping basic skills costs down are the use of part-time faculty (a recent Academic Senate survey found that better than 70 percent of noncredit basic skills instructors were part-time), and, particularly in noncredit, maintaining large class sizes and laboratories. While these conditions are more cost-effective, they are not desirable. On a more positive note, cost containment is also being achieved through:

- Selecting and using technology, where appropriate, to provide instruction and services that meet the learning/support service needs of underprepared students;
- Improvements in instructional methodology based on research into how adults learn;
- Development of regional consortia and collaborations between colleges;
- Improvements in assessment and articulation that result in better student placement decisions; and,
- An emerging focus on working with K-12 to reduce the need for basic skills instruction by recent high school graduates.

Some of the strategies listed above were piloted and implemented using special project institutionalization funds provided by the Fund for Student Success (FSS) and the Fund for Instructional Improvement (FII).

A number of these projects have been completed and the resulting changes have been institutionalized as part of those colleges' ongoing basic skills programs and services. It is unclear, however, what impact the elimination of FSS funding in the 2002-03 budget will have on projects that have only completed the first or second year of planned activities. This funding provided critical start-up capabilities and, particularly for basic skills, incentives for colleges to assess and begin improving their performance in these areas.

Basic Skills Over-Cap Growth Funding: Districts receive funding for basic skills courses through the ordinary annual apportionment, as they do for attendance in other courses in their curriculum. Basic skills courses are supported at the same funding rates, respectively, as other noncredit and/or credit courses in the curriculum. Additionally, eligible districts/colleges receive funding for over-cap growth in basic skills. These funds are heavily oversubscribed, however, and demand continually outstrips funding growth. As of the date of this writing, a recommendation to move supplemental basic skills funding into the General Apportionment base was deleted by the two-house Legislative Conference Committee.

Funding for Noncredit Basic Skills and ESL: Noncredit basic skills and ESL courses are funded at a significantly lower rate than credit courses in basic skills and other academic subjects. Since noncredit students often have the greatest needs, particularly in basic skills and ESL, this inequity makes it difficult to meet the increasing needs of students who are more likely English language learners from immigrant backgrounds, younger and older students seeking GED/high school diploma completion, students seeking preparation to become citizens, improve their employability, and/or transition from welfare.

Beginning in 1996, due to the availability of FSS multi-year special project institutionalization funds, colleges began to focus on improving articulation between their noncredit and credit basic skills courses. This is another area where 2002-2003 budget actions to eliminate special project funds portend negative consequences for the colleges' basic skills/ESL programming.

A Budget Change Proposal (BCP) was submitted by the Chancellor's Office, but not funded, for 2000-01 and 2001-02. Funding was requested for articulated sequences of noncredit courses, leading to employment or preparing students for enrollment and success in college-level courses. Other proposals have been advanced that would have changed noncredit attendance accounting and increased the state reimbursement rate for noncredit attendance in designated courses.

5. Articulation Issues

In California's public schools, colleges, and universities, what is defined as college-level basic skills varies from segment to segment, and at different institutions within segments. Accordingly, easing transitions for students who are moving between institutions within or across segments requires extensive articulation of curriculum and of assessment and

placement practices. Changes to practices or academic requirements, at even a single institution in any one segment, may establish barriers to students' progress toward readiness for college-level work.

Within community colleges, a number of efforts have been undertaken to improve inter-district/college articulation of basic skills curriculum. In 1995, the Academic Senate and the Chancellor's Basic Skills Advisory Committee developed an "Articulation of Math and Language Skills Sequences" document, defining the basic skills math and English language development content appropriate to AA degree/transfer, AA degree/non-transferable, and non-degree credit level courses. This document's purpose is to assist counseling/advising faculty, and staff reviewing transcripts, to determine the comparability of content between basic skills courses in different community colleges and some California State University (CSU) campuses.

Concomitant with reinstitution of a requirement that the Chancellor's Office approve all new basic skills courses, the application form includes a question on articulation and a section in which colleges are asked to indicate where the course fits within their credit/noncredit basic skills sequence in the applicable discipline. Also, the Partnership for Excellence goal for Basic Skills Improvement uses data derived from an element--Course Prior to College Level, data element CB21--that was designed to improve identification of the alignment between basic skills courses and AA degree/transfer and AA degree/nontransferable credit courses. Further, improving articulation, between credit and noncredit, and within credit and noncredit basic skills, has consistently been a special project funding target.

Chancellor's Office staff, staff/teachers from K-12 Adult Education and the State Department of Education, and community college noncredit faculty participated in a multi-year articulation effort. The intent was to develop model course content standards for noncredit adult basic education-elementary, and secondary basic skills, and for noncredit ESL. Standards developed through this work were subjected to extensive field review, using focus groups and a survey. When revisions to the work are reviewed and validated, and if the respective Boards adopt the standards, work will proceed to develop model performance standards and assessments, tied to the content standards.

An emerging articulation issue is how college basic skills enrollments will be affected by implementation of the high school exit exam. Will community colleges be required to provide that exam, or a process utilizing comparable multiple measures, for students in community college high school diploma/GED programs or to demonstrate students' "ability to benefit" for financial aid purposes? A primary goal of articulation with K-12 is reducing the number of recent high school graduates who enroll in community colleges and are assessed as needing basic skills. Progress on this goal will require further articulation of the relationship between community colleges' math/English curriculum/assessments and recently adopted K-12 content standards in mathematics and language arts.

6. Trends and Innovation

One of the primary issues identified by researchers in developmental education has been the lack of systematic evaluation and assessment of such programs. Beginning roughly a decade ago, concurrent with emerging concerns about increases in the number of students entering postsecondary education lacking the skills to do college-level work, federal and state governments, professional associations and researchers began moving toward accountability and outcomes-oriented research in basic skills and/or developmental education.

In the California Community Colleges, this trend was assisted by Matriculation funding and by a strengthened collaboration between the Chancellor's Basic Skills Advisory Committee and the Academic Senate. Direct and active participation by Chief Executive Officers (CEOs) and other college administrators in implementing reforms in these areas has also contributed to the trend toward greater accountability for outcomes from the colleges basic skills instruction and services.

Some outcomes of these activities include the following:

- The Academic Senate for California Community Colleges, and a number of colleges and districts, have developed models that can be used comprehensively to assess a college's basic skills activities. Findings from those assessments are being used to benchmark current practices and/or to suggest best practices that might be institutionalized.

- Since Spring 2000, Chancellor's Office staff, the Academic Senate, and teams of faculty, staff, and administrators from more than forty community colleges, have participated in a series of twice-yearly convocations on "Improving the Skills of Underprepared Students" as part of the UC Berkeley's Community College Forums and Convocations. Participating colleges develop priorities and implementation strategies for reforming their basic skills programs, and in subsequent convocations, they report on progress made and the barriers/challenges encountered in instituting reforms. Teams from colleges new to the convocations learn from teams participating for the second, third or fourth time. The next convocation is scheduled for October 2002.

- FSS has provided multi-year institutionalization grants to colleges to work on improving the articulation among basic skills courses and between basic skills and degree and transfer courses. These funds, along with federal Title III funds, have been used to develop learning communities and supplemental instruction, to design student services focused on students enrolled in basic skills, and to increase the use of technology in serving basic skills students.

- PFE funds have permitted some colleges to implement comprehensive reforms of the way in which basic skills instruction and services are provided.

- The Academic Senate is currently surveying colleges to identify best practices in serving underprepared students, using funding provided by a Board of Governors FII 10% Set-Aside grant.

- The community college Research and Planning (RP) Group has established a Center for Student Success. Their findings, located on the web at http://www.rpgroup.org/cssweb/default.htm, provide valuable information on the results of research by the Center on practices which have been demonstrated to be effective in furthering the Partnership for Excellence goals.

Conclusions

Helping underprepared students to be successful in college-level work is something we can do, based on findings from our own research and on our identification of model practices used by other institutions. As the only public higher education segment required by mission and by statute to provide instruction in basic skills for adults, we have interpreted that charge as requiring the colleges to provide instruction and support services for diverse student populations with widely disparate preparation to undertake college work. Our credit basic skills instruction is purposefully designed to support success in college-level work.

Research indicates that we have many successes to which we can point. More than any other postsecondary institutions in California, the community colleges exemplify the spirit of Education Code section 66201 which affords each able Californian an unparalleled educational opportunity:

> *"It is the intent of the Legislature that each resident of California who has the capacity to benefit from higher education should have the opportunity to enroll in an institution of higher education. Once enrolled, each individual should have the opportunity to continue as long and as far as his or her capacity and motivation, as indicated by academic performance and commitment to educational advancement, will lead him or her to meet academic standards and institutional requirements."*

The decision by this Board to institute a dialogue on the colleges' basic skills mission, with each other and with constituencies from the colleges, will determine our next steps in addressing this charge.

Staff: *Lynn B. Miller, Interim Dean*
Academic Affairs

Gene Hudson, Specialist
Academic Planning and Development

APPENDIX I

Basic Skills Background Data

Snapshot: Who Are the Basic Skills Students? In FY 2000-01, over 523,000 students in the CCC system (of a total of 2.6 million) enrolled in at least one basic skills/precollegiate basic skills course during the year. *In any given year, approximately 1 in 5 CCC students enroll in at least one BS course.*

BS/PBS	523,883	20.1%
No BS/PBS	2,085,482	79.9%
Total	2,609,365	100.0%

Percent of Cohort Who Took Basic Skills. There were 395,729 first-time students in Fall 1995. Within 6 years, 138,014 (34.8%) had attempted at least one basic skills course offering in the CCC system.

Historical Volume and Percentage. While the volume of BS/PBS students is rising, the percentage of students in the system who are BS/PBS students is relatively stable.

	00-01	99-00	98-99	97-98	96-97	95-96	94-95	93-94
BS/PBS	523,883	502,120	458,360	451,791	439,932	406,330	401,189	420,258
No BS/PBS	2,085,482	2,044,306	1,979,403	1,897,068	1,802,079	1,712,460	1,675,197	1,708,324
Total	2,609,365	2,546,426	2,437,763	2,348,859	2,242,011	2,118,790	2,076,386	2,128,582
BS/PBS %	20.1%	19.7%	18.8%	19.2%	19.6%	19.2%	19.3%	19.7%

By Gender. BS/PBS courses contain a slightly higher percentage of female students.

	BS/PBS	No BS/PBS	All CCC Students
F	57.5%	53.2%	54.1%
M	40.4%	46.0%	44.8%
X	2.1%	0.8%	1.1%
% of Col	100.0%	100.0%	100.0%

By Ethnicity. The PS/PBS student population is represented strongly by Hispanic students; however, Asian and Black populations also have higher BS/PBS representation than the total CCC population.

	BS/PBS	No BS/PBS	All CCC Students
Asian/Filipino/PacIsl	18.3%	14.7%	15.4%
Black	7.9%	7.2%	7.3%
Hispanic	38.8%	21.8%	25.3%
Native American	0.8%	1.0%	1.0%
Other Non-White	1.7%	1.9%	1.9%
White	24.8%	44.6%	40.6%
Unknown	7.6%	8.8%	8.5%

By Age. BS/PBS students are greatly overrepresented in the 18-19 age group.

	BS/PBS	No BS/PBS	All CCC Students
<18	5.8%	10.5%	9.6%
18 & 19	22.7%	13.0%	15.0%
20-24	23.9%	22.4%	22.7%
25-29	12.1%	11.9%	12.0%
30-34	9.3%	8.9%	9.0%
35-39	7.7%	7.6%	7.6%
40-49	10.1%	11.8%	11.4%
50+	7.6%	12.0%	11.1%
Unknown	0.7%	1.9%	1.6%

By Citizenship. BS/PBS populations are overrepresented in the Non-U.S. Citizen category.

	BS/PBS	No BS/PBS	All CCC Students
U.S. Citizen	64.5%	86.5%	82.2%
Non-U.S. Citizen	35.5%	13.5%	17.8%
Percent of Column	100.0%	100.0%	100.0%

By Stated Goal. BS students have a slightly higher representation in desiring a degree/cert. or transfer and in being undecided. As expected, the goal of "improving basic skills" is much higher than in both comparison populations.

	BS/PBS	No BS/PBS	All CCC Students
Degree/Cert/Xfer	44.7%	42.6%	43.1%
Career/Ed Development	21.2%	32.3%	29.9%
Improve Basic Skills	7.2%	1.6%	2.8%
Complete GED	4.7%	3.3%	3.6%
Undecided	22.3%	20.2%	20.6%

Academic Preparedness On Entry. For students who took the SAT-9 test as juniors in high school and eventually attended a CCC, the average of the five exams for:

- Basic skills students: 42.9th percentile nationally.
- Nonbasic skills is 52.4th percentile nationally.

Financial Aid: Board of Governors Waiver. BS/PBS students are overrepresented in populations that received a Board of Governors waiver.

	BS/PBS	No BS/PBS	All CCC Students
Rec'd Board of Governors Waiver	29.9%	14.5%	17.6%
No Board of Governors Waiver	70.1%	85.5%	82.4%
% of Col	100.0%	100.0%	100.0%

Full-Time vs. Part-Time (Students). BS/PBS students have a higher likelihood of enrolling in only noncredit courses or being full-time.

Fall 2000 Units Attempted	BS/PBS	Not BS/PBS
Noncredit (0)	24.8%	11.1%
0.1-11.9	41.6%	67.5%
12 or more	33.6%	21.4%
Total	100.0%	100.0%

Outcomes of BS/PBS Students

Unless noted, the following data come from a cohort study of first-time students who began their academic careers as first-time students in Fall 1995.

Success and Retention. The following shows the success and retention outcomes of basic skills and non-basic skills students who began as first-time freshmen in Fall of 1995 and tracked six years forward.

Metric	Total Students	Attempted Enrollments	Completed Enrollments	Retention Rate	Successful Enrollments	Success Rate
All Enrollments, Non-Basic Skills Students	257,715	1,820,150	1,513,591	83.2%	1,274,721	70.0%
All Enrollments, Basic Skills Students	138,014	2,082,175	1,688,456	81.1%	1,342,143	64.5%
Basic Skills Students, Basic Skills Courses Only	138,014	277,392	224,716	81.0%	168,461	60.7%

Persistence. The following shows overall term-to-term persistence for the two subgroups from the 1995 cohort.

Group	Started Fall 1995	Still Enrolled Spring 1996	Still Enrolled Fall 1996	Still Enrolled Spring 1997
Basic Skills Students	138,014	89,844 (65.1%)	71,896 (52.1% of orig.) (80.0% of prev)	64,517 (46.7% of orig.) (89.7% of prev)
Non-Basic Skills Students	257,715	106,700 (41.4%)	74,927 (29.1% of orig.) (70.2% of prev)	64,696 (25.1% of orig.) (86.3% of prev)

Degrees/Certificates/Transfer. The following shows outcomes for degree/certificate attainment for the same 1995 cohort.

	Basic Skills Students	Nonbasic Skills Students
Total number of students in Fall, 1995 cohort of first-time students	138,014	257,715
Total number (%) with stated goal of degree/certificate and/or transfer	52,071 (37.7%)	80,251 (31.1%)
Of those with stated goal, number (%) who earned AA/AS/Certificate in 6 yrs.	9,062 (17.4%)	10,531 (13.1%)
Of those with stated goal, number (%) who transferred to a 4-yr institution in 6 yrs.	10,925 (21.0%)	22,105 (27.5%)
Of those who transfer, distribution of transfers by sector	CSU: 64.6% UC: 13.1% ISP: 13.0% OOS: 9.3%	CSU: 52.3% UC: 18.9% ISP: 15.1% OOS: 13.7%

Faculty and Class Size

BS/PBS Faculty: FT/PT. Fall 1999.

Total Basic Skills Sessions	Percentage Taught by FT-Regular Instructor	Percentage Taught by FT-Overload Instructor	Percentage Taught by PT Instructor
42,821	16,249 (37.9%)	3,749 (8.8%)	22,823 (53.3%)

Class Size. BS/PBS classes have larger class sizes on average (lecture classes only counted; excludes lab/activity/distance ed):

- Enrollments per section, BS/PBS: 35.4
- Enrollments per section, non-BS/PBS: 27.2

APPENDIX II

The California Community College Matriculation Process

Authorized and established by the Seymour-Campbell Matriculation Act of 1986 (AB 3), the Matriculation process provides a specific set of services designed for and intended to assist community college students to determine the most appropriate path for them to succeed in their academic, vocational and skill-building programs. State fiscal support for this effort began in the 1987-88 academic year and state regulations governing the process and defining each component, prohibited practices and implementation procedures were adopted in July 1990.

Matriculation Purpose

The purpose of matriculation is to provide students with accurate, timely information and help to define realistic, reachable educational goals. The matriculation process is intended to assure all students' access to higher education opportunities. An additional purpose is to increase institutional effectiveness and the systemic ability to match students' needs with college/district resources.

Student opportunity and access requires that the colleges assist students to make their course placement and other educational choices **through professional advice** emphasizing the use of multiple assessment measures and conscientiously applied supportive services. This is a commitment to the colleges' interaction with students to strengthen student motivation, provide regular feedback concerning academic progress, and guide students to refine and persist in meeting their educational goals based on the instructional and supportive resources of the institution.

Institutional effectiveness is achieved by efficiently applying the institutions' resources toward meeting the educational needs of students and committing additional resources as necessary. By consistently identifying and addressing student goals and needs through the components of matriculation, the institution is strengthened with greater student retention and the more efficient delivery of services.

Components of the Matriculation Process

The matriculation process has seven components. Five of these provide services directly to students to enhance their educational success. Two components relate to colleges and districts, improving institutional effectiveness and accountability by developing capabilities for evaluation, coordination and training.

Admissions: Through this component, colleges and districts ensure that access to the community colleges is provided to students by a comprehensive application process designed to identify student needs, abilities and accomplishments. Applicants without high school diplomas are identified during the application process in order that they be especially directed to the broad-based assessment and supportive service providers on campus. Information is collected regarding referrals to college services, programs, and resources. Special accommodations are made for ethnic and language minority students and students with disabilities. Bilingual and multilingual admissions staff members are now commonly found on campuses, as are multiple language admissions materials, including applications, registration materials, and supportive service referral information and forms. These are a direct result of the identification of these needs through the matriculation process and funding.

Orientation: Matriculation regulations ensure that community colleges provide students with information concerning their rights and responsibilities as college students as well as what services and information they will be provided by the college. This information is provided through a variety of media including written, video and in-person presentations. College procedures, course information, and availability of financial assistance and other support services are integral portions of these presentations, as are campus tours and interaction with student organizations. Much of the costs for orientation are funded through matriculation such as: counselors' and educational advisors' salaries, student assistants, orientation presentations in different media (videos, handbooks, audio tapes, CD, on-line materials), and multilingual presentations.

Assessment: Education Code and Title 5 regulations direct colleges to collect comprehensive information about individual students in order to facilitate student success. In this manner students may be professionally advised on the basis of multiple criteria that can be used to form a holistic "portrait" of each student; denoting strengths, areas of needed improvement, support service needs, placement test scores, study skills, learning and physical disabilities, computational and language skills, and so forth. Multiple measures for placement advice are stressed to ensure that no **single** test score or assessment measure is used to place students into courses. Matriculation has required multiple measure assessment of students for more than eleven years; a position that is increasingly being adopted by colleges and universities across the nation.

The state pursues rigorous standards to ensure that the testing instruments used for course placement have met established criteria for validity, reliability, and been reviewed for insensitivity and bias. Further, use of test is restricted to only the purpose for which it was designed and validated, e.g., a test designed for admission, such as the ACT, cannot be used for course placement. Additionally, the colleges are required to validate the cut scores and ranges of the instruments they use to ensure that they are appropriate for the placement of students into the college's specific curriculum.

California is the only state to have taken such strides toward assuring a "fit" between students' needs and skill levels, and the content and design of test instruments. In collaboration with instructional faculty, counselors and assessment personnel identify the companion measures that

are used with test scores to assess students' abilities and to assure that course placement is appropriate for the students' further development and progress.

Computerized career guidance systems such as DISCOVER and EUREKA are also utilized to assist in the assessment of aptitudes, interests, values, educational goals and career paths.

Matriculation funds counselors and assessment technicians who work in this component. In addition, testing materials are paid for with matriculation funds as are alternative assessment materials and personnel for students with physical challenges. ESL assessment is also funded largely with matriculation monies.

Counseling and Advising: Title 5 regulations specify that colleges will provide counseling or advisement through appropriately trained staff. These efforts are aimed at making certain that students receive sufficient guidance in the identification of educational goals, appropriate course placement, and referrals to supplemental assistance with academic or personal difficulties that may be mitigated by contact with a counselor or other professional. In addition, students are encouraged (and Title IV financial aid recipients are required) to develop a student educational plan (SEP).

The SEP is a document that describes the "path" by which a student can meet his/her educational goals. In conjunction with a counselor or advisor, the student formulates this plan, building in the courses, services and programs necessary to obtain his/her objective. The SEP is regularly reviewed and modified as appropriate. Special attention is directed to those students who experience academic difficulty and for whom the SEP may require extensive change.

The majority of state funding for matriculation is paid for counselors' salaries and those of academic advisors. The counseling function is central to the provision of matriculation services. Through contact with counselors, students are provided transfer and articulation information, orientation services, development of the Student Educational Plan, multilingual advisement, mainstream and ESL placement advice, probationary and academic dismissal interventions, career life-skill workshops, high school and basis skill course visitations, teaching and guidance courses, and personal counseling.

Student Follow-Up: State regulations require colleges to provide post-enrollment evaluation of every student's progress in order to detect early indications of academic difficulty. Great numbers of California community colleges are adopting electronic "early alert" programs that allow instructional faculty to report student difficulties in a consistently timely manner. As a result of follow-up, students who have not declared a specific educational goal, students enrolled in pre-collegiate basic skills courses, and students on probation or not making satisfactory progress, are identified and referred to services such as tutoring, child care, job counseling or placement, academic and vocational counseling, and other services available to help students overcome obstacles to their academic success. Much of the intervention activities provided through this component are performed by counselors.

Research and Evaluation: The matriculation process is regularly evaluated through the collection and analysis of data as specified by the Board's Title 5 regulations. These data include consideration of the impact of the matriculation process on courses, programs and facilities; students choice of student educational goals; improved, multiple-factor, assessment methodologies; student educational needs; student outcomes. These research studies help the colleges determine the efficacy of matriculation services and identify areas where improvement is needed or where a greater allocation of resources should be considered. These evaluation efforts permit the state to monitor the effectiveness of the matriculation process on a statewide basis.

Prior to the advent of matriculation funding, the research function in the community colleges was not an extensive one. It has been through the addition of researchers funded largely through matriculation that the colleges are increasingly able to use locally-derived data to inform their decision-making and evaluate the extent to which their instructional and supportive services are effective.

Coordination and Training: This component consists of efforts and strategies designed to involve the broadest possible range of college staff, students and faculty in formulating, implementing and evaluating matriculation services. While, typically, one person is designated as the coordinator of the matriculation process on each campus, college and district advisory bodies (comprised of wide-spread college community representatives) contribute to the decision-making process. Title 5 regulations require each community college district to develop and implement a program for providing all faculty and staff with training appropriate to their needs on the provision of matriculation services.

The majority of matriculation coordinators, directors, managers or supervisors are funded through the districts' state matriculation allocation.

When the matriculation system was developed, it was apparent that the needs for services would grow more quickly than could the resources to provide them. Thus, exemption categories were defined in order to make certain that resources were expended on the provision of services to those with the greatest need. Therefore, students with previously-earned college degrees, for example, may choose not to receive all of matriculation's services. Conversely, students without a high school education would receive all student-direct services.

State Oversight and Accountability Mechanisms and Procedures

The Chancellor's Office, on behalf of the Board of Governors, is responsible to the California Legislature to ensure that matriculation funds provided to districts are used for their intended purposes and that colleges operate their programs in compliance with state law and regulations. This is accomplished by use of the following procedures and mechanisms:

1. *Program Plans*--At the onset of matriculation's implementation, each community college district was required to write and submit a plan for enacting the matriculation

process. The plans were submitted to and reviewed by Chancellor's Office staff assisted by faculty and staff selected from various community colleges.

In 1991, all colleges were required to submit updates of their plans. These plans were read by Chancellor's Office staff and each college was provided a written response that delineated where components needed modification with respect to compliance issues. Further updates to the plans are required when significant changes occur in the way a college conducts its matriculation process.

2. *Annual and Expenditure Reports*--Colleges and districts are required to submit an annual "Expenditure Report" that documents numbers of students served; services provided; placement instruments and methods used; orientation topics covered; membership of advisory bodies; SEP formulation procedures; and research and training activities. These reports document the manner in which colleges utilize their state-allocated matriculation funds, describing hiring patterns and component-component expenditures in support of the matriculation process. These reports are read by Chancellor's Office staff and comments returned to the colleges.

3. *Site Evaluations*--The Chancellor's Office coordinates the matriculation site evaluations with teams of professional educators (counselors, faculty, matriculation coordinators, registrars, etc.). The team leaders for the visits are members of a firm of independent evaluation consultants with whom the Chancellor's Office contracts. The matriculation site evaluation is scheduled at each community college during the fifth year of the Accrediting Commission for Community and Junior Colleges' six-year accreditation cycle.

   In preparation for a site evaluation, team members review the college's matriculation plan, expenditure reports, catalogs, schedules of classes, application form(s), orientation materials, research report findings, and other records that document the college's implementation efforts. From this document review, background is obtained and questions formulated for an on-site investigation. Once the team arrives on campus, each member follows a rigorous interview schedule, meeting with representatives of college administrators, program staff, faculty and students to ascertain the effectiveness of the matriculation process.

   At the conclusion of each visit, a member of the Chancellor's Office Matriculation Unit assists the team in writing the exit report and provides guidance and advice to both the college and team members in matters related to matriculation legislation and regulations. When the final draft of the report has been written, the team conducts exit interviews with program staff and college administrators in which the team's findings are reported and recommendations made.

   Prior to joining a team, the site evaluation participants are given thorough orientation and training by Chancellor's Office staff. The training is designed to assist the team members to: learn what questions to ask representatives of each component; identify

areas where the matriculation process may not be satisfactorily implemented; identify areas where the matriculation process may be improved by modification of specific activities; and clarify the team members' roles to all participants. Team members are chosen for their expertise and knowledge of or experience with the matriculation process. They are from colleges in regions other than the region in which the college to be reviewed is located.

4. *Student Retention and Persistence*--Matriculation's impact on student retention and persistence has been documented through studies conducted at many of the state's community colleges. With the use of matriculation services, students complete a satisfactory ratio of units in relation to those they attempt; and, they persist in their courses from term to term, making reasonable academic progress.

   The following topic areas generically describe college research activities that encompass similar themes and are a sample of studies that have been submitted to the Chancellor's Office:

   - Factors that impact student retention;
   - Student persistence in reading, writing, and ESL programs;
   - Patterns of change in students' goals;
   - Student satisfaction with matriculation services;
   - Matriculation perceptions: surveys of staff and faculty;
   - Relationships between student matriculation status and student performance;
   - Evaluating "early alert" and other follow-up strategies;
   - New students' perceptions of matriculation;
   - Reading course placement and subsequent English course completion;

5. *Placement and Multiple Measures Validations*--The research and evaluation component requires colleges to use and expand their data collection and analyses processes to measure the effectiveness of matriculation. A concomitant intent of this activity is to utilize data gathered from the various components of matriculation to develop an integrated, computerized database that is useful for longitudinal research, planning, and evaluation of student outcomes and institutional programs and services. California community colleges are addressing these evaluation concerns, aided by the Chancellor's Office staff and consultants.

Students receiving matriculation services were persisting in progressively larger numbers. This is consistent with the findings of a major study completed by the Chancellor's Office. At the end of 1990, the Chancellor's Office Research and Analysis Unit completed a study in which 38 variables were analyzed for each participant. The study population was derived from a representative sample of twelve colleges throughout the state that reflected the scope of ethnic, rural and urban, and population characteristics of all colleges. According to the study, student participation in the matriculation process leads to greater persistence and retention. The numbers of students served by matriculation has increased dramatically since 1987, and available research

shows a strong positive relationship between matriculation services and student success. It is the underprepared students who are benefiting most from the matriculation process; those who are identified early in the process as needing tutoring, counseling, and financial aid services are attended directly with intervention strategies and support that adds to the students' success probabilities.

The Chancellor's Office study of matriculation student outcomes showed that students with less than 13 grade skill levels who received Matriculation services earned a cumulative college grade point average (GPA) of 2.07, compared to students with similar skills who received only admissions services and earned a cumulative GPA of 1.33.

The study also found that, matriculation improves the retention of students whose skills are below freshman level, and who receive full matriculation services (four to five services). Students from lower socioeconomic levels who received full matriculation services completed 74 percent of their attempted units, as compared with 54 percent for those who utilized only admissions services.

Summary

The California community college matriculation process is a comprehensive approach to guiding students to success. Through an expansive assessment process, a great deal of information is gathered that establishes the students' goals, talents, prior achievements, test results, learning skills, etc. With this information and that provided to the student through orientation activities, the students and the colleges are ensured that the initial placement into courses and subsequent follow-up retention and persistence activities are based on knowledge about the individuals abilities and needs. Allocations of resources, both fiscal and personnel, can thus be directed appropriately and supportive services expanded or created on the basis of the needs determined through the various matriculation components

The California Education Code directs the California Community Colleges to admit all persons above the age of compulsory school attendance who can profit from the educational opportunities they offer. Under this mandate, the colleges serve populations that are ethnically, economically, and educationally diverse, necessitating, a concomitantly diverse offering of programs and services to meet those needs. The matriculation system provides a mechanism to assess students' needs and abilities and match them to college resources toward successful educational outcomes. Thus, the California Community Colleges matriculation system meets and exceeds the goals of Congress and the Secretary of Education with respect to a institutional accountability in the enrollment of students without high school diplomas or the equivalent. Matriculation provides the framework through which the special educational and service needs of those students are identified and provided for in a comprehensive manner with a documented positive effect on student achievement.

APPENDIX III

Matriculation Assessment
In the California Community Colleges

Established by Assembly Bill 3 in 1986, *matriculation* is a process that brings a community college and the student enrolled in credit and noncredit curricula into an agreement for the purpose of realizing the student's educational objectives. A major component of the matriculation process is assessment.

The primary purpose of assessment is to assist the student in recognizing strengths and abilities that may be utilized in pursuit of his/her academic goals. Assessment helps to identify the entering students' reading, writing and math skills to ensure that the student is properly advised with respect to placement into the courses and programs appropriate to the student's skill level(s). While this component includes and indeed, requires, a variety of methodologies and measurements, assessment by instrument is one method common to all community colleges in the state system.

Assembly Bill 3, the 1986 Seymour-Campbell Matriculation Act, Section 78213 states:

> *(a) No district or college may use any assessment instrument for the purposes of this article without the authorization of the chancellor. The Chancellor may adopt a list of authorized assessment instruments pursuant to the policies and procedures developed pursuant to this section and the intent of this article. The Chancellor may waive this requirement as to any assessment instrument pending evaluation.*
>
> *(b) The Chancellor shall review all assessment instruments to ensure that they meet all of the following requirements:*
>
> *(i) Assessment instruments shall be sensitive to cultural and language differences between students.*
>
> *(2) Assessment instruments shall be used as an advisory tool to assist students in the selection of an educational program.*
>
> *(3) Assessment instruments shall not be used to exclude students from admission to community colleges.*
>
> *(c) The Chancellor shall establish an advisory committee to review and make recommendations concerning all assessment instruments used by districts and colleges pursuant to this article.*

The primary mechanism for ensuring that the assessment instruments utilized for placement in the community colleges are approved in a manner consistent with the founding legislation is the Assessment Work Group. This workgroup includes staff members from the state Chancellor's Office, the colleges and districts, and the Center for Educational Testing and Evaluation (CETE) at the University of Kansas. The CETE representatives are psychometric experts who have been contracted specifically for this project. With their guidance and the full participation of the

colleges and districts via the assessment workgroup, the California Community Colleges system has established standards and procedures to evaluate assessment placement instruments used to advise students in course selection. The assessment workgroup evaluates all assessment instrument submissions from commercial test publishers and has established guidelines for the submission of tests that are "locally" developed and managed as well.

During the evolution of the test review process, attention has also been paid to establishing clear and descriptive methodologies that the colleges and districts will use when reviewing instruments. In this regard, the workgroup developed the *Matriculation Assessment Technical Manual,* intended to help the colleges and districts understand and apply the empirical processes of assessment instrument selection, evaluation, and validation. This manual was disseminated during August 1990, and the Standards document is revised periodically.

Multiple Measures in Assessment

With the 1986 passage of matriculation legislation (Assembly Bill 3, Seymour-Campbell), colleges began or continued their efforts to assess students for purposes of course placement. A variety of instruments and procedures had been used with little to no standardization between colleges or often, within programs. The subsequent addition of Title 5 regulations attempted to clarify some testing issues:

> *"in implementing matriculation services, community college districts shall not use any single instrument, method or procedure, by itself, for placement, required referral to appropriate services, or subsequent evaluation of any student; provided however that, in the case of assessment instruments, the use of two or more highly correlated instruments does not satisfy the requirement for use of multiple measures."*
> *Title 5, section 55521 (a)(3)*

The matriculation process addresses the needs and demands of California's diverse student population. Key to these needs is an effective approach to assessment. This approach must distinguish between individual test administrations and a total battery of tools that comprise a holistic description of student strengths and weaknesses. Assessment is not only testing; rather it is gathering information from a variety of sources, using a variety of procedures. These procedures may or may not include standardized testing, but in approximately 98 percent of the community colleges, do use test instruments as part of the assessment process.

What are Multiple Measures?

Multiple measures are a diverse battery of procedures and methods for gathering information about individuals or groups of students. Together, multiple measures create an assessment battery that provides a holistic profile of students individually and in groups. An assessment

battery should include objective and subjective information. Objective information is available through individually or group administered standardized tests. These tests may be multiple choice, true false, or open response. Regardless, typically, there is no controversy concerning the students' score. Only one correct answer exists for any possible question, and this answer cannot be negotiated in scoring.

Subjective instruments on the other hand, are often scored by individuals who have training in recognizing appropriate responses to items. These responses may vary, and indeed, individuals may disagree over the correctness of a response. Examples of subjective instruments include written essays, speeches, artwork, poetry, portfolios, and grades. Subjectivity recognizes the need to individualize decisions based on student need. However, objectivity provides standard measures of performance, which allow comparisons between and within individuals or groups. A well-made assessment battery will provide a balance of objective and subjective measures so it meets the needs of policy makers as well as individual students.

When assessment in the community colleges takes place, it is usually performed through a battery of measurements comprised of objective and subjective data. The combination of these data include pertinent student-related information such as the measures collected through informal and interviews, structured interviews, surveys (e.g., interest) questionnaires, scales (e.g., Likert, forced choice, forced comparison), behavioral observations, a review of school records, job analyses, performance on criterion measures, individually administered tests, or group administered instruments, to identify just a few methods.

How are Multiple Measure Tools Each Selected?

As assessment battery should include measures of ability, achievement, skills, educational history, interests, social/emotional health, physical health, and motivation/commitment at minimum. As previously mentioned, a major difficulty is in balancing the need for objectivity obtained data with the need for subjective measures designed for individual student needs.

Developing an appropriate assessment battery, consisting of multiple measures, requires input from all educational partners. This includes community members, students, researchers, teachers, and administrators. It is important that the assessment battery itself is assessed at least annually. Modifications will be necessary as data is collected and changes occur within populations, programs, personnel, etc. For example, a significant number of community colleges found that their student demographics had changed in an important manner when the alien student amnesty occurred in the early part of the 1990s. Consequently, colleges found that their curricula, financial aid capabilities, supportive service network, instructional assistance resources and basic placement rules had to reflect new assessment concerns more appropriate to the students coming into the institutions. The assessment battery must be seen as credible by anyone for whom it has impact.

An assessment battery should consist of a core set of tools that is administered in all situations. The remainder of the battery should be comprised of instruments that are designed to meet the individual needs of the student or situation. For example, not every student may be administered a test of creativity. However, if you are assessing a student who is highly creative, you may wish to measure this ability and include it in your overall profile of the student. Evidence to support the student's abilities may include a photography portfolio, a collection of short stories or poetry, paintings, awards for art designs, etc. The ability to tailor a portion of the battery is especially important when one wants to document a characteristic unique to that individual, group, curriculum, school, program, etc. The core part of the battery is essential when wanting to compare groups or individuals on a common measure. This may be helpful when comparing instructors, schools within districts, or districts.

Multiple measures should comprise a complete battery of complementary tools that yield data illustrating a holistic profile of the individual or group being assessed. This assessment battery, if valid and reliable, can then be used to make decisions at all levels of decisionmaking.

Why Should Community Colleges Use Multiple Measures?

In May 1988, the Mexican American Legal Defense and Education Fund (MALDEF) filed a discrimination lawsuit against Fullerton College on behalf of Latino and other linguistic minority students, contending that the college unfairly tracked these students into non-transferable or noncredit courses based solely on scores yielded from standardized tests. MALDEF contended that this was in violation of the Seymour-Campbell Matriculation Act and was an unlawful practice. After much negotiation, the case was dismissed in 1991. The Board of Governors adopted regulations in which the scores from a standardized instrument would be mitigated with the use of appropriate companion measures to produce a more rounded picture of the student.

Again, multiple measures are intended to supplement the objective information that is derived from a test score, or to provide a holistic portrait of the student built entirely of subjective measures that include professional judgment.

Abstract of the Matriculation Assessment Standards, Policy and Procedures for the Evaluations of Assessment Instruments Used in the California Community Colleges

The *Matriculation Assessment Standards, Policy and Procedures for the Evaluations of Assessment Instruments Used in the California Community Colleges* document has four major sections. The first section catalogues and details the purposes and appropriate uses of assessment as defined by matriculation legislation and regulation.

The second section of the document presents and discusses the assessment standards and criteria that are employed in the review of placement instruments. The section was drawn largely from

three sources: the *Code of Fair Testing Practices in Education*, the *EEOC Uniform Guidelines for Employee Selection Procedures*, and the *Standards for Educational and Psychological Testing*. Psychometric standards are presented in five areas:

1. Validity;
2. Reliability and Errors of Measurement;
3. Scaling, Norming, Score Comparability and Equating;
4. Standards for Administration, Scoring and Interpretation; and,
5. Testing Special Groups.

In the third section of the guide, more explicit standards and criteria for evaluating professionally prepared placement tests are presented. These are detailed as requirements for tests to be met separately by the test developer and the college or district test user.

A. Minimum Standards: Primary Responsibilities of the Test Developer

1. Validity

a. Content Validity.

The test developer should describe the content of the test in such sufficient and clear detail and specificity that users at community colleges are able to consider the test's appropriateness for making placement recommendations for a sequence of courses at their colleges.

b. Predictive Validity.

Documentation is required to indicate that the test scores relate to performance in classes similar to ones offered by the California Community Colleges. The course content should bear a close logical relationship with the placement purpose of a test. n6t courses in general. The test scores used for placement recommendations should correlate with end-of-course achievement and the correlations should be of sufficient magnitude to warrant the use of the test (r> .35).

2. Reliability and Errors of Measurement.

a. Reliability.

The stability of a placement test should be evaluated. To assess stability, the time between the two testings should be at least two weeks. The resulting coefficients are to be .75 or higher.

b. Standard Errors of Measurement.

Standard errors of measurement are to be computed for intervals of scores or at likely cut points.

3. Analysis for Cultural/Linguistic Bias. Insensitivity and Offensiveness

Evidence must be provided that an appropriate analysis has been conducted focusing on cultural/linguistic bias, insensitivity and offensiveness of the test and test items, and that the findings from such investigations have been incorporated to eliminate or minimize such effects.

B. Minimum Standards: Primary Responsibilities of the Local College

1. Validity

a. It is incumbent upon the local community college to evaluate the assessment measure for the predictive validity of the placement recommendations it yields.

b. Data are to be collected by the individual college to justify the proper identification of any cut scores or score ranges used for placement advice. At a minimum, it should be demonstrated that individuals who score above the cut score or within the score range identified have a relatively greater expectancy of success (e.g., obtaining a C grade or higher) in a specific course for which placement recommendations are made than those who score below the score or score range. Initial setting of the cut score can derive from empirical or judgmental approaches determined as appropriate.

2. Impact of Testing on Various Groups

a. Differential impact and predictability must be monitored for various demographic groups (including gender, age, racial, ethnic, and disability groups).

b. The revision of the instrument for testing individuals who cannot take the tests under standard conditions must be documented. The documentation should demonstrate how the revised method yields test scores with appropriate psychometric characteristics.

The fourth section of the Guide details the process that will be followed in reviewing a placement instrument for the Chancellor's recommendation regarding its use. This is a seven-step process that includes the following:

Step 1. Compile Information on Assessment Instruments
Step 2. Psychometric Expert Review
Step 3. Content Expert Review
Step 4. MAC Assessment Work Group Review
Step 5. Psychometric Expert Recommendations
Step 6. Chancellor's Decision
Step 7. Appeals Process

Following a review based upon the criteria listed above, a written report is submitted to the Chancellor offering a recommendation of: (A1) Approval; or (A2) Provisional Approval; or (A3) Probationary Approval; or (B) Disapproval. All approved instruments will be available for use by a community college. However, the categories of approval (A1, A2, and A3) distinguish the length of time the instrument may be used without submission of additional information. The implications for an instrument's use when placed in a category are as follows:

A1 Approval	Instruments in this category are those meeting criteria on the standards such that the available evidence would indicate they have potential value when used to serve a specific assessment function in California's community colleges.
A2 Provisional Approval	Instruments in this category are those that meet relevant standards and criteria, but lack sufficient or recent information to assign the unequivocal "Approval" rating. This is a conditional category wherein the expectancy is that the test, in time, will achieve an Approval recommendation. Recommendation in this category means that the test developer or user must supply within **one year** the specified additional clarifying information. Failure to submit the required clarifications within one year will result in reclassification into the "Probationary Approval category.
A3 Probationary Approval	Instruments in this category are those where critical information is missing and a clear-cut recommendation cannot be established; or, from the information that is available deficiencies are noted. The intended purpose for use of these instruments is clearly stated and some positive information supporting their use is available, but the necessary evidence from which a final judgment can be made is incomplete. For tests that are recommended as "Probationary," additional data must be provided to document their suitability. Such instruments can only be placed into an "experimental" use designation for a maximum of **two years** while the necessary evidence is assembled.

B Disapproval	Instruments placed in this category are those where the evidence indicates that they have failed to meet one or more of the standards or criteria considered essential by the reviewing bodies or fail to meet a condition of AB 3. What is considered an essential element is likely to vary among applications, but the specific deficiency is identified in the report of the experts to the Chancellor.

As may be seen in this brief primer, assessment in the community colleges is far-reaching and intended to address a multitude of educational needs and objectives. Although transfer education is a primary end of our educational mission, it is not the only one. Consequently, testing and assessment must speak to a highly diverse student population with the intention of assisting them to reach their fullest potential in a variety of courses and programs that range from job preparation and vocational training to language improvement and transfer.

Board of Governors
California Community Colleges

Agenda

Brian E. Conley
Chair
Antonia Hernandez
Vice Chair

Irene M. Menegas
Leslie Wang

Fusako Yokotobi
Vice Chancellor

Committee on Equity, Diversity, and Human Resources

Tuesday, November 12, 2002

1:30 p.m. - 2:00 p.m.

Action Scheduled

5.1 Approval of Minutes: September 9, 2002

5.2 Report from the Equity and Diversity Task Force

5.3 Revisions to the Disciplines List

Full Board Approval of Action Items

COMMITTEE ON EQUITY, DIVERSITY, AND HUMAN RESOURCES

5.1

September 9, 2002

Committee Meeting Minutes

Call to Order

Chair Brian Conley called the September 9, 2002, meeting of the Committee on Equity, Diversity, and Human Resources to order at 11:15 a.m. He welcomed Fusako Yokotobi, the new vice chancellor of Human Resources, and stated that the Board of Governors looks forward to working with her.

Members Present

Brian E. Conley, *Chair*
Antonia Hernandez, *Vice Chair*
Irene M. Menegas
Leslie Wang

Other Members Present

Desirree-Michelle Abshire
Annie R. Bird
Julie Korenstein
Melba Muscarolas
Patricia G. Siever
Catherine L. Unger

4.1 Approval of Minutes: July 8, 2002

The committee approved the minutes of the July 8, 2002, meeting.

4.2. Report from the Equity and Diversity Task Force *(Information)*

Chancellor Tom Nussbaum and Fusako Yokotobi, vice chancellor of Human Resources, presented an update on the work of the Equity and Diversity Task Force.

Yokotobi stated that the report is going back to the Consultation Council in October and it will return to the Board of Governors' November meeting.

Public Testimony

Hoke Simpson, president of the Academic Senate, stated that the Academic Senate supports the report and recommended that the item be a regular agenda item at Board of Governors' meetings so the Board can receive regular progress reports. He recommended that the Academic Senate work jointly with the local chief human resources officers responsible for developing the training program for hiring committee

members (pp. 13-14). Simpson stated that it is extremely important to have the Board of Governors' endorsement of these recommendations.

Simpson invited Board members to the Academic Senate's Fall Plenary Session, on October 31, November 1 and 2 at the Los Angeles Airport Westin.

Board members held a discussion on how the Chancellor's Office will monitor districts' commitment to equity and diversity.

Chancellor Nussbaum emphasized that, at the system level, we will monitor the commitments made by districts. The system will also be approving district Equity and Diversity Plans and reporting back on hiring practices on an annual basis. The Chancellor stated that he will find ways to devote resources to that effort.

David Viar, executive director of the Community College League of California, stated that the California Community College Trustees (CCCT) has worked with great commitment to develop a major initiative on how local governing boards adopt policies and have monitoring and follow-through on those policies. The CCCT Board led this effort and the local governing boards have a major responsibility. The hiring committees are made up of faculty, and in the processes there must be agreement between the local governing boards and the academic senates.

Adjournment

Chair Conley adjourned the meeting of the Committee on Equity, Diversity, and Human Resources at 11:45 a.m.

Board of Governors
California Community Colleges
November 12-13, 2002

REPORT FROM THE EQUITY AND DIVERSITY TASK FORCE

5.2

ACTION SCHEDULED

Committee on: *Equity, Diversity, and Human Resources*
Brian E. Conley, Chair

Presentation: *Fusako Yokotobi, Vice Chancellor*
Human Resources

Issue

This item presents the report of the Equity and Diversity Task Force on new approaches to promoting equity and diversity.

Background

In September 2001, the Third District Court of Appeal handed down its decision in *Connerly v. State Personnel Board* (2001) 92 Cal.App.4th 16, holding that Education Code section 87100 et seq., requiring affirmative action in community college employment, violate Proposition 209 and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. In response to that decision, the Chancellor's Office issued the 14th advisory on Proposition 209 on October 19, 2001. That advisory listed various steps the agency will take to maintain the Board's commitment to diversity in light of the *Connerly* decision.

Among other things, the advisory announced the Chancellor's decision to establish an Equity and Diversity Task Force on new approaches to promoting equity and diversity. The purpose of the task force was to explore innovative policy approaches to promoting diversity and student equity without running afoul of the restrictions imposed by Proposition 209.

Following task force members' final review of Chancellor Nussbaum's comments and recommendations on the progress report, the final report was brought to the Consultation Council in October. The task force report (attached) identifies specific activities and tasks to be undertaken at both the system and local level to "Realize our Commitment to Access and Success for All Students Through Student Equity, Equal Opportunity, Nondiscrimination and Workforce Diversity."

Contingent on Board approval of the task force report, the next steps will be to send the report to each of the designated constituencies and ask them to respond, within 90 days, to the list of activities and the timeframe proposed in the report. Thereafter, the Chancellor's Office will compile and publish the various commitments and present them to the Board of Governors for review. The Chancellor's Office will also work to assist each of the constituencies and will monitor the progress of each constituency in meeting its commitments.

Recommended Action

That Board of Governors accept the recommendations of the Task Force on Equity and Diversity and request each constituency to respond within 90 days, by means of a written action, to the list of activities, tasks, and timeframes proposed.

Equity and Diversity Task Force

Task Statement

Purpose

Recent court decisions have made clear that certain race and gender conscious techniques used in promoting diversity are no longer permissible in light of Proposition 209. In addition to vigorously enforcing nondiscrimination laws, the system, within the parameters of recent court decisions and the provisions of Proposition 209, also needs to explore innovative approaches to improving student equity by promoting a diverse work force. The task force will be asked to recommend changes in policy, Board regulations, or state law needed to carry out the system commitment to diversity and student equity. By diversity we mean a work force that provides equal employment opportunity to all, regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age, income level, socio-economic status, prior hardship, or sexual orientation.

Topics for Discussion

The task force should consider all feasible and legally-permissible approaches to promoting diversity and achieving student equity including, but not limited to:

1. Revising statewide minimum qualifications.

2. Further restricting or eliminating the use of local qualifications beyond state minimum qualifications.

3. Improving outreach and selection procedures.

4. Allowing or requiring colleges to broaden the scope of job descriptions to include such factors as prior community college attendance, participation in programs for disadvantaged students, socio-economic status, prior hardship or discrimination, etc.

5. Strengthening and expanding the existing requirement that faculty candidates demonstrate a sensitivity to and understanding of diverse students.

6. Developing programs to encourage current students to return as community college faculty and staff.

7. Requiring colleges to actively monitor the impact of prerequisites and program admission procedures on student equity.

8. Proposing changes to regulations that would provide criteria for state review and approval of district student equity plans.

9. Developing components of effective campus climate surveys to test perceptions of diverse students, faculty and staff.

Composition

The task force will be co-chaired by a chief executive officer and a faculty member named by the Academic Senate. Members of the task force are as follows:

CEO/Co-Chair
Leo Chavez
Chancellor
Foothill-DeAnza CCD
12345 El Monte Road
Los Altos Hills, CA 94022
Phone: (650) 949-6100
Fax: (650) 941-6289
E-mail: chavezleo@fhda.edu

Support to CEO Co-Chair
Jane Enright, Vice Chan.,
Human Res. and Equal Opportunity
Foothill-DeAnza CCD
12345 El Monte Road
Los Altos Hills, CA 94022
Phone: (650) 949-6211
Fax: (650) 949-2831
E-mail: enrightjane@fhda.edu

Student Senate
Tracie Marquez
President
Student Senate
Mt. San Jacinto College
1499 North State Street
San Jacinto, CA 92583
Phone: (909) 487-6752
Fax: (909) 487-9868
E-mail: president@calsacc.org

Academic Senate/Co-Chair
Dibakar Barua
Golden West College
15744 Golden West Street
Huntington Beach, CA 92647-0592
Phone: (714) 892-7711 Ext. 51141
Fax: (714) 895-8263
E-mail: mailto:dbarua@gwc.cccd.edu

Academic Senate
Mike Anker
Contra Costa College
2600 Mission Bell Drive
San Pablo, CA 94806
Phone: (510) 235-7800 Ext. 4388
Fax: (510) 236-6768
E-mail: manker22@aol.com
manker@contracosta.cc.ca.us

Chief Human Resources Officers
Wayne Murphy
Assistant Chancellor, Human Resources
San Diego CCD
3375 Camino del Rio South
San Diego, CA 92108-3883
Phone: (619) 388-6589
Fax: (619) 388-6897
E-mail: wmurphy@sdccd.net

California School Employees Association
Evie Flowers
Payroll Supervisor
Kern CCD
2100 Chester Avenue
Bakersfield, CA 93301-4099
Phone: (661) 336-5113
Fax: (661) 336-5178
E-mail: eflowers@kccd.cc.ca.us

Faculty (Unions)
Dian Hasson
President
Community College Association
Post Office Box 41927
Sacramento, CA 95841-0927
Phone: (916) 726-4207 Ext. 114
Fax: (916) 726-4238
E-mail: hassondi@aol.com

Chief Student Services Officers
Dick Robertson
Vice President, Student Services
Mira Costa College
One Barnard Drive
Oceanside, CA 92056
Phone: (760) 795-6898
Fax: (760) 757-8208
E-mail: droberts@mcc.miracosta.cc.ca.us

Chancellor's Office
Ralph Black, General Counsel &
Interim Vice Chancellor for Human Resources
Chancellor's Office
1102 Q Street
Sacramento, CA
Phone: (916) 445-4826
Fax: (916) 322-2798
E-mail: rblack@cccco.edu

Affirmative Action, Diversity and Equity Consortium
Linda Jackson
Associate Director
Office of Affirmative Action
City College of San Francisco
50 Phelan Avenue, E200
San Francisco, CA 94112
Phone: (415) 241-2285
Fax: (415) 241-2203
E-mail: ljackson@ccsf.org

Chief Instructional Officers
Francisco Arce
Vice President of Academic Affairs
Diablo Valley College
321 Golf Club Road
Pleasant Hill, CA 94523
Phone: (925) 685-1230 Ext. 203
Fax: (925) 687-2527
E-mail: farce@dvc.edu

Mexican-American Legal Defense and Education Fund
Victor Viramontes
634 S. Spring Street
Los Angeles, CA 90014
Phone: (213) 629-2512 x 103
Fax: (213) 629-0266
E-mail: vviramontes@maldef.org

Chancellor's Office
Tosh Shikasho, Specialist
Chancellor's Office
1102 Q Street
Sacramento, CA 95814
Phone: (916) 323-4990
Fax: (916) 322-2798
E-mail: tshikash@cccco.edu

EQUITY AND DIVERSITY TASK FORCE REPORT

Realizing Our Commitment to Access and Success for All Students Through Student Equity, Equal Opportunity, Nondiscrimination and Workforce Diversity

OCTOBER 2002

Realizing Our Commitment to Access and Success for All Students Through Student Equity, Equal Opportunity, Nondiscrimination and Workforce Diversity

The California Community Colleges enjoy a tradition of equal access for all students. Our commitment to equity is both historic and ongoing, and embraces the goals of educational success and equal opportunity for all. At the beginning of the new century, it is critical to express these general goals in more specific terms to ensure that the system remains vibrant, responsive, and inclusive, and in all ways focused on educational accessibility and excellence for all our students.

I. Goals.

Our goals are:

A. To foster a climate of equal opportunity, educational excellence, and success for all students throughout the system; and to strengthen and expand the capacity of every officer and employee within the system to demonstrate a sensitivity to, and understanding of, the diversity of the students we serve. "Diversity" is to be understood as encompassing racial and ethnic diversity, as well as differences in gender, sexual orientation, academic preparation, socioeconomic circumstances, age, religion, and disabilities. By being sensitive to, and understanding of, the diversity of our students, we enable more of our students to succeed, and we improve the quality of education. It is in the interests of student success and educational quality that all candidates for employment demonstrate a sensitivity to, and understanding of, this wide range of diversity.

B. To foster a workforce that is diverse through equal employment opportunity for all, and through assuring that we do not discriminate unlawfully. Our workforce is open to all candidates, regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age, income level, socioeconomic status, prior hardship, or sexual orientation. Through a workforce that is diverse, we benefit students of all backgrounds by exposing them to different ideas, experiences, and worldviews. We thereby improve student success and educational quality.

C. To assist California in building a strong society and enabling it to become a successful multicultural democracy. The California Community Colleges are the gateway to higher education and workforce opportunity for the vast majority of Californians. The daily interactions of diverse students, faculty and staff, and the broader pursuit of higher education on our campuses, serve to break down fear, prejudice, and hate. Our students return to their communities with greater levels of understanding, appreciation, tolerance, and humanity. We thereby contribute to the strength of our society and our success as a multicultural democracy.

II. Orchestrated Effort at Both the System and Local Levels.

To achieve these goals we commit to an orchestrated effort at both the system and local levels.

A. At the **system level**, through the orchestrated efforts of the Chancellor's Office, the Community College Trustees Association, the Chief Executive Officers Organization, the statewide Academic Senate, the Association of Chief Human Resource Officers, the Equal Employment, Diversity and Equity Consortia, the Community College Public Relations Officers, the statewide Student Senate and other systemwide organizations, we will:

1. Provide technical advice, assistance, and training to local college districts on matters of student equity, equal employment opportunity, workforce diversity, and state and federal legal requirements.

2. Improve the *Community College Registry* by incorporating a common systemwide online application, with provisions for supplemental materials to be added by local districts; by establishing links to online tutorials about the California Community Colleges (CCC's) including tips on how to apply for positions, interviewing techniques, and related issues; and by incorporating a series of ads for key publications, such as the *Chronicle for Higher Education,* to promote teaching in the CCC's.

3. Develop a common systemwide employment application (with provisions for supplemental materials to be added by local districts), that provides for candidates to demonstrate in writing a sensitivity to, and understanding of, the diversity of the students served by California Community Colleges.

4. Develop and distribute a model Equal Employment Opportunity Plan and a Model Student Equity Plan.

5. Review and approve Equal Employment Opportunity Plans; and review and comment on Student Equity Plans.

6. Administer the Equal Employment Opportunity Fund.

7. Develop and sponsor legislation that will provide funds for scholarships, forgivable loan programs, and other incentives to enable community college students to complete Master's degrees, in return for committing to teach for a specific period in a California Community College.

8. Design a systemwide portable marketing and recruitment package for major national discipline conferences, such as the Modern Language Association (MLA), and create teams of faculty members from different community college districts to staff these efforts.

9. Conduct a single statewide job fair, and assist in the coordination of regional fairs to include recruitment at graduate schools for faculty intern positions.

10. Monitor and enforce state and federal statutes and regulations as assigned by law.

B. At the **local level,** through efforts of governing boards, chief executive officers, academic senates, administrators, classified staff organizations, and student organizations, we will:

1. Develop updated and strengthened Equal Employment opportunity Plans and Student Equity Plans. These plans are the means by which districts will focus their efforts and establish their commitments. The governing boards, as well as all campus and district organizations, staff and students must be involved in these planning efforts that focus on how to enable more of our students to meet their educational goals; how we can be more sensitive to, and understanding of, the diversity of our students; and how we can foster a workforce that is diverse through equal employment opportunity and nondiscrimination.

2. With respect to faculty positions, research and identify hiring criteria most likely to predict effectiveness on the job, defined as improving outcomes for all students.

3. In terms of evaluating candidates for employment, ensure that every stage includes an evaluation of the sensitivity to, and understanding of, the diversity of the students we serve. For the specific criteria to be used in this evaluation see the recommended policy on Sensitivity Hiring Criteria and Training Programs for Members of Hiring Committees.

4. Ensure that district employees who participate on screening or selection committees have appropriate training in the regulations of the Board of Governors; state and federal nondiscrimination laws; and a sensitivity to, and understanding of, the diversity of the students served by community colleges. As to the training of members of hiring committees, see the recommended policy on Sensitivity Hiring Criteria and Training Programs for Members of Hiring Committees.

5. Create scholarships, forgivable/conditional loan programs and other incentives to enable community college students to complete Master's degrees in return for committing to teach for a specified period of time in a California Community College.

6. Develop programs to encourage and support classified staff in meeting minimum qualifications for instruction.

7. Develop procedures to expand the diversity of part-time faculty and to provide mentors to assist part-time faculty to develop potential to fill full-time positions.

8. Increase outreach efforts with community-based agencies in a mutual exchange of services for example, a community college may provide services to agency clients, such as interviewing and resume-writing workshops, while the agency publicizes community college employment opportunities.

9. Market community college full and part-time teaching to K-12 teachers.

10. Establish relationships with city and county governments in order to participate in housing programs for faculty, staff, and administrators.

11. Form recruitment consortia with other educational institutions, such as the Northern California Bay Area Higher Education Recruitment Consortium (HERC).

12. Contact appropriate California State University administrators to identify programs and grants designed to recruit graduate students for part-time teaching.

13. Establish partnerships with private industry to identify potential part-time faculty in areas where instructor shortages exist.

III. Recommended Policies: Sensitivity Hiring Criteria and Training Programs for Members of Hiring Committees.

A. **Sensitivity Hiring Criteria.** The evaluation of sensitivity to, and understanding of our diverse students should be part of every stage of evaluating candidates for faculty, classified and administrator positions. In order for this qualification to be gauged during paper screening, questions about sensitivity to and understanding of diversity should be included in the application or supplementary questions. Candidates should be asked how this sensitivity and understanding are demonstrated in their personal background, education, and/or experience, and what special skills, knowledge or ideas about meeting the needs of diverse students they would bring to the college. The following methods are recommended to assess a candidate's understanding of, and sensitivity to, the diversity of community college students:

1. The evaluation of candidates according to their demonstrated ability to respond effectively to such issues of diversity as: academic preparation, culture, gender, race, ethnicity, sexual orientation, socioeconomic circumstances, and disability.

2. The evaluation of candidates according to their demonstrated experience in developing, or participating in, successful efforts to assist and encourage community college students and others like them in achieving their goals.

3. The recognition of proficiency in a language other than English, especially a language spoken by a significant portion of the student body.

4. The evaluation of experience in developing or participating in mentoring or cohort programs.

5. The recognition of the sensitivity of candidates who have been community college students and who have received financial aid, or participated in EOPS, DSPS, CalWORKs, or similar programs while they were students.

6. The evaluation of candidates' formal training or demonstrated ability to offer instruction that addresses a variety of learning styles.

B. **Training Program for Committee Members on Hiring Committees.** The training programs should:

1. Convey a sense of the educational, vocational, and social values to students and the campus community of a rich variety of backgrounds and perspectives among its members;

2. Reduce committee members' fear of cultural differences, and induce a positive appreciation of such differences;

3. Communicate clearly the legal and ethical injustice of discrimination based on cultural and racial difference, age, gender, religion, disability and other similar factors. The training should also illustrate the damage—social, socio-economic, and psychological—that has occurred as a result of discriminatory practices;

4. Communicate the importance of campuses becoming cultural models for students: that by providing and environment which honors diversity and is free of prejudice, the college/district can produce in students attitudes that will contribute to the elimination of bigotry in the larger community;

5. Provide committee members with specific strategies and techniques for promoting inclusiveness in job descriptions, advertising, paper screening, and interviews, as well as eliminating unintended exclusiveness; and,

6. Persuade committee members that good hiring practice demands reaching the broadest pool of potential candidates and hiring the candidate who will be the greatest asset to students and the campus community

Commitments

Those groups with direct responsibility for statewide or local policy development and administration are asked to formally adopt the commitments listed below. The Board of Governors invites and encourages other organizations to make formal and specific commitments about how they will contribute to the goals set forth above.

A. Board of Governors and Chancellor's Office

1. Assume primary responsibility for providing leadership in the system's commitment to equity and diversity, in monitoring the progress of the colleges, and in monitoring the progress of all constituencies in meeting their respective commitments. This will be done, in part, by placing this matter on the Board's Equity, Diversity, and Human Resources Committee agenda on a regular basis.

2. Provide advice and technical assistance to local college districts on matters of student equity, equal employment opportunity, workforce diversity, and state and federal legal requirements.

3. Develop a model Equal Employment Opportunity Plan and a model Student Equity Plan by January 2003 and distribute them to districts by February 2003. The Chancellor's Office will award a grant to a district that will develop a model Equal Employment Opportunity Plan. The Academic Senate will update the 1993 Academic Senate for California Community Colleges Document "Guidelines for Developing a Student Equity Plan," and will work with the Chancellor's Office in promoting and distributing the revised edition.

4. Review and approve district Equal Employment Opportunity Plans, and review and comment on district Student Equity Plans.

5. Administer the Equal Employment Opportunity Fund.

6. Develop (through Consultation) and sponsor legislation for 2003 that will provide funds for scholarships, forgivable loan programs, and other incentives to enable community college students to complete Master's degrees in return for committing to teach for a specified period in California Community Colleges.

7. Improve the Community College Registry by incorporating a common systemwide online application, with provisions for supplemental materials to be added by local districts; by establishing links to online tutorials about the California Community Colleges (CCC's) including tips on how to apply for positions, interviewing techniques, and related issues; and by incorporating a series of ads for key publications, such as the *Chronicle of Higher Education*, to promote teaching in the CCC's. The Chief Human Resources Officers will be responsible to develop the common application, and the other work regarding

improvements in the *Registry* will be done by the district grantee that runs the *Registry*.

B. **California Community College Trustees Association (CCCT)**

1. Encourage all district governing boards to make formal commitments, and exercise leadership to secure commitments from all districts

C. **Chief Executive Officers of the California Community Colleges (CEOCCC)**

1. Encourage all CEO's to make formal commitments, and exercise leadership to secure commitments from all districts

2. In conjunction with the Chancellor's Office, design and provide training for community college CEO's and trustees

D. **Academic Senate for California Community Colleges (ASCCC)**

1. Encourage every local academic senate to form a committee on hiring, and exercise leadership to secure commitments from all local senates.

2. Lead efforts to update by October 2002 the 1993 Academic Senate for California Community Colleges document "*Guidelines for Developing a Student Equity Plan*" and with the assistance of the Chancellor's Office promote and distribute the revised edition.

   Coordinate with: Chancellor's Office, Chief Executive Officers of California Community Colleges and Student Senate

3. Assist the Association of Chief Human Resource Officers to develop by December 2004 supplemental materials to integrate with a common systemwide online and paper application.

   Coordinate with: Chancellor's Office, Equal Employment and Diversity and Equity Consortium

4. Assist the Equal Employment, Diversity and Equity Consortium to design by October 2003 a systemwide portable marketing and recruitment package for major national discipline conferences, such as the Modern Language Association (MLA), and create teams of faculty members from different Community College Districts to staff the events.

   Coordinate with: Chancellor's Office

5. Assist local academic senates, throughout 2002-03 and beyond, in their efforts in the areas of equity and diversity, including the design and implementation of effective training programs for members of hiring committees.

Coordinate with: Local Academic Senates, Association of Chief Human Resource Officers

E. **Association of Chief Human Resource Officers (ACHRO)**

1. Lead efforts to develop by September 2004 a common employment application, with provisions for supplemental materials to be added by districts. The common application will provide for a written response to demonstrate sensitivity to, and understanding of, the diversity of students served by California Community Colleges.

Coordinate with: Chancellor's Office and Equal Employment, Diversity and Equity Consortium

2. Lead efforts to conduct a single statewide job fair by January 2004 (and annually thereafter), and assist in the coordination of regional fairs to include recruitment at graduate schools faculty intern positions.

Coordinate with: Chancellor's Office and Equal Employment, Diversity and Equity Consortium

3. Lead efforts to contact the appropriate California State University administrators by October 2003 to identify programs and grants designed to recruit graduate students for part-time teaching.

Coordinate with: Chancellor's Office and Equal Employment, Diversity and Equity Consortium

4. Lead efforts to develop by December 2004 supplemental materials to integrate with a common systemwide online and paper application.

Coordinate with: Chancellor's Office, Equal Employment, Diversity and Equity Consortium and the Academic Senate for California Community Colleges

F. **Equal Employment, Diversity and Equity Consortium (EEDEC)**

1. Lead efforts to design by October 2003 a systemwide portable marketing and recruitment package for major national discipline conferences, such as the Modern Language Association (MLA), and create teams of faculty members from different Community College Districts to staff the events.

Coordinate with: Chancellor's Office and the Academic Senate for California Community Colleges

2. Assist the Association of Chief Human Resource officers to develop by September 2004 a common employment application, with provisions for supplemental materials to be added by districts. The common application will provide for a written response to demonstrate sensitivity to, and understanding of, the diversity of students served by California Community Colleges.

Coordinate with: Chancellor's Office

3. Assist the Association of Chief Human Resource Officers to conduct a single statewide job fair by January 2004 (and annually thereafter), and assist in the coordination of regional fairs to include recruitment at graduate schools faculty intern positions.

Coordinate with: Chancellor's Office

4. Assist the Association of Chief Human Resource Officers to contact the appropriate California State University administrators by October 2003 to identify programs and grants designed to recruit graduate students for part-time teaching.

Coordinate with: Chancellor's Office

5. Assist the Association of Chief Human Resource Officers to develop by December 2004 supplemental materials to integrate with a common systemwide online and paper application.

Coordinate with: Chancellor's Office and the Academic Senate for California Community Colleges

G. Community College Public Relations Officers (CCPRO)

1. Lead efforts to design by November 2003 a series of ads for key publications, such as *The Chronicle of Higher Education*, to promote teaching in the California Community Colleges, slated to run periodically to coincide with job fairs and major discipline conferences, as well as the beginning of the year and in special editions.

Coordinate with: Chancellor's Office

2. Assist Local District and Chief Human Resource Officers to market community college full and part-time teaching to K-12 teachers by May 2003.

H. **Student Senate of the California Community Colleges (SSCCC)**

1. Assist the Academic Senate for California Community Colleges to update by October 2002 the 1993 Academic Senate for California Community Colleges document "*Guidelines for Developing a Student Equity Plan.*"

   Coordinate with: Chancellor's Office, and the Chief Executive Officers of California Community Colleges

I. **Local Governing Boards of Community College Districts**

1. Adopt an Equal Employment Opportunity Plan by March 2004

   Coordinate with: Chief Executive Officers, Local Academic Senates and all other district and college constituencies

2. Adopt a Student Equity Plan by March 2004.

   Coordinate with: Chief Executive Officers, Local Academic Senates, Local Student Senates and all other district and college constituencies

3. Support the efforts of Chief Executive Officers to create scholarships, forgivable/ conditional loan programs and other incentives to enable community college students to complete Master's degrees in return for committing to teach for a specified period of time in a California Community College by November 2003. Note: The ability to accomplish this objective is dependent on budgetary funding and/or legislation being pursued at the system level.

   Coordinate with: Chancellor's Office

4. Support the efforts of Chief Executive Officers to ensure that a regular program of training is commenced by April 2003 to Board members, and district faculty and staff regarding:

   a. How to effectively promote faculty and staff diversity, and student equity; and

   b. The latest changes to the diversity and equity statutes, regulations, and policies, including the Title 5 regulations on equal employment opportunity.

   Coordinate with: Local District and Chief Human Resource Officers, Local Academic Senates

5. Support the efforts of Chief Executive Officers to establish by March 2004 relationships with city and county governments in order to participate in housing programs for faculty, staff, and administrators.

Coordinate with: Local District and Chief Human Resource Officers

J. **Chief Executive Officers**

1. Lead efforts with Local Governing Boards to adopt an Equal Employment Opportunity Plan by March 2004.

Coordinate with: Local Academic Senates and all other district and college constituencies

2. Lead efforts with Local Governing Boards to adopt a Student Equity Plan by March 2004.

Coordinate with: Local Academic Senates, Local Student Senates and all other district and college constituencies

3. Lead efforts to create scholarships, forgivable/conditional loan programs and other incentives to enable community college students to complete master's degrees in return for committing to teach for a specified period of time in a California Community College by November 2003. Note: The ability to accomplish this objective is dependent on budgetary funding and/or legislation being pursued at the system level.

Coordinate with: Chancellor's Office and Local Governing Boards

4. Lead efforts to ensure that training is provided by April 2003 to Board members and district faculty and staff regarding:

   a. How to effectively promote faculty and staff diversity, and student equity; and

   b. The latest changes to the diversity and equity statutes, regulations, and policies, including the Title 5 regulations on equal employment opportunity.

Coordinate with: Local Governing Boards and Chief Human Resource Officers

5. Lead efforts to increase outreach efforts with community-based agencies in a mutual exchange of services (for example, a community college may provide services to agency clients such as interviewing and resume-writing workshops, while the agency publicizes Community College employment opportunities) by March 2004.

Coordinate with: Local District and Chief Human Resources Officers

6. Lead efforts to establish by March 2004 partnerships with private industry to identify potential part-time faculty in areas where instructor shortages exist.

   Coordinate with: Local District and Chief Human Resource Officers

7. Lead efforts to establish by March 2004 relationships with city and county governments in order to participate in housing programs for faculty, staff, and administrators.

   Coordinate with: Local Governing Boards, Chief Human Resource Officers

8. Support the efforts of Classified Staff Organizations to develop by September 2003 programs to encourage and support classified staff in meeting minimum qualifications for instruction.

   Coordinate with: Local Academic Senates

K. **Local Academic Senates**

1. Assist Local District and Chief Human Resource Officers to develop by July 2003 procedures to expand the diversity of part-time faculty and to provide mentors to assist part-time faculty to develop the potential to fill full-time positions.

2. Assist Chief Executive Officers with the development of an Equal Employment Opportunity Plan by March 2004.

   Coordinate with: All other district and college constituencies

3. Assist Chief Executive Officers with the development of a Student Equity Plan by March 2004.

   Coordinate with: Local Student Senates and all other district and college constituencies

4. Support the efforts of Classified Staff Organizations to develop by September 2003 programs to encourage and support classified staff in meeting minimum qualifications for instruction.

   Coordinate with: Chief Executive Officers

5. Assist Local District and Chief Human Resources Officers to develop, by April 2003, an effective training program for members of hiring committees.

   Coordinate with: Local Governing Boards, Chief Executive Officers and the Academic Senate for California Community Colleges

L. **Chief Human Resource Officers**

1. Lead efforts to form recruitment consortia with other educational institutions, such as the Northern California's Bay Area Higher Educating Recruitment Consortium (HERC) by February 2003.

2. Lead efforts to develop by July 2003 procedures to expand diversity of part-time faculty and provide mentors to assist part-time faculty to develop the potential to fill full-time positions.

   Coordinate with: Local Academic Senates

3. Lead efforts to market community college full and part-time teaching to K-12 teachers by May 2003, and thereafter.

   Coordinate with: Community College Public Relations Officers

4. Assist Chief Executive Officers to increase outreach efforts with community-based agencies in a mutual exchange of services (for example, a community college may provide services to agency clients such as interviewing and resume-writing workshops, while the agency publicizes community college employment opportunities) by March 2004.

5. Assist Chief Executive Officers to ensure that training is provided by April 2003 to Board members and district faculty and staff regarding:

   a. How to effectively promote faculty and staff diversity, and student equity; and

   b. The latest changes to the diversity and equity statutes, regulations, and policies, including the Title 5 regulations on equal employment opportunity.

   Coordinate with: Local Governing Boards

6. Assist Chief Executive Officers to establish by March 2004 partnerships with private industry to identify potential part-time faculty in areas where instructor shortages exist.

7. Assist Chief Executive Officers to establish by March 2004 relationships with city and county governments in order to participate in housing programs for faculty, staff, and administrators.

   Coordinate with: Local Governing Boards

M. **Classified Staff Organizations**

1. Lead efforts to develop by September 2003 programs to encourage and support classified staff in meeting minimum qualifications for instruction.

   Coordinate with: Chief Executive Officers

N. **Local Student Senates**

1. Assist Local Academic Senates with the development of a Student Equity Plan by March 2004.

   Coordinate with: Local Governing Boards, Chief Executive Officers and all other district and college constituencies

Board of Governors
California Community Colleges

MINUTES OF THE MEETING

November 12, 2002

Call to Order

President Richard Leib called the November 12, 2002, public session of the Board of Governors' meeting to order at 9:35 a.m.

Members Present

Desirree-Michelle Abshire
Annie R. Bird
George T. Caplan
Brian E. Conley
Antonia Hernandez
Julie Korenstein
Richard H. Leib
Irene M. Menegas
Patricia G. Siever
Catherine L. Unger
Leslie Wang

Members Absent

Amy B. Dean, *excused*
Melba Muscarolas, *excused*

Pledge of Allegiance

Patricia Siever led the Pledge of Allegiance.

Welcome

Dianne Van Hook, president of College of the Canyons, welcomed everyone to the meeting. She gave a brief history of the college and its role in fulfilling the community's needs.

President's Report

Richard Leib stated that he had the pleasure of meeting President Van Hook about a year ago and it was exciting to be on her campus.

Leib reported that this is his last meeting as president of the Board of Governors. He said he was appointed to the Board three years ago and this is his fourth campus visit, that he had been on wonderful visits to Modesto Junior College, Long Beach City College, and College of the Siskiyous, and that he wished campus visits could be done more frequently.

Leib reflected on how much he appreciates what the community colleges have to offer. He said that they are the heart and soul of the state. He has had the opportunity to work on many different issues that touch the lives of millions of Californians. He noted the bond measures as an example of how much the public truly supports community colleges.

Leib thanked Chancellor Nussbaum, his cabinet members, and staff for all the work they perform under difficult situations.

Leib stated that he had met with the Governor recently and Gray Davis said that he would be spending more time on community

llege issues over the next four years. Leib said Davis was grateful for fine Board members who have done an excellent job and that he will continue to try and resolve our difficult fiscal issues.

Patricia Siever stated that during his leadership, Leib has brought direction and humor, that it had been a pleasure being his vice president and that she has tremendous respect for him.

Chancellor's Report

Chancellor Thomas Nussbaum welcomed everyone to the meeting.

Nussbaum thanked Richard Leib for his outstanding leadership during a critical time in the history of the community colleges.

The chancellor thanked President Dianne Van Hook, Trustee Michelle Jenkins, and the College of the Canyons governing board for hosting the meeting. He also thanked the faculty, staff, and students at the college for welcoming the Board and Chancellor's Office staff.

Nussbaum stated that Van Hook spoke extensively about the importance of the Board of Governors and the system working together. He noted that Dr. Van Hook has been president of the chief executive officers and has been a leader in the system for many years. He said that, in 1994, Dianne was part of a restructuring of the Consultation Process, in which he worked with her closely, and that the success of the Consultation Process today is owed to the work that she gave to that group. He also noted that Philip Hartley is now the vice president at College of the Canyons, but was president of the Academic Senate during the time that AB 1725 was first implemented. He mentioned the rich history of system involvement at College of the Canyons and said that, as the Board of Governors tour the campus, he is sure they will feel the enthusiasm of the faculty, staff and students.

The chancellor reported that on Item 13, *Enforcement of Minimum Conditions for the Receipt of State Aid at the San Mateo County Community College District*, he would ask that the Board not take final action today, but provide him with direction. He said that the gravity of the possible remedies requires a full discussion with the representatives from the San Mateo Community College District.

Nussbaum stated that he is very pleased with the Proposition 47 election results and noted that 59 percent of the public voting for Proposition 47 is outstanding. He said that this is a higher number than on prior state bond acts and represents a real vote of confidence from the public.

Chancellor Nussbaum commended Executive Vice Chancellor Victoria Morrow and his senior staff for the manner in which they have dealt with the budget and staffing issues. He said that the morale in the Chancellor's Office remains high in spite of the possibility of major reductions. He said that the agency is struggling to be as thoughtful and careful as possible, and people have united to find more efficient ways of doing things and making the hard decisions. He said that he and his staff are doing everything they can to avoid harm to faculty, staff, students, and college services.

The chancellor reported that he attended the CalSAAC Conference in October and will attend its November 22 meeting to discuss support and funding for the Student Senate.

Resolutions
(Item 1)

Chancellor Nussbaum reported that resolutions had been prepared for Robert Moore, Pamila Fisher, Augustine Gallego, and Brenda Knight.

Nussbaum stated that the community college system is very blessed to have three of its leaders on the national scene–Pamila Fisher is chairing the American Association of Community Colleges, Augie Gallego is president of the American Council on Education, and Brenda Knight, the trustee at Peralta, is the chair of the Association of Community College Trustees in Washington D.C. He said, however, that Ms. Knight did not win her local election and he is not sure whether or not she will be able to continue in that post.

Venecia Metcalf accepted the resolution on behalf of Pamila Fisher, indicating that Dr. Fisher was preparing for her presentation for the Community College League of California and awaiting the arrival of her first grandchild.

Nussbaum stated that Robert Moore would be attending the Board meeting on Wednesday morning to accept his resolution.

Patricia Siever made a motion to approve the three resolutions. The motion was seconded by Julie Korenstein. The vote was unanimous.

Approval of the Minutes: September 9-10, 2002,
(Item 2)

President Leib asked Board members if there were any corrections or additions.

Patricia Siever had a question on a portion of Dymally's presentation.

Vera Weise, coordinator of the Board *Agenda*, said that Dymally's statement was taken directly from the meeting tape.

Irene Mengeas asked a question about the status of the Title 5 regulations on information competency and Chancellor Nussbaum said that discussions are continuing with the Department of Finance, but the issue has not been resolved.

Patricia Siever made a motion to approve the minutes. The motion was seconded by Irene Menegas. The vote was unanimous.

The Board moved into committee meetings at 10:15 a.m. The minutes of those meetings are located within the committee agendas.

Approval of Contracts and Grants
(Item 10) (Action Scheduled)

Robert Turnage, vice chancellor for Fiscal Policy, was available to answer questions. No concerns were raised.

Julie Korenstein made a motion to approve the contracts and grants. The motion was seconded by Patricia Siever. The vote was unanimous.

Approval of College Status for Folsom Lake Center, Los Rios Community College District
(Item 11) (Action Scheduled)

Robert Turnage, vice chancellor for Fiscal Policy, stated that the item was placed on the consent calendar at the Board's request.

Brian Conley made a motion to approve the item. The motion was seconded by Patricia Siever. The vote was unanimous.

Enforcement of Minimum Conditions for the Receipt of State Aid at the San Mateo County Community College District
(Item 13) (Action Scheduled)

Chancellor Thomas Nussbaum asked the delegation from the San Mateo Community College District to join General Counsel Ralph Black at the testimony table. The chancellor introduced the item by saying that it is primarily an opportunity for the Board of Governors to dialogue with the San Mateo County Community College District governing board representatives, to hear other points for view and then give him direction. He reemphasized his statement from the morning session that the Board is not being asked to take any final action with respect to this item. He advised that, since the Agenda had been prepared, he had received communication from three legislators, Senator Jackie Speier, Senator Byron Sher, and Assemblymember Joe Simitian. All expressed their concern about how any loss of funds would affect students of the San Mateo District. They also expressed their respect for the Board's processes. The chancellor said he had advised all three that he would inform the Board of their communications.

President Leib stated that he had received a number of letters from members of the community and would distribute them for Board members to review.

General Counsel Black stated that the Agenda item sets out the issues and facts of the case. In May of 2001, the San Mateo District Board of Trustees selected Mr. Ron Galatolo to serve as Superintendent/ President of the district after the previous chancellor had suddenly left. There was no external search nor did the district comply with the requirement for an interim hiring, which would have allowed all district employees that were qualified to apply for the position. The district did not notify the Chancellor's Office or its equal opportunity advisory committee that it intended to do an interim hire. Mr. Galatolo does not have a master's degree, and the Board did not make any determination that he had equivalent qualifications as is required by law. In January of 2002, the board offered Mr. Galatolo a four-year contact. Again, there was not an external search and district employees who were qualified for the position were not given an opportunity to apply. The district does not agree with staff's conclusion that it thereby violated the Board's minimum condition regulation, title 5, California Code of Regulations, section 53021. The district has rejected the Chancellor's Office proposed resolution that involved reopening of the position and also provided for monitoring and oversight of district hiring practices for a period of three years. Chancellor Nussbaum and staff met with and corresponded extensively with the district, as documented in the materials;

however, the parties have been unable to reach a resolution.

Black reviewed the district's arguments that it did not violate the minimum condition regulation because it asserts that the regulation was invalidated, along with the rest of the Board of Governors' faculty and staff diversity regulations, by the decision handed down by the District Court of Appeal in the *Connerly vs. the State Personnel Board* case in September of 2001. Chancellor's Office staff disagrees with this position for two reasons. First, the district hired Mr. Galatolo in May of 2001 several months before the court of appeal decision was handed down, at a time when the regulations were clearly still in place. Second, an analysis of the court's decision confirms that it did not invalidate the basic requirement of Section 53021 for open recruitment.

Richard Holober, president of the San Mateo County Community College District Board of Trustees (SMCCD), introduced Pat Millionich, member of the SMCCD board of trustees and immediate past president of the board; Miguel Marquez, Deputy County Counsel, San Mateo County; Barbara Christensen, director of governmental relations, SMCCD; Greg Wedner, counsel with the law firm of Losano, Smith; and Rosa Perez, president of Cañada College.

Holober distributed a binder of additional material to Board of Governors' members and stated that SMCCD takes its responsibility to uphold the law and the regulations of the Board of Governors very seriously and that, unfortunately, SMCCD's and the Chancellor's Office interpretation of the law are very divergent. Holober explained the circumstances surrounding the unexpected departure of the district's previous chancellor, which did not allow sufficient time for a full and deliberative recruitment process without the installation of a "caretaker" administrator for an interim one-year period. The SMCCD Board of Trustees reached the conclusion that, in view of number of new and innovative programs and projects underway in the district, it would appoint its current associate chancellor, Ron Galatolo, as interim chancellor. In considering the process for the employment of a permanent chancellor, the Board of Trustees sought and received legal advice from its legal counsel, the San Mateo County Counsel's Office, that it was not required to conduct a search. Thereafter, the Board of Trustees hired Mr. Galatolo in the permanent position in the belief that it was in the best interest of the district. The Academic Senate was consulted before the hire and chose not to take a position. Mr. Holober described the instant circumstances as atypical of previous executive hires in the district and as highly unlikely to reoccur.

Miguel Marquez, Deputy County Counsel, also addressed the Board of Governors to explain the basis for his office's legal advice to the San Mateo CCD Board of Trustees. He stated that the primary reason for the legal advice was the plain language of the Connerly decision, which said, in pertinent part "The Board of Governors regulations do not come close to implementing the hiring scheme in a constitutional manner." The binder provided to the Board contains a variety of passages from the *Connerly* decision to show the Board the language it was faced with when we looked at the question and provided advice to the Board of Trustees. It continues to be our view that when the statutes were invalidated, the regulations

at were enacted to implement that statu-ory scheme) were also invalidated, and that the district was prohibited from using these invalid regulations because they were found unconstitutional. Mr. Marquez read a portion of Government Code section 11342.2 to support the position that the regulation in question became invalid when the statute was found unconstitutional. It has been and is still the position of the County Counsel's Office that there was a regulatory void in the area at the time the district made its hiring decision.

Richard Holober explained that after the hiring of Mr. Galatolo, a faculty member filed a complaint with the Chancellor's Office. He stated that he and other district trustees, staff, County Counsel, Chancellor Nussbaum and his staff have attempted several times to resolve the matter. Holober indicated that the Board's binder contained a settlement proposed by the SMCCD in response to the resolution put forward by the Chancellor's Office. This settlement does not call for revocation of Mr. Galatolo's contract, nor does it provide for withholding of state funds. It provides for certain monitoring of district hiring processes by the Chancellor's Office. Holober urged the Board to adopt the district's proposal.

Mr. Holober stated that several newspaper articles were included in the Board's binder to inform it of the public nature of this issue in San Mateo County. As a result, there is much turmoil and uncertainty within the SMCCD. He would, therefore, appreciate a speedy resolution.

General Counsel Ralph Black said he would follow-up on several points made in the district's presentation. First of all, the regulations, as they existed before the *Connerly* decision, were based on a number of different statutes, including the Board's general authority under Education Code section 70901 to adopt any regulations it deems necessary for the proper operation of the Community College system. Historically, the regulations that the Board adopted predated the adoption of the Education Code sections that were challenged in *Connerly* lawsuit by three years. The regulations have always had independent statutory authority aside from the sections that were invalidated by the court. The Board's Agendas from May and July 2002 go into great detail on the other statutory authority that existed for those regulations. Secondly, he pointed out that there is a dispute between the Chancellor's Office and the district about exactly what the status of the law was after the court of appeal decision. The best guidance that the Board has for understanding what the state of the law was is the interpretation that the Superior Court gave when it had to interpret the court of appeal decision. The best guidepost in terms of understanding what the law was during that period of time between the *Connerly* decision and the adoption of the new regulations, is to look at the decision that Judge Connerly made about the scope of the court of appeal decision as explained earlier. He indicated that the regulations were not completely invalidated but only those portions that dealt with preferences were affected by the court of appeal decision and Section 53021 goes well beyond involving preferences. Its basic requirement is that you have open recruitment and that has nothing to do with preferences. The district could and should have engaged in open recruitments. Certainly we would not have expected them in January 2002 to do the kind of focused outreach that

the regulation required, which the court of appeal had found unconstitutional. The basic requirement to go out and do open recruitment still was in place and the Superior Court confirmed that. He refocused on the fact that the district first acted in May of 2001, before the *Connerly* decision occurred. Based on the arguments that the district has made about the legality of their action in January but there is certainly no doubt about what the law was in May of 2001. Black stated that he did not believe the district seriously addressed the legality of their actions in the first instance.

Board Member Korenstein requested and received confirmation that the Board would not be making a decision today. Korenstein asked Ralph Black to explain the requirement for a master's degree.

Black responded that the Education Code requires that all faculty and educational administrators possess a master's degree, or the board of trustees, at the time of hire, must make a determination that the individual has equivalent qualifications. The basis for their determination must be made on the record. This was not done by SMCCD in May 2001. In the January 2002 hiring, the Board of Trustees cited certain background that they believed gave Mr. Galatolo equivalent qualification, although it was unable to specifically identify what it relied on for the Chancellor's Office.

Richard Holober stated that the SMCCD made an equivalency determination when they made the permanent hiring. This was one of the allegations investigated by the state chancellor and the state chancellor concluded that there was no violation.

Member Korenstein asked if Mr. Galatolo had a contract with the district and how much it would cost to break the contact.

Mr. Holober confirmed that the district had a binding contract with Mr. Galatolo, which would cost several hundred thousand dollars to break.

There was a brief discussion of the issue of mediation suggested in Senator Speier's letter. Barbara Christensen of the SMCCD stated that a sticking point in settlement negotiations has been the requirement to reopen the chancellor's position.

Board Member George Caplan said that he believed that Chancellor's Office staff was correct in their interpretation of the effect of the *Connerly* decision on the Board's regulations, and that the district's actions violated the spirit and intent of the Board of Governors in promoting diversity. He further stated that he would, nevertheless, reserve judgment on an appropriate resolution, as he felt that withholding money from the district would in fact negatively impact the education of students.

Board member Hernandez also expressed dismay at the district's actions. She stated that she found it rather interesting that with all this public statements of the district's commitment to diversity when the very action that was taken avoided any process for an open hiring. In this situation, an exception is made and processes are not followed. She stated that she wished could see the facts—the data and figures that show if minimum requirements were waived for other individuals. She stated she too was reserving judgment. Her final comment was that it is not helpful for the community

olleges to be engaged in such a public debate. It doesn't do the whole system any good to be doing this.

Board Member Menegas thanked the district for its presentation and asked how the issue of minimum qualifications was addressed. She asked if the Board could receive a copy of the local equivalency process that was followed and the basis for the determination.

General Counsel Black stated that his office had the information the district provided about the equivalency determination that they made in January of 2002, and would provide it to her.

Barbara Christensen stated that the local equivalency process was also followed in the interim hire.

Board member Patricia Siever asked if the district had a hiring policy in board rule that was agreed upon with the Academic Senate, which is what the law requires.

There was discussion on the question between the members of the San Mateo group and President Holober stated that there definitely was a process for faculty equivalency in the district, however, it was not clear if there was a comparable policy for administrators. Holober said he would look into it and advise the Board.

Member Menegas asked President Holober if he felt that the district followed its own policies, and Holober responded that he did feel that the district followed its policies for this hire.

Board President Richard Leib stated that he had a few comments, less from a legal point of view than from a common sense and public policy point of view. The facts he has heard do not make a good case for the district's actions. He stated that it seemed that the district was arbitrary in its choice of evidence in the documents it provided to the Board and its position was not very strong. It is very clear in those documents that the Chancellor's Office advised that the requirement for broad recruitment efforts was not changed. He stated that he, too, would reserve judgment on a resolution of the matter, but that he felt that the Chancellor Nussbaum had made the right decision.

Board Member Brian Conley commented that from a trustee's viewpoint, this was a very strange and disappointing thing to happen in an educational system that holds the achievement of degrees so highly and tells its students how important degrees are.

Chancellor Nussbaum thanked the participants and said he felt this was a very healthy discussion. He stated that there was no doubt as to the sincerity of the parties and the conviction they feel in their statements and in the values expressed. It was also obvious that no one in the room wanted to take money away from the students of the SMCCD and that all want to find the right remedy. The chancellor said that he and his office would attempt to keep a dialogue open with the district in order to resolve the matter. He stated that this issue would be addressed again at the Board's January meeting and he is hopeful that he will be able to report a resolution before then.

Community College Governance: Reaffirmation of the Joint Statement of the Board of Governors and the Community College Trustees
(Item 12) (Action Scheduled)

Chancellor Thomas Nussbaum stated that this item comes from recent discussions with the community college trustees. He stated that there were statewide concerns that some of the Master Plan recommendations went against commitments made in the *Joint Governance Statement*. The chancellor therefore agreed to ask the Board to reaffirm its commitment to the *Joint Statement*.

This Board action is taken with the understanding that local boards of trustees also continue to support the principles set forth in the *Joint Statement*, and that they remain committed to working with the Board of Governors to support legislation that is consistent with these principles, and to oppose legislation that is inconsistent with these principles.

Public Testimony

Eddie Hernandez, Chancellor of the Rancho Santiago Community College District, spoke in support of the *Joint Statement* and urged the Board of Governors to approve it. He asked that the Board resist the temptation to micromanage, to give flexibility to local boards, and to look at the big picture. He emphasized the importance of regulations and that they be extremely clear.

Hernandez said that one of the issues that is *not* in the *Joint Statement* is a discussion of values and the issue of diversity, and how its richness in the state and population should be reflected in everything we do. He asked that the adherence to minimum principles and values be added to the *Joint Statement*. He also said that there should be consequences for the few districts that do not adhere to its policy.

Michele Jenkins, a member of the College of the Canyons Board of Trustees and second vice president of the California Community College Trustees Board of Directors, thanked the Board of Governors and Chancellor Nussbaum for the item. She stated that the CCCT is developing a paper similar to the one Antonia Hernandez earlier described on monitoring and follow-up of the diversity issue.

Patricia Siever made a motion to approve the item. The motion was seconded by Brian Conley. The vote was unanimous.

Adjournment

President Richard Leib recessed the meeting at 6:00 p.m.

MINUTES OF THE MEETING

November 12, 2002

Call to Order

President Richard Leib called the November 12, 2002, public session of the Board of Governors' meeting to order at 9:35 a.m.

Members Present

Desirree-Michelle Abshire
Annie R. Bird
George T. Caplan
Brian E. Conley
Antonia Hernandez
Julie Korenstein
Richard H. Leib
Irene M. Menegas
Patricia G. Siever
Catherine L. Unger
Leslie Wang

Members Absent

Amy B. Dean, *excused*
Melba Muscarolas, *excused*

Pledge of Allegiance

Patricia Siever led the Pledge of Allegiance.

Welcome

Dianne Van Hook, president of College of the Canyons, welcomed everyone to the meeting. She gave a brief history of the college and its role in fulfilling the community's needs.

President's Report

Richard Leib stated that he had the pleasure of meeting President Van Hook about a year ago and it was exciting to be on her campus.

Leib reported that this is his last meeting as president of the Board of Governors. He said he was appointed to the Board three years ago and this is his fourth campus visit, that he had been on wonderful visits to Modesto Junior College, Long Beach City College, and College of the Siskiyous, and that he wished campus visits could be done more frequently.

Leib reflected on how much he appreciates what the community colleges have to offer. He said that they are the heart and soul of the state. He has had the opportunity to work on many different issues that touch the lives of millions of Californians. He noted the bond measures as an example of how much the public truly supports community colleges.

Leib thanked Chancellor Nussbaum, his cabinet members, and staff for all the work they perform under difficult situations.

Leib stated that he had met with the Governor recently and Gray Davis said that he would be spending more time on community

ollege issues over the next four years. Leib said Davis was grateful for fine Board members who have done an excellent job and that he will continue to try and resolve our difficult fiscal issues.

Patricia Siever stated that during his leadership, Leib has brought direction and humor, that it had been a pleasure being his vice president and that she has tremendous respect for him.

Chancellor's Report

Chancellor Thomas Nussbaum welcomed everyone to the meeting.

Nussbaum thanked Richard Leib for his outstanding leadership during a critical time in the history of the community colleges.

The chancellor thanked President Dianne Van Hook, Trustee Michelle Jenkins, and the College of the Canyons governing board for hosting the meeting. He also thanked the faculty, staff, and students at the college for welcoming the Board and Chancellor's Office staff.

Nussbaum stated that Van Hook spoke extensively about the importance of the Board of Governors and the system working together. He noted that Dr. Van Hook has been president of the chief executive officers and has been a leader in the system for many years. He said that, in 1994, Dianne was part of a restructuring of the Consultation Process, in which he worked with her closely, and that the success of the Consultation Process today is owed to the work that she gave to that group. He also noted that Philip Hartley is now the vice president at College of the Canyons, but was president of the Academic Senate during the time that AB 1725 was first implemented. He mentioned the rich history of system involvement at College of the Canyons and said that, as the Board of Governors tour the campus, he is sure they will feel the enthusiasm of the faculty, staff and students.

The chancellor reported that on Item 13, *Enforcement of Minimum Conditions for the Receipt of State Aid at the San Mateo County Community College District*, he would ask that the Board not take final action today, but provide him with direction. He said that the gravity of the possible remedies requires a full discussion with the representatives from the San Mateo Community College District.

Nussbaum stated that he is very pleased with the Proposition 47 election results and noted that 59 percent of the public voting for Proposition 47 is outstanding. He said that this is a higher number than on prior state bond acts and represents a real vote of confidence from the public.

Chancellor Nussbaum commended Executive Vice Chancellor Victoria Morrow and his senior staff for the manner in which they have dealt with the budget and staffing issues. He said that the morale in the Chancellor's Office remains high in spite of the possibility of major reductions. He said that the agency is struggling to be as thoughtful and careful as possible, and people have united to find more efficient ways of doing things and making the hard decisions. He said that he and his staff are doing everything they can to avoid harm to faculty, staff, students, and college services.

The chancellor reported that he attended the CalSAAC Conference in October and will attend its November 22 meeting to discuss support and funding for the Student Senate.

Resolutions
(Item 1)

Chancellor Nussbaum reported that resolutions had been prepared for Robert Moore, Pamila Fisher, Augustine Gallego, and Brenda Knight.

Nussbaum stated that the community college system is very blessed to have three of its leaders on the national scene–Pamila Fisher is chairing the American Association of Community Colleges, Augie Gallego is president of the American Council on Education, and Brenda Knight, the trustee at Peralta, is the chair of the Association of Community College Trustees in Washington D.C. He said, however, that Ms. Knight did not win her local election and he is not sure whether or not she will be able to continue in that post.

Venecia Metcalf accepted the resolution on behalf of Pamila Fisher, indicating that Dr. Fisher was preparing for her presentation for the Community College League of California and awaiting the arrival of her first grandchild.

Nussbaum stated that Robert Moore would be attending the Board meeting on Wednesday morning to accept his resolution.

Patricia Siever made a motion to approve the three resolutions. The motion was seconded by Julie Korenstein. The vote was unanimous.

Approval of the Minutes: September 9-10, 2002,
(Item 2)

President Leib asked Board members if there were any corrections or additions.

Patricia Siever had a question on a portion of Dymally's presentation.

Vera Weise, coordinator of the Board *Agenda*, said that Dymally's statement was taken directly from the meeting tape.

Irene Mengeas asked a question about the status of the Title 5 regulations on information competency and Chancellor Nussbaum said that discussions are continuing with the Department of Finance, but the issue has not been resolved.

Patricia Siever made a motion to approve the minutes. The motion was seconded by Irene Menegas. The vote was unanimous.

The Board moved into committee meetings at 10:15 a.m. The minutes of those meetings are located within the committee agendas.

Approval of Contracts and Grants
(Item 10) (Action Scheduled)

Robert Turnage, vice chancellor for Fiscal Policy, was available to answer questions. No concerns were raised.

Julie Korenstein made a motion to approve the contracts and grants. The motion was seconded by Patricia Siever. The vote was unanimous.

pproval of College Status for Folsom Lake Center, Los Rios Community College District
(Item 11) (Action Scheduled)

Robert Turnage, vice chancellor for Fiscal Policy, stated that the item was placed on the consent calendar at the Board's request.

Brian Conley made a motion to approve the item. The motion was seconded by Patricia Siever. The vote was unanimous.

Enforcement of Minimum Conditions for the Receipt of State Aid at the San Mateo County Community College District
(Item 13) (Action Scheduled)

Chancellor Thomas Nussbaum asked the delegation from the San Mateo Community College District to join General Counsel Ralph Black at the testimony table. The chancellor introduced the item by saying that it is primarily an opportunity for the Board of Governors to dialogue with the San Mateo County Community College District governing board representatives, to hear other points for view and then give him direction. He reemphasized his statement from the morning session that the Board is not being asked to take any final action with respect to this item. He advised that, since the Agenda had been prepared, he had received communication from three legislators, Senator Jackie Speier, Senator Byron Sher, and Assemblymember Joe Simitian. All expressed their concern about how any loss of funds would affect students of the San Mateo District. They also expressed their respect for the Board's processes. The chancellor said he had advised all three that he would inform the Board of their communications.

President Leib stated that he had received a number of letters from members of the community and would distribute them for Board members to review.

General Counsel Black stated that the Agenda item sets out the issues and facts of the case. In May of 2001, the San Mateo District Board of Trustees selected Mr. Ron Galatolo to serve as Superintendent/ President of the district after the previous chancellor had suddenly left. There was no external search nor did the district comply with the requirement for an interim hiring, which would have allowed all district employees that were qualified to apply for the position. The district did not notify the Chancellor's Office or its equal opportunity advisory committee that it intended to do an interim hire. Mr. Galatolo does not have a master's degree, and the Board did not make any determination that he had equivalent qualifications as is required by law. In January of 2002, the board offered Mr. Galatolo a four-year contact. Again, there was not an external search and district employees who were qualified for the position were not given an opportunity to apply. The district does not agree with staff's conclusion that it thereby violated the Board's minimum condition regulation, title 5, California Code of Regulations, section 53021. The district has rejected the Chancellor's Office proposed resolution that involved reopening of the position and also provided for monitoring and oversight of district hiring practices for a period of three years. Chancellor Nussbaum and staff met with and corresponded extensively with the district, as documented in the materials;

however, the parties have been unable to reach a resolution.

Black reviewed the district's arguments that it did not violate the minimum condition regulation because it asserts that the regulation was invalidated, along with the rest of the Board of Governors' faculty and staff diversity regulations, by the decision handed down by the District Court of Appeal in the *Connerly vs. the State Personnel Board* case in September of 2001. Chancellor's Office staff disagrees with this position for two reasons. First, the district hired Mr. Galatolo in May of 2001 several months before the court of appeal decision was handed down, at a time when the regulations were clearly still in place. Second, an analysis of the court's decision confirms that it did not invalidate the basic requirement of Section 53021 for open recruitment.

Richard Holober, president of the San Mateo County Community College District Board of Trustees (SMCCD), introduced Pat Millionich, member of the SMCCD board of trustees and immediate past president of the board; Miguel Marquez, Deputy County Counsel, San Mateo County; Barbara Christensen, director of governmental relations, SMCCD; Greg Wedner, counsel with the law firm of Losano, Smith; and Rosa Perez, president of Cañada College.

Holober distributed a binder of additional material to Board of Governors' members and stated that SMCCD takes its responsibility to uphold the law and the regulations of the Board of Governors very seriously and that, unfortunately, SMCCD's and the Chancellor's Office interpretation of the law are very divergent. Holober explained the circumstances surrounding the unexpected departure of the district's previous chancellor, which did not allow sufficient time for a full and deliberative recruitment process without the installation of a "caretaker" administrator for an interim one-year period. The SMCCD Board of Trustees reached the conclusion that, in view of number of new and innovative programs and projects underway in the district, it would appoint its current associate chancellor, Ron Galatolo, as interim chancellor. In considering the process for the employment of a permanent chancellor, the Board of Trustees sought and received legal advice from its legal counsel, the San Mateo County Counsel's Office, that it was not required to conduct a search. Thereafter, the Board of Trustees hired Mr. Galatolo in the permanent position in the belief that it was in the best interest of the district. The Academic Senate was consulted before the hire and chose not to take a position. Mr. Holober described the instant circumstances as atypical of previous executive hires in the district and as highly unlikely to reoccur.

Miguel Marquez, Deputy County Counsel, also addressed the Board of Governors to explain the basis for his office's legal advice to the San Mateo CCD Board of Trustees. He stated that the primary reason for the legal advice was the plain language of the Connerly decision, which said, in pertinent part "The Board of Governors regulations do not come close to implementing the hiring scheme in a constitutional manner." The binder provided to the Board contains a variety of passages from the *Connerly* decision to show the Board the language it was faced with when we looked at the question and provided advice to the Board of Trustees. It continues to be our view that when the statutes were invalidated, the regulations

that were enacted to implement that statutory scheme) were also invalidated, and that the district was prohibited from using these invalid regulations because they were found unconstitutional. Mr. Marquez read a portion of Government Code section 11342.2 to support the position that the regulation in question became invalid when the statute was found unconstitutional. It has been and is still the position of the County Counsel's Office that there was a regulatory void in the area at the time the district made its hiring decision.

Richard Holober explained that after the hiring of Mr. Galatolo, a faculty member filed a complaint with the Chancellor's Office. He stated that he and other district trustees, staff, County Counsel, Chancellor Nussbaum and his staff have attempted several times to resolve the matter. Holober indicated that the Board's binder contained a settlement proposed by the SMCCD in response to the resolution put forward by the Chancellor's Office. This settlement does not call for revocation of Mr. Galatolo's contract, nor does it provide for withholding of state funds. It provides for certain monitoring of district hiring processes by the Chancellor's Office. Holober urged the Board to adopt the district's proposal.

Mr. Holober stated that several newspaper articles were included in the Board's binder to inform it of the public nature of this issue in San Mateo County. As a result, there is much turmoil and uncertainty within the SMCCD. He would, therefore, appreciate a speedy resolution.

General Counsel Ralph Black said he would follow-up on several points made in the district's presentation. First of all, the regulations, as they existed before the *Connerly* decision, were based on a number of different statutes, including the Board's general authority under Education Code section 70901 to adopt any regulations it deems necessary for the proper operation of the Community College system. Historically, the regulations that the Board adopted predated the adoption of the Education Code sections that were challenged in *Connerly* lawsuit by three years. The regulations have always had independent statutory authority aside from the sections that were invalidated by the court. The Board's Agendas from May and July 2002 go into great detail on the other statutory authority that existed for those regulations. Secondly, he pointed out that there is a dispute between the Chancellor's Office and the district about exactly what the status of the law was after the court of appeal decision. The best guidance that the Board has for understanding what the state of the law was is the interpretation that the Superior Court gave when it had to interpret the court of appeal decision. The best guidepost in terms of understanding what the law was during that period of time between the *Connerly* decision and the adoption of the new regulations, is to look at the decision that Judge Connerly made about the scope of the court of appeal decision as explained earlier. He indicated that the regulations were not completely invalidated but only those portions that dealt with preferences were affected by the court of appeal decision and Section 53021 goes well beyond involving preferences. Its basic requirement is that you have open recruitment and that has nothing to do with preferences. The district could and should have engaged in open recruitments. Certainly we would not have expected them in January 2002 to do the kind of focused outreach that

the regulation required, which the court of appeal had found unconstitutional. The basic requirement to go out and do open recruitment still was in place and the Superior Court confirmed that. He refocused on the fact that the district first acted in May of 2001, before the *Connerly* decision occurred. Based on the arguments that the district has made about the legality of their action in January but there is certainly no doubt about what the law was in May of 2001. Black stated that he did not believe the district seriously addressed the legality of their actions in the first instance.

Board Member Korenstein requested and received confirmation that the Board would not be making a decision today. Korenstein asked Ralph Black to explain the requirement for a master's degree.

Black responded that the Education Code requires that all faculty and educational administrators possess a master's degree, or the board of trustees, at the time of hire, must make a determination that the individual has equivalent qualifications. The basis for their determination must be made on the record. This was not done by SMCCD in May 2001. In the January 2002 hiring, the Board of Trustees cited certain background that they believed gave Mr. Galatolo equivalent qualification, although it was unable to specifically identify what it relied on for the Chancellor's Office.

Richard Holober stated that the SMCCD made an equivalency determination when they made the permanent hiring. This was one of the allegations investigated by the state chancellor and the state chancellor concluded that there was no violation.

Member Korenstein asked if Mr. Galatolo had a contract with the district and how much it would cost to break the contact.

Mr. Holober confirmed that the district had a binding contract with Mr. Galatolo, which would cost several hundred thousand dollars to break.

There was a brief discussion of the issue of mediation suggested in Senator Speier's letter. Barbara Christensen of the SMCCD stated that a sticking point in settlement negotiations has been the requirement to reopen the chancellor's position.

Board Member George Caplan said that he believed that Chancellor's Office staff was correct in their interpretation of the effect of the *Connerly* decision on the Board's regulations, and that the district's actions violated the spirit and intent of the Board of Governors in promoting diversity. He further stated that he would, nevertheless, reserve judgment on an appropriate resolution, as he felt that withholding money from the district would in fact negatively impact the education of students.

Board member Hernandez also expressed dismay at the district's actions. She stated that she found it rather interesting that with all this public statements of the district's commitment to diversity when the very action that was taken avoided any process for an open hiring. In this situation, an exception is made and processes are not followed. She stated that she wished could see the facts—the data and figures that show if minimum requirements were waived for other individuals. She stated she too was reserving judgment. Her final comment was that it is not helpful for the community

olleges to be engaged in such a public debate. It doesn't do the whole system any good to be doing this.

Board Member Menegas thanked the district for its presentation and asked how the issue of minimum qualifications was addressed. She asked if the Board could receive a copy of the local equivalency process that was followed and the basis for the determination.

General Counsel Black stated that his office had the information the district provided about the equivalency determination that they made in January of 2002, and would provide it to her.

Barbara Christensen stated that the local equivalency process was also followed in the interim hire.

Board member Patricia Siever asked if the district had a hiring policy in board rule that was agreed upon with the Academic Senate, which is what the law requires.

There was discussion on the question between the members of the San Mateo group and President Holober stated that there definitely was a process for faculty equivalency in the district, however, it was not clear if there was a comparable policy for administrators. Holober said he would look into it and advise the Board.

Member Menegas asked President Holober if he felt that the district followed its own policies, and Holober responded that he did feel that the district followed its policies for this hire.

Board President Richard Leib stated that he had a few comments, less from a legal point of view than from a common sense and public policy point of view. The facts he has heard do not make a good case for the district's actions. He stated that it seemed that the district was arbitrary in its choice of evidence in the documents it provided to the Board and its position was not very strong. It is very clear in those documents that the Chancellor's Office advised that the requirement for broad recruitment efforts was not changed. He stated that he, too, would reserve judgment on a resolution of the matter, but that he felt that the Chancellor Nussbaum had made the right decision.

Board Member Brian Conley commented that from a trustee's viewpoint, this was a very strange and disappointing thing to happen in an educational system that holds the achievement of degrees so highly and tells its students how important degrees are.

Chancellor Nussbaum thanked the participants and said he felt this was a very healthy discussion. He stated that there was no doubt as to the sincerity of the parties and the conviction they feel in their statements and in the values expressed. It was also obvious that no one in the room wanted to take money away from the students of the SMCCD and that all want to find the right remedy. The chancellor said that he and his office would attempt to keep a dialogue open with the district in order to resolve the matter. He stated that this issue would be addressed again at the Board's January meeting and he is hopeful that he will be able to report a resolution before then.

Community College Governance: Reaffirmation of the Joint Statement of the Board of Governors and the Community College Trustees
(Item 12) (Action Scheduled)

Chancellor Thomas Nussbaum stated that this item comes from recent discussions with the community college trustees. He stated that there were statewide concerns that some of the Master Plan recommendations went against commitments made in the *Joint Governance Statement*. The chancellor therefore agreed to ask the Board to reaffirm its commitment to the *Joint Statement*.

This Board action is taken with the understanding that local boards of trustees also continue to support the principles set forth in the *Joint Statement*, and that they remain committed to working with the Board of Governors to support legislation that is consistent with these principles, and to oppose legislation that is inconsistent with these principles.

Public Testimony

Eddie Hernandez, Chancellor of the Rancho Santiago Community College District, spoke in support of the *Joint Statement* and urged the Board of Governors to approve it. He asked that the Board resist the temptation to micromanage, to give flexibility to local boards, and to look at the big picture. He emphasized the importance of regulations and that they be extremely clear.

Hernandez said that one of the issues that is *not* in the *Joint Statement* is a discussion of values and the issue of diversity, and how its richness in the state and population should be reflected in everything we do. He asked that the adherence to minimum principles and values be added to the *Joint Statement*. He also said that there should be consequences for the few districts that do not adhere to its policy.

Michele Jenkins, a member of the College of the Canyons Board of Trustees and second vice president of the California Community College Trustees Board of Directors, thanked the Board of Governors and Chancellor Nussbaum for the item. She stated that the CCCT is developing a paper similar to the one Antonia Hernandez earlier described on monitoring and follow-up of the diversity issue.

Patricia Siever made a motion to approve the item. The motion was seconded by Brian Conley. The vote was unanimous.

Adjournment

President Richard Leib recessed the meeting at 6:00 p.m.

ATTACHMENT I

Description of Grant Programs Administered by the Chancellor's Office

(Last Revised 10/9/02)

The following is a description of every program under which the Chancellor's Office awards one or more grants to community college districts. This document does not include programs which distribute funding solely through the apportionment process where no grants are involved.

Academic Senate

The 2002-2003 Budget Act appropriates $497,000 for the Academic Senate in Schedule (13). The monies are allocated to the Academic Senate for California Community Colleges via noncompetitive grant. (Noncompetitive grant.)

AmeriCorps

The 2002-2003 Budget Act appropriates $4,079,000 for the AmeriCorps Program in item 6870-111-0001, Schedule (1.5). The following competitive grants are awarded from this amount:[1]

- The Corporation for National Service through the Governor's Office on Service and Volunteerism (Go-Serv) provides continuing and new campuses with $1,758,251 to implement the California Community College Early Childhood Education Literacy Project. (Competitive.)

- The Corporation for National Service through the Governor's Office on Service and Volunteerism (Go-Serv) provides continuing and new campuses with $356,065 to implement the California Community College Foster Youth Mentoring Project. (Competitive.)

- The Corporation for National Service through the Governor's Office on Service and Volunteerism (Go-Serv) provides continuing and new campuses with $966,241 as Supplemental federal funds for recipients of Teacher and Reading Development Partnership grants. (Competitive.)

[1] The funds appropriated in the Budget Act are based on Department of Finance estimates. The actual amounts received from the federal government may exceed the total grant amount.

Disabled Students Programs and Services

The 2002-2003 Budget Act appropriates $83,608,000 for Disabled Students Programs and Services (DSPS) in Schedule (8). Authority for the DSPS program is found in Education Code section 84850. The majority of these funds are allocated to districts based on a board approved allocation formula. However, Education Code section 84850(e) provides that up to 3 percent of the funds may be used for program development and program accountability functions. This work has, for many years, been handled through a non-competitive grant to the Yosemite CCD. For 2002-03 the amount of this grant is $832,025. (Non-competitive grant**.)

In addition, the 2002-2003 Budget Act provides for the following:

- $597,000 for a statewide Alternate Text Production Center. (Competitive***.)
- $943,000 for the High Tech Training Center Unit. (Competitive***.)

Economic Development

The 2002-2003 Budget Act appropriates $40,322,000 for Economic Development Program Centers in Schedule (22). Authority for this item is found in Education Code section 88500 et seq. and the 2002-2003 Budget Act, the latter of which further divides and allocates the $40,322,000 as follows:

- no more than $17,536,000 for grants for regional business resources assistance and innovation Network Centers. (70% competitive, 30% allocation.)
- no less than $7,537,000 for competitive grants for Industry Driven Regional Education and Training Collaboratives. (Competitive.)
- no more than $4,149,000 for statewide network leadership, organizational development, coordination, information and support services, or other program purposes. (Competitive.)
- $5 million shall be available for Job Development Incentive Training programs focused on job creation for public assistance recipients. (Competitive.)
- $2.1 million shall be allocated for Mexican International Trade Centers operated consistent with the requirements of subdivision (a) of ch. 959, Statutes of 1999. (Noncompetitive grant.)
- $4 million enrollment growth funds for nursing programs. (Allocation.)

Extended Opportunity Programs and Services

The 2002-2003 Budget Act appropriates $96,065,000 for Extended Opportunity Programs and Services in Schedule (6). Authority for this item is found in Education Code section 69640 et seq. Virtually all of this funding is distributed pursuant to a Board-approved allocation formula, but Education Code section 69648.5 authorizes the Chancellor to use up to one percent of these funds for program accountability and evaluation purposes. For many years, this has been handled through a noncompetitive grant to the Pasadena CCD. For 2002-03 the amount of this grant is $330,510. (Noncompetitive grant**.)

Faculty and Staff Diversity

The 2002-2003 Budget Act, Schedule (14) appropriates $1,859,000 for the Faculty and Staff Diversity Fund. Most of this amount is allocated to districts through a Board-approved allocation formula to cover the costs of extended outreach and recruitment of underrepresented groups, for in-service training and for other related staff diversity programs. Education Code § 87107 does, however, authorize the Chancellor to use a portion of this fund to carry out the assistance, service, monitoring, and compliance function specified in section 87104 as follows for 2002-2003:

- $350,000 will be used to contract with Yosemite to operate the Faculty and Staff Diversity Registry, a database of individuals interested in community college employment. (Competitive.)

- $84,240 for a grant to Ventura to fund diversity training and technical assistance teams. (Noncompetitive grant****.)

- $38,324 for a grant to Sierra to develop a statewide model Equal Employment Opportunity Plan. (Noncompetitive grant****.)

Fund for Instructional Improvement

The 2002-2003 Budget Act appropriates $1,630,000 for revolving loan and direct grant programs for Instructional Improvement in Schedule (20). Authority for this item is found in Education Code section 84381. The funds support improvements in curriculum, alternative educational programs, and services within or on behalf of the California Community Colleges. (Competitive.)

Fund for Student Success

The 2002-2003 Budget Act appropriates $6,233,000 for the Fund for Student Success, which is actually an aggregation of various smaller funds now combined in Schedule (21) and may be summarized as follows:

- $1,944,000 for Puente if matched by $200,000 of private funds. (Noncompetitive contract**.)
- $2,489,000 for MESA/MEP Programs, with a dollar for dollar match required. (Standing Order 319 requires new awards to be made based on competition, but districts may receive renewal funding on an ongoing basis pursuant to an exception provided for in subdivision (f) of the Standing Order.)
- No less than $1.8 million for maintaining middle college high school programs. (Standing Order 319 requires new awards to be made based on competition, but districts may receive renewal funding on an ongoing basis pursuant to an exception provided for in subdivision (f) of the Standing Order.)

Hazardous Substances

The 2002-2003 Budget Act appropriates $8,000,000 for abatement of Hazardous Substances in Schedule (26). Authority for this item is found only in the Budget Act. (Competitive*.)

Matriculation

The 2002-2003 Budget Act appropriates $54, 307,000 for Matriculation in Schedule (12). Authority for this item is found in Education Code sections 78210 et seq. Most of this funding is distributed based on a Board-approved allocation formula. However, of the amount appropriated in Schedule (12), 15.64 percent is earmarked for districts on a one-to-one matching basis to provide matriculation services for students enrolled in noncredit classes and programs who may benefit most. In addition, Education Code section 78216 authorizes the Chancellor to use up to five percent of the funding to coordinate statewide program development and evaluation activities. This has, for many years, been handled through a noncompetitive grant to the Pasadena CCD. In 2002-2003 the amount of this grant was $575,300. (Noncompetitive grant**.)

Scheduled Maintenance

The 2002-2003 Budget Act provides $31,752,000 for Scheduled Maintenance in Schedule (24) and in item 6870-485 reappropriates $17, 248,000 from the Proposition 98 Reversion Account. Authority for Scheduled Maintenance is found in Education Code section 84660 et seq. A recipient district must certify that it will increase its operations and maintenance spending from 95/96 levels by the grant amount and match every state dollar with a dollar of local funds. (Competitive*.)

Teacher and Reading Development Partnership

The 2002-2003 Budget Act provides $5 million in Schedule (7) for Teacher and Reading Development Partnership grants. Authority for this item is found only in the Budget Act. Funds are awarded via competitive grants. (Competitive*.)

Telecommunications and Technology Infrastructure

The 2002-2003 Budget Act appropriates $24,500,000 for Telecommunications and Technology Infrastructure in Schedule (18). Authority for this item is found only in the Budget Act. The 2002-2003 Budget Act provides the following amounts:

- $12.5 million for allocations to all districts.
- $12 million awarded via competitive grants for supporting technical and application innovations and for coordination of activities which includes the following:
  - not more than $10 million for regional coordination for technical assistance and planning, cooperative purchase agreements, and faculty and staff development, of which:
  - $4 million is intended to fund the segment's share of upgrading the 4C Net backbone from an OC-3 to an OC-12 Network and shall be matched dollar for dollar by the CSU.
  - $2 million or as much as necessary for a statewide digital uplink.

Transfer Education Articulation

The 2002-2003 Budget Act appropriates $1,974,000 for Transfer Education Articulation in Schedule (23). Authority for this item is found in Education Code sections 66730 et seq. and the Budget Act. The 2002-2003 Budget Act further divides the fund as follows:

- $589,000 for PROJECT ASSIST (Noncompetitive contract**.)
- $835,000 for California Articulation Number (CAN) system through FY 2004-05 (Noncompetitive contract**.)
- $550,000 for Impact faculty articulation workshops (Competitive.)

Virtual University

The 2002-2003 Budget Act appropriates $2.9 million for the Virtual University in Schedule (19). Authority for this item is found only in the Budget Act. (competitive*)

Vocational and Technical Education

The authority for this federal grant program is the Carl D. Perkins Vocational and Technical Education Act of 1998. Federal funding is through an interagency agreement with the California Department of Education. For fiscal year 2002-2003:

Title I, Part C, Section 131/134, $38,489,258
(allocated to districts based on a federally mandated formula).

Title II: Tech Prep Education $8,101,021 (allocated).

Title I, Part B, Section 124, $5,930,104 (competitive).

---

*Competitive grants are not required by law, but established as the distribution method pursuant to Standing Order 319.
**Noncompetitive contract pursuant to Public Contract Code section 10340 or noncompetitive grant pursuant to Standing Order 319(d)(2).
***Standing Order 319(d)(2) permits certain types of grants to be awarded noncompetitively, but there are instances where the Chancellor decides to conduct competition even though not required to do so.
****Standing Order 319(d)(3) permits the Chancellor, under specific circumstances that limit competition, and in consultation with the President of the Board and Chairperson of the appropriate committee of the Board of Governors to award grants noncompetitively.

ATTACHMENT II

Standing Orders 318 And 319 of the Board of Governors

318. Contracts.

(a) Except as provided in subsection (b), whenever the power to contract is invested in the Board, or when, in the judgment of the Chancellor, such contracts are expressly or impliedly authorized to fulfill responsibilities or authorities vested in the Office of the Chancellor, the Chancellor is authorized in the name of the Board of Governors to enter into such contracts.

(b) The Chancellor shall secure Board approval before entering into any contract:

(1) In excess of $100,000; or

(2) Over three years in duration; or

(3) With respect to consulting services, in excess of $50,000.

The requirement for Board approval shall apply to any amendment of a contract which results in the original contract exceeding the specified limits, as well as the amendment of a contract where the amendment itself exceeds the specified limits. Under circumstances when the need to contract was not foreseeable, and when delaying approval of the contract until the next Board meeting would jeopardize the contract or frustrate its purpose, the Chancellor shall have the authority to enter into contracts in excess of the limits specified in this subsection. Before entering into such contracts, however, the Chancellor shall consult with the President of the Board.

(c) In securing the approval of contracts by the Board pursuant to subsection (b), the Chancellor shall apply the following procedures:

(1) In determining the nature, extent and need for any such contract, the Chancellor shall provide a summary of the Request for Proposal (RFP), Invitation for Bid (IFB), or other summary of the purpose and need for a contract to the Board of Governors prior to publicly releasing any such RFP or IFB, or prior to making any informal commitment to contract. The Chancellor may proceed with the release of the RFP, IFB, or other contract negotiations, unless the Board President, with or without the advice of any appropriate Board Committee designated by the President, directs the Chancellor to withhold action within a 10 day period from the date the summary is provided.

(2) In developing language for such contracts, the Chancellor shall include a provision which allows any aggrieved bidder on an RFP or IFB to protest the awarding of a contract to the Chancellor. The Chancellor shall inform the Board of any such protests, including the results of such protests. This remedy shall be in addition to the bidder's right to protest the matter to the Department of General Services.

(3) The Chancellor shall ensure that each panel of evaluators who score proposals is made up of staff from more that one division in the Chancellor's Office, including outside evaluators as appropriate; and the Chancellor shall take such other steps as necessary to ensure that evaluations and scoring are objective and fair.

(4) In requesting approval of said contracts, the Chancellor shall, at the time of distributing each regular meeting agenda to the Board of Governors, include a summary of contracts for

Board approval. The summary for each contract shall indicate: the purpose of the contract; the amount of the contract; the time for performance of the contract, including whether it was advertised as a multi-year contract; the number of proposals received or whether the contract is a sole source contract; the number of proposals which met the minimum score for cost opening; and the party awarded the contract.

The provisions of subparagraphs (1) through (3) above shall not apply to interagency agreements with other state agencies, and other agreements necessary for the agency to receive public funds.

(d) The authorization contained in subsection (a) includes agreements, leases, contracts, and other documents, including but not limited to: service agreements, insurance agreements, fiscal, budgetary, and personnel documents, travel requests, contracts for the purchase of apparatus, furniture, equipment, supplies and books, as well as contracts entered into as necessary to receive federal funds allocated to the California Community Colleges, all within the limits of fiscal ability and sound budgetary controls and subject to such policies as may be established by the Board. (EC § 70901(b)(5).)

319. Grants.

(a) Except as provided in subsection (b), whenever the power to enter into a grant is invested in the Board, or when, in the judgment of the Chancellor, a grant is expressly or impliedly authorized to fulfill responsibilities or authorities vested in the Office of the Chancellor, the Chancellor shall have the authority to enter into such grants.

(b) The Chancellor shall secure Board approval before entering into any grant:

(1) In excess of $100,000; or

(2) Over three years in duration; or

The requirement for Board approval shall apply to any amendment of a grant which results in the original grant exceeding the specified limits, as well as the amendment of a grant where the amendment itself exceeds the specified limits Under circumstances when the need to enter into a grant was not foreseeable, and when delaying approval of the grant until the next Board meeting would jeopardize the grant or frustrate its purpose, the Chancellor shall have the authority to enter into grants in excess of the limits specified in this subsection. Before entering into such grants, however, the Chancellor shall consult with the President of the Board.

(c) Prior to submitting grants to the Board for approval pursuant to subsection (b), the Chancellor shall either:

(1) present to the Board for its review and approval an expenditure plan outlining the nature, extent and need for any such grants; or

(2) provide a summary of the Request for Application (RFA) or other summary of the purpose and need for a grant to the Board of Governors prior to publicly releasing any such RFA or prior to making any informal commitment to award a grant. The Chancellor may proceed with the release of the RFA unless the Board President, with or without the advice of any appropriate Board Committee designated by the President, directs the Chancellor to withhold action within a 10 day period from the date the summary is provided.

(d) All grants awarded by the Board of Governors or the Chancellor on or after January 1, 1996, shall be awarded through competitive processes or through allocation formulas reviewed and approved by the Board of Governors, except that:

(1) Grants may be awarded competitively within regions.

(2) Grants for regional or statewide coordination activities for the Extended Opportunity Programs and Services (EOPS), Disabled Students Programs and Services (DSPS), Matriculation, and Economic Development programs need not be competitively bid.

(3) Where there are conditions beyond the control of the Chancellor which limit competition, such as matching fund requirements or other agencies being required to select grantees, the Chancellor, in consultation with the President of the Board and the Chairperson of the appropriate committee, shall have authority to award grants without competition.

(e) Panels evaluating or scoring grant proposals will include or be comprised of outside readers as appropriate and will be comprised so as to assure objectivity and prevent conflicts of interest. In the event that outside readers are not used, the evaluation panel shall be comprised of staff from more than one division in the Chancellor's Office. The Chancellor shall ensure that readers are appropriately trained with respect to the process for review of grant applications.

(f) Grants for the performance of functions which are ongoing in nature will be awarded in cycles of between one and five years in length. In advertising a grant for an ongoing function, district personnel will be apprised of the length of the cycle and the funding anticipated to be available for the duration of the project; provided however, that nothing in this Section shall be construed to preclude subsequent adjustment of actual funding levels to reflect unforeseen circumstances. Districts shall be further informed that continuance of the grant will depend on year-to-year funding, and continued satisfactory performance. The Chancellor shall have the authority to exempt grants described in Subsection (d)(2) or those awarded under the Mathematics, Engineering, and Science Achievement (MESA) program, the Middle College High School program, or the Puente project from the duration limitations imposed by this paragraph.

(g) A district which, prior to January 1, 1996, has been awarded a grant on a non-competitive

basis for the performance of an ongoing function may continue to be awarded that grant, at the discretion of the Chancellor, for a period of up to three additional fiscal years. Retention of the grant shall depend on continued availability of funds and satisfactory performance. At the conclusion of the term, the grant for the ongoing function shall be awarded on a competitive basis.

(h) To the extent that a grantee contracts with a private or public entity to perform certain parts of the grant, the grantee shall be required to disclose the intended purpose and amount of such subcontracting, shall agree to follow locally applicable competitive bidding processes in doing such subcontracting, and shall agree to name the subcontractors chosen.

(i) The procedures specified above shall not apply to grants which are distributed on an allocation formula basis which has been reviewed and approved by the Board of Governors.

STATE OF CALIFORNIA

CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE
11[illegible] Q STREET
S[illegible]IENTO, CA 95814-6511
([illegible]) 445-8752
HTTP://WWW.CCCCO.EDU

July 13, 2000

Keith B. Petersen
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Re: Public Records Act Request of September 7, 1999
Sierra Joint Community College District

Dear Mr. Petersen:

With regard to the June 30, 2000, production of records in the above-stated Public Records Act request please find enclosed copies of:

(Report) AB 1725: A Comprehensive Analysis, January 1989
(Memo) AB 1725: First Major Update
(Memo) AB 1725: Second Major Update

These documents are being provided at no charge, as extra copies were located.

The remainder of the documents you have requested total 1,292 pages. Please remit a check in the amount of $258.40 made out to "CCCCO," which reflects a charge of 20 cents per page. Please be advised that this is our direct cost of duplication pursuant to the Public Records Act, and does not include research, retrieval, review, collating, unstapling, mailing and other related costs.

Sincerely,

Ralph Black
General Counsel

RB/fr

cc: Robert Wickstrom, Sierra Joint Community College
Paula Higashi, Commission on State Mandates

encls.

HANCELLOR'S OFFICE
CALIFORNIA COMMUNITY COLLEGES
107 NINTH STREET
ACRAMENTO, CALIFORNIA 95814
1) 1757

GEORGE DEUKMEJIAN, *Governor*

August 21, 1989

TO: Superintendents and Presidents
Members, Consultation Councils
Presidents, Boards of Trustees
Academic Senate Presidents
Other Interested Parties

FROM: David Mertes
Chancellor

RE: AB 1725: First Major Update

Synopsis: Attached is the first major update on the implementation of reforms contained in AB 1725. The update follows the outline and format of *AB 1725: A Comprehensive Analysis* (January 1989). This report identifies the particular reforms that will be triggered, specifies the funding that will be available, establishes administrative deadlines (including revised deadlines), and describes legislative efforts to clarify and further implement the reforms. The names and telephone numbers of staff to contact regarding various reforms are listed in the Attachment.

Action/Date Requested: Please copy, distribute, and use this update as you deem appropriate.

Contact: Tom Nussbaum, Vice Chancellor and General Counsel,
(916) 445-4826

AB 1725: FIRST MAJOR UPDATE

(August 1989)

I. MISSION

A. **Mission Statement:** District governing boards have primary responsibility for defining and interpreting the meaning of the terms "primary mission," "important and essential function," and "authorized function." Current legislation that addresses the mission of the colleges in the context of the other public segments of higher education includes AB 462 (Hayden), and SB 1570 (Nielsen). These and other bills are not expected to alter the mission of the community colleges as codified in new *Education Code* Section 66701 of AB 1725.

B. **Transfer Core Curriculum:** Currently, the three intersegmental Academic Senates have reached agreement on most (31 units) of the general education transfer core curriculum. The senates are continuing to negotiate on the remaining three to eight units. The chief issues to be resolved are the University of California's concern that the core include a second English course, and the California State University's concern that it include a course in critical thinking. Because this lack of agreement on the curriculum has a negative impact on community college transfer programs, the statewide Academic Senate and other community college officials are urging quick resolution of the issue. The goal is to develop a recommendation for adoption by the three segmental governing boards by January 1, 1990. For further information, contact Connie Anderson.

C. **Remedial Limit:** The Board of Governors is required to adopt by January 1, 1990, a specific regulation limiting the amount of remedial work a student may take (Section 68, AB 1725). The initial text of the regulation should be available for initial review and consultation in September. The regulation will be discussed as part of a future agenda item on basic skills. For further information, contact Rita Cepeda.

D. **Articulation of Vocational Programs:** In close coordination with the State Department of Education, twenty-one community college districts have participated in the federally-funded articulation projects to initiate or expand 2+2 programs. Seventy-four different vocational education programs have been included in the articulation process. Currently, $1.84 million is allocated for this high priority program. For further information, contact Bill Anderson.

Eighteen 2+2+2 vocational education projects received initial funding in 1988-89, and most are expected to be funded again in 1989-90. The 1989-90 budget provides $1,163,000 for 2+2+2 projects, a $753,000 increase over the

previous year. New project areas for 1989-90 include teacher education, marketing, and home economics. The Chancellor's Office will issue RFPs to districts by late August, with responses due on or about October 15, 1989. For further information, contact Connie Anderson.

E. **English as a Second Language (ESL) Study:** The Governor and Legislature declined to fund this study in 1989-90, and there is no evidence that funding is being sought for the study to be conducted during 1990-91. The study will not be done if funding is not provided. The current and future need for ESL programs is being examined by the Intersegmental Coordinating Committee. The Board of Governors addresses the subject in its *1989-90 Basic Agenda*. For further information, contact Rita Cepeda.

F. **Interdisciplinary Colleges Pilot Study:** The Governor and the Legislature declined to fund this study for 1989-90, and the Board of Governors has not requested funding in its proposed 1990-91 budget. The pilot study will not be done unless funding is provided.

II. GOVERNANCE

A. **Delineation of Function:** With governance roles of the Board of Governors and district governing boards now delineated in statute, attention has turned to implementing other critical parts of an effective governance system, such as the Consultation Process. During August and September, the Chancellor will ask standing councils, the Board of Governors, and other interested parties to evaluate the Consultation Process and recommend needed changes. The changes, if any, will be reviewed and acted upon by the Board in late 1989 or early 1990. For further information, contact Tom Nussbaum or Martha Kanter.

The Board of Governors will make further delegations of its authority (Standing Orders) as authorized in AB 1725. Workload constraints have delayed the initial draft of Standing Orders which will not be available for review and analysis until early 1990. For further information contact Tom Nussbaum.

B. **Education Code Review:** The Board of Governors has completed the Education Code Review, as required by Section 57 of AB 1725, and the report has been submitted to the Legislature. SB 670 (Morgan) was introduced in 1989 to carry the hundreds of statutory changes necessary to implement the recommendations in Education Code Review. From August through November the package of changes will be updated (from its 1988 status as contained in AB 4056), and additional consultation and review will be conducted. A comprehensive set of changes will then be amended into SB 670, and the bill will be moved through the legislative process in 1990.

This portion of the Education Code Review will not include changes regarding community college employment matters. The Chancellor's Office has retained a consultant who is working with an advisory group to determine what changes are necessary to bring the community college employment statutes in line with AB 1725. Their findings will be entered into consultation and will result in a *separate* bill, to be initiated in 1990. For further information, contact Tom Nussbaum.

C. **Regulations of the Board of Governors:** AB 1725 requires the Board of Governors to adopt various procedures for the adoption of regulations, to be used in lieu of procedures applied by the State's Office of Administrative Law. Included in these procedures is one that will allow local governing boards to stop Board regulations from taking effect (by a two-thirds vote). The procedures are to be in place by January 1, 1990 and a draft is expected for initial review and consultation by late October. For further information, contact Tom Nussbaum.

D. **Exempt Positions:** No update necessary.

E. **Composition of the Board of Governors:** Technical changes to provide for the staggering of terms and for other matters have been incorporated into AB 2155 (Vasconcellos), the trailer bill. For further information, contact Tom Nussbaum.

F. **Academic Senate and Student Roles:** Although the development of policies and guidelines for strengthening the role of the Academic Senate have been delayed somewhat by workload constraints, a draft of policies and guidelines is planned for initial review and consultation by late October. For further information, contact Jim Meznek.

A consultant has been retained to help develop a plan for encouraging greater student participation in campus, district, and systemwide governance. Again, a draft of the plan is expected for initial review and consultation by late October of 1989.

III. FINANCE

A. **Extension of SB 851:** AB 2155, the trailer legislation to AB 1725, clarifies that the current community college finance law (SB 851) will not sunset until $140 million in program improvement funds have been provided, or until July 1, 1991, whichever is *later*.

B. **Program-Based Funding:** The Board is required to adopt "criteria and standards" for program-based funding by March 1, 1990. A progress report on the development of these criteria and standards will be presented to the Board at its

September meeting. A draft of the proposed criteria and standards for initial implementation of program-based funding will be available for review and consultation by November. For further information, contact Joe Newmyer or Gary Cook.

AB 2155, the trailer bill, clarifies that during the first year of program-based funding, districts will receive either their program-based funding entitlement or their SB 851 entitlement, whichever is greater. AB 1725 provides this hold-harmless provision for 1991-92, but it is possible that program-based funding will not be implemented by that time.

C. **Transitional Funding Mechanism for Program Improvement:** The mechanism for program improvement provides that 30 percent of funds be allocated for purposes of equalization. This funding provision was discussed by the Board of Governors in March and May, and was adopted at its July 13-14th meeting.

A comprehensive memorandum on program improvement, which includes projected allocations for each district, guidelines for preparing program improvement plans, and reporting forms, was distributed to the colleges in early August. The deadline for submission of program improvement plans to the Chancellor's Office has been moved to *November 15, 1989*. For further information, contact Joe Newmyer or Gary Cook.

After consultation and review, the Chancellor's Office has determined that the statutory language regarding program improvement (*Education Code* Section 84755) should not exclude program improvement allocations from the "current expense of education" for purposes of the 50 Percent Law. However, regulations to improve administration of the Law are currently under consideration. A proposal is also being developed to revise the "serious hardship" exemption to address the implications of program improvement allocations being part of the current expense of education. A draft of regulations on the 50 Percent Law, including amendments to the serious hardship exemption, is expected for initial review and consultation by late September or early October. For further information, contact Joe Newmyer or Gary Cook.

Finally, the trailer bill (AB 2155) contains a provision that bases each district's program improvement allocation on its *funded ADA for the prior fiscal year*, rather than the ADA *generated in the 1987-88 fiscal year*.

D. **Part-Time/Full-Time Faculty Ratios:** Current statutory provisions regarding full-time/part-time faculty ratios (*Education Code* Section 87482.6) are being converted to regulations of the Board of Governors. Since the spring of 1989, additional changes have been discussed in consultation. These changes, which provide such refinements as to how employees on sabbatical or leave are to be counted, will be presented to the Board at its November meeting, with action scheduled for January. For further information, contact Tom Nussbaum.

IV. NEW PROGRAMS AND SERVICES

A. **Staff Development:** In 1989-90, districts will again receive $4,900,000 staff development. As in 1988-89, the Chancellor's Office will allocate the money on a per ADA basis (approximately $7/ADA), with a $5,000 floor for each district. The funds will be allocated through a "Master Grant Agreement," which also includes funding for matriculation, management information systems, faculty and staff diversity, and instructional equipment replacement and library materials. The funds will be distributed in October 1989 (75%) and March 1990 (25%).

Late in 1988, the Chancellor's Office provided affidavit forms for the certifications required of districts by the new statutes. Forms for reporting expenditures were also provided. To date, no regulations have been developed for an allocation mechanism that would replace the per ADA mechanism. Also, no regulations have been developed that establish Board criteria for "other activities determined to be related to educational and professional development" (*Education Code* 87153(j)).

In addition to its share of the $4.9 million, a district may use for staff development purposes any portion of its share of the $45 million in one-time money provided through AB 198 and SB 98. For 1990-91, the Board of Governors is requesting that $10,000,000 be appropriated for staff development purposes. For further information, contact Judy Walters.

B. **Expanded Fund for Instructional Improvement:** AB 1725 provided an additional $200,000 to the Fund for Instructional Improvement, commencing with 1988-89. The additional funds for 1988-89 were used in the spring of 1989 to fund previously unfunded proposals from 1988. For 1989-90, approximately $800,000 is available from the Fund for Instructional Improvement; and for 1990-91, the Board is requesting that the Fund be increased to approximately $1.7 million. Currently, the Chancellor's Office is drafting regulations that would clarify and implement the expansion of the Fund as provided in AB 1725 (*Education Code* Section 84381). The text of these regulations will be available for initial review and consultation by mid to late October. For further information, contact LeBaron Woodyard.

C. **Career Resource and Placement Centers:** No update necessary.

D. **Vocational Education Information to Districts:** If and when funding is provided, the Board is to furnish districts with ongoing economic trend and employment projections. Funding for this purpose was requested in the Board's 1989-90 budget, but was denied. The Board has not requested funds for this purpose in its proposed 1990-91 budget. Certain federally funded, vocational education special projects are designed to provide an economic trend and labor market information to districts. For further information, contact Bill Anderson.

V. AFFIRMATIVE ACTION

A. **Compliance and Accountability:** AB 1725 requires local boards to submit affirmations of compliance, report success rates, and prepare affirmative action plans with goals and timetables. Initially, the Chancellor's Office had established June 1989 as the deadline for districts to submit updated affirmative action plans, including goals and timetables for hiring additional full-time faculty with new funds provided for program improvement. Because of uncertainties in the 1989-90 Budget, and because the Chancellor's Office has been delayed in providing materials, guidelines, and other support materials needed to prepare district plans, the deadline has been moved to *December 31, 1989*. In the meantime, districts will be required to provide certain certifications in order to receive program improvement funds prior to that date. For further information, contact Gus Guichard.

B. **Assistance to Districts:** AB 1725 requires that the Board of Governors provide leadership and assistance by helping colleges to adopt and maintain affirmative action plans, by reporting to the Legislature, by developing guidelines, and providing "technical assistance" to districts which fail to make measurable progress. In June 1989, the Chancellor's Office distributed *Guidelines for A Staff Diversity/Affirmative Action Plan* to assist districts in preparing and updating their plans. The first "technical assistance" reviews will take place in 1990. For further information, contact Gus Guichard.

Also, as a result of the recent U.S. Supreme Court decisions regarding affirmative action and nondiscrimination, the Chancellor's Office is planning a workshop on the implications of these decisions, with particular attention to district legal responsibilities. The workshop will be offered during the fall at several sites in the state. For further information, contact Tom Nussbaum.

C. **Major Service Function to Assist Districts in Recruiting:** AB 1725 requires that, by *July 1, 1989*, the Board establish a major service function to assist districts in recruiting qualified members of underrepresented groups. The bill provided $300,000 for this purpose. The Chancellor's Office has requested information regarding current and past candidates for district positions. A feasibility study of a computerized affirmative action registry will be completed by early November. Plans are underway for a major, systemwide recruitment campaign on behalf of the California Community Colleges in fall of 1989. For further information, contact Gus Guichard.

D. **Systemwide Plan for Strengthening Affirmative Action:** In March 1989, the Board adopted a systemwide plan for strengthening faculty and staff affirmative action. The document, *Toward A New Diversity* contains specific tasks and timetables for implementing the AB 1725 requirements for affirmative action.

E. **Faculty and Staff Diversity Fund:** AB 1725 provided $1,000,000 for allocation to districts from this new fund on a per ADA basis. The 1989-90 Budget provides another $1,000,000 for faculty and staff diversity, again to be allocated on a per ADA basis. The allocations will be made through a "Master Grant Agreement" with districts, with funds to be distributed in October 1989 and March 1990. For 1990-91, the Board is requesting a $3,000,000 augmentation to the Fund, bringing the total Fund to $4,000,000.

Regulations for an allocation mechanism had been intended for adoption by July 1989, but staffing constraints have delayed this work until early 1990. The new regulations will be applied to allocations for 1990-91. For further information, contact Gus Guichard.

F. **Other Affirmative Action Provisions:** At its July meeting, the Board adopted an affirmative action report relating to its own composition, as required by AB 1725.

If and when funding is provided, the Board is to conduct a joint study with the State Board of Education on the underrepresentation of students in vocational education programs. The Board requested funding for this study in its 1989-90 budget, but the request was denied. No request has been made in the proposed 1990-91 budget. Consequently, existing resources, including federal vocational education funds, will be used to pursue work in this area.

VI. EMPLOYMENT POLICIES

A. **Repeal of Credentials:** Through interpretation of the "trigger" mechanism (Section VIII A, *infra*), the Board will provide that statutes on credentials are repealed as of July 1, 1990. Earlier plans had called for initiating legislation to clarify the sunset date of credentials, but this approach has been determined to be unnecessary.

Statutory changes in the grandfather clause regarding credentials are still being discussed. AB 1725 only grandfathers credential holders *employed* as of June 30, 1990. Some are arguing that all persons with credentials should be grandfathered, regardless of employment status as of June 30, 1990. Staff anticipates that some expansion of the grandfather clause will be incorporated into the AB 2155, the trailer bill.

The Chancellor's Office will introduce a bill in 1990 to make the numerous technical revisions to the large body of *Education Code* provisions that reference credentials. This work should be available for initial review and consultation by October.

B. **Minimum Qualifications Established by the Board of Governors:** Definitions of the terms, "administrator," "instructional or student services administrator," and "faculty," were adopted as regulations by the Board at its July meeting (Agenda Item 8). As provided in AB 1725 (*Education Code* Section 87001), the Board has authority to change these definitions in the future. Discussions are continuing regarding the definitions, but there has been no resolution or consensus as to possible changes. Any changes will be reviewed in consultation before being adopted in regulation.

At its July meeting the Board also adopted the initial lists of disciplines necessary for implementing the new system of "minimum qualifications" (Agenda Item 7). After June 30, 1990, a district governing board may not hire anyone who does not either meet the minimum qualifications or possess qualifications "at least equivalent" to the minimum qualifications. The determination of equivalency is a local matter, to be made in accordance with the following legislative directive:

> The process, as well as the criteria and standards by which the governing board reaches its determinations, shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board.

As another aspect of implementing the new employment structures, districts must establish "faculty service areas" and assign instructors to such areas. The establishment of faculty service areas is subject to local collective bargaining, although the exclusive representative is to consult with the Academic Senate in developing proposals.

For further information on any of the above matters, contact Tom Nussbaum.

By mid September, the Chancellor's Office will distribute resource materials for use by districts in implementing the new minimum qualifications and establishing faculty service areas. In addition, the office is co-sponsoring a workshop with Californians for Community Colleges on the subject of minimum hiring qualifications and faculty service areas. The workshop will be presented at five locations:

September 22 – Contra Costa College
September 29 – Sacramento City College
October 6 – Pasadena City College
October 13 – San Diego Educational Cultural Center
October 20 – Rancho Santiago College

All workshops will run from 9:00 a.m. to 3:30 p.m. Further information will be available during late August and early September. Minimum qualifications for teaching *noncredit* classes have not yet been developed. Staff anticipates that

an initial draft of such qualifications will be developed for review and consultation by December. Staff also anticipates that the Board will adopt the minimum qualifications for noncredit classes in the spring of 1990. For further information, contact Ronn Farland or Allan Petersen.

C. **Local Hiring Criteria:** Mandates regarding the development of local hiring criteria (*Education Code* Section 87360) must be implemented by July 1, 1990. Assistance to districts in accomplishing this work will be provided by the Chancellor's Office through resource materials distributed to districts and the scheduled workshops on minimum qualifications and faculty service areas.

D. **Employment of Administrators:** The trailer bill (AB 2155) moves the effective date of the new law requiring contracts for administrators (*Education Code* Section 72411.5) to *July 1, 1990*, the effective date for Phase I reforms. Discussions are still underway regarding technical modifications to the AB 1725 provisions on administrator retreat rights. Once these provisions are agreed upon they may be incorporated into AB 2155. Otherwise the Board will initiate legislation in 1990 for that purpose. If changes are not incorporated in AB 2155, the Chancellor's Office will include them in legislation to be sponsored in 1990. For further information, contact Tom Nussbaum.

E. **Evaluation of Employees:** By July 1, 1990, districts must establish procedures for evaluating, and begin evaluating, part-time instructors. Also by July 1, 1990, districts must establish and begin applying peer-review procedures. The Chancellor's Office has not developed any resource materials to assist districts with these mandates. Most evaluation procedures will be developed through the collective bargaining process, with the exclusive representative consulting with the local Academic Senate prior to engaging in bargaining.

F. **Tenure Reforms:** Numerous technical amendments to the new tenure provisions are being discussed. Among other matters, the amendments identify the faculty to which the new reforms will apply and clarify hearing rights and remedies. If agreement is reached on the amendments, they may be incorporated into the trailer bill, AB 2155. Otherwise the Board will initiate appropriate legislation in 1990. For further information, contact Tom Nussbaum.

Through interpretation of the "trigger" mechanism (Section VIII, *infra*) the Board intends that the new tenure provisions take effect on *July 1, 1991*. This effective date will apply only if Phase II is funded (the second $70 million, bringing the total to $140 million) for the 1990-91 fiscal year.

G. **Collective Bargaining Study:** The 1989-90 Budget provides $100,000 for the Board to conduct the review of collective bargaining, as called for in Section 58 of AB 1725. The timeline for the review has not yet been determined; however, it is anticipated that it will take at least a year. The review will be assisted by a

committee whose general composition is specified in Section 58. For further information, contact Tom Nussbaum.

H. **Option Rollover Contract Pilot Project:** The Board's budget request for funding of this pilot project, commencing in 1989-90, was denied. The Board has not requested in its proposed 1990-91 budget. Unless the Legislature itself funds this project for 1990-91, this aspect of reform will not be addressed in the foreseeable future. For further information, contact Tom Nussbaum.

I. **Graduate Students Teaching in Community Colleges:** Workload constraints within the Chancellor's Office have hampered efforts to assist in implementing this provision (Section 66, AB 1725). Ambiguities still exist as to whether the contact hours taught by graduate students can be counted in figuring average daily attendance (ADA). It is also uncertain how the new minimum qualifications requirements apply to graduate students. For further information, contact Tom Nussbaum.

J. **Study of Student Aid Programs for Community Colleges:** The 1989-90 Budget does not provide the Student Aid Commission and the Postsecondary Education Commission with the resources to conduct this study. Currently, neither agency has requested funds for this study in its proposed 1990-91 budget. It is likely that this provision of AB 1725 (Section 62) will not be addressed in the foreseeable future.

VII. ACCOUNTABILITY

A. **Accountability System:** By July 1, 1990, the Board is to develop and recommend implementation of a comprehensive educational and fiscal accountability system for the community colleges. Work on this project is being conducted in conjunction with the implementation of the Management Information System. A task force has been formed to assist in preparing initial recommendations that will be entered into consultation. For further information, contact Bill Hamre, Martha Kanter, or Joe Newmyer.

VIII. CONDITIONS AND APPROPRIATIONS

A. **Conditions of Operability and Trigger Mechanisms:** With $70 million having been appropriated recently for program improvement for 1989-90, it is now possible for the various Phase I reforms to become operative, either on designated dates or when the Board certifies that adequate funding has been provided. Drafting problems in AB 1725 make it possible for several employment reforms – e.g., sunsetting of credentials, requirements to evaluate part-timers and provide for peer review evaluation, and establishing faculty service areas, among others – to become operative earlier than the intended July 1, 1990 date. When these reforms were enacted in various parts of the *Education*

Code, some inadvertently were not accompanied with language that made them operative on July 1, 1990. Consequently, under Section 70 of the bill, they become operative when the Board certifies that adequate funding has been provided for Phase I of reform. Because the money has been appropriated for 1989-90, the Board could make the necessary certification at any time, thus triggering the reforms earlier than intended. Originally, it was thought that legislation might be necessary to correct these drafting errors. However, the Chancellor's Office has since determined that the matter may be addressed through administrative action by the Board.

Section 70 specifies that the reforms become mandatory for districts when the Board certifies . . . "that adequate funding has been *provided* for Phase I of transitional program improvement . . . " [emphasis added]. While the Legislature has appropriated the funds ($70 million) to the Board, the funds have not yet been allocated to the districts. In fact, the $70 million will be allocated during the course of the 1989-90 fiscal year, with the final allocation not being made until late June of 1990. Under these circumstances, the full amount of program improvement money for 1989-90 will not have been allocated until June 30, 1990.

At its September meeting, the Board of Governors will be asked to adopt a certification that adequate funding will have been provided for Phase I of reform, effective June 30, 1990. This certification will enable districts, to do all necessary preparatory work during 1989-90, regarding the implementation of minimum qualifications, disciplines, equivalencies, faculty service areas, hiring criteria, peer review, and evaluation of part-timers. Ongoing administration of the new mandates will then commence on July 1, 1990. If Phase II money (a second $70 million) is provided in the 1990-91 Budget, a similar certification will be adopted. In essence, then, districts will have the 1990-91 year to work on implementation of the new tenure reforms, which would be applied and administered by districts commencing July 1, 1991. For further information, contact Tom Nussbaum.

B. **Appropriations in AB 1725:** No update necessary.

C. **Funding of Reforms Through the Budget Process:** The proposed 1990-91 Budget for the California Community Colleges contains requests for AB 1725 reforms. The Board of Governors reviewed the proposed budget at its July meeting (Agenda Item 9). Action on the budget is scheduled for the Board's September meeting. Among the major budget requests related to AB 1725 are an additional $70 million for program improvement, $10 million for staff development, and $4 million for faculty and staff diversity. For further information, contact Joe Newmyer.

AB 1725 Contact Persons

NAME	PHONE #
Bill Anderson	(916) 445-0486
Connie Anderson	(916) 322-6880
Doug Burris	(916) 445-5226
Rita Cepeda	(916) 322-6880
Gary Cook	(916) 445-1163
Ronn Farland	(916) 445-2946
Gus Guichard	(916) 445-5207
Karen Halliday	(916) 324-2348
Bill Hamre	(916) 445-8753
Martha Kanter	(916) 327-2066
Jim Meznek	(916) 445-1606
Joe Newmyer	(916) 445-1804
Tom Nussbaum	(916) 445-0486
Allan Petersen	(916) 445-4920
Judy Walters	(916) 445-2826
LeBaron Woodyard	(916) 445-2826

CHANCELLOR'S OFFICE
CALIFORNIA COMMUNITY COLLEGES
1107 NINTH STREET
SAC MENTO, CALIFORNIA 95814
(9 5-8752

October 5, 1990

TO: Superintendents and Presidents
Members, Consultation Councils
Presidents, Boards of Trustees
Academic Senate Presidents
Other Interested Parties

FROM: David Mertes
Chancellor

RE: AB 1725: Second Major Update

Synopsis: Attached is the second major update on the implementation of reforms contained in AB 1725. The update follows the outline and format of *AB 1725: A Comprehensive Analysis* (January 1989), and *AB 1725: First Major Update* (August 21, 1989). The report identifies the remaining reforms that will be triggered, specifies the funding that has been made available, and describes recent legislative efforts to clarify and further implement the reforms. The names and elephone numbers of staff to contact regarding various reforms are listed in the Attachment.

Action/Date Requested: Please copy, distribute, and use this update as you deem appropriate.

Contact: Tom Nussbaum, Vice Chancellor and General Counsel;
Jan Hake, Associate Vice-Chancellor for Reform Coordination; or
Kathy Pulse, Analyst, at (916) 322-1773.

AB 1725: SECOND MAJOR UPDATE
(October 1990)

I. MISSION

A. **Mission Statement:** A recently-enacted piece of legislation (SB 1570, Nielsen, Chapter 1587, Statutes of 1990) makes slight modifications and additions to the mission statement enacted in AB 1725. SB 1570 moves the community college mission statement from *Education Code* Section 66701 to *Education Code* Section 66010.4. New Section 66010.4 is a consolidated statement of the missions of the California Community Colleges, the California State University, and the University of California.

For community colleges the "primary" mission continues to be academic and voca tional instruction at the lower division level, through, but not beyond, the second year of college. Remedial instruction, ESL, adult noncredit instruction, and student support services continue to be designated as "important and essential" functions. Community services continues to be designated as an "authorized" function. New language has been added regarding the institutional research function:

> "The community colleges may conduct, to the extent that state funding is provided, institutional research concerning student learning and retention as is needed to facilitate their educational missions."

AB 462 (Hayden), a more global policy statement regarding all of public education, has been vetoed by the Governor.

In summary, the AB 1725 mission statement remains essentially intact, and districts continue to have the primary responsibility for defining and interpreting the terms "primary mission," "important and essential function," and "authorized function." For further information contact Carole Richard.

B. **Transfer Core Curriculum:** AB 1725 requires the Board of Governors, the California State University Trustees, and the University of California Regents to jointly develop, maintain, and disseminate a common core curriculum in general education. The three intersegmental Academic Senates have taken primary responsibility for developing this policy, and in late July of this year reached agreement on recommendations.

The recommendations of the intersegmental Academic Senates will be introduced into Consultation in October, and will be considered by the Board of Governors for first reading at its January 10-11, 1991, meeting. Implementation details regarding the core curriculum are being worked out by the intersegmental senates, and implementation is planned for fall 1991.

For a copy of the proposal, or for further information on the transfer core curriculum, contact Ronn Farland or the statewide Academic Senate office.

C. **Remedial Limit:** AB 1725 requires the Board of Governors to adopt a specific regulation (the legislation essentially dictates the text) limiting the amount of remedial coursework a student make take (Section 68, AB 1725). At its meeting of January 18-19, 1990 (Item #6), the Board of Governors took action to add new

Section 55756.5 to *Title 5*. The regulation establishes the limit at 30 semester units (45 quarter units), exempts ESL and learning disabled students, and may be waived on a student-by-student basis. The regulation took effect on July 5, 1990. Any remedial coursework taken by a student prior to the effective date of the regulation eed not be counted against the student's limit.

During the next six months the Chancellor, through the Basic Skills Advisory Task Force, will propose regulations which specify the categories of courses to be counted in the limit. The regulations will be entered into Consultation in the spring of 1991, with Board action scheduled for July 1991.

AB 1725 requires the Board of Governors to review the effects of the remedial limit, and to report to the Legislature by December 31, 1991. A prospectus for this review will be entered into Consultation by spring of 1991.

For a copy of the remedial limit regulation, or for further information, contact Rita Cepeda.

D. Articulation of Vocational and Academic Programs: In close coordination with the Chancellor's Office and the Department of Education, 21 community college districts have participated in federally-funded articulation projects to initiate or expand 2+2 programs. As of 1989, 689 articulation agreements had been established through the joint involvement of almost 400 educational agencies. Almost 2,100 students participated in the program during 1989. Numerous other districts have initiated their own locally-funded 2+2 programs. For further information, contact Bobbie Juzek.

Eighteen 2+2+2 vocational education projects received initial funding ($410,000) in 1988-89, and 27 projects (ten new projects with a focus on teacher education and seventeen projects in a second phase) received funding ($1,200,000) for 1989-90. For 1990-91, the State Budget again has provided $1,200,000. The Chancellor's Office issued RFPs to districts in May 1990, with awards being made in August. For further information, contact Rosa de Anda.

E. English as a Second Language (ESL) Study: AB 1725 requires (Section 59) the Postsecondary Education Commission and the State Department of Education to conduct a joint study of ESL. This requirement is contingent on funding for the study. No funding has been yet been provided.

The current and future need for ESL programs is being examined by the Intersegmental Coordinating Council. For further information, contact Rita Cepeda.

F. Interdisciplinary Colleges Pilot Study: AB 1725 requires (Section 60) the Chancellor to conduct a study on the feasibility of establishing, on a pilot basis, "interdisciplinary colleges" that integrate vocational and academic study. This requirement is contingent on funding for the study. No funding has yet been provided.

II. GOVERNANCE

A. Delineation of Function: AB 1725 created the California Community Colleges as a system, and in so doing delineated the major functions of the Board of Governors (Education Code Section 70901) and district governing boards (Education Code Section 70902). In carrying out its roles, the legislation requires the Board of Governors to establish a Consultation Process. The legislation also requires

districts to participate in that process. AB 1725 also broadly authorizes both the Board of Governors and district governing boards to delegate authority.

The Consultation Process is currently under review by the Chancellor's Office and Board of Governors. Efforts have been made to improve the timeliness of agendas and minutes, as well as the coordination of the items being discussed in the seven standing councils. The Consultation Process is also being evaluated in terms of the shared governance aspects of AB 1725: How well does the process provide for formative participation and input from the various parties of interest, and how well does the process incorporate collegial forms of governance? Finally, with the merger of the California Association of Community Colleges, the California Community College Trustees, and the Chief Executive Officers, at least some modifications will be required with respect to the Council of Organizations.

Review of the Consultation Process will continue through the fall, with modifications being put in place by December 1990 or January 1991. For further information, contact Tom Nussbaum or Elaine Cary.

During 1988, initial work was conducted regarding delegation of authority by the Board of Governors. As a result of AB 1725 and the Education Code Review (see *infra*), the first set of delegations of authority is being developed. The policies will be adopted by the Board in the form of "Standing Orders." Workload constraints have delayed this work. For further information, contact Tom Nussbaum.

B. Education Code Review: Board-sponsored legislation to implement the Education Code Review (SB 1854, Morgan) has just been signed (Chapter 1372, Statutes of 1990). A second Board-sponsored bill (SB 2298, Davis) making technical revisions necessary to implement AB 1725 employment reforms, has also just been signed (Chapter 1302, Statutes of 1990). These bills implement AB 1725 by making statutes in the Education Code consistent with the governance framework provided in that legislation. Separate analyses are being prepared to highlight the key aspects of these two very large pieces of legislation. The analyses should be available by late October. For further information, contact Tom Nussbaum or Carole Richard.

As a follow-up activity to the Education Code Review and AB 1725, all regulations of the Board of Governors contained in *Title 5* are being reviewed. The first set of changes are technical and nonsubstantive in nature and were summarized to the Board at its September 13-14 meeting (Item #12). The text of these changes will be entered into Consultation early in October. Board adoption is scheduled for its meeting of November 8-9. For further information contact Tom Nussbaum.

C. Regulations of the Board of Governors: AB 1725 requires the Board of Governors (*Education Code* Section 70901.5) to adopt various procedures for the adoption of regulations, to be used in lieu of procedures applied by the State's Office of Administrative Law. To be included is a procedure that will enable local governing boards, on a two-thirds vote of the 71 boards, to stop Board regulations from going into effect.

At its meeting of March 8-9, 1990, the Board adopted the new procedures for the adoption of regulations (Item #13). The procedures add new Sections 200-212 to the **Procedures and Standing Orders of the Board of Governors.** For a copy of the new procedures, or for further information, contact Tom Nussbaum.

D. Exempt Positions: AB 1725 provides the Board of Governors with up to six deputy or vice chancellor positions which are exempt from State Civil Service.

After exhaustive discussions with the Administration regarding the authority of the Board of Governors to set the salaries for these positions, a decision has been made to fill the positions at the salary levels designated by the Administration. During the course of 1990-91 and 1991-92, all six positions will be opened, advertised, and filled.

E. **Composition of the Board of Governors:** AB 1725 modified the composition of the Board of Governors by requiring the Governor to appoint two current or former local district trustees and a second faculty member. Thirteen members, including the two trustees, have six-year terms; the two faculty members have two-year terms; and the student member has a one-year term. In 1989, the Board of Governors initiated follow-up legislation (AB 2155, Vasconcellos) to provide for staggering of terms in moving from four-year terms to six-year terms. The bill was successful, and the provisions on staggering of terms are now set forth in Section 71001 of the *Education Code*. For further information contact Tom Nussbaum.

F. **Faculty, Staff, and Student Roles:** AB 1725 (Section 61) requires the Board of Governors to develop policies and guidelines for strengthening the role of local academic senates regarding the determination and administration of academic and professional standards, course approval and curricula, and other academic matters. The Board is also required to develop a plan for encouraging greater student participation in campus, district, and systemwide governance. These two projects are in furtherance of a basic governance responsibility of the Board of Governors to develop minimum standards to ensure the participation of faculty, staff and students in district and college governance (*Education Code* Section 70901(b)(1)(E)).

At its July 12-13, 1990 meeting, the Board adopted regulations for "Strengthening Academic Senates" (Item #6), as well as a policy statement entitled, "Shared Governance in the California Community Colleges" (Item #7). At its September 13-14, 1990, meeting, the Board adopted a plan entitled "Encouraging Greater Student Participation in Governance" (Item #9). The Board also reviewed an item entitled "Minimum Standards for Staff Participation in Governance" (Item #15).

By late October, the Chancellor's Office will release a document entitled **Materials to Assist the Implementation of Shared Governance.** The document will contain the text of the Board's shared governance policy, the regulations for strengthening academic senates, the regulation and district-commended activities for strengthening the role of students, the latest draft of the regulation for "staff" participation in governance, and answers to the commonly-raised questions on the implementation of these policies.

The deadline for full implementation of all of these Board policies and regulations by districts has been set for *no later than September 30, 1991*.

For further information, contact Tom Nussbaum or Jan Hake.

III. FINANCE

A. **Expiration of Current Finance Mechanism (SB 851):** Under AB 1725 (as technically clarified by AB 2155, Chapter 1071, Statutes of 1989), the current statutory finance mechanism (SB 851) will become inoperative on July 1, 1991, or on the date program-based funding is implemented by the Board of Governors in accordance with the trigger mechanism (Section 70) of AB 1725, *whichever is later*. Since the second $70 million has been appropriated for "Phase II" of reform (see

infra), SB 851 will become inoperative on July 1, 1991. It should be noted, however, that the SB 851 mechanism will continue to be applied for purposes of making prior year corrections; also one of the requirements of Program Based Funding is that for fiscal year 1991-92, all districts will receive at least the amount of revenue they would have been entitled to receive under SB 851. For further information, contact Joe Newmyer or Gary Cook.

B. **Program-Based Funding:** Under the trigger mechanism in AB 1725 (Section 70), Program-Based Funding is to be implemented on July 1, 1991, or on the date that the Board of Governors certifies that adequate funding has been provided for Phase II or reform, *whichever is later*. Since the Legislature and Governor have recently appropriated the second $70 million, and since this money will be allocated to districts during the course of 1990-91, the Board of Governors will be asked to certify (at its November 8-9, 1990 Board meeting) that, effective July 1, 1991, adequate funding will have been provided for Phase II of reform.

At its meeting of March 8-9, 1990, the Board of Governors adopted "criteria and standards" for implementing Program-Based Funding (Item #12). These criteria and standards will serve as the basis for developing more detailed *Title 5* regulations to implement Program-Based Funding. These regulations are scheduled to be reviewed by the Board of Governors at its meeting of January 10-11, 1991, with adoption scheduled at the meeting of March 14-15, 1991.

By late November, the Chancellor's Office plans to enter a draft of the Program-Based Funding regulations into Consultation. These regulations will include a rewrite of attendance accounting provisions that are currently found in Division 9 (Sections 58000-58172) of *Title 5*. The regulations will also include the text of certain statutes on attendance accounting which, as a result of the Education Code Review bill (SB 1854) are being converted to Board regulation.

C. **Transitional Funding Mechanism for Program Improvement:** With the implementation of program-based funding in 1991-92, 1990-91 will mark the final year of transitional funding for program improvement as set forth in Section 84755 of the *Education Code*. As a result of 1990 legislation, the Legislature and Governor have provided $70,000,000 for program improvement for 1990-91 (the Budget Act of 1990 provided $61,582,000 for program improvement, and SB 1446 provided an additional $8,418,000). Districts are to use program improvement revenues for any of 19 required or authorized uses specified in Section 84755 of the Education Code.

The Budget Act of 1990 places an additional condition on the use of program improvement funds by requiring that a portion of these funds are to be used for "transfer functions to include transfer centers and transfer guarantee agreements." Since the major legislation on transfer (SB 507, Hart) has been vetoed by the Governor, the Chancellor is to allocate the earmarked funds pursuant to an expenditure plan approved by the Department of Finance. District responsibilities regarding transfer functions will included in the Master Grant Agreement for 1990-91. For further information contact Ronn Farland or Kathleen Nelson.

A comprehensive memorandum on program improvement, which includes projected allocations for each district, guidelines for preparing program improvement plans, worksheets for adjustments to hours taught by full-time and part-time faculty, a preliminary calculation of each district's obligation for full-time faculty hires, and clarification regarding the use of funds for transfer centers and transfer guarantee agreements, will be distributed to districts. The deadline for submission of 1990-91 program improvement plans has been set for **November 30, 1990.** For further information contact Kathy Pulse.

On March 6, 1990, the Chancellor's Office issued an analysis of the 1989-90 program improvements plans of districts. This analysis indicated that the great majority (85%) of the funds were being used in five different areas: full-time/part-time ratios, increasing budgets for plant maintenance and operation, adding new courses and programs, improving student services, and improving libraries and learning resources.

D. **Full-Time/Part-Time Ratios:** AB 1725 requires districts with less than 75% of their hours of credit instruction taught by full-time instructors to use a specified portion of their program improvement money (33% or 40%) to hire full-time instructors. Districts have until September of 1991 to put these hires in place; otherwise district base budgets will be reduced. Most of the provisions for administering this requirement were initially set forth in statute (Section 87482.6 of the *Education Code*), but have since been converted to regulations of the Board of Governors. In January of 1990, the Board adopted technical revisions to these regulations (see Item #6), and Sections 53300-53320 of *Title 5*. For further information contact Tom Nussbaum.

The provisions of Section 87482.6, and the Board's implementing regulations will not apply after the implementation of program-based funding. As a part of this new funding mechanism, the Board will establish a standard which fixes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors. The schedule for the development of the regulations to implement program-based funding is for the initial draft to be entered into Consultation by November, with review and action by the Board of Governors in January and March of 1991.

With revenues from Phase I and Phase II, the Chancellor's Office has estimated that districts will be able to hire approximately 1250 additional full-time instructors. Given the great ADA growth (and particularly the great amount of unfunded ADA over the growth cap) in the system, these additional hires will probably not result in an improvement in the overall ratio for the system. Further discussion of this issue is anticipated as the regulations for implementing program-based funding are being developed. For further information contact Joe Newmyer or Gary Cook.

IV. NEW PROGRAMS AND SERVICES

A. **Staff Development:** For 1990-91, districts will again receive $4,900,000 for staff development. The Chancellor's Office will again allocate the money on a per ADA basis (approximately $7/ADA), but with a $10,000 floor for each district. The funds will be allocated to districts using the payment schedule for the State General Apportionment.

An evaluation of the effects of the faculty and staff development fund was completed by an outside contractor in July of 1990. The evaluation has been reviewed and modified in Consultation. The Board of Governors considered an agenda item on this subject at its meeting of September 13-14 (Item #13), and is scheduled to take action at its meeting of November 8-9. The action consists of recommended guidelines for districts and new directives for the Chancellor's Office. For further information, contact Judy Walters.

B. **Expanded Fund for Instructional Improvement:** For 1990-91, $736,000 is available for grants from the Fund for Instructional Improvement. The Board of Governors adopted grant awards for 1990-91 at its May 10-11, 1990, meeting (see Item #1).

Currently, the Chancellor's staff and the FII Advisory Committee are developing regulations to further implement the expansion of the Fund as provided in AB 1725. A draft of these regulations will be entered into Consultation by November, and will e considered by the Board of Governors at its January and March 1991 meetings. For further information contact LeBaron Woodyard.

C. **Career Resource and Placement Centers:** AB 1725 authorizes districts to maintain career resource and placement centers, programs to instruct staff on matriculation services, orientation programs for new students, and various publicity programs (*Education Code* Section 78212.5). An analysis of 1989-90 program improvement plans indicates that districts are spending $2,798,455 in program improvement monies for these activities.

D. **Vocational Education Information to Districts:** If and when funding is provided, the Board of Governors is to furnish districts with ongoing economic trend and employment projections (Section 63, AB 1725). Funding for this purpose was requested in the Board's 1989-90 budget, but was denied. Funding has not been requested since. Certain federally funded, vocational education special projects are designed to provide economic trend and labor market information to districts. For further information contact Ernie Leach.

V. AFFIRMATIVE ACTION

A. **Compliance and Accountability:** AB 1725 requires local boards to submit affirmations of compliance, report success rates, and prepare affirmative action plans with goals and timetables. The Chancellor's Office established a December 31, 1989, deadline for the submission of revised affirmative action plans. By summer of 1990, all plans had been reviewed and approved. For further information contact Maria Sheehan or Roy Kanamaru.

AB 1725 established two systemwide goals for the California Community Colleges, one of which specifies that by 1992-93, 30% of all new hires should be ethnic minorities. For the period of fall 1988 to fall 1989, the system is very close to meeting this goal, with 28.3% of all professional position hires being minorities. Specific minority hiring rates were as follows:

Executive/Managerial	29.6%	Faculty	26.7%
Professional (non-faculty)	39.1%	Secretarial/Clerical	35.6%
Technical/Paraprofessional	31.4%	Skilled Crafts	30.1%
Service/Maintenance	52%		

For further information contact Maria Sheehan or John Madden.

B. **Assistance to Districts:** AB 1725 requires the Board of Governors to provide leadership and assistance by helping colleges to adopt and maintain affirmative action plans, by reporting to the Legislature, by developing guidelines, and by providing "technical assistance" to districts which fail to make measurable progress. In June of 1989, the Chancellor's Office distributed *Guidelines for a Staff Diversity/Affirmative Action Plan* to assist districts in preparing and updating their plans. By January of 1991, the Chancellor's Office will introduce into Consultation its program and timeline for providing technical assistance to districts.

During the next nine months, all Board regulations on affirmative action (*Title 5*, Sections 53000-53052) and nondiscrimination (*Title 5*, Sections 59300-59362) will be reviewed and updated to reflect the passage of AB 1725 and make other technical

clarifications. Neither of these sets of regulations has been revised since 1982, and confusion exists regarding certain of the provisions. A summary of the issues needing attention will be introduced into Consultation by November, with initial review by the Board of Governors in January or March of 1991. For further information contact Ralph Black or Roy Kanamaru.

C. **Major Service Function to Assist Districts in Recruiting:** The Chancellor's Office initiated the Faculty and Staff Diversity Registry in December of 1989. Over 10,600 persons are now in the Registry, with about 200 being added daily. Recruiting trips to Louisiana, Texas, and other sites were conducted during the spring of 1990. For further information contact Maria Sheehan or John Madden.

D. **Systemwide Plan for Strengthening Affirmative Action:** In March of 1989, the Board of Governors adopted a systemwide plan for strengthening faculty and staff affirmative action. The document, *Toward a New Diversity*, contains specific tasks and timetables for implementing the requirements of AB 1725.

E. **Faculty and Staff Diversity Fund:** For 1990-91, $1,859,000 has been appropriated to the Faculty and Staff Diversity Fund, an increase of nearly one million dollars. Instead of being allocated on a dollars per ADA basis, these funds will be allocated in accordance with regulations (*Title 5*, Sections 53060-53064) adopted by the Board of Governors at its May 1990, meeting (Item #10). The regulations allow for additional funding for districts achieving success. District-by-district allocations were adopted by the Board of Governors at its July 12-13, 1990, meeting (Item #2). For further information contact Maria Sheehan or John Madden.

VI. EMPLOYMENT POLICIES

A. **Repeal of Credentials:** About 65 statutes on credentials (Chapter 2 -- commencing with Section 87200 -- of Part 51 of the *Education Code*) became inoperative on July 1, 1990. Under legislation enacted in 1989, every person who has a credential as of this date will retain the right to serve under the terms of that credential, regardless of whether he or she is employed by a community college district on or before July 1, 1990 (see Education Code Section 87355, as added by SB 1590, Chapter 1340, Statutes of 1989). The Chancellor's Office accepted credential applications until close of business on June 30, 1990. All credential applications timely received (about 15,000) will be processed during the next six months. Credentials approved will be dated as of the *date of application*. To enable the Chancellor's Office to review and process this huge influx of applications, the Legislature and Governor approved $465,000 in additional funding for the credentials function for 1990-91 (SB 433, Davis, Chapter 1242, Statutes of 1990). For further information contact Allan Petersen.

B. **Minimum Qualifications Established by the Board of Governors:** In lieu of credentials, AB 1725 directs the Board of Governors to adopt regulations establishing minimum qualifications for employment. After July 1, 1990, a district governing board may not hire anyone who does not possess an appropriate credential, meet appropriate minimum qualifications, or possess qualifications "at least equivalent" to the appropriate minimum qualifications. The determination of equivalency is a local matter, to be worked out with the local academic senate.

AB 1725 dictated the text of initial regulations establishing definitions ("faculty," "administrator," and "instructional or student services administrator") as well as the minimum qualifications for a faculty member teaching *credit* courses, and minimum qualifications for instructional and student services administrators.

The Board of Governors has taken the following steps to implement the new structure of minimum qualifications:

1. **Adopted initial regulations (July 13-14, 1989)** -- The Board adopted regulations defining "faculty," "administrator," and "instructional or student services administrator." The Board also adopted minimum qualifications for instructors of credit courses, minimum qualifications for instructional or student services administrators, and a regulation regarding equivalencies (see Item #8; see also *Title 5*, Sections 53400-53420.

   At its July 13-14, 1989, meeting, the Board also adopted the initial lists of disciplines requiring the master's degree, and disciplines in which a master's degree is not generally expected or available (see Item #7). These lists were developed and recommended by the statewide Academic Senate.

2. **Adopted additional regulations (July 12-13, 1990)** -- The Board adopted regulations (Item #8; see also *Title 5*, Sections 53412-53414, 56262, and 56264) establishing minimum qualifications for noncredit faculty, apprenticeship faculty, for employees of Disabled Students Programs and Services (DSPS), and for employees of Extended Opportunity Programs and Services (EOPS).

   The minimum qualifications for noncredit will only be in place until July 1, 1991. During the next several months, a joint task force on adult education (K-12 and community colleges) will endeavor to develop a common set of minimum qualifications for teaching noncredit instruction. The recommendations of the statewide Academic Senate regarding minimum qualifications for noncredit instructors will also be further considered in Consultation. The Board of Governors will consider the issue of noncredit minimum qualifications at its March 14-15 and May 9-10, 1991, meetings.

3. **Initiated technical implementing legislation:** Aside from SB 1590 and SB 433, which are discussed above, the Board sponsored SB 2298 (urgency, Chapter 1302, Statutes of 1990), a large technical "clean up" bill for AB 1725 employment law reforms. Among other things, SB 2298 deletes reference to "instructional or student services administrator" and replaces it with a definition of "educational administrator" (*Education Code* Section 87002). The bill also authorizes, but does not require, districts to conduct fingerprint investigative checks on employees to ensure that they have not been convicted of crimes which prohibit their employment (*Education Code* Section 87013). Finally, the bill puts into place initial minimum qualifications (which the Board is to convert to regulations) for physicians, psychologists, social workers, dentists, dental hygenists, nurses, optometrists, and audiometrists (Education Code Section 87356).

4. **Will adopt revisions to lists of disciplines:** At its November 8-9, 1990, meeting, the Board is scheduled to adopt the statewide Academic Senate's recommendations regarding changes in the lists of disciplines. The Board considered the Senate's recommendations for first reading at its September 13-14 meeting (Item #11).

AB 1725 requires the Board of Governors to establish a process to review at least every three years the continued appropriateness of the minimum qualifications and the adequacy of the means by which they are administered (*Education Code* Section 87357). The Board is also required to designate a team of community college faculty, administrators, and trustees to review each district's application of the minimum qualifications (*Education Code* Section 87358). Proposed processes for

carrying out each of these functions will be entered into Consultation during the next six months.

For further information on any of the above matters, contact Tom Nussbaum or Allan Petersen.

C. **Local Hiring Criteria Regarding Faculty:** AB 1725 added specific new requirements (*Education Code* Section 87360) to the general responsibility of districts to establish hiring criteria. The bill requires districts to establish hiring criteria for faculty that include a sensitivity to the diverse backgrounds of community college students. Also, as to *new faculty members*, the local academic senate is again provided with a joint-governance role. These new requirements are to be implemented by July 1, 1990. For further information contact Tom Nussbaum.

D. **Employment of Administrators:** 1989 legislation sponsored by the Board of Governors (AB 2155, Vasconcellos, Chapter 1071) moved the effective date of the new law requiring contracts for administrators (*Education Code* Section 72411.5) to July 1, 1990. The subject of administrator retreat rights (see *Education Code* Section 87458) is still under discussion in Consultation, and attempts are being made to develop a proposal for introduction into legislation in 1991. SB 2298 did clarify, however, that the provisions on administrator retreat only apply to administrators whose first date of paid service is on or after July 1, 1990. For further information contact Tom Nussbaum.

E. **Evaluation of Employees:** By July 1, 1990, districts are required to establish procedures for evaluating part-time instructors. Also districts must establish procedures to include a peer review process as a part of evaluation. The peer review process is to be on a departmental or divisional basis (Education Code Section 87663). For further information contact Tom Nussbaum.

F. **Tenure Reforms:** Commencing July 1, 1991, the probationary period for gaining tenure will extend from two to four years. More specifically, all of the changes in tenure laws enacted by AB 1725 will govern the employment, reemployment and acquisition of tenure of faculty whose first day of paid service is *on or after July 1, 1991*. The tenure laws as they read immediately before the enactment of AB 1725 will govern the employment, reemployment and acquisition of tenure of all other faculty (see *Education Code* Section 87612.5, as added by SB 2298, Chapter 1302, Statutes of 1990). For further information contact Tom Nussbaum.

There continue to be differences of opinion over the interpretation of certain of the new tenure provisions, such as *Education Code* Section 87610.1 regarding grievances and arbitration. These differences are being discussed in Consultation, particularly within the Council of Organizations; and attempts are being made to develop clarifying legislation for introduction in 1991.

G. **Layoff/Reduction in Force:** AB 1725 revised the laws regarding layoffs (*Education Code* Section 87743 *et seq*) by requiring districts to establish "faculty service areas" and to determine competency criteria to serve in each faculty service area. These tasks, part of Phase I of reform, were to have been completed by July 1, 1990.

There continue to be questions about the interpretation and implementation of the new provisions on faculty service areas. Within the Council of Organizations and Californians for Community Colleges, there are efforts to determine additional legislative clarification that may be appropriate for 1991. For further information contact Tom Nussbaum.

H. **Collective Bargaining Study:** The 1989-90 Budget provided the Board of Governors with $100,000 to conduct the review of collective bargaining laws called for in Section 58 of AB 1725. Because of fiscal problems facing the State, however, the Legislature and Governor "reappropriated" these funds. The Board of Governors has included a request for $100,000 in its 1991-92 proposed budget. The study is not required to be conducted unless funding is provided. It is due no later than January 1, 1993. For further information contact Tom Nussbaum.

I. **Option Rollover Contract Pilot Project:** The Board's 1989-90 budget request for funding of this pilot project (Section 65 of AB 1725) was denied. Funding has not been requested since this time. Unless the Legislature itself funds this project for 1991-92, this aspect of reform will not be addressed in the foreseeable future. For further information contact Tom Nussbaum.

J. **Graduate Students Teaching in Community Colleges:** AB 1725 (Section 66) authorizes districts to enter into agreements with graduate departments of nearby UC and CSU campuses to provide part-time teaching positions in the district for advanced graduate students. Workload constraints within the Chancellor's Office have hampered efforts to assist in implementing this provision. Ambiguities still exist as to whether the contact hours taught by graduate students can be counted as average daily attendance; it is also uncertain how the new minimum qualifications should or should not apply to graduate students. For further information contact Tom Nussbaum.

K. **Study of Student Aid Programs for Community Colleges:** AB 1725 requires (Section 62) the Student Aid Commission to study financial aid programs that have as their purpose increasing the number of students entering the teaching profession at the community college level. The mandate doesn't become operative unless funding is provided for the study. Funding was not provided for 1989-90 or 1990-91, nor has it been requested for 1991-92. It is unlikely that this provision of AB 1725 will be addressed in the foreseeable future.

VII. ACCOUNTABILITY

A. **Accountability System:** AB 1725 requires the Board of Governors to develop and implement a comprehensive educational and fiscal accountability system for the California Community Colleges (*Education Code* Section 71020.5). The Legislature expressed intent that the system be implemented over a three year period, commencing not later than 1991-92.

At its July 12-13, 1990, meeting, the Board of Governors adopted an "AB 1725 Model Accountability System" (Item #9). The system will be pilot tested in a small number of districts during 1990-91, and Budget Act of 1990 provides the Board of Governors with $375,000 for this purpose. An advisory committee is being formed to assist with this work. For 1991-92, the Board is requesting $7,750,000 for local assistance, and $150,000 for state operations to implement the accountability system. For further information contact Mark Fetler.

VIII. CONDITIONS AND APPROPRIATIONS

A. **Conditions of Operability and Trigger Mechanisms:** Pursuant to Section 70 of AB 1725, the Legislature has provided for reform to come in two phases. The Board of Governors has been delegated with authority to determine when adequate funding has been provided for each phase, thus making mandatory the mandates

contained in that phase. The Legislature expressed its estimate (an strong expectation) that $70 million would be needed for each phase of reform.

At its November 29-30, 1989, meeting, the Board of Governors adopted a certification that, effective June 30, 1990, adequate funding would be provided for Phase I of reform (Item #3). This step triggered (effective July 1, 1990) the repeal of credentials, the establishment of new minimum qualifications and equivalencies, the requirements regarding hiring criteria for faculty, the provisions regarding movement between faculty and administrative positions, the new requirements for evaluation of part-time instructors and peer review, and the implementation of the new layoff and faculty service area provisions.

With the Legislature and Governor having appropriated the second $70 million for 1990-91, the Board of Governors will be asked to certify, at its November 8-9, 1990, meeting, that effective June 30, 1991, adequate funding will have been provided for Phase II of reform. This action will trigger, effective July 1, 1991, the implementation of program-based funding and the new tenure provisions. For further information contact Tom Nussbaum or Joe Newmyer.

B. **Funding of Reforms Through the Budget Process:** The proposed 1991-92 Budget for the California Community Colleges was adopted by the Board of Governors at its September 13-14, 1990, meeting (Item #8). Among the major budget requests related to AB 1725 are a $98 million augmentation to fund ADA growth (at the full rate rather than the marginal rate), a $4.9 million augmentation for staff development, a $2 million augmentation for faculty and staff diversity, a $7.75 million augmentation for the accountability system, a $1.1 million augmentation for 2+2+2 programs, and a $1 million augmentation for the Fund for Instructional Improvement. The $140 million in program improvement funds is in the base and therefore did not need to be requested as a budget augmentation. For further information contact Joe Newmyer.

AB 1725:
A COMPREHENSIVE ANALYSIS

January 1989

Board of Governors
California Community Colleges

6169

TABLE OF CONTENTS

AB 1725:

A COMPREHENSIVE ANALYSIS

		Page
I.	MISSION	1
	A. Mission Statement	1
	B. Transfer Core Curriculum	2
	C. Remedial Limit	2
	D. Articulation Regarding Vocational Programs	3
	E. English as a Second Language Study	3
	F. Interdisciplinary Colleges Pilot Study	4
II.	GOVERNANCE	4
	A. Delineation of Function	5
	B. Education Code Review	5
	C. Regulations of the Board of Governors	6
	D. Exempt Positions	6
	E. Composition of the Board of Governors	6
	F. Academic Senate and Student Roles	7
III.	FINANCE	7
	A. Extension of SB 851	7
	B. Program-Based Funding	8
	C. Transitional Funding Mechanism for Program Improvement	9
	D. Part-Time/Full-Time Ratios	12
IV.	NEW PROGRAMS AND SERVICES	14
	A. Staff Development	14
	B. Expanded Fund for Instructional Improvement	18
	C. Career Resource and Placement Centers	18
	D. Vocational Education Information to Districts	19
V.	AFFIRMATIVE ACTION	19
	A. Compliance and Accountability	19
	B. Technical Assistance Team	20
	C. Major Service Function to Assist Districts in Recruiting	20
	D. Systemwide Plan for Strengthening Affirmative Action	20
	E. Faculty and Staff Diversity Fund	21
	F. Other Affirmative Action Provisions	21

VI. EMPLOYMENT POLICIES 22
A. Repeal of Credentials 22
B. Minimum Qualifications Established by the Board of Governors 23
C. Local Hiring Criteria 24
D. Employment of Administrators 25
E. Evaluation of Employees 25
F. Tenure Reforms 26
G. Collective Bargaining Study 26
H. Option-Rollover Contract Pilot Project 27
I. Graduate Students Teaching in the Community Colleges 27
J. Study of Student Aid Programs for Community College Teachers 27

VII. ACCOUNTABILITY 27
A. Accountability System 28

VIII. CONDITIONS AND APPROPRIATIONS 29
A. Conditions of Operability and Trigger Mechanisms 29
B. Appropriations in AB 1725 31
C. Funding of Reforms Through the Budget Process 31

APPENDIX

AB 1725 Implementation Chart

AB 1725: A Comprehensive Analysis

A blueprint for the future, AB 1725 is landmark legislation that provides new direction and support for California's community colleges. The bill's reform measures fall into eight areas:

I. Mission
II. Governance
III. Finance
IV. New Programs and Services
V. Affirmative Action
VI. Employment Policies
VII. Accountability
VIII. Conditions and Appropriations

Each of these areas is summarized below, and analyzed in turn. References are to the appropriate Sections (§) of the *Education Code* (EC) or to Section (Sec.) numbers within AB 1725.

I. Mission

AB 1725 validates the comprehensive mission of the community colleges but clearly restricts the colleges from being all things to all people. New clarity and a structure of priorities are provided in the colleges' mission. Specific focus has been placed upon improving the transfer function and removing barriers to transfer. Articulated programs for vocational training by K-12 districts, community colleges, and the four-year institutions are initiated. Limits are placed on the amount of remedial coursework a student may take. Steps are taken to meet the emerging need for instruction in English as a Second Language (ESL). In short, the mission of the colleges is now focused, prioritized, and forward-looking.

A. Mission Statement (EC § 66701)

The mission of the community colleges is clarified and validated; and for the first time, priorities are established.

AB 1725 reaffirms the authority of districts to offer collegiate courses for transfer, vocational and technical courses, and community services programs and courses. Priorities within this mission are established as follows:

- Degree and certificate programs in lower division arts and sciences and in vocational and occupational fields is the "primary mission" of the colleges.

- Remedial instruction, English as a Second Language, and support services that help students succeed at the postsecondary level are "important and essential functions."

- Adult noncredit education curricula in areas defined as being in the state's interest are an "essential and important function" (see *Education Code*, § 84711 for a listing of state-funded noncredit courses.)

- Community services courses and programs are an "authorized function so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions."

The terms "primary mission," "important and essential function," and "authorized function" are not defined in statute. District governing boards and the Board of Governors are therefore responsible for defining and interpreting these priorities. Basic responsibilities for implementing mission priorities fall to districts, with the role of the Board of Governors being to provide leadership and direction to the colleges.

Accountability regarding this new mission statement will be maintained, in part, through a new accountability system to be developed by the Board of Governors (see Part VII, *Infra*).

B. Transfer Core Curriculum (EC § 66720)

A general education, common core curriculum must be developed and maintained by the Board of Governors, the Board of Trustees of the California State University (CSU) and the Board of Regents of the University of California (UC). Completion of the common core curriculum by a community college student will satisfy lower division general education requirements at UC and CSU. The legislation does not specify a timeline for the development of the initial core curriculum, but work has been underway since 1986 and should be completed by early 1990.

Earlier versions of AB 1725 required completion of the core curriculum as a condition for award of the associate degree. This requirement was deleted in the final version of the bill (EC § 78205).

C. Remedial Limit (Sec. 68, AB 1725)

The Board of Governors is required to adopt a specific regulation on or before January 1, 1990, prohibiting students from acquiring more than 30 semester units (or 45 quarter units) of "remedial coursework." This limit does not apply to students enrolled in English as a Second Language courses or those who are learning disabled. In addition, local governing boards can waive the limit for students who

show "significant, measurable progress toward the development of skills appropriate to his or her enrollment in college level courses." It should be noted that local boards need not apply this remedial limit until the necessary regulation has been adopted by the Board of Governors. Any remedial coursework taken by a student prior to the effective date of the regulation need not be counted against the student's limit.

D. Articulation Regarding Vocational Programs (Sec. 69, AB 1725)

The Board of Governors and the State Board of Education are required to assist school and community college districts in developing articulated programs that coordinate vocational education instruction over the final two years in high school and two years in community colleges (2+2 programs). The Board of Governors is also required to work with the Trustees of the California State University to expand these 2+2 programs to include the final two years of the baccalaureate degree (2+2+2 programs). Plans for implementating of both programs are to be completed by July 1, 1991.

Funding for various 2+2 projects has been provided through the state budget since 1987-88, while initial funding for the first 2+2+2 projects was provided by December 1, 1988. The Board's proposed 1989-90 budget for the community colleges contains additional requests for funding of 2+2 and 2+2+2 projects. The 1989-90 Governor's Budget proposes an additional $853,000, with some $753,000 earmarked for 2+2+2 programs.

E. English as a Second Language Study (Sec. 59, AB 1725)

The California Postsecondary Education Commission (CPEC) and the State Department of Education are to agree upon and conduct a coordinated research effort to review ESL programs offered through the California Community Colleges, UC, CSU, and adult education programs. The results of the review are to be reported to the Legislature by January 1, 1990. CPEC will cover the postsecondary segments by forecasting future educational needs for ESL programs, by assessing the ongoing role of the California Community Colleges in relation to UC and CSU in conducting ESL programs, and by making recommendations for effective cooperation among the segments.

This provision of AB 1725 (Sec. 59) is not operative until funds are specifically appropriated for the review, for which the bill makes no appropriation. The Governor's Budget for 1989-90 also does not contain an appropriation for this study.

F. Interdisciplinary Colleges Pilot Study (Sec. 60, AB 1725)

By January 1, 1990, the Chancellor is to have conducted a study on the feasibility of establishing, on a pilot basis, "interdisciplinary colleges" that integrate vocational and academic study. This study is to be done with the participation of one or more college districts. The requirement to conduct the study does not become operative, however, unless or until the study is funded. AB 1725 does not contain an appropriation for this purpose, and the 1989-90 Governor's Budget does not fund the study. Again, an adjustment of the January 1, 1990 deadline probably will be necessary.

II. Governance

AB 1725 embraces the notion of the community colleges operating as a system - comprised of the Board of Governors and local governing boards - that functions apart from, but responsive to, the Legislature. Embodied in this notion is an intent to strengthen governance both by and within the system. The Board of Governors and local governing boards are enabled to respond to state interests and concerns as a system - through the system's own internal governance mechanisms - rather than having to be so reliant on the Legislature.

AB 1725 also strengthens the role of faculty, particularly academic senates, in community college governance. Throughout the bill the Legislature has attempted to recast faculty roles toward those played by faculty in four-year postsecondary institutions. For instance, academic senates are provided with express roles in developing the core curriculum (EC § 66720), in developing a list of disciplines to implement minimum qualifications for faculty (EC § 87357), in developing and administering processes for waiver of minimum qualifications (EC § 87359), and in establishing hiring criteria for new faculty (EC § 87360). Elsewhere in the bill there is broad language that emphasizes and ensures the rights of faculty and academic senates to participate in systemwide and institutional governance (EC §§ 70901(b)(1)(E), 70902(b)(7)).

Apart from strengthening faculty roles, several parts of AB 1725 create and strengthen the community colleges as a system. The basic roles of the Board of Governors and district governing boards are specified; the entire *Education Code* as it relates to community colleges is to be made consistent with this delineation of functions; the system is provided with authority to develop its own regulations through a new set of internal checks and balances; the composition of the Board is changed to add more field expertise; and the Board of Governors is further enabled to select its staff without sole reliance on the provisions of State Civil Service.

A. Delineation of Function (EC §§ 70900-70902)

The California Community Colleges are expressly designated as a postsecondary system of education, and the respective roles of the Board of Governors and locally elected district governing boards are delineated. This delineation was originally proposed by the Board of Governors, which worked closely with district representatives and the Californians for Community Colleges in developing the recommendations. The Legislature incorporated these recommendations, almost verbatim, into AB 1725. The statutes provide for broad delegations of authority to the Board of Governors and local boards, thereby enabling these bodies to govern more of their own affairs outside of the legislative arena.

The primary role of the Board of Governors is to provide leadership and direction in the continuing development of the California Community Colleges, with the Board's work at all times to be directed to maintaining as much local authority and control as possible. The Board is provided with numerous broad powers of oversight and general supervision (see *Education Code*, § 70901(b)(1-15)), but these powers are to be applied only in light of the Board's primary role of providing leadership and direction. In performing its functions, the Board is directed to establish and use a consultation process, and is provided with broad power to delegate authority to the Chancellor, districts, and others.

The primary role of district governing boards is to establish, maintain, operate, and govern local colleges in accordance with law. In furtherance of this role, governing boards are charged with carrying out various broad functions (see *Education Code*, § 70902(b)(1-14)). With the exception of the new requirement to participate in the Board's consultation process, all these functions are drawn from various existing statutes that fix the broad functions of district governing boards.

B. Education Code Review (Sec. 57, AB 1725)

No later than January 31, 1989, the Board of Governors is required to review all statutes affecting the administration and operation of the California Community Colleges and to recommend the amendment or repeal of those provisions affected by AB 1725. This work, most of which has already been done through Board initiative, is necessary to implement the delineation of governance functions. The broad delegation of authority to the system will be an empty gesture as long as it resides alongside thousands of statutes that prescriptively and narrowly delegate authority.

Legislation developed through the Education Code Review will be sponsored by the Board of Governors during 1989 and 1990.

C. Regulations of the Board of Governors (EC § 70901.5)

Commencing on January 1, 1990, regulations of the Board of Governors, instead of being subject to the review and approval of the state's Office of Administrative Law, must be responsive to concerns raised by the colleges. The Board of Governors is required to establish various procedures for the adoption of regulations. The new law effectively requires the Board to establish procedures that incorporate all key aspects of the state's Administrative Procedures Act (*Government Code*, §§ 11340 *et seq.*), except for the review and approval functions of the Office of Administrative Law. District governing boards and "any other interested party" may comment upon, critique, or challenge Board regulations. In addition, a Board regulation will become effective only if at least two-thirds of all district governing boards vote to disapprove the regulation. The law goes on to specify additional procedures the Board must follow if it wishes to pursue the adoption of such a regulation.

Board procedures to implement the requirements of *Education Code*, § 70901.5 will be developed and adopted as regulations during 1989.

D. Exempt Positions (EC § 71090.5)

Up to six deputy or vice-chancellor positions exempt from State Civil Service are authorized for the Chancellor's Office. To comply with requirements of the State Constitution, these appointments will be made by the Governor, upon recommendation of the Board of Governors. This change will enable the agency to better draw from expertise within the colleges and the private sector.

E. Composition of the Board of Governors (EC § 71000)

Also drawing upon expertise within the colleges, the composition of the Board of Governors is modified to require the Governor to appoint two current or former local district trustees and a second tenured faculty member. Thirteen members (including the two trustees) will have six-year terms; the two faculty members will have two-year terms; and the one student member will have a one-year term. The two trustees would first be appointed on January 15, 1990, and January 15, 1992, respectively. The language is unclear as to when the second faculty member would first be appointed. The first six-year terms would not commence until after January 1, 1990. Additional legislation will be required to convert from a structure of four-year staggered terms to a structure of six-year staggered terms, and to clarify when the second faculty member will first be appointed.

Common law doctrines regarding incompatibility of offices would require current district trustees to resign their local offices in order to accept appointment to the Board. The common law, however, may be overridden by a subsequently enacted statute that provides that local trustees need not resign, or otherwise indicates that

common law is overridden. AB 1725 is unclear in this regard and may require clarification by the Attorney General or additional legislation.

F. Academic Senate and Student Roles (Sec. 61, AB 1725)

By January 1, 1990, the Board of Governors is required to develop policies and guidelines for strengthening the role of local academic senates regarding the determination and administration of academic and professional standards, course approval and curricula, and other academic matters. The Board is also required to develop a plan for encouraging greater student participation in campus, district, and systemwide governance. These two projects augment Board responsibilities to ensure roles for faculty, staff, students, and academic senate in governance, as provided in *Education Code*, § 70901(b)(1)(E).

III. Finance

AB 1725 shifts major authority for developing and administering the community college finance mechanism from the Legislature to the system. The details of community college finance will no longer be contained in statute, but rather in regulations of the Board of Governors. In addition, the use of average daily attendance (ADA) as the single workload measure for funding community colleges will be replaced by a more sophisticated and cost-based set of workload measures known as "program-based funding."

The development of this new finance mechanism will take time. To begin implementing reform, however, revenues in addition to those that will be allocated by the current statutory formula are needed. The Legislature has responded by extending the expiration date of the current finance mechanism, by creating a transitional mechanism intended to provide at least $140 million in additional revenues to districts, and by calling for the implementation of program-based funding in Fiscal Year 1991-92.

A. Extension of SB 851 (EC § 84713)

The current finance mechanism for community colleges, established in 1983 by SB 851, would have expired on July 1, 1989, (EC § 84713). AB 1725 extends this expiration date until July 1, 1991, thus providing time for development of the program-based funding mechanism.

Some officials believe that additional refinements of the SB 851 mechanism will be necessary during the next few years. Of particular interest are changes that will accommodate implementation of program-based funding in 1991-92. Changes to SB 851, however, will result in revenue dislocations for districts during 1989-90 and

1990-91. Any potential changes to be enacted during 1989 should be considered through the consultation process by spring of 1989.

B. Program-Based Funding (EC § 84750)

By March 1, 1990, the Board of Governors is required to adopt "criteria and standards" for purposes of making the annual budget request for the California Community Colleges, and for the purpose of allocating the state general apportionment (EC § 84750). These criteria and standards will constitute the basic mechanism for program-based funding, which will first be implemented in Fiscal Year 1991-92.

While the details of the community college finance mechanism will thus cease to be in statute, AB 1725 is rather explicit about what the Board is to include in its criteria and standards.

1. Districts are to be funded on the basis of adjustments to their prior-year levels of funding. Adjustments will be made for workload changes, program improvement, inflation, and other purposes authorized by law.

2. For *credit* instruction (noncredit instruction is treated separately), there are to be five workload categories and workload measures:

Category	Measure
Instruction	Credit Full-Time Equivalent Students (Credit FTES)
Instructional Services and Libraries	Credit FTES
Student Services	Credit students enrolled (headcount)
Maintenance and Operations	Square feet of owned and leased facilities
Institutional Support	Fixed percentage of other categories

The statute also specifies how increases and decreases in workload are to handled. The Board regulations will flesh out the details of these provisions and fix dollar amounts for each unit of workload within the respective workload measures.

3. The Board is also required to establish funding standards for the five categories and to request program improvement monies annually to assist districts in meeting these standards. As an example, under the category of instruction, the Board could develop standards for student/teacher ratios (such as 25 to 1) or the percentage of hours to be taught by full-time instructors (such as 75 percent of

all hours of credit instruction). Through the annual budget, the Board will seek additional funding (program improvement money) to help districts meet these standards.

4. The inflation adjustment to be developed by the Board is fixed by statute, and is the same adjustment currently contained in SB 851 (Implicit Price Deflator for State and Local Goods and Services for the United States).

5. An adjustment for economies of scale (large and small districts and colleges) is to be provided.

6. At a *minimum*, workload increases in FTES and headcount will be at the rate of change in the general adult population. The Board of Governors is to seek additional growth revenues (to address other growth factors) through the annual budget process, and to determine each district's growth entitlement.

7. A hold-harmless clause is provided for 1991-92 funding, guaranteeing that all districts will receive at least the apportionment they would have been entitled to under SB 851.

8. Unless specifically authorized by statute, the Board shall not require expenditure of revenues in the categories of operation for which they are generated. District governing boards are to determine the expenditure of such revenues.

C. Transitional Funding Mechanism for Program Improvement (EC § 84755)

While program-based funding, once implemented, will more adequately fund the costs of providing quality programs and services, this funding will not commence until at least 1991-92. The colleges, however, are already struggling with a substantial loss of purchasing power, and have an immediate need for additional resources to begin implementing AB 1725.

In response, the Legislature has provided a transitional funding mechanism for program improvement and new mandates that will operate until program-based funding is implemented. This transitional mechanism will allocate revenues to districts on a dollars-per-ADA basis (adjusted for equalization) and authorize districts to use these revenues for any of 19 required or authorized purposes (EC § 84755(b)). AB 1725 does not contain an initial appropriation for purposes of program improvement. However, the Board's 1989-90 proposed budget for community colleges contains an $80 million request. The Governor's Budget for 1989-90 contains no proposed appropriation for program improvement.

As to the uses of program improvement money, the intent is to provide new revenues to cover new mandates, to earmark certain portions for use in improving the percentage of instruction taught by full time faculty, and to otherwise leave districts with as much discretion as possible in determining the use of these funds. The provisions of *Education Code*, §§ 84755 and 87482.6 accomplish these purposes, with § 84755 specifying 19 required or authorized uses of program improvement money.

1. Developing articulated programs school districts and campuses of the University of California and California State University, as provided for in Section 70 [sic] of AB 1725;

2. Applying minimum qualifications to all newly hired faculty and administrators, including candidates for these positions, as required by *Education Code* Section 87356;

3. Developing and administering a process for waiver of minimum qualifications for faculty, as required by *Education Code* Section 87359;

4. Establishing and applying local hiring criteria, as required by *Education Code* Section 87360;

5. Establishing and applying faculty service areas and competency criteria, as required by *Education Code* Sections 87743 to 87743.5, inclusive;

6. Evaluating temporary employees, instituting peer review evaluation, and widely distributing evaluation procedures, as required by *Education Code* Section 87663;

7. Establishing and applying new processes for tenure evaluation, as required by *Education Code* Section 87610.1;

8. Establishing and applying the tenure denial grievance procedure, as required by *Education Code* Section 87610.1;

9. Establishing and applying a process for moving administrators into faculty positions, as required by *Education Code* Sections 87454 to 87458, inclusive;

10. Publishing and distributing a report on the affirmative action success rate, as required by *Education Code* Section 87102;

11. Improving instruction by reducing the ratio of full-time equivalent students to full-time equivalent instructors;

12. Improving instruction by increasing the hiring of full-time instructors and limiting the practice of hiring part-time instructors;

13. Augmenting budgets for college libraries and learning resources;

14. Augmenting budgets for plant maintenance and operations;

15. Adding new courses or programs to serve community need;

16. Making progress towards affirmative action goals and timetables established by the district;

17. Developing and maintaining programs and services authorized by *Education Code* Section 78212.5;

18. Augmenting budgets for student services in the areas of greatest need; and

19. Providing release time as deemed appropriate by community college district governing boards, to enable faculty and staff participation in implementing reforms.

Items 2 through 9 in the above list relate to mandated employment reforms that will not become operative until July 1, 1990, or until $70 million of program improvement money is provided, *whichever occurs later* (see Sec. 70(d), AB 1725).

Once the various employment reforms become operative, however, the law provides that program improvement money be available to cover the costs of the new mandates noted in items 2-9. While a district need not use program improvement money for these purposes (existing staff and resources can be reassigned or reallocated), it will receive no other new revenues for these mandates (whether it be through a claim filed with the Commission on State Mandates or otherwise) unless it can demonstrate that its total allocation of program improvement money, minus the amount set aside for improving its full-time/part-time ratio, is less than the reasonable cost of complying with the mandates.

Item 10 on the list - to cover the cost of publishing and distributing required reports on affirmative action success rates - relates to a mandate that becomes effective on January 1, 1989. However, the costs of this mandate are also reimbursed with allocations from the new Faculty and Staff Diversity Fund (EC § 87107(c)). Accordingly, this item constitutes a more-or-less discretionary use of program improvement money.

Items 11 and 13 through 19 relate to discretionary uses of program improvement money. Most address areas that eventually will be targeted for additional resources by means of funding standards in the new program-based funding formula. By directing program improvement money to these areas, it is anticipated that districts will be further along in meeting whatever standards are developed in connection with program-based funding. Item 12, relating to part-time/full-time ratios, is more completely addressed in new *Education Code*, Section 87482.6.

Program improvement money can be used only within the 19 areas. Districts will be required to develop and submit plans to the Board of Governors for using such resources. To the extent that a district expends its allocation as provided by law, the allocation will be incorporated into its base budget.

This transitional program improvement mechanism will be operative for at least the 1989-90 and 1990-91 fiscal years. Program-based funding will not become operative until Fiscal Year 1991-92 or until district based budgets have been increased by $140 million in program improvement monies, *whichever is later* (Sec. 70(e), AB 1725). The transitional program improvement mechanism will thus continue to operate in 1991-92 and beyond if the $140 million threshold for triggering the implementation of program-based funding has not been reached.

Finally, it should be noted that a number of concerns have been raised that the "50% Law" (EC § 84362) will operate to remove the flexibility and discretion that was intended regarding the use of program improvement money. Because the 50 percent Law requires districts to expend 50% of their budgets on the salaries of classroom instructors, there are concerns that it will prevent districts from being able to use program improvement money for such items as student services, plant maintenance and operation, and making progress towards affirmative action goals and timetables. These concerns will be discussed in the consultation process and may lead to revisions in the program improvement mechanism.

D. Part-Time/Full-Time Ratios (EC § 87482.6)

The most specific and prescriptive use of program improvement money is dedicated to increasing the use of full-time faculty. Currently, 67 percent of the hours of *credit* instruction (excluding overload) in the system is taught by full-time instructors. While program-based funding will most probably have standards relating to part-time/full-time ratios, AB 1725 attempts to increase the systemwide average to 75 percent during the next few years.

The provisions work as follows: If a district has more than 75 percent of its hours of credit instruction taught by full-time instructors, the law does not require the district to use any portion of its program improvement money to improve its percentage. If a district is between 67 and 75 percent, it must apply up to 33 percent of its program improvement money, as necessary, to reach the 75 percent standard. If a district is below 67 percent, it must apply up to 40 percent of its program improvement money, as necessary, to reach the 75 percent standard.

Some examples of how these provisions work are helpful. Assume a district is at 74 percent, and that it will take $100,000 to hire the number of full-time faculty to reach 75 percent. Assume further that the district receives $1,000,000 in program

improvement money. The district need not apply $330,000 (33%) towards improving its ratio; instead, it need only apply $100,000.

As a second example, assume a district is at 62 percent and that it will take $700,000 to hire the number of full-time faculty to reach 75 percent. Assume further that the district receives $1,000,000 in program improvement money. The district must apply $400,000 (40%) towards improving its ratio.

Important elements of this new law will be controlled by regulations of the Board of Governors. Initially the Board is directed to adopt regulations that exclude overload instruction from the computations, define what constitutes a "full-time instructor," and compute the number of full-time faculty each district must add. These regulations may be changed without resorting to legislation, however.

The following technical points regarding the full-time/part-time ratios should be kept in mind:

1. Fall term data (as opposed to complete fiscal year data) will be used for purposes of administering the law. For instance, the number of full-time faculty to be secured with 1989-90 program improvement money will be based upon Fall 1988 data.

2. The ratio will be computed on the basis of hours of credit instruction taught by full and part-time instructors; that is, student contact hours or units of credit will not be used as the basis for computation.

3. Districts will not immediately lose revenues they fail to expend for additional full-time instructors during any given fiscal year. Instead, districts will have until September 30, 1991, to make their designated number of hires. This will effectively provide districts with three major recruiting periods (spring 1989, spring 1990, spring 1991) to secure their total number of hires. To the extent a district does not hire the designated number of faculty, its base funding for 1991-92 and subsequent years will be adjusted downward.

Finally, it should be noted that numerous concerns have been raised that the 75 percent standard operates unfairly against some districts. A district with a relatively large geographical area and relatively small population must establish small off-campus centers in order to provide access to its programs. In order to provide a wide range of courses at these small off-campus centers, the district must use either part-time instructors or full-time instructors that teach in several disciplines. Also, districts with large vocational or contract instruction programs (particularly those with academies for administration of justice or fire science, or apprenticeship) have a greater need to employ part-time instructors who are employed and expert in the field in which they are teaching. Finally, when a district provides sabbaticals or released time to full-time instructors, the hours taught by part-timers which temporarily replace these full-time employees should not count

against the district. These concerns will be discussed in the consultation process and may lead to technical revisions in the either the statute or regulations of the Board of Governors.

IV. New Programs and Services

In addition to providing for a major infusion of resources for various areas of program improvement, AB 1725 also creates or expands several specific programs and services. Among the major new programs and services not otherwise discussed in this analysis are new programs for staff development, an expansion of the Community College Fund for Instructional Improvement, authorizing language to upgrade and establish career resource and placement centers, and the establishment of new service function in the Chancellor's Office to provide districts with information on economic trends and employment projections.

A. Staff Development (EC §§ 87150-87154)

Community colleges, through AB 1725, have become the first educational segment to receive specific funding for staff development. The provisions in the bill are based generally on a CPEC study and recommendations regarding staff development needs in postsecondary education. The intent is to provide formula-based funding (as opposed to funding on a project-by-project basis) to support *locally developed and implemented* staff development programs.

The CPEC recommendations would have provided funding on the basis of a percentage of state funding received by districts, and would have required local matching. AB 1725, instead, calls for an initial allocation of 1/2 of 1 percent of a district's "fiscal year revenues," as defined in SB 851, and up to 2 percent of such revenues thereafter, as determined through the state's budget process. This initial allocation, however, has been overridden by Section 72(a) of AB 1725, which provides $5 million for 1988-89, to be distributed to districts on the basis of a dollar amount per ADA (about $7.00 per unit of 1987-88 funded ADA). Therefore, there is no matching requirement; the initial year's funding (1988-89) of $5 million is provided; and funding for subsequent years will be up to 2 percent of district's fiscal year revenues, as requested by the Board of Governors and funded in the state budget.

In order to receive these formula-based allocations for staff development, districts must complete several steps:

1. Each campus within the district must have an advisory committee composed of administrators, faculty, and staff representatives to assist in needs assessment and the development of plans;

2. Each campus must have a human resources development plan for the current and subsequent fiscal year; and

3. Districts must report actual expenditures for the preceding year.

Evidence that these steps have been taken must be provided to the Chancellor's Office by way of affidavit. A model form for this affidavit has been developed and was distributed to districts in mid-December of 1988.

As to the uses of staff development money, the statute authorizes allocations to be used for:

1. Improvement of teaching.

2. Maintenance of current academic and technical knowledge and skills.

3. In-service training for vocational education and employment preparation programs.

4. Retraining to meet changing institutional needs.

5. Intersegmental exchange programs.

6. Development of innovations in instructional and administrative techniques and program effectiveness.

7. Computer and technological proficiency programs.

8. Courses and training implementing affirmative action and upward mobility programs.

9. Other activities determined to be related to educational and professional development pursuant to criteria established by the Board of Governors.

A number of questions have been raised regarding the interpretation and implementation of these new staff development provisions. They are recounted in this analysis to assist the immediate implementation of the new law. Some of these interpretations may require refinement and revision through the regulatory process. The interpretations will stand, however, until any necessary regulations are finalized.

Question:

Can staff development allocations be used to reimburse district expenditures for staff development that occurred before January 1, 1989 (the effective date of the new law)?

Answer:

While the new law did not become effective until January 1, 1989, the $5 million appropriation for staff development is for expenditure in the 1988-89 fiscal year (Sec. 72, AB 1725). Accordingly, if a district has the appropriate advisory committee(s) and plan(s) in place, expenditures for staff development incurred between July 1, 1988, and January 1, 1989, may be reimbursed with staff development allocations received after January 1, 1989.

Question:

Is faculty and staff development money just for faculty, or may it be used for administrators, classified employees, or trustees?

Answer:

Faculty and staff development money is to be used for faculty, administrators, and classified employees, but not for trustees. Administrators and classified employees are legally "staff" of a district, but trustees are not.

Question:

Who must and who may be a part of advisory committees for staff development?

Answer:

The statute specifically designates that faculty, administrators, and staff must be represented on advisory committees. The word "staff" can only have meaning if it refers to classified employees. As to other persons or groups who may participate on advisory committees, the statute is not limiting. Accordingly, districts could also add students, trustees, members of the public, or other persons of their choice to such advisory committees.

Question:

Does the law require a district to maintain 100% of its current level of expenditure for staff development as a condition for receipt of these new staff development funds?

Answer:

While the law does not require a district to maintain 100% of its pre-existing levels of expenditure for staff development, the intent of the provisions is that a district is to use the new revenues to *increase* its commitment of resources to staff development. As long as this overall commitment of resources is increased, it is a matter within the sound discretion of district governing boards whether the new staff development resources are totally "on top" of current expenditures for staff

development, or whether the new resources partially supplant existing expenditures. In monitoring these provisions, the Board of Governors can be expected to insure that districts substantially increase their commitments of resources for staff development.

Question:

Given the requirement that each "campus" must have an advisory committee and plan, does the word "campus" mean "college," or may it also be construed to include educational centers or other off-site locations?

Answer:

District governing boards have discretion to designate educational centers or other off-site locations as "campuses," but are not required to do so. They are required to include each college within the district as a campus, however.

Question:

Can a portion of a district's staff development allocation be used for purposes of administering the requirements of the law, such as the cost's of advisory committees, the costs of developing plans, and the costs of reporting to the Board of Governors?

Answer:

Administrative costs are not an expressly authorized use for staff development revenues. The Board of Governors, pursuant to *Education Code* § 87153(i), could adopt a regulation that recognizes these costs as related to educational and professional development.

Question:

Must staff development monies be returned to the state if they are not used during the fiscal year for which they are allocated?

Answer:

The law does not require the return of staff development monies not used during the fiscal year for which they are allocated. The intent of the law, however, is that a district should plan for and attempt to expend the entire allocation during the fiscal year for which it is allocated.

Question:

Does staff development money, once allocated, become part of a district's base budget?

Answer:

Staff development money is not incorporated into a district's base budget.

B. Expanded Fund for Instructional Improvement (EC § 84381)

AB 1725 expands the existing list of programs and services eligible for funding on a project-by-project basis through the Community College Fund for Instructional Improvement (FII). The bill also provides an additional $200,000 in FII funds, to be allocated during Fiscal Year 1988-89.

The new programs and services eligible for funding are to promote the intellectual development of faculty and staff, including:

1. Intersegmental summer programs, including research projects and seminars.

2. Programs bringing visiting scholars to districts.

3. Interdisciplinary programs involving local noncollegiate institutions in the arts and sciences.

4. Intersegmental research and public information projects on the environment, social history, and culture.

5. Summer "bridge" programs for student transition to college life.

In June of 1988, the Board approved FII grants and loans for 1988-89 for $536,000 and $88,512, respectively. The approvals were given with the understanding that should there be an augmentation to the Fund for 1988-89, additional projects would be funded. (For 1988-89, 110 proposals requesting over $3.25 million were submitted to the Board.)

The request for proposals (RFP) for 1989-90 FII projects will be released early in 1989. The Governor's Budget for 1989-90 provides $920,000 for the FII ($736,000 for grants and $184,000 for loans), but the actual appropriation won't be known until after legislative hearings in June. Decisions regarding funding for projects will be made by early summer of 1989.

C. Career Resource and Placement Centers (EC § 78212.5)

Until late in its legislative development, AB 1725 would have *required* each district to develop and maintain career resource and placement centers, to provide inservice training on matriculation, to orient students regarding academic requirements and available support services, and to provide various publicity programs. In its final

form the bill was amended to *authorize* districts to conduct these activities rather than require them to do so. In addition, districts were permitted to use program improvement money (EC § 84755(b)(17)) for the purposes of accomplishing these newly authorized activities.

D. Vocational Education Information to Districts (Sec. 63, AB 1725)

On or before January 1, 1990, the Board of Governors must provide districts with ongoing vocational education information in the form of summaries and analyses of current economic trends and employment projections. This requirement does not become operative until funding is provided to enable the Board to provide this new service. No appropriation for this service was provided in AB 1725. The Board requested the necessary funding in its 1989-90 budget request, but the Governor's Budget for 1989-90 does not contain funding for this request.

V. Affirmative Action

In the intent language accompanying AB 1725, the Legislature recognizes that California is undergoing a major demographic, social, and economic transformation; that community colleges are at the center of this change; and that "the state's future as a healthy and free, diverse and creative society depends in major part upon the commitments expressed through and in the community colleges."

The Legislature goes on to recognize the massive number of retirements that will occur in the community colleges during the next 15 years. Also recognized is the "window of opportunity" that will exist to make the faculty and staff of the colleges more representative of the state's diversity.

Concerns about affirmative action and staff diversity are thus woven into the very fabric of AB 1725. Particular attention is paid to increasing the pool of qualified minorities and underrepresented group members from which community colleges will draw new employees. Numerical and percentage goals for the system as a whole are stated, an unprecedented step. The role of the Board of Governors in providing leadership and service, as well as its role in monitoring and effecting compliance, are clarified and strengthened. In short, a comprehensive legislative framework has been provided to both enable and ensure that district governing boards and the Board of Governors make staff diversity a reality.

A. Compliance and Accountability (EC § 87102)

Existing law is amended to require districts to periodically certify compliance with affirmative action statutes, and also to require that they update their affirmative action plans, particularly to include steps to meet hiring goals in the replacement of

part-time faculty with full-time faculty. Districts must update their plans in order to receive program improvement monies for use in improving their full-time/part-time faculty ratios. Since program improvement monies are anticipated beginning July 1, 1989, all affirmative action plans should be updated by then.

Existing law is also amended to require districts to publish and distribute reports on their affirmative action success rates. The reports are to include data and information specified by the Board of Governors. It is anticipated that data and information reporting requirements will be specified early in 1989, with districts first reporting success rates in the fall of 1989.

B. Technical Assistance Team (EC § 87104(a)(4))

Existing law is amended to require the Board of Governors to establish a technical assistance team to review the affirmative action plan of each district failing to make measurable progress in meeting its goals and timetables. This team will make recommendations to the Board, which in turn will prescribe to the district conditions necessary to assure reasonable progress. These conditions may include the withholding of program improvement monies for full-time/part-time faculty ratios and withholding allocations from the Faculty and Staff Diversity Fund.

The Chancellor's Office will create the technical assistance team early in 1989.

C. Major Service Function to Assist Districts in Recruiting (EC § 87104(b))

By July 1, 1989, the Board of Governors is to establish "a major service function to assist districts in identifying, locating, and recruiting qualified members of underrepresented groups . . . ." AB 1725 provides initial-year funding of $300,000 for this function. It is anticipated that this function will provide national recruitment efforts on behalf of the system as well as a computer-based affirmative action registry.

D. Systemwide Plan for Strengthening Affirmative Action (EC § 87104(c))

By March 15, 1989, the Board of Governors is to develop and adopt a systemwide plan for strengthening affirmative action policies and programs in the community colleges. A draft of this plan, entitled *Toward A New Diversity*, was entered into the consultation process in mid October 1988. A revised draft was broadly circulated in January. Adoption of a final plan is scheduled for the Board's March 1989 meeting. The plan contains a specific listing of tasks, timelines, and responsible parties.

E. Faculty and Staff Diversity Fund (EC § 87107)

AB 1725 creates the Faculty and Staff Diversity Fund, administered by the Board of Governors, to pursue two goals (as opposed to quotas or mandates) for the *system*: (1) by 2005, the cumulative workforce of the colleges should proportionately reflect the adult population of the state; and, (2) by 1992-93, 30 percent of all new hires in the system should be ethnic minorities. It is not necessary that each district reach these goals; rather, it is the cumulative numbers or percentages for *all* of the colleges that will be relevant. Further, consistent with the governance delineation, the Board is given authority to adjust these goals for the system after September 30, 1994.

AB 1725 appropriated $1 million to the Fund for 1988-89, and The Governor's Budget for 1989-90 proposes $1,445,000 for the Fund. The Board is required to use up to 25 percent of the Fund to reimburse state-mandated costs associated with district reporting of affirmative action success rates, to reimburse districts for the costs of preparing and updating affirmative action plans, and to carry out specified Board functions. The remainder of the Fund is to be allocated to districts for extended outreach and recruitment, for incentives to hire, for inservice training, and for other purposes of staff diversity. The Board is to adopt regulations regarding allocations for these purposes, and it is anticipated that such regulations will be in place by summer or fall of 1989.

A few additional points regarding the Faculty and Staff Diversity Fund should be kept in mind. First, for purposes of measuring progress on the extent to which the colleges' workforce reflects the makeup of the state's adult population, the Board is to develop and apply availability data. This availability data will take into account the percentages of underrepresented group members who have the requisite education and experience to work in the various community college occupations. Also, in terms of the goal that 30 percent of all new hires be ethnic minorities, the intent is to ensure that 30 percent of all new faculty and administrative hires be ethnic minorities. Finally, it should be remembered that these are goals for the system. Districts will continue to set their own goals and, cumulatively, contribute to achieve the systemwide goals established in AB 1725.

As to the uses of Faculty and Staff Diversity funds, a question has been raised whether all allocations must be used only to make progress regarding ethnic minorities. The language of *Education Code* § 87107(d) clearly indicates that the resources may be used for "underrepresented groups" (which include not only ethnic minorities, but also such groups as women, the disabled and Vietnam veterans).

F. Other Affirmative Action Provisions (EC §§ 71020, 87153(h), 84755(b)(16), 87360, and Sec. 64, AB 1725)

Other parts of AB 1725 that address affirmative action issues and concerns include the following:

- The Board of Governors is required to prepare an affirmative action paper concerning its own membership and assessing its role in statewide representation of minorities, women, and the disabled. This paper is to be prepared by July 1, 1989, and every three years thereafter.

- Districts are authorized to use staff development funds for courses and training to implement affirmative action programs.

- Districts are authorized to use program improvement money for publishing and distributing reports on affirmative action success rates, as well as for making progress towards their own affirmative action goals and timetables.

- In establishing hiring criteria for faculty and administrators, districts must develop criteria that include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students.

- On or before July 1, 1990, the Board of Governors and the State Board of Education are to have determined the extent to which students are underrepresented, in vocational education programs on the basis of ethnic origin and gender.

VI. Employment Policies

AB 1725 brings to an end an era of K-12 employment policies that governed the hiring practices of community colleges. Credentialing, with its standards for employment dictated by the Legislature, is replaced by a structure that vests both the Board of Governors and faculty with authority to establish and apply policy. Consistent with other postsecondary segments, the systemwide governing board establishes minimum qualifications for employment, which are then applied by the local colleges. Both academic senates and exclusive representatives for collective bargaining will have roles in developing and administering this new structure. In addition, the probationary period for tenure is lengthened so as to be more consistent with those used in other postsecondary segments. While most of these reforms will not become operative until July 1, 1990, or later, there is extensive preparatory work that must be done. Orderly implementation within a two-year period will be a challenge, especially at the district level.

A. Repeal of Credentials (Sec. 27, AB 1725)

About 65 statutes on credentials (Chapter 2, Part 51, *Education Code*) will become inoperative when at least $70 million in program improvement money is provided (Sec. 70(d), AB 1725). This could happen as early as July 1, 1989. Most authorities in AB 1725 agree that it was intended that credentials were to sunset on June 30,

1990, so long as at least $70 million in program improvement money had been provided. Technical legislation should include moving the repeal date to July 1, 1990, or until the receipt of $70 million in program improvement funds, *whichever is later.*

B. Minimum Qualifications Established by the Board of Governors (EC §§ 87101, 87356-87359, 87743-87743.5)

In lieu of credentials, the Legislature directs the Board of Governors to adopt regulations establishing definitions and minimum qualifications for employment as a community college faculty member or administrator. The Legislature has dictated the initial regulations establishing definitions, and the minimum qualifications for employment as a faculty member teaching *credit* courses, and as an instructional or student services administrator. The qualifications, which can be changed by the Board of Governors, are as follows:

Minimum qualifications for teaching *credit* courses are:

- a master's degree in the discipline of the teaching assignment; *or*
- a master's degree in a discipline "reasonably related" to the teaching assignment, and a bachelor's degree in the discipline of the assignment; *or*
- if a master's degree is not generally expected or available in the discipline, the instructor must have a bachelor's degree in a discipline "reasonably related" to the teaching assignment and two years of professional experience, plus appropriate certification to practice or licensure; or an associate degree in a discipline "reasonably related" to the teaching assignment and six years of professional experience, plus appropriate certification to practice or licensure.

For instructional or student services administrators; the minimum qualifications are:

- a master's degree, and
- one year of formal training or experience "reasonably related" to the administrative assignment (may be concurrent).

Regulations establishing minimum qualifications for *noncredit* instructors will be developed by the Board of Governors by the spring of 1990.

In implementing the new minimum qualifications, the Board is to define the term "discipline," prepare a list of disciplines "reasonably related" to one another, and prepare a list of disciplines in which the master's degree is not generally expected or available. The Board is to have these tasks done by July 1, 1989, and is to rely

primarily upon the advice and judgment of the statewide Academic Senate. Technically, there is a problem with this deadline because the statute that imposes it will not become operative until at least July 1, 1989, assuming $70 million of program improvement funds is provided by that time.

The new law also requires the Board to adopt regulations to allow for locally administered processes that can provide waivers regarding minimum qualifications (EC § 87359). A new joint-governance role is provided for the local academic senate, as the law provides,

> The process, as well as the criteria and standards by which the governing board reaches its determinations, shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board.

The Board will adopt regulations for waiver processes by mid 1989.

Finally, AB 1725 also requires local implementation of "faculty service areas" by July 1, 1990 (EC §§ 87743.1-87743.5). A faculty service area (FSA) is essentially a grouping of disciplines into a service or instructional subject area. FSAs are declared to be within the scope of collective bargaining. Also within the scope of collective bargaining are competency criteria to serve in a faculty service area. A faculty member must qualify for one or more FSAs at the time of initial employment, and additional FSAs may be added pursuant to a process.

The bill does not specify whether or how existing credential holders will have their subject matter areas converted to FSAs. In the event of a layoff, competency under the credentials structure and competency under the FSA structure could both come into play. Additional legal interpretations and/or clarifying legislation will probably be necessary.

Finally, it should be noted that any state-mandated costs that districts incur under these new provisions on minimum qualifications are to be reimbursed with program improvement money (EC § 84755).

C. Local Hiring Criteria (EC § 87360)

Under existing law, districts establish hiring criteria. AB 1725 would additionally require districts to develop criteria that include a sensitivity to the diverse backgrounds of community college students. Also, as to new faculty members, the local academic senate is again provided with a joint-governance role. These new criteria are to be ready by July 1, 1990, or when $70 million of program improvement money is provided, *whichever is later*. Again, program improvement money is available to cover any state-mandated costs arising from these provisions.

D. Employment of Administrators (EC §§ 72411.5, 87454-87458)

Commencing January 1, 1989, every instructional or student services administrator (see EC § 87001 for definitions) *must* be employed by a contract not to exceed four years. All other administrators *may* be employed by a contract not to exceed four years. All contracts may be extended for up to four additional years at the discretion of the governing board.

The application of these new requirements to administrators and managers in the classified service is not clear. Further legal interpretation and/or clarifying regulations will be required. Also, due to a drafting error, these new provisions became operative on January 1, 1989, instead of July 1, 1990, or when $70 million of program improvement money is provided, whichever is later. Technical legislation will be introduced in 1989 to move the operative date.

The assignment of employees from faculty to administrative positions and administrative to faculty positions is also covered in AB 1725 (EC §§ 87454-87458). These provisions, however, do not become operative until $70 million in program improvement funds is provided. Notably, there are provisions for allowing an administrator not part of the classified service and not previously tenured to become a first-year probationary faculty member when the administrative assignment expires (EC § 87458). Again, a joint-governance role for the academic senate is provided in establishing procedures for administrators to move to faculty positions.

E. Evaluation of Employees (EC § 87663)

Commencing as early as July 1, 1989 - if at least $70 million in program improvement is provided - (Sec.70(e), AB 1725) - several new requirements regarding the evaluation of employees will become effective. Full-time probationary employees must, as under current law, be evaluated at least once each academic year; tenured employees must be evaluated at least once every three (instead of every two) academic years; and part-time faculty must be evaluated within their first year, and at least once every six semesters or nine quarters thereafter. Prior law did not require part-time faculty to be evaluated.

Further, the evaluation process must include peer review, to be done on a departmental or divisional basis. The Legislature has also expressed the intent that, "to the extent practicable," students should be involved in faculty evaluation, and that faculty should similarly be involved in the evaluation of administrators.

AB 1725 continues existing law by recognizing that evaluation procedures may be negotiated as part of the collective bargaining process. The bill, however, expands the role of academic senates by requiring the faculty's exclusive representative to consult with the academic senate prior to engaging in collective bargaining on evaluation procedures.

State-mandated costs arising from the new evaluation requirements are reimbursed through program improvement monies (EC § 84755).

Finally, technical legislation is necessary to make the effective date of these changes July 1, 1990, or upon receipt of $70 million in program improvement funds, *whichever is later.*

F. Tenure Reforms (EC §§ 87602-87615)

Commencing as early as July 1, 1990 - upon appropriation of at least $140 million in program improvement funds - Sec. 70(e), AB 1725 - the probationary period for gaining tenure will extend from two to four years. The new statutes provide for three contracts, with periods of one year, one year and two years, respectively. Earlier provisions of the bill had provided for a fifth and "terminal" year, but these provisions were removed. Notice of a decision to re-employ or not re-employ must be provided by March 15 of the academic year covered by the contract, and by March 15 of the second year of the two-year contract. Governing board decisions are subject to limited judicial review only after certain administrative remedies are exhausted.

Currently, it is not clear how these new provisions will apply to individuals *hired* before the operative date, *but not yet tenured* by the operative date. Additional legal interpretation and/or clarifying legislation will probably be required.

A detailed new provision regarding tenure evaluation and grievance procedures (EC § 87610.1) has been added. Basically, decisions to deny tenure are to be classified and procedurally addressed as grievances. If these procedures do not result in arbitration, the grievance proceeds to a hearing in accordance with existing law (EC § 87740).

The new tenure reforms also add a statute to require at least a bachelor's degree in order to obtain tenure (EC § 87615). For academic or nonvocational faculty, this degree requirement commences July 1, 1990 (if $140 million in program improvement funds have been provided); whereas for vocational faculty the requirement commences January 1, 1994. The bachelor's degree requirement can be waived if "rare and compelling" reasons exist; and, the academic senate is again provided with a joint-governance role in establishing procedures for such waivers.

G. Collective Bargaining Study (Sec. 58, AB 1725)

By no later than January 1, 1993, the Board of Governors is to review the collective bargaining law applicable to community colleges. This review is to focus on the delineation of roles and responsibilities of the academic senates and collective bargaining agents, particularly in light of changes made in AB 1725 regarding faculty roles. This review does not become a mandate to the Board unless the costs of

conducting the review are provided. No appropriation was made in AB 1725, but the 1989-90 Governor's Budget proposes $100,000 for this study. The final appropriation for this item won't be known until June, after legislative hearings.

H. Option-Rollover Contract Pilot Project (Sec. 65, AB 1725)

The Board of Governors is required to develop a three-district pilot program for employing of part-time temporary faculty through option-rollover contracts. The law does not specify a timeline under which the Board is to complete this pilot project. The two-year pilot program does not become a mandate to the Board unless the funds for conducting the program are provided. AB 1725 did not contain an appropriation for this purpose, and the 1989-90 Governor's Budget does not propose funding for the project.

I. Graduate Students Teaching in the Community Colleges (Sec. 66, AB 1725)

AB 1725 authorizes districts to determine whether it would be beneficial for various community college departments to enter into agreements with analogous graduate departments of nearby UC and CSU campuses to provide part-time teaching positions in the district for advanced graduate students. Ostensibly, these student teachers would not be required to meet the new minimum qualifications, and courses taught under their supervision would be eligible for state support (ADA). The language of the bill does not expressly resolve these matters, however.

J. Study of Student Aid Programs for Community College Teachers (Sec. 62, AB 1725)

By January 1, 1990, the Student Aid Commission is required to study financial aid programs that have as their purpose increasing the number of students entering the teaching profession at the community college level. The mandate does not become operative unless the Student Aid Commission and CPEC receive the necessary funds for conducting the study. Neither AB 1725 nor the 1989-90 Governor's Budget provides an appropriation for the study.

VII. Accountability

AB 1725 vests both the Board of Governors and district governing boards with significant authority to decide matters heretofore reserved to the Legislature. It should come as no surprise that the Legislature, in delegating away this broad authority, would want to develop a structure for ensuring that the Board and districts are accountable for their exercise of authority. Earlier during 1988, the Legislature took the approach of prescriptively mandating the elements of this

accountability structure - see AB 4131 of 1988, which did not pass. As AB 1725 was finalized, however, the determination was made to approach the new accountability system in a manner similar to the development of program-based funding. Under this approach, the Legislature expresses its intent as to the general issues and content to be addressed, and then turns the development of the actual system over to the Board of Governors and district governing boards. The Board's work is, of course, subject to legislative review and timelines; but, overall, the Legislature has refrained from prescribing the elements of the system.

A. Accountability System (EC § 71020.5)

By July 1, 1990, the Board of Governors is to develop and recommend implementation of a comprehensive community college educational and fiscal accountability system. This system is to be implemented over a three-year period, commencing no later than the 1991-92 academic year. The contents of the system are generally described, with a more specific instruction to:

Define and measure, quantitatively and qualitatively, accountability information, including:

a. Student access to community colleges.

b. The extent to which the community college student body as a whole proportionately reflects the adult population of the state.

c. Student transfer programs and rates.

d. Academic standards and student achievement.

e. Student goal satisfaction and success in courses and programs.

f. Completion rates of courses and programs.

g. Occupational preparation relative to state and local workforce needs and for entry-level employment, occupational advancement, and career changes of students.

h. Adequacy of courses in basic skills and English as a Second Language and instruction in preparing students to succeed in collegiate-level work.

i. Adequacy of and student satisfaction with student services.

j. The extent to which the community college workforce proportionately reflects the adult population of the state.

k. Fiscal conditions of community college districts.

Some of these elements may prove either too expensive to implement or not worth the expense of fully implementing. In this regard, the Board's report (to be submitted by July 1, 1990) can recommend the appropriate restructuring. In addition, the law specifically states that additional mandates will not be imposed on districts without additional reimbursement. Finally, the new law is clear that the implementation of this new accountability system is dependent, in part, upon the development of adequate data collection and reporting system. The community college Management Information System (MIS) will thus be a critical priority in this effort to improve accountability.

VIII. Conditions And Appropriations

Initial implementation of AB 1725 would have cost at least $105 million, according to estimates of the Board of Governors. The fiscal difficulties encountered by the State beginning in the spring of 1988 made it impossible to fully fund these initial costs in the bill itself. As an alternative, various provisions of reform were drafted so as not to become operative until certain major new levels of funding are provided through the annual budget process. This option was taken, in part, because the Governor committed to work for full funding of reform. The option avoided what would have been a certain veto of a fully funded bill. It also enabled initial reforms to commence with a small "down payment" of $7.25 million.

A. Conditions of Operability and Trigger Mechanisms (Sec. 70, AB 1725)

AB 1725 provides that reform is to consist of two phases. Phase I focuses on improving community college programs so as to prepare an appropriate environment for the subsequent professionalization of faculty. Phase II follows initial program improvement and faculty professionalization, and allows for implementation of the act on a wide scale.

The Legislature has directed that certain reforms will not become operative unless "adequate funding" has been provided for Phase I and Phase II, respectively. The Legislature has delegated authority to the Board of Governors to determine and certify in writing whether such funding has been provided. The Legislature, however, has declared its estimates that $70 million is adequate funding for Phase I, and that an additional $70 million (district base budgets increased by a total of $140 million statewide) is adequate funding for Phase II. Because of the negotiations surrounding AB 1725, it is anticipated that the Board's certifications regarding adequate funding will exactly (or almost exactly) reflect the declarations and estimates of the Legislature.

Phase I (Sec. 70(d), AB 1725):

The following reforms do not become operative until the Board of Governors certifies that adequate funding ($70 million for program improvement) has been provided for Phase I, or until the operative date for the specific reform, *whichever is later*:

- Repeal of credentials;
- Establishment of minimum qualifications for faculty and administrators, to be operative after July 1, 1990 (EC § 87356);
- Establishment by the Board of Governors of a process for reviewing minimum qualifications and development of lists of disciplines (EC § 87357);
- Establishment by the board of Governors of review teams for minimum qualifications (EC § 87358);
- Establishment of procedures for waiving minimum qualifications (EC § 87359);
- Establishment of hiring criteria by districts, no later than July 1, 1990 (EC § 87360);
- Implementation of provisions for movement between faculty and administrative positions (EC §§ 87454-87458);
- Implementation of new requirements regarding evaluation of employees (EC § 87663);
- Implementation of new layoff provisions (EC § 87743); and
- Implementation of provisions for faculty service areas, no later than July 1, 1990 (EC § 87743.1-87743.5).

Phase II (Sec. 70(e), AB 1725):

The following reforms do not become operative until the Board of Governors certifies that adequate funding ($140 million in program improvement funds) has been provided for Phase II, or until the operative date for the specific reform, *whichever is later*:

- Implementation of program-based funding on July 1, 1991 (EC § 84750); and
- Implementation of provisions regarding tenure reforms (EC §§ 87602-87615), except degree requirement for vocational faculty not operative until January 1, 1994.

It is important to note that even though the text of a given section of AB 1725 may specify a beginning date or deadline, that section will not become operative until the requisite amount of program improvement funds has been provided. For instance, program-based funding will not be implemented in Fiscal Year 1991-92 if $140 million in program-improvement funds has not been provided.

Several technical concerns have been raised about the trigger mechanism, particularly the Phase I reforms. Some of these concerns have been noted in the Employment Policies section of this analysis. Corrective legislation will probably be necessary, and will be considered through the consultation process.

B. Appropriations in AB 1725 (Sec. 72, AB 1725):

AB 1725 appropriates $7.25 million for expenditure in the 1988-89 fiscal year, as follows:

1. $5,000,000 for Staff Development (EC §§ 87150-87154). Allocations will be made on a per ADA basis (about $7 per ADA), with all districts receiving at least $5,000.

2. $1,000,000 for the Faculty and Staff Diversity Fund (EC § 87107). The method of allocation to districts will be on a per ADA basis.

3. $200,000 for the Community College Fund for Instructional Improvement (EC § 84381).

4. $1,050,000 million (the remainder of the money) will be used by the Board of Governors to develop the program-based funding formula, to provide the major service function for affirmative action recruitment, to develop the accountability system, and to conduct other activities required by AB 1725.

C. Funding of Reforms Through the Budget Process

Beginning with Fiscal Year 1989-90, implementation of AB 1725 will be funded through the annual budget process. The Board of Governors, working through consultation, will request appropriate resources for reform in the systemwide budget proposal. The following major budget proposals were submitted for 1989-90:

1.	Program Improvement (EC § 84755)	$80,000,000
2.	Staff Development (EC §§ 87150-87154)	10,000,000
3.	Fund for Instructional Improvement (EC § 84381)	6,750,000
4.	Faculty and Staff Diversity Fund (EC § 87107)	4,000,000

In addition, the Board has requested funds to conduct various mandated studies and activities, such as the study of collective bargaining, the interdisciplinary colleges pilot study, and the option-rollover contract pilot project.

The proposals for 1989-90 funding had to be submitted to the Department of Finance by the first week of October, allowing only minimal consultation with the field. Proposals for 1990-91 funding will be developed fully through consultation, with initial deliberations commencing in February or March of 1989.

The Governor's Budget for 1989-90 released January 10, 1989, indicates the following levels of support for the following reforms:

1.	Program Improvement (EC § 84755)	$0
2.	Staff Development (EC §§ 87150-87154)	$5,154,000
3.	Fund for Instructional Improvement (EC § 84381)	$920,000
4.	Faculty and Staff Diversity Fund (EC § 87107)	$1,445,000

Appropriations contained in the Governor's Budget are subject to review and revision by the Legislature. Consequently, actual appropriations won't be known until July of 1989.

APPENDIX

AB 1725 Implementation Chart

Explanatory Notes

The following pages provide summary information concerning the implementation of AB 1725. The first column in the five-column chart provides a summary of the components of reform in the same order that they appear in the comprehensive analysis. The second column indicates additional legislative actions necessary to achieve or clarify the reforms. The third column indicates actions to be undertaken by the Board of Governors, including initial timelines for these actions. Necessary and desirable district actions to implement reform are summarized in the forth column.

The fifth column "Consultation/Coordination" elaborates on use of the new consultation process to implement reform, and, in addition, identifies the divisions within the Chancellor's Office which will have responsibilities for the particular reforms. While the chart identities "Council(s) of origin" for most of the reforms, it is intended that **all standing councils will have the opportunity to review, at their discretion, any of the reform components being developed elsewhere in the consultation process.** The designation of a council as a "Council of origin" indicates that this council will work with staff in developing the *initial draft* of a policy; that is, the draft of a policy which will be released to other councils and the field generally for review and comment. The Council of origin will also have a role in evaluating changes to the policy as it is considered in the other standing councils and the field.

In the final analysis, of course, all consultation is *advisory* to the Chancellor; and all councils, groups and individuals, once having participated in consultation, are free to present their positions and concerns to the Board of Governors.

Finally, because of the impending reorganization of the Chancellor's Office, only the broad divisions within the Office are identified with respect to the particular reforms. For more complete information on the individual reforms or responsibilities within the Chancellor's Office, please call either (916) 445-8752 or 445-4826.

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
I. MISSION A. Mission Statement (EC 66701) -- Validates comprehensive mission while establishing priorities for the various functions as "primary" "important and essential" or "authorized."	None necessary.	Assist and support districts in implementing priorities within mission statement - no specific timeline.	Implement priorities within mission statement - no specific timeline.	Council(s) of origin: Executive Council (CEO) - no specfic timeline. Chancellor's Office (C.O.) Responsibility: Educational Policy Division
B. Transfer Core Curriculum (EC 66720-66721) -- Requires UC Regents, CSU Trustees and Board of Governors to develop, maintain and disseminate a common core curriculum in general education courses for purposes of transfer.	None necessary.	Develop transfer core curriculum with UC Regents and CSU Trustees, relying on initial work of intersegmental senates. No specific timeline, but plan to implement for academic year 1990-91. Publish and distribute core curriculum as required in EC 66721.	Voluntary participation in consultation regarding development of the transfer core curriculum during late 1989 and early 1990. Otherwise, no action necessary until transfer core curriculum adopted by Board of Governors in 1990.	Council(s) of origin: Academic Senate, Council of Chief Instructional Officers. Initial draft expected by fall 1989. C.O. Responsibility: Educational Policy Division
C. Remedial Limit (Sec. 68, AB 1725) -- Requires the Board of Governors to adopt regulations limiting the amount of remediation a community college student may take.	None necessary - at least until December 1991 report by Board of Governors.	Adopt regulations specified in Sec. 68 of AB 1725 by January 1, 1990. Report to Legislature by December 31, 1991.	Voluntary participation in consultation regarding adoption of initial regulations. Otherwise, commence implementation after Board of Governors adopts regulations (probably December 1989).	Council(s) of origin: Academic Senate, Council of Chief Instructional Officers. Initial draft expected by September 1989. C.O. Responsibility: Educational Policy Division
D. Articulation Regarding Vocational Programs - 2+2 and 2+2+2 (Sec. 69, AB 1725) -- Requires Board of Governors to work with the State Board of Education and the CSU Trustees to develop these programs. Plans for implementation due by July 1991.	Fund budget proposals (BCPs) to extend and expand existing funding for 2+2 and 2+2+2 projects.	Develop plans for implementation of 2+2 and 2+2+2 programs by July 1, 1991.	Consider seeking state funding (respond to RFPs) for 2+2 and 2+2+2 projects.	Council(s) of origin: no additional consultation planned during 1989. C.O. Responsibility: Educational Policy Division
E. English as a Second Language Study (Sec. 59, AB 1725) -- Department of Education and CPEC to conduct a joint study of ESL by January 1, 1990. The study isn't required unless funded.	Determine whether to provide funding for study and extend deadline to January 1991.	Participate with CPEC in conducting study when (and if) it is funded.	None necessary pending results of study. Instead, work with Board of Governors on current activities regarding ESL.	Council(s) of origin: no consultation planned until study is funded. C.O. Responsibility: Educational Policy Division

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
E. English as a Second Language Study (Sec. 59, AB 1725) -- Department of Education and CPEC to conduct a joint study of ESL by January 1, 1990. The study isn't required unless funded.	Determine whether to provide funding for study and extend deadline to January 1991.	Participate with CPEC in conducting study when (and if) it is funded.	None necessary pending results of study. Instead, work with Board of Governors on current activities regarding ESL.	Council(s) of origin: no consultation planned until study is funded. C.O. Responsibility: Educational Policy Division
F. Interdisciplinary Colleges Pilot Study (Sec. 60, AB 1725) -- Requires Chancellor to determine feasibility of establishing interdisciplinary colleges on a pilot basis. Study due by January 1990, but isn't required unless funded.	Fund budget proposal for interdisciplinary colleges and adjust July 1, 1990 deadline in Section 60.	Commence pilot study in fiscal year 1989-90 if funding is provided in 1989-90 budget.	Consider applying as one of pilot districts if funding is provided.	Council(s) of origin: no consultation planned until study is funded. C.O. Responsibility: Educational Policy Division
II. GOVERNANCE A. Delineation of Governance Functions (EC 70900-70902) -- Creates the California Community Colleges as a system and specifies the major roles of the Board of Governors and local governing boards.	Respect governance delineation in considering and enacting legislation.	Respect governance delineation in conducting activities and adopting policies. Further develop consultation process (by late 1989). Further develop Standing Orders and other delegations of authority by fall of 1989. Develop Budget change proposal for 1990-91 that provides resources to perform governance functions.	Respect governance delineation in conducting activities and adopting policies.	Council(s) of origin: Executive Council (CEO). Initial draft of standing orders and delegations of authority expected by late spring of 1989. Initial draft of revisions to consultation process expected by summer 1989. Budget Proposals for performing governance functions will be developed as part of 1990-91 budget (March-Sept of 1989). C.O. Responsibility: Office of Legal Affairs and Policy Analysis Division
B. Education Code Review (Sec. 57, AB 1725) -- Requires the Board of Governors to propose legislation to make entire Education Code consistent with delineation of functions and AB 1725. Deadline: January 31, 1989.	Enact Education Code Review legislation during 1989 and 1990.	Update earlier (1987) recommendations regarding Education Code Review, complete consultation, and sponsor legislation for 1989.	Consider additional participation in Education Code Review project.	Council(s) of origin: Executive Council (CEO) and Council of Organizations. Updated recommendations to be reviewed January-October 1989. The legislation will be amended to reflect the results of consultation. C.O. Responsibility: Office of Legal Affairs

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
C. Regulations of the Board of Governors (EC 70901.5) -- Requires Board of Governors to develop procedures for adoption of regulations -- to be used in lieu of procedures currently applied by the office of Administrative Law.	None necessary.	Adopt procedures for adoption of regulations during 1989. Have processes and methods in place to print and distribute regulations by January 1, 1990.	Voluntary participation in consultation to develop Board procedures for the adoption of regulations.	Council(s) of origin: Executive Council (CEO). Initial draft expected by fall 1989. C.O. Responsibility: Office of Legal Affairs
D. Exempt Positions (EC 71090.5) -- Authorizes Board of Governors to create and fill up to six positions exempt from civil service.	None necessary.	Appoint exempt positions after January 1, 1989.	None.	Council(s) of origin: no consultation planned. C.O. Responsibility: Chancellor
E. Composition of the Board of Governors (EC 71000) -- Changes terms to six years and provides for appointment of two local trustees and an additional faculty member.	Enact technical modifications to convert from a structure of four-year staggered terms to a structure of six-year staggered terms; also provide for first appointment date of second faculty member.	By late January 1989, draft and review language making technical modifications.	None.	Council(s) of origin: None. Initial draft of technical modifications expected by mid-January 1989, and will be made available to all councils. C.O. Responsibility: Office of Legal Affairs
F. Academic Senate and Student Roles (Sec. 61, AB 1725) -- Requires the Board of Governors to develop policies for strengthening the academic senate, and a plan for encouraging greater student participation in local governance.	None necessary.	By January 1, 1990: (1) develop policies and guidelines for strengthening the role of the academic senate; and (2) develop a plan for encouraging greater student participation in campus, district and systemwide governance.	Voluntary participation in consultation to develop policies and plans; otherwise no action necessary until after January 1, 1990.	Council(s) of origin: Executive Council (CEO) and Academic Senate regarding policies and guidelines for strengthening the academic senate; Executive Council (CEO), Council of Student Body Governments, and Council of Chief Student Services Officers regarding plan for student participation. Initial drafts expected by Fall 1989. C.O. Responsibility: Educational Policy Division

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
III. FINANCE A. Extension of SB 851 (EC 84713) -- Extends current statutory community college finance mechanism through 1990-91, so that program-based funding formulas can be developed by the Board of Governors.	Enact technical legislation to clarify that SB 851 will not sunset until July 1, 1991 or until $140 million of program improvement money has been provided, whichever is later. Otherwise, the SB 851 mechanism shouldn't be changed unless recommended by the Board of Governors.	Consider technical changes to SB 851 formula through consultation, and decide on recommended changes by spring of 1989.	Voluntary participation in consultation regarding changes in finance formula.	Council(s) of origin: Chief Business Officials C.O. Responsibility: Administrative Services Division
B. Program-Based Funding (EC 84750) -- Establishes broad elements of new community college finance mechanism, with "criteria and standards" to be developed by the Board of Governors.	Enact technical legislation during 1989 to clarify first year of hold harmless, and other changes. Review the Board's criteria and standards after March 1, 1990.	Develop and report "criteria and standards" for initial mechanism by March 1, 1990. Funding under program-based funding mechanism won't occur until at least FY 1991-92.	Voluntary participation in consultation regarding development of criteria and standards.	Council(s) of origin: Executive Council (CEO), Council of Organizations, Council of Chief Business Officials. Initial drafts expected by July 1989. C.O. Responsibility: Administrative Services Division
C. Transitional Funding Mechanism for Program Improvement (EC 84755) -- Provides revenue infusions (by an equalized per ADA amount) to districts. Revenues are to be used for one or more of 19 required or authorized improvements.	Fund program improvement requests in 1989-90 and 1990-91 Budgets. During 1989, enact technical revisions to bill language (reference to "1987-88" in subsection (b) and reference to "Section 70" in subsection (b)(1)). Enact changes regarding applicability of the "50% Law" (EC 84362) if recommended by the Board of Governors.	Determine equalization mechanism for program improvement by spring of 1989. Develop guidelines for district plans by spring of 1989. Review and approve district plans for use of program improvement money by late summer of 1989. By February 1989, consider changes to provide relief from application of the 50% Law to program improvement.	Develop initial plan for use of program improvement money by June 1989. Update district affirmative action plan in conjunction (see EC 87102).	Council(s) of origin: Council of Chief Business Officials and Executive Council (CEO) regarding the equalization mechanism; Executive Council (CEO) regarding guidelines for district plans; Council of Organizations regarding changes to provide relief from the 50% Law. Initial draft of equalization mechanism expected by January 31, 1989. Initial draft of guidelines for district plans expected by March 1, 1989. C.O. Responsibility: Administrative Services Division regarding equalization component and 50% Law analysis; Planning and Research Division regarding guidelines for district plans

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
D. Part-Time/Full-time Ratios (EC 87482.6) -- Specifies that districts must use up to 33% or 40% of their program improvement money as necessary to provide that 75% of the hours of credit instruction are taught by full-time instructors.	None necessary	Before March 15, 1989, inform districts of estimated number of full-time faculty (FTF) to be secured with program improvement money. Adopt initial regulations for administering the function by spring of 1989. Consider relief from 75% standard for rural districts, vocational programs, etc. by spring of 1989.	Update affirmative action plan (EC 87102). Recruit and hire, particularly during spring 1989, 1990, and 1991.	Council(s) of origin: Executive Council (CEO), Council of Organizations regarding regulations for administering the FT/PT Ratio provision. Initial draft of regulations expected by March 15, 1989. C.O. Responsibility: Office of Legal Affairs regarding regulations; Planning and Research Division regarding notification to districts.
IV. NEW PROGRAMS AND SERVICES A. Staff Development (EC 87150-54) -- Creates a formula-funded program to support locally developed and implemented staff development programs.	Fund Budget proposals for staff development.	Provide model affidavit form for districts by December 15, 1988. Develop form for reporting expenditures and accountability by summer of 1989. Adopt necessary regulations (including criteria establishing other activities related to educational and professional development) for Fund by summer of 1989.	Create advisory committees (as required by EC 87151) no later than January of 1989. Develop a human resources plan for each campus no later than January of 1989. The initial plan should indicate planned expenditures for 1988-89 and 1989-90. Report on expenditures for 1988-89 in the fall of 1989, as required by the Chancellor.	Council(s) of origin: Executive Council (CEO), and Academic Senate regarding regulations (including criteria establishing other activities related to educational and professional development). Executive Council (CEO) regarding accountability and reporting forms. Initial drafts of regulations and accountability forms expected by May 1989. C.O. Responsibility: Human Resources Division, Office of Legal Affairs, and Policy Analysis Division
B. Expanded Fund for Instructional Improvement (EC 84381) -- Adds new purposes for use of funds granted or loaned, and increases the State's appropriation to the Fund.	Fund Budget proposals to expand the Fund for Instructional Improvement.	By early 1989, award an additional $200,000 in grants for FY 1988-89. Distribute RFP for FY 1989-90 grants and loans by February 1, 1989. Award grants and loans for 1989-90 by July 1989. During 1989, consider necessary revisions to Board regulations on the Fund.	Submit proposals for 1989-90 grants or loans by spring of 1989.	Council(s) of origin: Council of Chief Instructional Officers, Academic Senate regarding necessary revisions to current Board regulations governing the Fund. Initial draft of regulations expected by late 1989. C.O. Responsibility: Educational Policy Division

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
C. Career Resource and Placement Centers (EC 78212.5) -- Authorizes districts to establish career resource and placement centers, provide orientation and inservice training regarding matriculation, and establish publicity programs. Also authorizes program improvement money to be used for such purposes.	None necessary.	Determine extent to which purposes of this section are being met through implementation of other reforms, such as matriculation	Consider using program improvement money (EC 84755) for career resource and placement centers - include in plan for using program improvement money, due June 1989.	Council(s) of origin: Council of Chief Student Services Officers. C.O. Responsibility: Educational Policy Division
D. Vocational Education Information to Districts (Sec. 63, AB 1725) -- Requires the Board to provide ongoing economic trend and employment projection information to districts. Mandate not operative unless Board costs are funded.	Fund Budget proposals to strengthen this function.	If funded, establish the new function in the Chancellor's Office by January 1, 1990.	Receive and use information after January 1, 1990.	Council(s) of origin: Council of Chief Instruction Officers. Timetable for consultation to be arranged. C.O. Responsibility: Education Policy Division
V. AFFIRMATIVE ACTION A. Compliance and Accountability (EC 87102) -- Requires local boards to submit affirmations of compliance, report success rates, and prepare affirmative action plans with goals and timetables.	None necessary.	By early 1989, request districts to update their affirmative action plans by June of 1989. By mid-summer of 1989, specify data and information which districts are to report in measuring their "success rates" regarding goals and timetables in their affirmative action plans.	Update district affirmative action plan (particularly with respect to meeting goals and timetables for hiring additional full-time faculty) by June 1989. Publish and distribute report on affirmative action success rate when required by the Board of Governors (projected for late 1989).	Council(s) of origin: Executive Council (CEO). C.O. Responsibility: Human Resources Division
B. Assistance to Districts (EC 87104) -- Requires the Board of Governors to provide leadership and assistance by helping colleges to adopt and maintain plans, by reporting to the Legislature, by developing guidelines, and by providing "technical assistance" to districts which fail to make measurable progress.	Fund Budget proposals to provide resources for assistance functions.	Create technical assistance team by early 1989. Identify districts which fail to make measurable progress in meeting the goals and timetables in their plans. Provide regular technical assistance reviews commencing in 1990. See also, **Toward a New Diversity**, the systemwide plan for strengthening affirmative action (to be adopted March 1989).	Request and/or accept assistance from the Board of Governors as necessary.	Council(s) of origin: Executive Council (CEO). C.O. Responsibility: Human Resources Division

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
C. Major Service Function to Assist Districts in Recruiting (EC 87104(b)) -- Requires the Board of Governors to establish (by July 1, 1989) a major service function to assist districts in recruiting qualified members of underrepresented groups.	Fund Budget proposal to implement a computerized affirmative action registry. Implementation of registry is contingent upon outcome of feasibility study.	Use $300,000 appropriation in AB 1725 to establish major service function by July 1, 1989.	Voluntary participation in feasibility study for a computerized registry. Otherwise, use Board service function as services become available..	Council(s) of origin: Executive Council (CEO). C.O. Responsibility: Human Resources Division
D. Systemwide Plan for Strengthening Affirmative Action (EC 87104 (c)) -- Requires the Board of Governors to adopt (by March 15, 1989) a system-wide plan for strengthening faculty and staff affirmative action.	None necessary.	Adopt Plan by March 15, 1989. NOTE: A draft of this plan (entitled, Toward a New Diversity) has been in consultation since October of 1988. The draft plan elaborates on the requirements of AB 1725 and provides detailed implementation information.	Voluntary participation in consultation to develop final draft of plan by March of 1989.	Council(s) of origin: Executive Council (CEO). C.O. Responsibility: Human Resources Division
E. Faculty and Staff Diversity Fund (EC 87107) -- Establishes a fund with two specific goals for the system as a whole. The Board of Governors is to administer the fund, with most of the resources going to districts for the purposes of extended outreach and recruitment, hiring incentives, and in-service training.	Fund request in 1989-90 Budget to increase the Diversity fund.	By early 1989, allocate to districts the $1 million provided for FY 1988-89. This allocation will be made on a per ADA basis. By July of 1989, develop regulations for distributing allocations from the Faculty and Staff Diversity Fund, and for generally administering the Fund. By mid-summer of 1989, develop and apply availability data for purposes of measuring district progress on affirmative action goals.	Voluntary participation in consultation to develop regulations for allocation of Faculty and Staff Diversity Funds, and for general administration of the Fund.	Council(s) of origin: Executive Council (CEO). C.O. Responsibility: Human Resources Division
F. Other Affirmative Action Provisions • Requires the Board to adopt an affirmative action paper on its own composition (EC 71020) • Requires the Board of Governors and the State Board of Education to undertake a study on the underrepresentation of students in vocational education programs (Sec. 64, AB 1725)	None necessary. Fund Budget proposal to determine extent of under-representation, in cooperation with the State Board of Education.	By July 1, 1989 prepare initial paper. If budget proposal funded, study and report extent of underrepresentation by July 1, 1990.	None necessary. None necessary, except to participate in study.	Council(s) of origin: Requiring Board affirmative action paper, no consul-tation required or planned. Regarding study of underrepresentation, n consultation planned until at leas September 1989. C.O. Responsibility: Human Resource Division (paper on Board Composition Educational Policy Division (under representation of students in vocation education programs).

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
VI. EMPLOYMENT POLICIES				
A. Repeal of Credentials (Sec. 27, AB 1725) -- Provides for the elimination of statutory requirements for community college credentials. Instead of the Legislature fixing credential requirements which are administered by the Board of Governors, the Board of Governors will adopt minimum qualifications which are administered and applied by districts.	Enact clean-up legislation (during 1989) that clarifies that credentials are repealed July 1, 1990 or when $70 million of program improvement money is provided, whichever is later. Also enact legislation clarifying application of grandfather provisions to part-time instructors Also enact legislation to extend the authorization to charge the $40 fee. Enact clean-up legislation (during 1990) to revise or repeal all community college Education Code provisions which address credentialing or certification.	Prepare bill language by January 1989. Develop technical clean-up legislation during 1989.	Prepare to implement and apply minimum qualifications (see below). During fall of 1989, voluntary participation in consultation regarding 1990 legislation.	Council(s) of origin: None - draft language will be made available to all councils. Draft bill language for AB 1725 revisions expected by late January 1989; while more comprehensive Education Code revisions expected by late fall of 1989. C.O. Responsibility: Office of Legal Affairs

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
B. Minimum Qualifications Established by the Board of Governors (EC 87001, 87356-87359, 87743-87743.5) -- Provides definitions, minimum qualifications, and waiver procedures which the Board of Governors is to adopt as its initial regulations on these matters. The Board can change these initial policies through consultation. Also requires related work to establish disciplines for teaching, which will be used in lieu of subject matter areas for instructor credentials.	Fund Budget proposals to enable Board of Governors to perform new roles.	By July 1989, adopt minimum qualifications and definitions initially specified in AB 1725. By spring of 1990, develop minimum qualifications for teaching noncredit classes. By July 1, 1989, prepare a list of disciplines "reasonably related" to one another and prepare a list of disciplines in which the Master's degree is not generally expected or available. Offer implementation assistance to districts as needed. Initiate study of health requirements required by EC 87359.5 by May 1989. Establish review teams for minimum qualifications by 1990.	Develop faculty service areas by July 1, 1990 (EC 87743.1). Establish processes for waiving minimum qualifications (EC 87359). After July 1, 1990, screen new employees (and candidates) for minimum qualifications.	Council(s) of origin: Academic Senate and Council of Chief Instructional Officers regarding minimum qualifications, definitions, and waiver processes initially transferred from statute to Board regulations. Initial draft expected by May 1989. Academic Senate, regarding lists of disciplines. Initial lists expected for consultation by spring 1989. Academic Senate and Council of Chief Instructional Officers regarding minimum qualifications for teaching noncredit classes. Initial draft expected by fall 1989. C.O. Responsibility: Office of Legal Affairs regarding initial transfer of statutory provisions to regulations and study of health requirements. Educational Policy Division regarding disciplines and minimum qualifications for teaching noncredit classes. Human Resources Division regarding general implementation assistance to districts.
C. Local Hiring Criteria (EC 87360)	None necessary.	Offer implementation assistance to districts as needed.	By July 1, 1990, adopt hiring criteria as required by EC 87360.	Council(s) of origin: no consultation required or planned during 1989. Responsibility: Human Resources Division regarding implementation assistance to districts.
D. Employment of Administrators (EC 72411.5, 87454-87458) -- Requires all instructional and student service administrators to be employed by a contract of not more than four years. Also addresses the "retreat rights" of administrators.	Consider additional technical changes to these new laws, if recommended by the Board of Governors and Californians for Community Colleges.	During 1989, conduct consultation regarding changes to these laws.	Employ instructional and student services administrators by contract after January 1, 1989.	Council(s) of origin: Council of Organizations, Executive Council (CEO). C.O. Responsibility: Office of Legal Affairs regarding technical changes; Human Resources Division regarding general implementation assistance.

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
E. Evaluation of Employees (EC 87663) -- Requires part-time instructors to be evaluated, and requires peer review to be established.	Enact technical legislation to make AB 1725's changes regarding evaluation operative on July 1, 1990 or upon $70 million in program improvement, whichever comes later.	Provide general implementation assistance to districts as necessary.	By July 1, 1990, establish procedures for evaluating part-time instructors. By July 1, 1990, establish peer review procedures.	Council(s) of origin: Council of Organizations, Executive Council (CEO). C.O. Responsibility: Office of Legal Affairs regarding technical changes; Human Resources Division regarding general implementation assistance.
F. Tenure Reforms (EC 87602-87615) -- Extends probationary for tenure from two to four years; also requires (with certain exceptions) a bachelor's degree in order to obtain tenure.	Consider additional technical changes to these new laws, if recommended by the Board of Governors and Californians for Community Colleges.	During 1989, conduct consultation regarding technical changes to these laws.	Apply new tenure provisions beginning as early as July 1, 1990, if $140 million in program improvement money has been provided. Establish procedures for waiver of bachelor's degree requirement by July 1991.	Council(s) of origin: Council of Organizations, Executive Council (CEO). C.O. Responsibility: Office of Legal Affairs regarding technical revisions; Human Resources Division regarding general implementation assistance
G. Collective Bargaining Study (Sec. 58, AB 1725) -- Requires the Board of Governors to review and study the current collective bargaining law applicable to the community colleges. The requirement is conditional on the receipt of funding to conduct the study.	Fund Budget request, for resources to do study; otherwise no legislative action necessary pending study.	If funded, conduct study during 1989-90 and 1990-91, with recommendations made by January 1992.	Voluntary participation in consultation regarding study.	Council(s) of origin: Executive Council (CEO), Academic Senate, Council of Organizations. Timetable for the study and consultation to be arranged. C.O. Responsibility: Office of Legal Affairs
H. Option Rollover Contract Pilot Project (Sec. 65, AB 1725) -- requires the Board, subject to funding, to conduct a pilot study regarding the employment of part-time faculty by option rollover contracts.	Fund Budget request, for Board to conduct pilot.	If funded, conduct pilot study during 1989-90 and 1990-91.	If project funded, consider applying as one of three pilot districts during 1989-90.	Council(s) of origin: No consultation planned until study is funded. C.O. Responsibility: Human Resources Division
I. Graduate Students Teaching in Community Colleges (Sec. 66, AB 1725) -- Authorizes community colleges to provide part-time teaching positions for advanced graduate students.	No action necessary.	Resolve ambiguities regarding minimum qualifications and ADA eligibility by early in 1989.	Consider entering into agreements as authorized by Section 66.	Council(s) of origin: Council of Chief Instructional Officers, Academic Senate. C.O. Responsibility: Educational Policy Division

Reform Component	Legislative Action	Board of Governors Action	District Action	Consultation/Coordination
J. Study of Student Aid Programs for Community College Teachers (Sec. 62, AB 1725) -- Requires the Student Aid Commission to conduct a study regarding aid programs for community college teachers.	Fund costs of study by the Student Aid Commission.	None necessary, except follow study.	None necessary.	Council(s) of origin: No consultation planned until study is funded. C.O. Responsibility: Educational Policy Division
VII. ACCOUNTABILITY A. Accountability System (EC 71020.5) -- Requires the Board of Governors to develop and recommend (by July 1, 1990) implementation of a comprehensive community college educational and fiscal accountability system.	Fund costs of developing system, including 1989-90 BCPs for Accountability and for Management Information System implementation. Otherwise, no legislative action necessary until at least FY 1990-91.	Use initial appropriation of $150,000 for activities during 1988-89. By July 1, 1990, develop accountability system and report to Legislature as required by EC 71020.5.	Voluntary participation in consultation during 1989 and 1990 to develop system; commence implementation by FY 1991-92.	Council(s) of origin: Executive Council (CEO). Timetable for consultation to be arranged. C.O. Responsibility: Planning and Research Division; and Policy Analysis Division
VIII. CONDITIONS AND APPROPRIATIONS A. Conditions of Operability and Trigger Mechanisms (Sec. 70, AB 1725) -- Specifies that certain reforms don't become operative until specified levels of funding have been provided.	None necessary.	Certify when "adequate funding" has been provided for Phase I and Phase II.	None necessary.	Council(s) of origin: no consultation planned. C.O. Responsibility: Administrative Services Division
B. Funding of Reforms Through the Budget Process -- The ongoing cost of community college reform will be funded through the annual budget process.	Fund annual Budget proposals made by Board of Governors to fund reform.	Develop systemwide budget request annually (March-September of the year prior to each fiscal year).	Voluntary participation in consultation to develop the annual systemwide budget request.	Council(s) of origin: Executive Council (CEO), Council of Organizations. C.O. Responsibility: Administrative Services Division

Exhibit C

STATE OF CALIFORNIA

CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE
1102 Q STREET
SACRAMENTO, CA 95814-6511
(916) 445-8752
HTTP://WWW.CCCCO.EDU

March 11, 2004

RECEIVED
MAR 16 2004
COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: CSM 02-TC-31
Santa Monica Community College District, Claimant
Minimum Conditions for State Aid

Dear Ms. Higashi:

As an interested state agency, the Chancellor's Office has reviewed the above-referenced test claim in light of the following questions addressing key issues before the Commission:

Do the subject statutes or regulations result in a mandated new program or a mandated higher level of service within an existing program upon local entities within the meaning of section 6, article XIIIB of the California Constitution and section 17514 of the Government Code? If so, are costs associated with the mandate reimbursable?

Do any of the provisions of Government Code section 17556 preclude the Commission from finding that the provisions of the subject statutes or regulations impose a reimbursable state-mandated program upon local entities?

Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?

This test claim ("Claim") alleges mandated costs reimbursable by the state for community college district activities related to complying with minimum conditions that are necessary for the receipt of state aid. Test Claimant Santa Monica Community College District ("Claimant") alleges that reimbursable mandated costs arise from a variety of Education Code sections and regulations that appear in title 5 of the California Code of Regulations.

Given the number of statutes and regulations that are invoked by Claimant, and the severe cutbacks suffered by this office, we are unable to provide a thorough response to this Claim. It is regrettable that the lack of funding to support mandate claim reviews could conceivably result in the payment of unwarranted claims. We can offer analytical assistance and provide some historic documentation, but regrettably, we must leave a comprehensive review of the issues to the Commission.

There are several bases for rejecting the Claim in its entirety, and various challenged sections raise other specific defenses to reimbursement.

1. If Claimant Has Complied With The Challenged Provisions In Order To Receive State Aid And Has Received State Aid, Claimant Has Already Been Compensated For Compliance, And No Further Reimbursement Is Warranted.

The provisions raised by Claimant are incorporated into a number of regulations that have been adopted by the Board of Governors for the California Community Colleges as minimum conditions for the receipt of state aid. The Board has long been legislatively required to promulgate such regulations.

If Claimant has not complied with the regulations, Claimant cannot raise an issue of reimbursement because Claimant has not taken action in response to a claimed mandate. If Claimant has complied with the regulations so as to collect state aid, Claimant is not eligible for further reimbursement. That is, funds have already been appropriated and paid for any required actions set out in the Claim.

The California Supreme Court recently addressed the conditions for reimbursement of claimed state mandates. (*Department of Finance v. Commission on State Mandates (Kern High School)* (2003) 30 Cal.4th 727, hereinafter referred to as "*Kern High School.*") The primary focus of the Court's analysis was that districts cannot voluntarily participate in programs, and then claim reimbursement for mandates. This is because there is no mandate under the law if a district has the option of not participating in a program or activity.

Kern High School pointed out that even if costs are incurred, they may be permissibly payable from funds that have already been obtained from the state. *(Id.*, at 747.) For the year 2001-2002, Claimant received state assistance in excess of $133,000. Claimant can use the funds it has already received from the state to satisfy any costs of complying with the regulations that are the subject of this Claim. Claimant is supposed to satisfy the regulations in order to be eligible to collect state funding.

Because Claimant has already received state funding for the purposes of complying with the subject provisions, the Claim should be rejected in its entirety. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

2. Claimant Is Not Required To Collect State Aid. To The Extent Claimant Chooses To Do So, That Choice Negates The Finding Of A State Mandate For Activities That Are Necessary To Make Claimant Eligible For State Aid.

As noted above, the California Supreme Court recently confirmed that reimbursement is not authorized where the Claimant voluntarily undertakes an activity. (See *Kern High School, supra.)* In *Kern High School*, the District sought reimbursement from the state for the costs of preparing notices and agenda items related to certain programs it offered. The Supreme Court found that the District chose to participate in the programs, and therefore the costs of the programs were also voluntarily assumed. No mandates exist where a district voluntarily participates in a program.

Although most community college districts seek state aid in the form of apportionment, districts are not required to do so, and some districts do not receive apportionment. To the extent Claimant complies with the regulations cited herein in order to obtain the state aid that results from compliance, Claimant voluntarily accepts the obligations.

Under *Kern High School,* Claimant's choice to receive state funding for the purposes of complying with the subject provisions renders the conduct optional. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

3. Minimum Standards Are Not Eligible For Reimbursement If They Were Required By Legislative Action That Predated January 1, 1975.

The regulations identified by Claimant reflect minimum standards that have been adopted by the Board of Governors.

A recent California Attorney General opinion concluded that reimbursement is often unavailable for minimum standard regulations. The question posed to the Attorney General concerned minimum standards for juvenile justice facilities. The Attorney General concluded that where a statute enacted prior to 1975 required a state body to establish minimum standards, revising those standards does not constitute a new program or increased level of an existing program.

The Attorney General considered a county's claim for reimbursement for bringing a juvenile justice facility into compliance with the minimum standards established by the Board of Corrections. The Attorney General concluded that the Board of Corrections had been required to set minimum standards for suitable juvenile facilities since at least 1915. Therefore, regulations adopted as minimum standards did not constitute a new program because

> "Counties have been required to maintain a 'suitable' place for the detention of minors since at least 1915. [Citations omitted.] Setting the minimum standards for what is 'suitable' does not create a 'higher' level of service--it has long been the level of service required of local agencies. [Citations omitted.]" (83 Ops.Cal.Atty.Gen. 111 (2000).)

The Attorney General considered the language of Welfare and Institutions Code section 210, which provides: "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors." The term "suitable" is not part of the charge to the Board of Corrections in setting minimum standards. The term is implied.

Regulations challenged in this Claim reflect Board of Governors' minimum standards. Based on the premise established by the Attorney General, the minimum standards of the Board of Governors do not constitute either a new program or a higher level of service if the Board of Governors was statutorily obligated to set minimum standards in these areas prior to 1975.

Pre-1975 Requirements

The Board of Governors' minimum conditions regulations are generally adopted pursuant to statutes that appear in the Education Code (in a few isolated instances, regulations are also supported by statutes in other codes). Because the Education Code has been reorganized several

times, it is important to trace statutory requirements to their original sources. This is not always an easy undertaking where the Education Code is concerned.

Most statutes that concerned public schools were first assembled in the School Code in 1929. Prior to that time, such statutes appeared in various codes. The School Code became the Education Code in 1943. The Education Code was reorganized in 1959 and again in 1976. Some sections that appear in today's Education Code show that they were added in 1976 - which date incorrectly suggests that they came into being after January 1, 1975, a critical date for purposes of finding a state mandate. However, for many sections, the 1976 date merely reflects the 1976 comprehensive reorganization of the Education Code. That 1976 date does not represent the date of initial legislative pronouncement. In many instances, the Legislature required the Board of Governors to establish minimum standards in the subject areas prior to 1975.

Under the theory articulated by the Attorney General in his 2000 opinion, no new programs or higher level of services are established by Board of Governors' regulations that set minimum standards if the Legislature required the adoption of minimum standards prior to 1975. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Education Code section 66700

Section 66700 requires the Board of Governors to prescribe minimum standards for the operation of the community colleges. Section 66700 was preceded by section 22650, that was enacted in 1960, when the State Board of Education had jurisdiction over the junior colleges in California. (Stats. 1960, 1st Ex. Sess., ch. 49, p. 396.) Section 22650 required the State Board of Education to adopt minimum standards for the operation of the junior colleges. As the community college system developed, the obligation to adopt minimum standards was assigned to the Board of Governors and junior colleges were redesignated community colleges. (The Legislature created the Board of Governors of the California Community Colleges in 1967 by Statutes 1967, chapter 1549. It also vested in the Board of Governors the "duties, powers, purposes, responsibilities, and jurisdiction" previously vested with the State Board of Education. See Education Code section 71024, previously section 197.) Accordingly, since at least 1960, the Legislature has required the state agency having oversight responsibility to adopt minimum standards for the operation of community college districts. It has vested that responsibility in the Board of Governors since 1967.

Education Code section 70901(b)(6)

Section 70901(b)(6) requires the Board of Governors to adopt minimum standards entitling districts to receive state aid for support of community colleges. Section 70901(b)(6) was added by Statutes 1988. However, section 70901(b)(6) was preceded by section 71025 that was enacted by Statutes 1976. Former section 71025 provided that "the Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." Section 71025 was preceded by section 25510 that was added by Statutes 1963. (Stats. 1963, ch. 100, p. 760.) A 1970 amendment substituted "community college" for "junior college" and an amendment by Statutes 1974 substituted the Board of Governors of the California Community Colleges for the State Board of Education; thus the section read, "The Board of Governors of the California Community College shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." (The 1974 amendment

merely conformed the Board of Governors' authority to that previously assigned by the Legislature in 1967.)

Accordingly, since at least 1963[1], the Legislature has required the state agency having oversight responsibility to adopt minimum standards enabling community college districts to receive state aid. As noted above, since 1967, that responsibility has rested with the Board of Governors. Based on the Attorney General's analysis, such minimum standards cannot be the basis for a mandate claim. Virtually all of the minimum conditions regulations challenged herein are based on legislative directives to the Board of Governors that preceded January 1, 1975. On that basis, none of the minimum conditions regulations support a claim for reimbursement, and the Claim may be rejected in its entirety. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

4. Many Of The Regulations That Are The Subject Of This Claim Existed Prior To January 1, 1975, Under Different Section Numbers. To The Extent Any Mandates Predated January 1, 1975 They Are Not Eligible For Reimbursement.

A number of the regulations that are the subject of this Claim were originally adopted in 1969 or 1971 and later renumbered. In 1983, numerous regulations were renumbered through the process of repealing prior regulations and adding the regulations back into the code of regulations under new numbers. The Commission will note that Claimant alleges that a number of the regulations that are claimed as creating mandates came into existence in 1983. In many cases, that 1983 date represents a reorganization of title 5 and does not reflect the creation of new regulatory requirements.

"Costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Government Code section 17514.) Regulatory requirements that existed before January 1, 1975, cannot be the basis for reimbursement.

5. A Number Of The Regulations Address Areas That Are Already Required By Federal Laws That Claimant Must Follow.

California community colleges are subject to a variety of federal mandates that require certain activities. In some of these cases, the mandates are imposed as a condition of the receipt of federal financial assistance. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

6. A Number Of The Regulations Address Areas Of General Law That Are Not Based On Claimant's Status As A Local Governmental Body.

Claimant is a California employer. Claimant is also a California business enterprise. As such, Claimant is required to follow general laws that apply to all such employers and enterprises. To the extent that a general law already requires Claimant to take certain actions, Claimant cannot be reimbursed for duplicative actions that are required under the challenged regulations. Actions required by general law cannot be the basis of a claim for reimbursement. (*County of Los*

[1] In some cases, the statutes cited herein may have existed earlier under different section numbers. However, given our resource limitations, we are not able to explore the full extent of possible previous enactments.

Angeles v. State of California (1987) 43 Cal.3d 46, 56.) Only if Claimant is able to determine that the regulations include specific additional mandates is reimbursement a possibility.

Regulatory Background. In the early times after the Board of Governors was established, the Office of Administrative Law, rather than this office, retained the primary regulatory files. Given our current resource restrictions, we are unable to fully explore the earlier versions of current regulations for purposes of this review.

We are attaching copies of the early regulation packages that remain in our files, and we encourage the Commission's thorough review of the early provisions. These packages verify that many of the issues addressed in the regulations cited by Claimant preexisted January 1, 1975. (See enclosed Attachment 1, regulation packet approved for filing August 26, 1969; Attachment 2, regulation packet approved for filing July 1, 1971; Attachment 3, regulation packet approved for filing October 1, 1971; Attachment 4, regulation packet approved for filing June 28, 1971.)

Condition 1, California Code of Regulations, title 5, section 51002 (Standards of Scholarship) Claimant asserts that this section mandates costs of adopting and complying with standards of scholarship for students. Claimant alleges that section 51002 was added in 1983 and amended in 1994.

In August 1969, the Board of Governors filed regulations with the Secretary of State that included section 51002 as a minimum standard entitling districts to receive state aid. (Attachment 1.) Section 51002(e) addressed standards of scholarship. It required districts to adopt regulations consistent with the state regulation and to publish the district standards in the college catalog under appropriate headings.

Section 51002(e) addressed grading, "credit-no credit" grades, when students should be on probation, and standards for dismissal. Section 51005, the text of which is set out in full below in our response to "condition 2," included subsections (e) and (f) that provided for credit by examination, which currently appears as section 55753.

In July, 1971, the Board of Governors filed additional regulations related to standards of scholarship. (Attachment 2.) These 1971 regulations addressed credit and no credit courses, standards for probation (section 51303 that led to present section 55754), standards for dismissal (section 51304 that led to present section 55756), a definition of "units attempted" (section 51305 which led to present section 55757), and grade point averages. Section 51300 required district governing boards to adopt regulations consistent with the regulations of the Board of Governors and to publish the regulations in the college catalog.

We lack the resources to fully correlate all these regulations, but it is clear that current regulatory provisions addressing standards of scholarship existed prior to January 1, 1975, and are not eligible for reimbursement.

Any Claim under this section must be rejected for the general reasons discussed above and because most if not all of the provisions predated January 1, 1975.

Condition 2. California Code of Regulations, title 5, section 51004 (Degrees and Certificates). Claimant asserts that this section requires districts to adopt and comply with regulations for awarding degrees and certificates. Claimant alleges the section was added in 1983 and amended in 1994.

Regulations that were filed by the Board of Governors in 1969 established minimum standards for degrees and certificates as follows. (See Attachment 1.) Those provisions led to numerous regulations that currently appear at sections 55800-55810. We have indicated some of the current related provisions in bold in the following.

> "51005. Requirements for Degrees and Certificates. (a) The governing board of a district maintaining a community college shall confer the degree of associate in arts upon the satisfactory completion in grades 13 and 14 of from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes the requirements listed in (1) through (5), provided that 12 of the required credit hours were secured in residence at that community college. **(See current section 55806.)** (The governing board may make exceptions to the residence requirement in any instance in which the governing board determines that an injustice or hardship would otherwise be placed upon an individual student.) "Satisfactory completion" means either credit earned on a "credit-no credit" basis or a grade point average of 2.0 (grade C on a five point scale with zero for an F grade) or better in 13th and 14th year graded courses in the curriculum upon which the degree is based. **(See current section 55801.)**
>
> (1) A major consisting of at least 20 semester hours in a specified field of study; **(See current section 55806(a).)**
>
> (2) Three semester hours in the Constitution of the United States, and in American history, including the study of American institutions and ideals, and of the principles of state and local government established under the Constitution of this State, and the satisfactory passing of an examination on said courses;
>
> (3) Two semester hours of community and personal hygiene; except that a community college student, who is a minor whose parents or guardian state in writing that the course in community and personal hygiene is contrary to the religious beliefs of the student, or if the student is not a minor if he so states in writing, may be excused from such course and permitted to substitute a two-hour course in a field or fields specifically designated by the governing board of the district in lieu of the required two-hour course in community and personal hygiene.
>
> (4) Two semester hours in physical education earned at the rate of one-half credit per semester for a minimum of 120 minutes per week in directed physical education activities, except as a student may be exempted in accordance with Section 8162, Education Code; and
>
> (5) Such requirements in oral and written English as the governing board of the school district may establish.
>
> (b) The governing board of a district maintaining a community college may confer the degree of associate in science upon the satisfactory completion in grades 13 and 14 of a minimum of 60 semester hours of work which shall satisfy all the requirements for an associate in arts degree, and which work shall include

a major of at least 20 semester hours in any of the following fields: engineering, physical and biological science, vocational-technical curriculums.

(c) The governing board of a district maintaining a community college shall award the appropriate diploma or degree whenever a student shall have completed all requirements of a full curriculum of the community college without regard to the length of time actually taken by the student to complete such requirements. **(See current section 55809.)** The governing board shall grant to any student who satisfactorily completes the requirements of any course of study in less than the prescribed time the full number of semester hours scheduled for such course.

(d) The governing board of a district maintaining a community college shall issue a certificate of achievement (as determined by the governing board and specified in the catalog) to any student who successfully completes any course of study or curriculum in length less than the full number of years and grades maintained by the community college. **(See current section 55808.)**

(e) The governing board of a district maintaining a community college may grant credit (but it shall not count toward the 12 semester hours of credit in residence required in (a) to any student who satisfactorily passes an examination approved and conducted by proper authorities of the college. Such credit may be granted only:

(1) To a student who is registered at the college and in good standing.

(2) For a course listed in the catalog of a California public community college. **(See current section 55753.)**

(f) The examination shall be made at the expense of the person being examined.

(g) Information contained in the physician's report is confidential, and the contents of the report shall not be divulged by an official or employee who has access to the report except to the Board of Governors of the California Community Colleges, the Teachers Retirement Board, any county superintendent of schools, the representatives of any of them, or to the governing board of a district which has requested such information.

(h) The person shall file with the governing board of any district employing him as a substitute instructor the notice, or a photostatic copy or certified copy of the notice, from the county superintendent, stating that the person has passed the physical examination prescribed by the Board of Governors."

The foregoing language verifies that many of the current regulations identified by Claimant existed in 1969 regulations.

In September 1971, the Board of Governors filed additional regulations that addressed degrees and certificates. (Attachment 3.) It is clear that the 1971 regulations are forerunners to current regulations. For example, former section 51622 (definitions) is current section 55801 and former section 51623 (Associate in arts degree) led to current section 55806.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that a number of the provisions predated January 1, 1975, making them ineligible for reimbursement.

Condition 3. California Code of Regulations, title 5, section 51006 (Open Courses)
Claimant alleges that section 51006 was added in 1983 and amended in 1994.

Claimant alleges that section 51006 incorporates the requirements of other sections, including sections 58102, 58104, and 58106 that require that classes be described in catalogs and/or class schedules.

Education Code section 5754 (added by Stats 1965, ch. 842) provided in part: "No class for adults shall be maintained by any district: . . . (2 if such classes are not open to the general public. . . ." (Emphasis added.) This requirement for open courses was replaced by section 84500.1 (added by Stats. 1978, ch. 909) that required in pertinent part that "[n]o community college shall report for attendance or average daily attendance to the board of governors for apportionment any classes: . . . if such classes are not located in facilities clearly identified in such a manner, and established by procedures, to insure that attendance in such classes is open to the general public. . . ." (Emphasis added.) Section 84500.1 was in effect until January 1, 1991. Accordingly, the open course requirement has been in effect in statute or regulation since 1965.

In August 1969, the Board of Governors filed a number of regulations, including section 51003. (See Attachment 1.) Subsection 51003(c) provided that courses that counted towards the associate degree, that were part of an occupational course of study beyond high school, or that were approved for transfer must be described in the college catalog or supplement thereto.

In July 1971, the Board of Governors adopted a number of regulations concerning standards of scholarship. (See Attachment 2.) Section 51102 required districts to describe all of their courses in college publications. Publication of courses in the public catalogs, that was required by both the 1969 and 1971 regulations, is a core element of open courses that presently resides in sections 58100 and 58102. The existence of these 1969 and 1971 regulations that required publication of course information verify the open nature of courses prior to January 1, 1975.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that open course and publication requirements predated January 1, 1975, making them ineligible for reimbursement.

Condition 4. California Code of Regulations, title 5, section 51008 (Comprehensive Plans).
Claimant asserts that section 51008 was added in 1983 and amended in 1994. The section requires districts to adopt academic master plans and master plans for facilities.

The requirement for district academic master plans and facilities master plans preexisted January 1, 1975, and continued without lapse such that reimbursement should be denied. The requirement originally appeared in the Education Code and was later transferred to title 5 pursuant to the requirement that the Board of Governors establish minimum conditions for the receipt of state aid. Our limited resources prevent a thorough review or tracing of all the provisions, but we offer the following:

Section 200.6 was added to the Education Code by stats. 1969 and was replaced by section 199 (added to the Education Code by stats. 1970). Section 199 provided:

> "The board of governors shall review and approve academic master plans and

master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district. Master plans for facilities submitted pursuant to Chapter 19 (commencing with Section 20050) of Division 14 shall satisfy the requirements of this section in relation to master plans for facilities. Each district shall annually submit changes in its approved academic master plan for approval by the board of governors." (Emphasis added.)

Section 1010.3 was added to the Education Code through stats. 1969, c. 1026; it was renumbered to section 25427 and amended by stats. 1970, c. 870 until it was renumbered to section 72231.5 by stats. 1976, c. 1010. In 1970, section 25427 provided:

"The district governing board shall:
(a) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the community colleges within the district.
(b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval." (Emphasis added.)

The foregoing confirmed the obligation of districts to establish academic and facility master plans well in advance of January 1, 1975.

The Board of Governors also adopted regulations concerning educational master plans well before January 1, 1975. (See Attachment 4.) Sections 55400 through 55405 required districts to "establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole." (Cal. Code Regs., tit. 4, § 55401.) These sections have remained in effect, with some intervening amendments, to the present.

Any Claim under this section must be rejected for the general reasons discussed above and because the requirement for academic master plans and for master plans for facilities predated January 1, 1975, making them ineligible for reimbursement.

Condition 5. California Code of Regulations, title 5, section 51010 (Equal Employment Opportunity).
Claimant asserts that section 51010, regulations that are incorporated by reference under section 51010, and Education Code sections 87100 et seq. require Claimant to provide equal employment opportunity.

Claimant is subject to a number of federal constitutional and statutory requirements that are designed to ensure equal employment opportunity. These include the federal Equal Protection Clause of the Fourteenth Amendment, Title VII, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. These federal laws prohibit discrimination and apply to Claimant because of Claimant's status as a public entity or as an employer, or Claimant's receipt of federal funds. We have determined that Claimant receives federal Vocational and Applied Technology Education Act (VATEA) funding, and it may receive other federal financial support. (Claimant's tentative VATEA allocation for the 2003-04 fiscal year alone is $687,436.00)

Accordingly, Claimant is subject to any obligations that attach to the receipt of such federal funding. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Equal Protection Clause. The federal Equal Protection Clause is a general constitutional guarantee that requires to Claimant afford equal treatment to all employees. Discrimination on the basis of race, ethnicity, and national origin is particularly suspect, but other bases for discriminatory treatment, such as gender, may also be challenged as a federal constitutional violation.

Title VII. Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex, or national origin. Title VII applies to Claimant in its role as an employer. Title VII is implemented by regulations adopted by the federal Equal Employment Opportunity Commission ("EEOC"). The regulations that appear at 29 C.F.R. 1607 et seq., include a number of obligations to ensure against unlawful discrimination, and the regulations invoked in this Claim frequently reflect the federal provisions.

Americans with Disabilities Act and Section 504 of the Rehabilitation Act. These federal laws require Claimant to ensure that persons with disabilities are not subjected to unlawful discrimination in their employment.

To the extent that the foregoing or other federal laws require activities to ensure equal employment opportunity without discrimination, Government Code section 17556(c) precludes the finding of a reimbursable mandate.

Claimant is also subject to a number of general laws that do not depend on Claimant's status as a local governmental body.

Government Code section 12940. Section 12940 is part of the California Fair Employment and Housing Act ("FEHA"), and it covers virtually all California employers with 15 or more employees. Accordingly, section 12940 applies to Claimant independent of its status as a local government agency.

Section 12940 requires the Claimant to ensure a workplace free of discrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Section 12950 requires Claimant to maintain an employment environment free of sexual harassment.

The FEHA is enforced by the Fair Employment and Housing Commission which has adopted a number of regulations. The Commission has adopted the Uniform Guidelines for Selection Procedures that has been promulgated by the EEOC under Title VII. (See Cal. Code of Regs., tit.2, § 7287.4.) Even if Claimant were not directly subject to Title VII and EEOC regulations, it is subject to the Commission's regulations, and those regulations incorporate the EEOC regulations. As a result, to the extent that the challenged regulations reflect general law requirements that apply to Claimant as a California employer, they cannot be the basis for reimbursement. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Claimant raises issues under Education Code section 87100, et seq. Section 87102 provides that the activities described in the article are conditions to receipt of funds that are provided by the

Employment Opportunity Fund that is described in section 87107. Therefore, Claimant is not entitled to reimbursement for the activities described in section 87100 et seq. for two reasons.

First, Claimant is not required to seek funding from the Employment Opportunity Fund. If Claimant seeks such funding, it voluntarily assumes the obligations that attach to such funding. Pursuant to *Kern High School*, noted above, such voluntary actions are not reimbursable.

Second, the Employment Opportunity Fund is available for the payment of any documented costs, and reimbursement under this process would be double recovery.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that federal law or general California law may require the challenged actions, and because Claimant has chosen to proceed under Education Code provisions that carry their own funding.

Condition 6. California Code of Regulations, title 5, section 51012 (Student Fees).
Claimant alleges that this regulation requires it to establish and implement policies and procedures to ensure that student fees comply with the law.

The obligation contained in title 5, section 51012 existed prior to January 1, 1975, and has continued to apply to Claimant without lapse to the present. Education Code section 1010.10 was added to the Education Code by stats. 1969, c. 1026. It was renumbered to section 72289 by stats 1976, c. 1010. Both sections provided:

> "The district governing board may establish such student fees as it is authorized to establish by law."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the obligation predated January 1, 1975.

Condition 7. California Code of Regulations, title 5, section 51014 (Approval of New Colleges & Educational Centers)
Claimant asserts that section 51014 was added in 1983 and amended in 1994, and that it requires districts that are planning new colleges or educational centers to obtain the approval of the Board of Governors prior to the commencement of classes.

Claimant does not allege that it has ever been affected by section 51014. Nothing in the Claim suggests that Claimant has ever sought the Board's approval under section 51014 for a new college or a new educational center, and Claimant alleges no costs arising from complying with section 51014.

Any Claim under this section must be rejected for the general reasons discussed above and because this is a special provision that mandates actions only under special and limited conditions. Claimant does not allege that it ever took those actions. For these reasons, any Claim under this section should be rejected.

Condition 8. California Code of Regulations, title 5, section 51016 (Accreditation)
Claimant asserts that section 51016 was added in 1983 and that the section requires it to establish and implement policies and procedures to ensure compliance with the accreditation standards of

the Accrediting Commission for Community and Junior Colleges ("AACJAC") and to pay the costs of the accreditation process. Claimant alleges that prior to the addition of section 51016, colleges were not specifically required to comply with AACJAC standards and that they were permitted, but not required to pay the costs of the accreditation process.

The expectation that colleges would be accredited predated January 1, 1975. Through stats. of 1967, c. 1562 (amended by stats. 1970, c. 102 and stats. 1974, c. 989), Education Code section 25522 specifically authorized the costs of accreditation of the colleges within a district by "the regional accrediting association serving California." Section 25522 was renumbered to section 78050 by stats. 1976, c. 1010.

Claimant may be correct that no specific statute or regulation required it to pay the costs of accreditation. Our resources do not permit a thorough review of this issue. However, since before January 1, 1975, Claimant was expected to be accredited, and it could not be accredited unless it paid the costs of accreditation.

Accreditation is a condition of eligibility for participation in certain federal programs, including federal funding for higher education resources and student assistance. (See, e.g., 20 U.S.C. § 1058.) To the extent that Claimant chooses to participate in federal programs, it also chooses to participate in the accreditation process. Given Claimant's choice, it cannot claim reimbursement for the costs associated with that choice.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that federal law may require accreditation, because Claimant has chosen to secure federal funding that requires accreditation, and because the expectation of accredited status predated January 1, 1975.

Condition 9. California Code of Regulations, title 5, section 51018. (Counseling)
Claimant asserts that this section requires districts to adopt regulations and procedures regarding counseling programs, to provide the programs to students, and to publicize the counseling programs. Claimant alleges that section 51018 was added in 1983 and amended in 1994.

The obligation for Claimant to have a counseling program preceded January 1, 1975. In August, 1969, the Board of Governors filed regulations with the Secretary of State that included section 51002 as a minimum standard entitling districts to receive state aid. (See Attachment 1.) Section 51001(h) provided as follows:

> Counseling Services. The community college shall have an adequate counseling staff, both in training and experience, and shall have established procedures, to provide, and shall provide, the following counseling services:
> (1) Assisting each student in the college
> (A) To determine his educational goal,
> (B) To make a self-appraisal toward progress toward his goals.
> (2) Providing each first-time freshman described in (A) or (B) below who is enrolled in more than six units special individual or group counseling and guidance, arranging a study load suitable to his needs, and keeping an appropriate record of the student.
>
> (A) He is a high school graduate, his scores on a qualifying test or tests

were below an acceptable minimum for the college of attendance, and his grade point average in the last three years in high school was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science; or

(B) He is not a high school graduate, and his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance and his grade point average in the years of high school attendance was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science.

(3) Providing to each student who is on probation individual counseling and guidance service, including regulation of his program according to aptitude and his achievements."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that counseling services were required prior to January 1, 1975.

Condition 10. California Code of Regulations, title 5, section 51020 (Objectives).
Claimant asserts that this section was added in 1983 and amended in 1991, and that it requires Claimant to adopt objectives for its instructional programs and other district functions.

This regulation was first adopted in 1969 as section 51002(a). (See Attachment 1.) Its provisions have remained the same to the present. It provided:

"51002(a) Objectives. The community college shall have stated objectives of its instructional program and the functions which it undertakes to perform."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that objectives were required prior to January 1, 1975.

Condition 11. California Code of Regulations, title 5, section 51021. (Curriculum).
Claimant alleges that this section was added in 1983 and amended in 1994. Claimant alleges that it requires each community college to establish educational programs and courses that will further the objectives and functions of the college and that all courses must be approved by the State Chancellor.

As noted under Condition 4, above, section 1010.3 was added to the Education Code through stats. 1969, c. 1026; it was renumbered to section 25427 and amended by stats. 1970, c. 870 until it was renumbered to section 72231.5 by stats. 1976, c. 1010. Section 25427 required district governing boards to establish policies for and approve, current and long-range educational plans and programs. It can fairly be assumed that such long-range education plans and programs addressed curriculum.

Education Code section 200.9 was added by stats. 1969, c. 1026 and amended by stats. 1970, c. 102. It provided:

"The board of governors shall establish criteria and standards for graded and nongraded classes in community colleges."

Additionally, the curriculum regulation was first adopted in 1969 as section 51002(b) which essentially tracked the language of current section 51021, as follows:

> "51002(b) Curriculum. The community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. Such courses shall be submitted to the Chancellor of the California Community Colleges for prior approval on forms provided by the Chancellor. The Chancellor shall report to the Board of Governors at a fall and a spring meeting the actions which he has taken in approving the courses."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the curriculum requirement predated January 1, 1975.

Condition 12. California Code of Regulations, title 5, section 51022 (a) (Instructional Programs).
Claimant asserts that section 50122(a) mandates certain responsibilities regarding instructional programs, including vocational or occupational training program review.

Section 51022(a) provides that districts must develop and file with the Chancellor policies for the establishment, modification, and discontinuance of courses or programs.

Districts have long been required to develop and submit to the state their academic master plans which must, of necessity, address instructional programs. (See Ed. Code, § 199, added by stats. 1970, c. 870, and section 1010.3, added by stats. 1969, c. 1026 (renumbered to 25427 by stats. 1970, c. 870) that required district governing boards to "establish policies for, and approve, current and long-range educational plans and programs" and to "establish policies for, and approve, academic master plans. . ." District governing boards have also been required to "establish policies for, and approve, the total educational program of the community college or colleges in the district. . . . approve all classes for adults and shall submit such classes as are eligible for state apportionments to the board of governors for approval." (See Ed. Code, § 1010.4, added by stats. 1969, c. 1026, amended by stats. 1970, c. 102, stats. 1970, c. 870.)

The very reason for Claimant to exist is to offer educational programs and services. The public community colleges were established to "offer instruction through but not beyond the 14th grade level." Their programs could include, but were not limited to "(1) standard collegiate courses for transfer to higher institutions; (b) vocational and technical fields leading to employment; and (3) general or liberal arts courses." (Ed. Code, § 22651, added by stats. 1960, 1st Ex. Sess, c. 49.)

Section 22651 was amended, and ultimately renumbered to section 66701 by stats. 1976, c. 1010. In light of the basic mission of community colleges, the required education master plans, and obligations to establish curriculum (as noted above regarding "Condition 11"), districts would necessarily have developed policies for the establishment, modification, and discontinuance of educational programs and courses apart from the regulation at issue here.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that numerous duties related to instructional

programs and courses existed prior to January 1, 1975.

Condition 13. California Code of Regulations, title 5, section 51022(b) (Course Articulation-Local)
Claimant asserts that section 51022(b) requires it to develop and implement policies and procedures for the articulation of its courses with proximate four-year colleges and high schools.

Through stats. 1969, c. 1026, Education Code section 200.13 was enacted to require the Board of Governors to "facilitate articulation with other segments of higher education and with secondary education." Section 200.13 was renumbered to section 71071 by stats. 1976, c. 1010. Therefore, the Board of Governors has been statutorily required to act in this specific area since before January 1, 1975. This regulation is a necessary part of carrying out this requirement.

Moreover, the community colleges have always been a part of the California public school system. (E.g., see former Ed. Code, § 22650, as amended by stats. 1970, c. 102: "The public community colleges are secondary schools and shall continue to be a part of the public school system of this state.") Being part of a system necessarily involves a level of articulation with other segments of the system.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that articulation with other segments was required prior to January 1, 1975.

Condition 14. California Code of Regulations, title 5, section 51023(a) (Academic Freedom).
Claimant asserts that this section was added in 1984 and amended in 1994, and that it requires districts to adopt and implement a policy statement on academic freedom.

Academic freedom includes the opportunity to express opinions. The requirements of the current regulations grew out of legislative direction to the Board of Governors to establish minimum procedures to insure faculty have the opportunity to express their opinions. Education Code section 200.22 was added by stats. 1969 and provided:

> "The board of governors shall establish minimum procedures to be used by district governing boards to insure to faculty and students the opportunity to express their opinions at the campus level and to insure that these opinions are given every reasonable consideration."

Through stats. 1969, c. 1026, Education Code section 1010.13 required community college districts to "establish procedures not inconsistent with those established by the board of governors to insure faculty and students the opportunity to express their opinions at the campus level." Section 1010.13 was renumbered to section 72292 by stats. 1976. Section 72292 was the original statutory underpinning for the language concerning academic freedom. Section 72292 existed as section 1010.13 well before January 1, 1975.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the basis for the academic freedom language predated January 1, 1975.

Condition 15. California Code of Regulations, title 5, sections 51023, 51023.5, and 51023.7.

(Shared Governance: Faculty, Staff, Students)
Claimant references the regulations that require shared governance for faculty (§ 51023), staff (§ 51023.5), and students (§ 51023.7).

Faculty. The requirements of section 51023 and sections that are incorporated into section 51023 largely preceded January 1, 1975. The role of academic senates or faculty councils in academic and professional matters was established in 1969 (see Attachment 1) under section 51004 as follows:

> 51004. Academic Senates or Faculty Councils.
> (a) For the purposes of this section:
> (1) "Faculty" means those certificated persons who teach full time in a community college or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.
> (2) "Academic senate" or "faculty council" means an organization formed in accordance with this section whose primary function is, as the representative of the faculty, to make recommendations to the administration and the governing board of a district with respect to academic and professional matters.
> (b) In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and professional matters described in (a)(2), the faculty first must decide by secret ballot to have an "academic senate" or "faculty council," in which case the governing board of each district shall establish such an "academic senate" or "faculty council" in each community college by authorizing the faculty to:
> (1) Fix, and amend, by vote of the faculty, the composition, structure, and procedures of the academic senate or faculty council.
> (2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.
> (c) After consultation with the administration, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.
> (d) Upon the request of the academic senate or faculty council and subject to Government Code Sections 54950 ff. (The Brown Act), when applicable, the governing board, or such board members or administrative officers as it may designate, shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.
> (e) The academic senates or faculty councils may assume such responsibilities and perform such functions as may be requested of it by the administration or board of trustees."

Students. Through stats. 1969, c. 1026, Education Code section 1010.13 required community

college districts to "establish procedures not inconsistent with those established by the board of governors to insure . . . students the opportunity to express their opinions at the campus level." Section 1010.13 was renumbered to section 72292 by stats. 1976.

Staff: The specific details of section 51023.5 appear to have developed recently. However, because they reflect minimum standards, and the Board of Governors has been required to establish minimum standards since before January 1, 1975, the Attorney General has determined that a reimbursable mandate has not been created.

Any Claim under this section must be rejected for the general reasons discussed above. For academic senates or faculty counsels under section 53023, the Commission will be able to confirm that responsibilities predated January 1, 1975. For students, the Commission will also be able to confirm that Claimant was required to provide students with the opportunity to express their opinions prior to January 1, 1975.

Condition 16. California Code of Regulations, title 5, section 51024 (Matriculation Services).
Claimant asserts that the Seymour-Campbell Matriculation Act of 1986 requires certain conduct. Claimant asserts that Education Code sections 78210-78218, and title 5, sections 51024 and 55500-55534 describe these requirements.

Matriculation obligations are directly tied to participation in matriculation funding. Education Code section 78218 verifies that the statutory obligations the regulations implement are only operative if funds are specifically appropriated for matriculation purposes. Moreover, Education Code section 78211.5(b) provides in part that

> "any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article."

Accordingly, Claimant's acceptance of matriculation funding is the source of any obligations.

The choice to participate in the matriculation program carries certain obligations so long as the funding is provided. Because participation is discretionary as to districts, under *Kern High School, supra,* 30 Cal.4th 727, the requirements of the Education Code and title 5 sections related to matriculation carry no state mandates.

Districts that do apply for and accept matriculation funding are required to match each dollar of matriculation funding with three dollars of other district resources. (§ 55518.) Some of that matching money is likely other state funding dollars. Nothing in statute or regulation prohibits districts from spending matriculation funding or the matching money from other state resources to satisfy the requirements of section 55530; accordingly, the state should not have to pay again for actions Claimant may already pay for from state resources.

Any Claim under this section must be rejected for the general reasons discussed above, because participation is optional, and because funding for participation is already available.

Condition 17. California Code of Regulations, title 5, section 51025 (Full-time/Part-time Faculty).
Claimant asserts that this section creates mandated costs to reach a full-time/part-time faculty

ratio of 75%/25%. Claimant acknowledges that this provision was adopted in response to Education Code section 87482.6.

Education Code section 87482.6 was added by stats. 1988, c. 973. SEC 70(b)(2) provided that during phase II of the reforms described by AB 1725,

> "the new educational environment created under Phase I, including such reforms as innovative training programs, evaluation procedures, and minimum qualifications, may be utilized to the fullest extent in hiring new full-time faculty. The Legislature finds that this latter step is a major component of successful reform and the eventual attainment of the highest possible quality in the educational programs of the California Community Colleges. It is the intent of the Legislature that moneys appropriated during Phase II fully fund any state-mandate created pursuant to this section."

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review and because funding has been provided.

Amounts were added to the base of community college districts as Program Improvement monies after the 1989-90 fiscal year.

Condition 18. California Code of Regulations, title 5, section 51026 (Student Equity). Claimant asserts that this section requires it to develop policies and procedures for student equity. Although student equity is approached by reference to section 51026, Claimant also identifies a number of state statutory provisions that prohibit discrimination and harassment against students on a variety of bases. For example, Claimant notes that Education Code section 72011 requires it to provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

California nondiscrimination laws concerning students frequently reflect the requirements of federal constitutional and statutory requirements, including the federal Equal Protection Clause of the Fourteenth Amendment, Title VI, Title IX, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. These provisions generally prohibit discrimination and harassment by districts as a matter of constitutional principle or as a condition that attaches to the acceptance of federal funds. As noted above, we have determined that Claimant receives federal Vocational and Applied Technology Education Act funding, and it may receive other federal financial support. Accordingly, Claimant is subject to any obligations that attach to the receipt of such federal funding. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Equal Protection Clause. The federal Equal Protection Clause is a general constitutional guarantee that requires Claimant to treat students equally. Discrimination on the basis of race, ethnicity, and national origin is particularly suspect, but other bases for discriminatory treatment, such as gender, may also be challenged as a federal constitutional violation.

Title VI. Title VI protects students from discrimination under programs that receive federal funding. It provides that "[n]o person . . . shall on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or subjected to discrimination under

any program or activity receiving Federal financial assistance." (42 U.S.C. § 2000d.) Title VI guarantees equity and nondiscrimination in admissions, services, programs and activities.

It is likely that Claimant receives federal funds and is therefore federally mandated to provide student equity and to prohibit discrimination based on race, color or national origin.

Title IX. Title IX of the Education Amendments of 1972 "is designed to eliminate . . . discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. . . ." (34 CFR § 106.1.) Claimant is therefore subject to the requirements of Title IX and its implementing regulations if Claimant accepts federal education financial assistance. The implementing regulations appear at title 34, Code of Federal Regulations, part 106, sections 106.1 through 106.71. The Office for Civil Rights ("OCR") within the U.S. Department of Education enforces Title IX and the implementing regulations.

Title IX requires community college districts that receive federal financial assistance to adopt and to publish policies prohibiting sex discrimination. Districts must also "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part." (34 C.F.R. §§ 106.8(b), 106.9.)

Sexual harassment is a form of sex discrimination that is prohibited by Title IX. In January 2001, the OCR published its Title IX "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." As interpreted by the OCR, if a district's required sex discrimination policy does not specifically address sexual harassment, its policy and procedures will not be considered effective. (*Id.*, pp. 19-20.) The failure to have a policy and procedure prohibiting sex discrimination, including sexual harassment, violates the Title IX regulations even if no discrimination or harassment occurs. (*Id.*, p. 19.)

The sexual harassment policy and procedures must be distributed.

> "Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination." (*Id.*, at p. 14.)

OCR examines certain elements in determining whether a district's grievance procedures are prompt and equitable. One element is that students and employees are notified of the procedure, "including where complaints may be filed." (*Id.*, at p. 20.) The OCR notes that schools may ensure notice to students of their rights under Title IX by having copies of the procedures "available at various locations throughout the school or campus" and by "including a summary of the procedures in major publications issued by the school." (*Id.*, at p. 20.)

Based on the foregoing, by accepting federal financial assistance, community college districts obligate themselves to develop and disseminate sexual harassment policies, notify students and employees of the district as to how to file charges, and disseminate information concerning the prohibition to sexual harassment in major district publications.

Americans with Disabilities Act (ADA). The ADA applies to all public (and private) postsecondary educational institutions, and it generally prohibits discrimination against students with disabilities.

Section 504 of the Rehabilitation Act (Section 504). Section 504 applies to those postsecondary educational institutions that receive or benefit from federal financial assistance. Section 504 generally prohibits discrimination against students with disabilities.

Age Discrimination Act of 1975. Public (and private) institutions that receive federal funds must comply with the Age Discrimination Act (42 U.S.C. § 6101 et seq.) that prohibits unreasonable discrimination on the basis of age in programs or activities that receive federal funds. To the extent that Claimant receives federal funds, student equity or nondiscrimination on the basis of age is not a reimbursable state mandate.

There is a second basis for rejecting a Claim based on equity and nondiscrimination requirements. If Claimant is already required by general law to ensure student equity and nondiscrimination, the statutes and regulations cited by Claimant that require nondiscrimination on the same bases do not create reimbursable mandates. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Civil Code, section 51 (Unruh Act). The Unruh Act prohibits discrimination in business establishments. Public school districts have been found to be business establishments subject to the Unruh Act. For example, the Act ensures student freedom from racial harassment and from sex discrimination in the California public school districts. (*Davison ex rel. Sims v. Santa Barbara High School Dist.*, C.D. Cal.1998, 48 F. Supp.2d 1225; *Nicole M. By and Through Jacqueline M. v. Martinez Unified School Dist.*, N.D.Cal.1997, 964 F. Supp. 1369.)

The Unruh Act has general application to all California businesses and does not impose unique requirements on local government agencies such as community college districts. Accordingly, the requirements to ensure student equity and an educational environment free of discrimination on the basis of sex, race, color, religion, ancestry, national origin, disability, or medical condition already exist apart from the Education Code provisions or title 5 regulations noted by Claimant. Because the Claimant is already required by general law to do these things, these actions cannot be the basis of a claim for reimbursement. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review, because mandates may replicate existing federal requirements, and because general law imposes some of the same requirements.

Condition 19. California Code of Regulations, title 5, section 51027 (Transfer Centers)
Claimant asserts that section 51027 requires each community college district to recognize transfer as one of its primary missions and to develop and adopt a transfer center plan.

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review.

Condition 20. California Code of Regulations, title 5, sections 51100 and 51102 (Compliance Enforcement)

Claimant asserts that sections 51100 and 51102 were added in 1983 and amended in 1984.

Claimant asserts that section 51100 requires the State Chancellor to review each college to determine whether it has met the minimum conditions established by title 5, sections 51000-51027. Section 51102 requires the State Chancellor to notify districts of areas of noncompliance to which districts must respond.

As noted at the beginning of this review, since at least the mid-1960's the Board of Governors has been required to adopt minimum standards entitling districts to receive state aid for support of community colleges. Education Code section 1010.2 was added by stats. 1969, c. 1026 that required Claimant to "establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district. . . ." This section was renumbered to section 72282 through stats. 1976, c. 1010. Accordingly, Claimant has been required to comply with state requirements since well before January 1, 1975. Implicit in the requirement to comply with state requirements is the obligation to demonstrate compliance and to take necessary actions to come into compliance where noncompliance is found.

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review and because the obligation to comply with the rules and regulations of the state Board of Governors predated January 1, 1975, and is therefore not reimbursable under this process.

We hope the foregoing information is useful to you.

Sincerely,

Frederick E. Harris

FREDERICK E. HARRIS, Assistant Vice Chancellor
College Finance and Facilities Planning

400 (REV. 5-64)

PAGE SHEET

FO. FILING ADMINISTRATIVE REGULATIONS WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING

AUG 26 1969

Office of Administrative Procedure

ENDORSED

APPROVED FOR FILING

(GOV. CODE 11380.1)

AUG 26 1969

Office of Administrative Procedure

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Board of Governors of the California

(Agency) Community Colleges

Date of adoption, amendment, or repeal:

August 21, 1969

By: Glenn W. Dumke

Glenn W. Dumke

Chancellor

(Title)

ENDORSED

FILED

In the office of the Secretary of State of the State of California

AUG 26 1969

At 3:45 o'clock P.M.

FRANK M. JORDAN, Secretary of State

By H. P. SULLIVAN

Assistant Secretary of State

DO NOT WRITE IN THIS SPACE

DO NOT WRITE IN THIS SPACE

RESOLUTION

A resolution by the Board of Governors of the California Community Colleges to add Subchapter 1 (commencing with Section 51000), Subchapter 2 (commencing with Section 52000), Subchapter 4 (commencing with Section 53000), Subchapter 4.1 (commencing with Section 53500), Subchapter 4.5 (commencing with Section 53700), Subchapter 5 (commencing with Section 54000), and Subchapter 5.5 (commencing with Section 55000) to Chapter 6 of Title 5 of the California Administrative Code, relating to Community Colleges.

Be it resolved by the Board of Governors of the California Community Colleges, acting under the authority of Education Code Sections 193, 197, 8352, and 8353 and pursuant to the Administrative Procedure Act, that:

Section 1. Subchapter 1 is added to Chapter 6 of Title 5 to read:

Subchapter 1. GENERAL PROVISIONS

Article 5. Community College Standards

51000. State Aid. The provisions of this article, except Sections 51003 and 51004, are adopted under the authority of Education Code Section 25510, and comprise the rules and regulations affirming and fixing the minimum standards entitling districts to receive state aid for the support of community colleges.

51001. Basis of Courses Offered. (a) The governing board may by regulation offer courses in either or both of the following categories, and shall specify in its catalog the category or categories in which the course falls: (In the absence of such regulation a course will be presumed to be offered on a letter-grade basis.)

(1) Courses wherein all students are evaluated on a "credit-no credit" basis.

(2) Courses wherein each student may elect on registration, or within a reasonable time thereafter, whether the basis of his evaluation is to be a "credit-no credit" or a letter grade.

DO NOT WRITE IN THIS SPACE

(b) All units earned on a "credit-no credit" basis in California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of community college curriculum requirements, but such courses shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.

(c) The governing board may authorize a student who has received credit for a course taken on a "credit-no credit" basis within the district to convert this grade to a letter grade by taking an appropriate examination.

51002. Requirements. The governing board of each district maintaining one or more community colleges shall, as to each community college, comply with the following requirements:

(a) Objectives. The community college shall have stated objectives of its instructional program and the functions which it undertakes to perform.

(b) Curriculum. The community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. Such courses shall be submitted to the Chancellor of the California Community Colleges for prior approval on forms provided by the Chancellor. The Chancellor shall report to the Board of Governors at a fall and a spring meeting the actions which he has taken in approving the courses.

(c) Faculty Personnel. The community college must have an adequate teaching staff of scholarship, experience, and teaching ability for each major field of the curriculum.

(d) Conditions of Instruction. The community college must have a sufficient number of faculty members to enable students to receive individual guidance and assistance in learning and to permit the continued professional growth of the faculty members.

DO NOT WRITE IN THIS SPACE

(e) Standards of Scholarship. The governing board of the community college shall have adopted regulations consistent with this section and Section 51005, establishing standards of scholarship for the continuance of students in the community college and for graduation. The governing board shall have adopted rules setting forth the circumstances that shall warrant exceptions to the dismissal requirements herein set forth and shall file a copy of such rules with the Board of Governors. The regulations shall provide, among other things, that appropriate records shall be kept of every instance in which a student is so excepted. The standards shall be published in the college catalog under appropriate headings.

(1) Minimum standards shall require that a student be placed on probation and immediately notified that his performance is deficient or he shall be dismissed, in accordance with the requirements shown in the following table.

Grades Received	Grade Status Requiring Probation	Grade Status Requiring Dismissal
All of his grades are "credit-no credit" grades	"No-credit" grades in at least 1/2 but not 3/4 of units herein designated for a student in his status	"No-credit" grade in 3/4 or more of all units attempted in each of 3 consecutive semesters (5 consecutive quarters)
All of his grades are grade points are calculated as follows: A-4 grade points B-3 grade points C-2 grade points D-1 grade point F- no grade points	Grade point average for units herein designated for a student in his status is less than 2.0 but not less than 1.75	Grade point average of all units attempted in each of 3 consecutive semesters (5 consecutive quarters) is less than 1.75
Some of his grades are letter grades and some "credit-no credit" grades	Grade status in all units in each category falls in the applicable foregoing description	Grade status in all units so attempted in each category falls in the applicable foregoing description

DO NOT WRITE IN THIS SPACE

STUDENT STATUS	UNITS DESIGNATED
He is transferring to the community college	All units previously attempted in any college or university and in grades 13 and 14 of a community college
He is a full-time student	Units attempted in grades 13 or 14 during the semester or quarter immediately preceding
He is a part-time student and has attempted in any college or university, or grades 13 or 14 of a community college a total of 12 semester units (or the equivalent of quarter units)	All units so attempted

(2) Minimum standards shall require that a student who has been dismissed shall not be reinstated until one semester (or if the college is on the quarter system, two quarters) has elapsed after the dismissal, unless the student comes wihin an exception set forth in rules adopted by the governing board.

(f) Library. The community college shall have adequate working collections of books for each major field of the curriculum and to which new accessions must be made in accordance with student enrollments.

(g) Laboratories, Shops, and Facilities. The community college shall have adequate equipment, materials, and furnishing for courses offered in agriculture, business and commercial education, fine arts, home economics, industrial and technical training, music, natural and physical sciences, and physical and health education.

(h) Counseling Services. The community college shall have an adequate counseling staff, both in training and experience, and shall have established procedures, to provide, and shall provide, the following counseling services:

(1) Assisting each student in the college

DO NOT WRITE IN THIS SPACE

(A) To determine his educational goal.

(B) To make a self-appraisal toward progress toward his goals.

(2) Providing each first-time freshman described in (A) or (B) below who is enrolled in more than six units special individual or group counseling and guidance, arranging a study load suitable to his needs, and keeping an appropriate record of the student.

(A) He is a high school graduate, his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance, and his grade point average in the last three years in high school was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science; or

(B) He is not a high school graduate, and his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance and his grade point average in the years of high school attendance was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science.

(3) Providing to each student who is on probation individual counseling and guidance service, including regulation of his program according to aptitude and his achievements.

DO NOT WRITE IN THIS SPACE

51003. Criteria and Standards for Graded Community College Courses in Grades 13 and 14. (a) Definition. For the purposes of this subsection, a course of study is defined as an organized sequence of courses of a college within a given subject area.

(b) Criteria. A graded course (class) in grade 13 or grade 14 shall possess one or more of the following characteristics:

(1) The course provides credit toward an associate degree; is normally considered of collegiate level; and is approved by the Board of Governors as a component of, a prerequisite to, or eligible as a required or elective course within, a course of study which leads toward an associate degree.

(2) The course is approved by the Board of Governors and is part of an occupational course of study of beyond high school level within the scope of the term "vocational and technical fields leading to employment" as the term is used in Education Code Section 22651 which leads toward an associate degree, an occupational certificate, or both.

(3) The course is approved by the Board of Governors and is recognized upon transfer by the University of California, a California state college, or an accredited independent college or university in California, as a part of:

(A) The required preparation toward a major;

(B) The general, or general education, requirement; or

(C) The permissible or recommended elective credits.

(c) Standards. Any course meeting one or more of the above criteria shall meet all of the following standards:

(1) It is a course, approved by the Board of Governors the content of which is organized to meet the requirements for the associate degree as specified in Section 51005 or the requirements for an occupational certificate and is a part of a course of study not exceeding 70 units in length.

(2) It must be offered as described in the college catalog or a supplement thereto which provides an appropriate title, number, and accurate description of course content. A course outline is available at the college.

DO NOT WRITE IN THIS SPACE

Course requirements and credit awarded are consistent with Education Code Section 22651.

(3) It is a course in which are enrolled only those students who have met the prerequisites for the course.

(4) It is subject to the published standards of matriculation, attendance and achievement of the college, and the enrollees are awarded marks or grades on the basis of methods of evaluation set forth by the college and are subject to the standards of retention set forth in Section 51002 or to such additional standards as may be established by the governing board of the district.

(5) It is a course in which enrollment shall not be repeated except in unusual circumstances and with the prior written permission from the district superintendent or his authorized representative or representatives.

51004. Academic Senates or Faculty Councils. (a) For the purposes of this section:

(1) "Faculty" means those certificated persons who teach full time in a community college or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(2) "Academic senate" or "faculty council" means an organization formed in accordance with this section whose primary function is, as the representative of the faculty, to make recommendations to the administration and the governing board of a district with respect to academic and professional matters.

(b) In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and

DO NOT WRITE IN THIS SPACE

professional matters described in (a)(2), the faculty first must decide by secret ballot to have an "academic senate" or "faculty council," in which case the governing board of each district shall establish such an "academic senate" or "faculty council" in each community college by authorizing the faculty to:

(1) Fix, and amend, by vote of the faculty, the composition, structure, and procedures of the academic senate or faculty council.

(2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(c) After consultation with the administration, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

(d) Upon the request of the academic senate or faculty council and subject to Government Code Sections 54950 ff. (The Brown Act), when applicable, the governing board, or such board members or administrative officers as it may designate, shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

(e) The academic senates or faculty councils may assume such responsibilities and perform such functions as may be requested of it by the administration or board of trustees.

51005. Requirements for Degrees and Certificates. (a) The governing board of a district maintaining a community college shall confer the degree of

DO NOT WRITE IN THIS SPACE

associate in arts upon the satisfactory completion in grades 13 and 14 of from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes the requirements listed in (1) through (5), provided that 12 of the required credit hours were secured in residence at that community college. (The governing board may make exceptions to the residence requirement in any instance in which the governing board determines that an injustice or hardship would otherwise be placed upon an individual student.) "Satisfactory completion" means either credit earned on a "credit-no credit" basis or a grade point average of 2.0 (grade C on a five point scale with zero for an F grade) or better in 13th and 14th year graded courses in the curriculum upon which the degree is based.

(1) A major consisting of at least 20 semester hours in a specified field of study;

(2) Three semester hours in the Constitution of the United States, and in American history, including the study of American institutions and ideals, and of the principles of state and local government established under the Constitution of this State, and the satisfactory passing of an examination on said courses;

(3) Two semester hours of community and personal hygiene; except that a community college student, who is a minor whose parents or guardian state in writing that the course in community and personal hygiene is contrary to the religious beliefs of the student, or if the student is not a minor if he so states in writing, may be excused from such course and permitted to substitute a two-hour course in a field or fields specifically designated by the governing board of the district in lieu of the required two-hour course in community and personal hygiene.

DO NOT WRITE IN THIS SPACE

(4) Two semester hours in physical education earned at the rate of one-half credit per semester for a minimum of 120 minutes per week in directed physical education activities, except as a student may be exempted in accordance with Section 8162, Education Code; and

(5) Such requirements in oral and written English as the governing board of the school district may establish.

(b) The governing board of a district maintaining a community college may confer the degree of associate in science upon the satisfactory completion in grades 13 and 14 of a minimum of 60 semester hours of work which shall satisfy all the requirements for an associate in arts degree, and which work shall include a major of at least 20 semester hours in any of the following fields: engineering, physical and biological science, vocational-technical curriculums.

(c) The governing board of a district maintaining a community college shall award the appropriate diploma or degree whenever a student shall have completed all requirements of a full curriculum of the community college without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student who satisfactorily completes the requirements of any course of study in less than the prescribed time the full number of semester hours scheduled for such course.

(d) The governing board of a district maintaining a community college shall issue a certificate of achievement (as determined by the governing board and specified in the catalog) to any student who successfully completes any course of study or curriculum in length less than the full number of years and grades maintained by the community college.

(e) The governing board of a district maintaining a community college may grant credit (but it shall not count toward the 12 semester hours of

DO NOT WRITE IN THIS SPACE

prospective employing district. To qualify, the employee candidate:

(a) Shall furnish reasonable evidence, and be, of good character, and in addition to any other information the governing board shall require, shall answer the questions set forth under question 11 in the then current "Application For Credential Authorizing Public School Service in California" (Form 41-4) as provided by the Commission of Credentials.

(b) Shall execute the oath prescribed in Education Code Section 13121.

(c) Shall meet the citizenship requirements prescribed in Education Code Section 13123.

(d) Shall be free from any contagious and communicable disease or other disabling disease or defect unfitting the applicant to instruct or associate with minors.

(e) Shall submit personal identification cards to the governing board, upon the special form provided by the Department of Education, in the manner required of applicants for teaching credentials as prescribed by Section 52001 below.

(f) Shall not be disqualified to receive a teaching credential under the provisions of Education Code Sections 13129 and 13130.

52001. Processing of Fingerprint Cards. The governing board shall submit the personal identification fingerprint cards of candidates for teaching positions hereunder, in duplicate, to the Bureau of Criminal Identification and Investigation of the Department of Justice, Sacramento, California, with a request in writing that the Bureau render a report thereon for such governing board to the Credentials Office, Department of Education, Sacramento, California. At that time the governing board shall also notify the secretary of the Commission of Credentials for the State of California and the county superintendent of schools of the county in which the community college is

DO NOT WRITE IN THIS SPACE

located that such request has been made. The governing board shall not employ any person pursuant to Education Code Section 25423.5 unless and until the board has received a report from the Commission of Credentials in connection therewith. Any processing charges shall be borne by the submitting governing board.

52002. Cause for Dismissal. No person employed pursuant to Education Code Section 23423.5 and this article, who has engaged in any conduct which would constitute cause for denial of an application for teaching credential under Education Code Sections 13129 or 13130 or cause for dismissal under Education Code Section 13403 shall be retained in employment after discovery thereof by the employing governing board.

52003. Report of Persons Employed. Every governing board which employs noncredentialed persons pursuant to Education Code Section 25423.5 shall, promptly after the close of each school year, file a report with the Commission of Credentials listing the name of each person so employed during the preceding school year and certifying that in connection with each such employee all of the provisions of Education Code Section 25423.5 and this article have been complied with.

Sec. 3. Subchapter 4 is added to Chapter 6 of Title 5 to read:

Subchapter 4. BUSINESS SERVICES

Article 1. Community College Nonresident Fees

53000. Definitions. As used in Education Code Section 25505.8 and this article, each of the following terms has the meaning herein ascribed to it:

(a) Foreign Student. "Citizens of a foreign country," "residents of a foreign country," and "foreign students" mean persons who are both citizens and residents of a foreign country. For purposes of reporting to the Chancellor of the California Community Colleges, all the persons listed in the previous

DO NOT WRITE IN THIS SPACE

sentence shall be referred to as "foreign students."

(b) Military Personnel. "Military Personnel" means active members, in full-time service, of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard. (This does not include members of the National Guard, Army National Guard of the United States, or the Air National Guard of the United States; members of the reserve; or civilian employees. It does not include members of the Coast and Geodetic Survey, Public Health Service, or other organizations when assigned to and serving with the armed services.)

(c) Dependents of Military Personnel. A dependent of military personnel is one of the following:

(1) The spouse of a person who is of the military personnel.

(2) A person who has not completed 75 semester units of college work and who receives more than half of his support from his parent who is of the military personnel.

53001. Determination of Residency. The form employed by the district for enrolling a student shall include, but not necessarily be limited to, questions specified by the Chancellor of the California Community Colleges to be used uniformly throughout the State for the purpose of ascertaining residence. The governing board shall establish procedures for reviewing such statements of residence.

53002. Forms and Reporting. Community colleges shall report the information required by Education Code Section 25505.8 in accordance with instructions on forms provided by the Chancellor of the California Community Colleges.

53003. Per-Unit Tuition Fee. The "per-unit tuition fee" established for nonresident students by the Board of Governors on or before January first of each year shall be applicable to the tuition charges for the succeeding

DO NOT WRITE IN THIS SPACE

fiscal year. Whenever a district maintains a summer session, the "per-unit tuition fee" shall be that established by the Board of Governors for the fiscal year in which the summer session ends.

For each semester, quarter, or summer session, the nonresident tuition fee for a student enrolled for less than 15 units of credit, or the equivalent is the "per-unit tuition fee" multiplied by the number of semester or quarter units of credit for which the student is enrolled. For each semester, quarter, or summer session, the nonresident tuition fee for a student enrolled for 15 or more semester or quarter units of credit is the "per-unit tuition fee" multiplied by 15.

Sec. 4. Subchapter 4.1 is added to Chapter 6 of Title 5 to read:

Subchapter 4.1 JUNIOR COLLEGE CONSTRUCTION ACT

Article 1. General Provisions

53500. General Provisions. For the purposes of administration of the Junior College Construction Act, the provisions of this subchapter apply.

53501. Definitions. (a) "Student contact hours" means the actual or estimated total number of programmed class periods per week for a student.

(b) "A small junior college district" means a district with less than a 1,000 average daily attendance of district resident students in regular day-graded junior college classes.

Article 2. Projecting District Enrollments

53502. Definitions. Terms employed in forms of the State Department of Finance and the State Department of Education used for the purpose of projection of enrollments have the meaning specified in the Handbook of Definitions issued by the Chancellor's Office of the California Community Colleges.

DO NOT WRITE IN THIS SPACE

53503. Projecting Day-Graded Enrollments. The projected growth in resident day-graded enrollment determined for each district by the State Department of Finance shall be developed by utilizing the procedure specified in the Handbook of Definitions mentioned in Section 53502. Exceptions to the procedure may be made by the State Department of Finance for newly formed junior college districts or for the other districts where unusual circumstances justify them, and each exception shall be noted and reported to the Chancellor's Office of the California Community Colleges.

Article 3. Determining Capacity of Existing Facilities and Planning Future Facilities

53504. Definitions. (a) "Temporary facility" means a building that will be demolished or replaced upon completion of the project for which an application has been submitted.

(b) "Rented or leased facility" means a facility for which rental or lease costs are paid and the use of which will be discontinued upon the completion of the project for which an application has been submitted.

(c) Types of rooms and their codes, standard abbreviations, and definitions are the same as those used in the Instructions for Forms P-1 and P-2 (California Public Higher Education Cost and Statistical Analysis), issued by the Coordinating Council for Higher Education.

(d) Standard classifications of subject matter and their codes, standard abbreviations, and definitions are the same as those used in the Standard Classification of Subject Fields and Services (California Public Higher Education Cost and Statistical Analysis), issued by the Coordinating Council for Higher Education.

(e) All other definitions contained in the publications described in (c) and (d) apply.

DO NOT WRITE IN THIS SPACE

(f) Definitions of capacity and utilization contained in the Handbook of Definitions mentioned in Section 53502 apply.

53505. Standards. The following computed capacity and utilization standards will, unless it is determined by the Chancellor's Office of the California Community Colleges in consultation with the Department of Finance that extraordinary conditions exist, apply:

(a) Classroom and seminar room use will be not less than 34 hours per 45 hour week. Small junior college districts as defined in Section 53501 (c) will apply a 27 hour per 45 hour week standard.

(b) Laboratory room use will be not less than 25 hours per 45 hour week. Small junior college districts as defined in Section 53501 (c) will apply a 20 hour per 45 hour week standard.

(c) Classroom and seminar room station occupancy will be not less than 66 percent of capacity.

(d) Laboratory room station occupancy will be not less than 85 percent of capacity.

(e) The computed space per station in both existing and future classroom, seminar room, and service areas will be 15 square feet per student station.

(f) In determining the capacity of existing facilities, the number of classrooms and seminar stations will be computed on the basis of (e). The number of laboratory stations will be determined by an actual count of stations.

(g) The formula for determining the assignable space for future classrooms and seminar-rooms per projected 100 weekly student contact hours is:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

(h) In determining the computed capacity of future laboratory and

DO NOT WRITE IN THIS SPACE

service area facilities, the following space allocations by standard classification of subject matter will be applied on a campuswide basis:

MAXIMUM LABORATORY SPACE STANDARDS FOR PLANNING
NEW LABORATORY AND SERVICE AREA FACILITIES,
CALIFORNIA COMMUNITY COLLEGES

Standard Classification Code	Subject Grouping	ASF/STN	ASF/100 WSCH
1200	Bio. Sciences	55	260
4100,4200,4500	Arts	65	305
4300,4400,4800,4900	Language and Literature	40	190
2400	Mathematics	30	140
2600	Physical Sciences	60	280
3000	Social Sciences	30	140
6100	Agriculture	150	705
6200	Business	30	140
6300	Education	--	--
6400	Home Economics	60	280
6500	Applied Graphic Arts	80	375
6600	Health Services	50	235
6700	Pub./Pers. Serv.	50	235
6801	Aero. Tech.	175	820
6802	Air Cond.	130	610
6803	Bldg. Trades	175	820
6804	Ceram. Tech.	40	190
6805	Chem. Tech.	70	330
6806	Culinary	-	--
6807	Draft Tech.	60	280
6808	Electrl. Tech.	70	330
6809	Electr. Mech.	100	470
6810	Electron. Tech.	60	280
6811	Engin. Gen.	90	425
6812	Engin. Tech.	70	330
6813	Ind. Mgt. Supv.	-	--
6814	Ind. Tech.	75	350
6815	Mechanical-Auto	200	940
6816	Metallurgical Tech.	65	305
6817	Metal Trades	130	610
6818	Textile Tech.	120	565
6819	Welding	90	425
6890	Other Trade Tech.	75	352

(i) All office space (academic offices, administrative and clerical offices, office service rooms, and conference rooms) will be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for small junior college districts as defined in Section 53501(c)

DO NOT WRITE IN THIS SPACE

will be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

(j) All library space will be computed by assignable square feet for library functions as specified in this subsection. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

(1) For housing the library collections--10 assignable square feet per volume.

(2) For reading stations--25 assignable square feet per station, the number of stations to be 15% to 20% of the number of students in full-time enrollment, depending upon the relative emphasis of the college in trade and technical instruction.

(3) For library service needs--a basic complement of 400 assignable square feet, plus 140 assignable square feet per full-time equivalent staff member.

(4) For audio-visual and programmed learning activities when housed in the library facility--additional areas sized for individual needs.

Sec. 5. Subchapter 4.5 is added to Chapter 6 of Title 5 to read:

Subchapter 4.5 JUNIOR COLLEGE CONSTRUCTION ACT OF 1967

Article 1. General Provisions

53700. General Provisions. For the purposes of administration of the Junior College Construction Act of 1967, the provisions of this subchapter apply.

53701. Definitions. (a) "Federal funds" means moneys provided by the federal government to the district operating a community college for the project or any part of the project, which are or will be available to the

DO NOT WRITE IN THIS SPACE

district under the following acts: Higher Education Facilities Act of 1963; Higher Education Act of 1965; National Defense Education Administration; Public Law 815; and the Vocational Education Act of 1963 (Public Law 88-210).

(b) "Assessed valuation of the district" means the total assessed valuation of all the property within the district, modified by the provisions of Education Code Section 17262 (Collier Factor).

53702. Applications. All applications and required data for assistance under the Junior College Construction Act of 1967 (Chapter 19 of Division 14 of the Education Code) shall be submitted on forms prescribed and furnished by the Chancellor of the California Community Colleges and shall be mailed to the Chancellor, California Community Colleges, 825 Fifteenth Street, Sacramento, California 95814.

Article 2. Project Proposals and Approvals

53703. Definitions. Terms employed in forms of the State Department of Finance and the Chancellor of the California Community Colleges used for the projection of enrollments have the meaning specified in the Handbook of Definitions issued by the Chancellor's Office of the California Community Colleges.

53704. Projecting Day-Graded Enrollments. The projected growth in resident day-graded enrollments determined for each district by the State Department of Finance shall be developed by utilizing the procedure specified in the Handbook of Definitions mentioned in Section 53703. Exceptions to the procedure may be made by the State Department of Finance for newly formed junior college districts or for other districts where unusual circumstances justify them, and each exception shall be noted and reported to the Chancellor of the California Community Colleges.

DO NOT WRITE IN THIS SPACE

Sec. 6. Subchapter 5 is added to Chapter 6 of Title 5 to read:

Subchapter 5. CURRICULUM AND INSTRUCTION

Article 1. Community College Program of Studies Conducted on a Quarter System

54000. Application of Article and Definitions. The provisions of this article apply to a district maintaining or proposing to maintain a community college that conducts its program of studies on a quarter system. The following definitions apply to, and shall be used as the accepted terminology with respect to, such a district:

(a) "Quarter" means a fourth of a school year that includes at least 10 weeks of instruction.

(b) An "academic quarter" is the period of instruction of not less than 10 weeks scheduled for any quarter. An academic quarter may begin on any day of the week.

(c) A "three-quarter academic year" means three consecutive quarters in a school year.

(d) "All-year-round operation" means four consecutive quarters in a school year.

(e) A "quarter credit hour" is the credit allowed for approximately three hours of recitation, study, or laboratory work per week for each week in an academic quarter. (An hour is from 50 to 60 minutes.) A "quarter unit of credit" means the same as a "quarter credit hour."

54001. Conversion Table. The following conversion table for computing semester credit hours and quarter credit hours applies to, and shall be used wherever necessary or appropriate in the total community college program, including but not being limited to computation of graduation requirements, grade points for the required standards of scholarship, nonresident student

DO NOT WRITE IN THIS SPACE

rogulations and fees, nondistrict student regulations, and the college calendar.

(a) Semester credit hours (or semester units of credit) are converted to quarter credit hours (or quarter units of credit) by multiplying the number of semester credit hours by one and one-half.

(b) Quarter credit hours are converted to semester credit hours by multiplying the number of quarter hours by two-thirds.

54002. A Program of Studies. The program of studies shall include courses and curriculums appropriate to, and adjusted as to content and planned presentation to, the quarter system established at the college, and for which proper conversion has been made in all appropriate areas as provided in Section 54001.

54003. Submission of Program of Studies. A district maintaining a community college, prior to converting from a two-semester academic year to a three-quarter academic year or to the all-year-around operation of a community college under the quarter system, shall submit to the Chancellor of the California Community Colleges a proposed program of studies. The Chancellor shall review the proposed program of studies and, if he determines that the conversion from a two-semester academic year to the quarter system has been properly accomplished, he shall approve the proposed program of studies. The proposed program of studies shall be presented to the Chancellor of the California Community Colleges in the form of the proposed or actual college catalog, bulletins, and other official college informational publications, unless the Chancellor shall authorize a district to submit the proposed program in some other form. After approval thereof by the Chancellor of the California Community Colleges the approved programs shall be in the form of the actual college catalog, bulletins and other such official publications.

DO NOT WRITE IN THIS SPACE

Article 2. Administration of Attendance for Community Colleges Operating on a Quarter System

54004. Days Maintained. (a) The regular day school of a junior college district operating on a quarter system shall be scheduled so that the number of days maintained in at least one combination of three quarters is at least 175 in compliance with Section 17551 of the Education Code. Not more than two days of registration for each quarter in such combination of quarters may be counted as days maintained to fulfill this requirement.

(b) A community college operating on a four quarter system shall maintain all quarters within a single fiscal year.

(c) A community college operating on a three quarter system shall maintain the three quarters and a summer session, if any, within the same fiscal year.

54005. Census Weeks for Attendance Purposes. (a) A census week for attendance purposes is the first week of five consecutive school days, excluding Saturdays, next succeeding the third week of each quarter.

54006. Computation of Average Daily Attendance. (a) The units of average daily attendance for each quarter is computed by dividing by 15 the sum of the whole and partial class hours recorded for the census week of regularly enrolled students in grades 13 and 14, exclusive of adults as defined by Education Code Section 5756, resident of the junior college district.

(b) The units of average daily attendance for a summer session are computed by dividing by 525 the whole and partial class hours recorded for the session of regularly enrolled students in grades 13 and 14, exclusive of adults as defined, resident of the junior college district.

54007. Attendance Reported for Apportionment Purposes for a Community College Operating on a Four Quarter System. (a) The units of average daily

DO NOT WRITE IN THIS SPACE

attendance to be reported on the first period report (J-20-P1) are the quotient computed by dividing the sum of the whole and partial class hours recorded for the first and second quarter by 30.

(b) The units of average daily attendance to be reported on the second period report (J-20-P2) are the quotient computed by dividing the whole and partial class hours recorded for the first, second, and third quarters by 45.

(c) The units of average daily attendance to be reported for the fiscal year (Annual Report J-20A) are the sum of the whole and partial class hours of the first, second, third, and fourth quarters divided by 45.

54008. Attendance Reported for Apportionment Purposes for a Community College Operating on a Three Quarter System. (a) The units of average daily attendance to be reported on the first period report (J-20-P1) are the sum of the average daily attendance computed for the summer session under Section 54006(b) and the average daily attendance computed for the first quarter.

(b) The units of average daily attendance to be reported on the second period report (J-20-P2) are the sum of the average daily attendance computed for the summer session and the quotient computed by dividing the sum of the whole and partial class hours recorded for the first and second quarters by 30.

(c) The units of average daily attendance to be reported on the annual report (J-20A) are the sum of the average daily attendance computed for the summer session and the quotient computed by dividing the sum of the whole and partial class hours for the first, second, and third quarters by 45.

Sec. 7. Subchapter 5.5 is added to Chapter 6 of Title 5 to read:

Subchapter 5.5. EDUCATIONALLY HANDICAPPED PUPILS

Article 1. General Provisions

55000. Scope of Chapter. This chapter applies only to special

DO NOT WRITE IN THIS SPACE

education programs for educationally handicapped minors for which allowances may be made under Education Code Section 18102.

55001. Definitions. For the purposes of this subchapter:

(a) An "educational handicap" means a marked learning or behavioral problem or both described in functional terms sufficient to indicate the specific characteristics of the student's problem and to suggest the nature of an educational approach for the management of his problem.

The learning or behavioral problem shall be of such nature and extent that the student cannot receive the reasonable benefit of ordinary education facilities and does not qualify the student:

(1) As a physically handicapped minor defined in Education Code Sections 6801 and 6802.

(2) As a mentally retarded minor defined in Education Code Sections 6901, 6902, and 6903.

(b) "Program" means any of the special education programs for educationally handicapped minors described in Education Code Section 6751 that meet the general and specific standards set forth in this subchapter.

(c) "Program day" means the length of time regular day classes of the school or school district are conducted for students of similar grade level or chronological age.

(d) "Evaluation and Programming Committee" means the admission committee specified in Education Code Section 6755(b).

(e) "Discharge" means exemption or exclusion from school by resolution of the governing board of a school district or by the county superintendent.

(f) "Transfer" means enrolling the student in any of the following:

DO NOT WRITE IN THIS SPACE

(1) A different type of program authorized by Education Code Section 6751.

(2) A regular day class.

(3) A school or class authorized by Chapter 7 (commencing with Section 6500) of Division 6 of the Education Code.

(4) Another special program authorized by law.

Article 2. Program Standards

55002. General Standards for Programs. Every educationally handicapped minors program shall meet the following general standards:

(a) It is the most appropriate one of the programs described in Education Code Section 6751 that meets the individual needs of the student. It provides for the differential grouping of students in classes, groups, or individually for effectiveness in administration, management, and instruction.

(b) It emphasizes the amelioration of handicapping conditions to the greatest extent possible and in the shortest period of time.

(c) It makes adjustments in the curriculum and instruction that enhance the student's achievement to the fullest potential and provides for continued development in areas of student strengths.

(d) It provides for vocational education, work experience, and work study for those students who would benefit therefrom.

(e) It provides, within the instructional program, for the development of the mental health of the student and utilizes additional services where of benefit to the student.

(f) It provides the educational, psychological, and student personnel services necessary for assessment, evaluation, and consultation.

(g) It utilizes services of instructional aides and other personnel

DO NOT WRITE IN THIS SPACE

assistance in the program whenever such services are necessary.

(h) It provides for curriculum development, in-service education, consultation, and supervision for the staff.

(i) It provides parent education opportunities.

55003. Distinction between Special Classes and Other Instruction. (a) A "special day class" is a program described in Education Code Section 6751(a) that meets the specific standards prescribed in Section 55004.

(b) A "learning disability group" is a program described in Education Code Section 6751(b) that meets the specific standards prescribed in Section 55005.

(c) "Home and hospital instruction" is a program providing individual instruction for minors described in Education Code Section 6751(d) that meets the specific standards prescribed in Section 55006.

(d) "Specialized consultation" is a program described in Education Code Section 6751(c) that meets the standards prescribed in Section 55007.

55004. Specific Standards for a Special Day Class. A special day class shall meet the following standards:

(a) It is composed of students whose range of educational handicaps can be appropriately managed within the class.

(b) It is taught by a teacher whose sole responsibility for the program day is to perform services in connection with the educational program of the students enrolled in the class. The teacher is responsible for the coordination and general supervision of all educational activities during the program day of all the students who are enrolled in the class. The teacher devotes no less than the minimum school day to providing specialized instruction. The teacher is provided opportunities for daily preparation to provide individualized assignments for each student enrolled in the class.

DO NOT WRITE IN THIS SPACE

(c) It provides an educational program for those students able to benefit from attendance for the program day. Whenever the evaluation and programming committee finds attendance for the full program day would not be in the best interests of a student, the period of attendance for that student may be reduced accordingly. Whenever a district is unable to provide preparation opportunities for the teacher because of this program day requirement, the Superintendent of Public Instruction may waive compliance with the program day requirement upon prior application on forms provided by the Superintendent of Public Instruction.

55005. Specific Standards for a Learning Disability Group. A learning disability group shall meet the following standards:

(a) It is composed of students whose range of educational handicaps can be appropriately managed within the group.

(b) It is limited to educationally handicapped minors who are enrolled in one or more groups in accordance with the recommendations of the evaluation and programming committee.

(c) It provides specialized instruction for students in each group on a daily basis or, if less than daily, on a basis to ameliorate the handicap in the shortest period of time.

(d) It allows opportunities for daily preparation for the teacher to provide an effective program of instruction and coordination with the student's regular program of instruction.

55006. Specific Standards for Home and Hospital Instruction. A student enrolled in home and hospital instruction is enrolled for, and receives, at least 150 minutes of individual instruction per week.

55007. Specific Standards for Specialized Consultation. Specialized consultation described in Education Code Section 6751(c) shall meet the

DO NOT WRITE IN THIS SPACE

following standards:

(a) The consultation is given by specialists from such fields as education, speech, social work, psychology, medicine and psychiatry.

(b) The consultation relates to the specialized instruction, management and counseling and guidance of students in a program, and to the in-service training of teachers and staff.

(c) State allowances for specialized consultation are used only to provide specialists not regularly employed by the district or county superintendent of schools administering the program.

(d) Expenses of the evaluation and programming committee are not paid from state allowances for specialized consultation.

55008. Appropriate Class Size and Maximum Enrollment Limits. (a) The appropriate class size and the maximum enrollment for a special day class described in Education Code Section 6751(a) is as follows:

(1) For a class in which no student below grade seven or the age equivalent is enrolled - 12 students.

(2) For a class in which the majority of students enrolled are those described in Section 55009(c) - 6 students.

(b) The maximum enrollment for any learning disability group described in Education Code Section 6751(b) is as follows:

(1) For a given learning disability group - 8 students.

(2) For a full-time teacher of learning disability groups - no more than a total enrollment of 32 such students.

(3) For a part-time teacher of learning disability groups - a total enrollment that is the same proportion of 32 as the number of minutes taught in learning disability groups is to the length of the

DO NOT WRITE IN THIS SPACE

program day.

(c) Deviations from the above maximums may be made only on prior written approval of the Superintendent of Public Instruction.

Article 3. Identification and Placement

55009. Eligibility of Minors for a Program. A minor described in Education Code Section 6750 is eligible for admission to a program if he has an educational handicap as defined in Section 55001(a) and meets the qualifications of either (a), (b), (c), or (d).

(a) A student having both of the following characteristics:

(1) His learning or behavioral problems are specific learning disabilities in the psychological processes involved in understanding or using spoken or written language. Such learning disabilities may include, but are not limited to, those sometimes referred to as perceptual handicaps, minimal brain dysfunction, dyslexia, dyscalculia, or dysgraphia.

(2) He exhibits a significant discrepancy between ability and achievement, but may be expected to benefit from a program designed to meet his particular problems.

(b) A student to whom all of the following statements apply:

((1) His learning or behavioral problems are serious behavior disorders that interfere with his receiving the reasonable benefit of ordinary education facilities. Such behavior disorders may include, but are not limited to, those sometimes referred to as school phobia, adjustment reactions, psychoneurotic reactions, withdrawal, lability, hyperkinesis, or impulsiveness.

(2) He exhibits significant discrepancy between ability and achievement, but may be expected to benefit from a program designed to

DO NOT WRITE IN THIS SPACE

Meet his particular problems.

(3) The evaluation and programming committee recommends specific interventions for the amelioration or management of his behavior disorder that can be carried out within the program recommended.

(4) The evaluation and programming committee finds the student's behavior disorder is not problem behavior as defined in Articles 1, 4, and 5 (commencing with Sections 6500, 6651, and 6701, respectively) of Chapter 7 of Division 6 of the Education Code.

(5) He shall have had a complete re-evaluation by the evaluation and programming committee at least every two years.

(c) A student to whom all of the following statements apply:

(1) His learning and behavioral problems are determined to be profound problems in communication and socially responsive behavior (autistic-like) by physicians and psychologists having experience with, or special knowledge of, such problems.

(2) The evaluation and programming committee finds the student to have profound problems in communication and socially responsive behavior, as distinguished from mental retardation defined in Education Code Sections 6901, 6902, and 6903, notwithstanding seeming mental retardation.

(3) The evaluation and programming committee finds the student's handicap of the nature and extent that he may be expected to participate in a program designed to meet his particular problems.

(4) If he is 10 years of age or older, he has not already been in a program for students identified in this subsection (c) for three years without having made reasonable progress. (A student identified under this subsection (c) who is age ten or older who has been in an

DO NOT WRITE IN THIS SPACE

educationally handicapped program for three years without making reasonable progress is not eligible for further participation in a program and shall be transferred or discharged.)

(d) A student to whom all of the following statements apply:

(1) His learning or behavioral problems are associated with a serious emotional disturbance such that he cannot participate in ordinary education facilities. Included, among others, may be students who, to a marked degree, exhibit one or more of the following characteristics:

(A) Inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) Inability to maintain satisfactory relationships with peers and adults.

(C) Inappropriate behavior or affect under normal circumstances.

(D) A pervasive depression or unhappiness.

(E) A tendency to develop psychosomatic symptoms associated with school or personal problems.

(2) His emotional handicap is of such nature and extent that he may be expected to receive reasonable benefit from an educational program designed to meet his particular problems.

(3) His emotional handicap is of such nature and extent that the school can obtain personnel trained to teach such a student and able to provide the necessary supervision.

(4) When necessary to sustain his school participation, ancillary services can be obtained through the parent, guardian, or community.

DO NOT WRITE IN THIS SPACE

55010. Standards for Identification of Students Described in Section 55009(a) or (b). A student described in Section 55009(a) or (b) shall be identified by individual assessment and evaluation, and school records or written reports that include the studies described in this section.

(a) Educational Case Study. An educational case study of the student that includes:

(1) The school history and educational progress of the student and the specific measurements of his levels of academic functioning.

(2) Specific steps taken to assist the student in the areas of his educational handicap and the results of such assistance.

(3) The reason for referral.

(b) Psychological Case Study. A psychological case study of the student that includes:

(1) Early development.

(2) Identification of the specific learning disabilities or behavior disorders and the relationship of these disabilities or disorders to his school achievement. Specific handicapping conditions must be described in functional terms.

(3) Evidence of the significant discrepancy between ability and achievement and a prognosis for the reduction of such discrepancy.

(4) Recommendations regarding methods and services from which the student may be expected to profit in the program.

(c) Health Study. A health study of the student that includes:

(1) A review by a school nurse or licensed physician and surgeon of the student's health record and status, including results of visual and auditory screening.

DO NOT WRITE IN THIS SPACE

(2) For every student whose health review indicates a possibility of related health problems, and for every student recommended by the evaluation and programming committee for placement in a special day class or in home and hospital instruction, a functional evaluation of the physical, neurological and emotional basis for the student's learning or behavior problems by a physician and surgeon licensed to practice in California. Such evaluation is to advise the parent or guardian of any medical services that may be of benefit to the student and to advise the schools (through the physician on the evaluation and programming committee) of those physical, neurological and behavioral factors that may be of significance in planning an educational program. In requesting such an evaluation, the school shall provide the examining physician with a resume of the student's learning and behavioral problems. No student may be placed in a special day class or in home and hospital instruction prior to receiving the required medical evaluation.

(d) Other Studies or Reports. Studies or reports from personnel in any other areas which the evaluation and programming committee deems necessary because of the specific problems of the student. These areas include, but are not limited to, speech and hearing, English as a second language, socio-cultural disadvantage, social work, and welfare and attendance. Absence of such reports indicates that the committee considers that such reports would not be of significance in evaluating the student's handicap or in planning his educational program.

55011. Standards for Identification of Students Described in Section 55009(c) or (d). A student described in Section 55009(c) or (d) shall be identified by an individual assessment and evaluation, and school records or written reports that include:

DO NOT WRITE IN THIS SPACE

(a) Studies Described in Section 55010(a) and (d). The educational case study and other studies or reports described in Section 55010(a) and (d).

(b) Psychological Case Study. A psychological case study of the student including:

(1) Early development.

(2) Identification of the specific handicapping behaviors and the relationship of such behaviors to his school performance.

(3) Recommendations regarding methods and services from which the student may be expected to profit in the program.

(4) A prognosis for educational and behavioral expectancies by placement in the program.

(c) Medical Study. A medical and psychiatric evaluation by a physician and surgeon licensed to practice in California, of the student's handicaps and behavior. The evaluation shall include a functional description of the student's handicaps and shall indicate that the student:

(1) Has a serious emotional disturbance or autistic-like behaviors.

(2) Has a favorable prognosis for participation in the educationally handicapped program.

(3) Either does not evidence behavior such as to cause his school attendance to be inimical to the welfare of other students or may evidence behavior which suggests considerations for home or hospital instruction or instruction in other than a public school setting.

(d) Adequacy of Program. A specific determination that the program to which the student will be assigned is reasonably adequate to cope with the handicap of the student.

DO NOT WRITE IN THIS SPACE

(e) Teacher Consultation. Consultation with the teacher with whom the student will be placed.

55012. The Evaluation and Programming Committee. The administrative head of the school district or the county superintendent of schools shall designate members of an evaluation and programming committee, which shall include, but not be limited to, the persons specified in Education Code Section 6755(b). One consideration in appointing members to the committee shall be the greatest possible continuity of committee membership.

Evaluation and recommendations shall be made by all five members of the committee specified in Education Code Section 6755(b) and such other specialists as the committee may deem necessary. There shall be present at a meeting at which the recommendations are made, a school psychologist and at least three of the remaining four specified members, provided the absent member has submitted a written statement of his evaluation and recommendations prior to the time of the meeting. In the absence of the physician, a school nurse shall be present. No member of the committee shall serve in more than one capacity.

55013. Standards for Evaluation and Programming of Educationally Handicapped Minors.

(a) The evaluation and programming committee shall make an evaluation of each individual student referred to it by making a thorough study of the records and reports described in Sections 55010 or 55011 as appropriate, together with all other pertinent and reliable information available. A written report of the committee's study shall be filed with the district. The report shall include all of the following:

(1) The committee's findings regarding the nature and extent of

DO NOT WRITE IN THIS SPACE

the student's educational handicaps and the relationship of those handicaps to his educational and learning needs.

(2) The committee's findings regarding the ability of the student to profit from participation in a program and specific recommendations regarding particular methods or services from which the student may be expected to profit in the program.

(3) The committee's decision regarding eligibility and recommendations for placement of the student in the most appropriate one of such programs. Unless the decision is unanimous, a statement of the minority positions shall be attached to the committee's report.

(4) The name and role of the members present at the meeting of the committee at which a recommendation was made.

(b) Whenever the recommendation of the committee for placement of a student is not unanimous, any placement made is a trial placement only. A student enrolled for a trial placement shall be re-evaluated by the committee within six months of his initial placement in the program and each six months thereafter as long as the placement remains a trial placement.

(c) The committee may withhold a recommendation for placement of a student in a program whenever the committee determines that it does not have sufficient information to ascertain the student's eligibility or to recommend placement. Whenever a sizeable number of students are referred to the committee for whom the committee has sufficient information to determine eligibility of the student for special education, but does not have sufficient information to complete its determination of the most appropriate program or special education provisions, the administrative head of a school district may designate one special day class, or for a unified district over 10,000 a.d.a. one special day class at the elementary level and one special day class at the secondary level,

DO NOT WRITE IN THIS SPACE

as a diagnostic class for the purpose of providing an ongoing diagnosis and evaluation of such students. A diagnostic special day class shall meet the following requirements:

(1) It is one of the special day classes for educationally handicapped minors provided under Education Code Section 6751(a).

(2) It meets the requirements of Sections 55004(b) and 55008(a).

(3) It is taught by a trained and experienced teacher of the educationally handicapped and has an instructional aide during the hours students are in attendance.

(4) No such student remains in the diagnostic class for more than six months.

(5) A pupil is re-evaluated by the evaluation and programming committee before the end of three months and, if he remains in the class, before the end of six months.

(6) The class has adequate educational, psychological, and student personnel consultation services. Additional consultation may be provided under provisions of Section 55007.

55014. Placement of Educationally Handicapped Students. (a) The responsibility for the assignment of a student in a program provided by a school district rests with the administrative head of the school district or a credentialed employee designated by him. Assignment shall be made only in accordance with the program recommended by the evaluation and programming committee and no student may be placed in a program prior to the recommendation by the committee.

(b) Whenever the number of eligible students exceeds the enrollment limits of Education Code Section 6752, the administrative head of the school district or his designee shall maintain a list of, and determine the priority

DO NOT WRITE IN THIS SPACE

for placement of, all students enrolled in and all students eligible for enrollment in a program. The priority shall be based on the degree of the educational handicap, with students having a favorable prognosis whose school attendance would otherwise be limited or denied given the highest priority. Whenever such a list is maintained, the priorities shall be reviewed at least quarterly.

55015. Re-evaluation, Retention, and Transfer. (a) An annual examination and evaluation shall be made of the school adjustment and educational progress of each student enrolled in a program. The administrative head of the school district or the county superintendent of schools shall specify the personnel and methods to be used in the examination and maintain a written statement of such procedures. The procedures shall provide for consistency in the specific measurements used in determining academic progress. A written report shall be made of the examination and evaluation of each student and a copy thereof added to the student's case study file. The report shall include the following:

(1) A summary of the development and progress since the last evaluation report.

(2) The results of specific measurements of the student's progress in the academic areas of instruction.

(3) A summary of the methods and techniques which have been utilized in the instructional program.

(4) A current revision of the description of the nature and extent of the student's educational handicaps.

(5) Specific recommendations for the student's continuing education.

(b) A summary of the annual re-evaluation reports shall be provided

DO NOT WRITE IN THIS SPACE

for review by the evaluation and programming committee.

(c) A student failing to make an appropriate school adjustment or satisfactory educational progress in accordance with the prognosis and recommendations of the evaluation and programming committee or subsequent evaluation reports, shall be referred to the evaluation and programming committee or to an appropriate public or private resource for further study. Whenever further study fails to provide a basis for a more adequate prognosis, the student shall be referred to the evaluation and programming committee for recommendations regarding transfer or discharge.

(d) A student enrolled in a program may at any time be referred to the evaluation and programming committee for further study, evaluation, and recommendations for additional methods or services from which the student may be expected to profit or for transfer to another program.

Article 4. The Instructional Program

55016. Curriculum Content. The curriculum content of any program shall be established under the following provisions:

(a) The curriculum is designed to fit the individual developmental and learning needs of each student as initially determined and reported by the evaluation and programming committee. Adjustments are made in the curriculum as the student's progress requires.

(b) The amelioration of the learning or behavioral problems determined for each student is emphasized by giving specialized instruction in the areas of disability.

(c) Adaptations in methodology are made in the presentation of instruction, in the sensory modalities employed, and in the performance required of each student, whenever such adaptations will enhance his learning potential.

DO NOT WRITE IN THIS SPACE

(d) The curriculum otherwise shall meet the requirements of Division 7, Chapter 3, (commencing with Section 8501) of the Education Code. A course of study for educationally handicapped minors in high schools shall be adopted which can be adapted to the individual needs of each student and the basis for graduation requirements for the student.

55017. Teacher Qualification. Any teacher may be assigned to give the instruction specified in paragraphs (a), (b), or (d) of Education Code Section 6751 who possesses a valid regular teaching credential, or standard teaching credential, and who in the judgment of the chief administrative officer of the district or the county superintendent of schools possesses specific preparation, experience, and personal attributes deemed desirable for a teacher of educationally handicapped minors.

55018. Program Supervision. A school district shall provide program supervision for all of its programs. The supervision may be by employees of the district or furnished through contracts with other school districts or county superintendent of schools. "Supervision" as used in this section, means those activities described in Section 6550 that have as their basic purpose the improvement of the instructional program for educationally handicapped students.

DO NOT WRITE IN THIS SPACE

Article 5. Approvals

55019. Notice of Intention to Initiate a Program. (a) The notice of intention required by Education Code Section 6754 to initiate a program shall be submitted to the Superintendent of Public Instruction at least 60 days before the date the program is to begin. The notice shall be on a form furnished by the Superintendent of Public Instruction.

(b) If a district or county superintendent of schools maintaining some, but not all, of the types of programs listed in Education Code Section

6751 proposes to add another of the listed types, such addition is the initiation of a program, and the notice of intention to initiate that program shall be given as provided in (a).

55020. Testing or Screening for Educationally Handicapped Minors. In the event a school system elects to test or screen through the use of tests administered directly to all pupils of a grade, school, or district pursuant to Education Code Section 6758, application shall be made for prior approval of the Board of Governors for the tests or screening procedures to be used.

DO NOT WRITE IN THIS SPACE

FORM 400A

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

DO NOT WRITE IN THIS SPACE

FINDING OF EMERGENCY

The California Community Colleges finds that an emergency exists and that the foregoing regulation is necessary for the immediate preservation of the public peace, health and safety or general welfare. A statement of the facts constituting such emergency is:

> The California State Department of Education is in the process of repealing various sections of the California Administrative Code, Title 5, which also pertain to the California Community Colleges. In order to prevent discontinuance of programs in the area of handicapped students and to insure the continuance of these programs without interruption under legal provisions this emergency action to add Subchapters 1, 2, 4, 4.1, 4.5, 5, and 5.5 to Chapter 6 of Title 5 of the California Administrative Code, is necessary.

The said regulation is therefore adopted as an emergency regulation to take effect immediately upon filing with the Secretary of State as provided in Section 11422(c) of the Government Code.

This regulation submitted for filing does not include any "building standard," as defined in the State Building Standards Law (Sections 18900-18917, Health and Safety Code).

APPROVED:

Sidney W. Brossman, Chancellor
The California Community Colleges

Dated: 8/21/69

APPROVED:

Harold F. Wolters, Chairman
Board of Governors of the
California Community Colleges

Dated: 8/21/69

Form 400 (REV. 8-68)

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING
JUL 1 - 1971
Office of Administrative Procedure

ENDORSED
APPROVED FOR FILING
(GOV. CODE 11380.1)
JUL 1 - 1971
Office of Administrative Procedure

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:
Board of Governors of the California Community Colleges
(Agency)

Date of adoption, amendment, or repeal:
June 16, 1971

By: Carl A. Erikson
Carl A. Erikson, III
Legal Counsel
(Title)

ENDORSED
FILED
In the office of the Secretary of State of the State of California
JUL 1 1971
At 2:10 o'clock P.M.
EDMUND G. BROWN Jr., Secretary
By M. F. SULLIVAN
Assistant Secretary of State

DO NOT WRITE IN THIS SPACE

2

ORDER ADOPTING, AMENDING, RENUMBERING, AND REPEALING
REGULATIONS OF THE
BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 193, 197, and 25510 of the Education Code, and to implement, interpret, or make specific Sections 25510 and 25518.6 of the Education Code, the Board of Governors of the California Community Colleges hereby adopts, amends, renumbers, and repeals regulations in Title 5, California Administrative Code, as follows:

(1) Repeal Section 51301 relating to probation and dismissal of students;
(2) Amend the following sections:
    (a) 51300 relating to probation and dismissal of students;
    (b) 51605 relating to credit by examination.
(3) Amend and renumber Section 51102 relating to credit--no credit courses;
(4) Renumber Section 51302 relating to reinstatement of dismissed students;
(5) Adopt the following new sections:
    (a) 51102 relating to identification of courses;
    (b) 51103 relating to college credit courses;
    (c) 51301 relating to grading practices;
    (d) 51303 through 51307 relating to probation and dismissal of students.

Add the following as a footnote to Sections 51102, 51103, 51300 through 51308, and 51605:

*The community colleges may identify their courses and maintain their grading practices in accordance with these regulations on and after July 31, 1971. The community colleges shall identify courses to be offered during and after the fall semester or quarter, 1972, in accordance with these regulations and shall maintain their grading practices beginning on the first day of the fall semester or quarter, 1972, in accordance with these regulations.

The provisions of these regulations are not subject to the jurisdiction of the State Building Standards Commission.

DO NOT WRITE IN THIS SPACE

Part VI of Title 5 of the California Administrative Code is amended as follows:

First -- Section 51102 is amended and renumbered to read:

51302. Credit Courses.

(a) The governing board of a district maintaining a Community College may offer courses in either or both of the following categories:

(1) Courses wherein all students are evaluated on a "credit--no credit" basis.

(2) Courses wherein each student may elect on registration, or within such time thereafter as the district governing board may determine by rules and regulations, whether the basis of his evaluation is to be "credit--no credit" or a grading scale.

(b) All units earned on a "credit--no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of Community College curriculum requirements. Such units shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.

(c) The governing board of a district maintaining a Community College may authorize a student who has received credit for a course taken on a "credit--no credit" basis within the district to convert this to a grade based on a grading scale by taking an appropriate examination.

(d) In the absence of a regulation of the type authorized in subdivision (a) of this section, the work in a course will be presumed to be evaluated on the basis of a grading scale.

(e) The governing board shall establish a policy describing the standards for the award of a "credit" grade for a course.

Second -- Section 51102 is added to read:

51102. Identification of Courses. For each course offered, a Community College shall make available to students through college publications at least all of the following facts before he enrolls in the course:

(a) Whether the course is offered on the basis of credit--no credit and, if so, which provision of Section 51302, subdivision (a) is applicable.

(b) Whether the course is other than a graded course.

(c) Whether the course is a college credit course under the provisions of Section 51103.

DO NOT WRITE IN THIS SPACE

Third -- Section 51103 is added to read:

51103. College Credit Course. A "college credit course" is a course given in a Community College which meets one or more of the following requirements:

(a) The course is part of an approved educational program.

(b) The credit awarded by the Community College for completion of the course is accepted as completion of a portion of an appropriate educational sequence leading to an associate degree or baccalaureate degree by one or more of the following:

(1) The University of California
(2) A California State College
(3) An accredited independent college or university.

Fourth -- Section 51300 is amended to read:

51300. Regulations. The governing board of a district maintaining a Community College shall adopt regulations consistent with the provisions of this chapter. The regulations shall be published in the college catalog under appropriate headings.

Fifth -- Section 51301 is repealed.

Sixth -- Section 51301 is added to read:

51301. Grading Practices. The governing board of the district maintaining a Community College shall determine the grading practice to be used in that Community College. The grading practice shall be based on sound academic principles and shall conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma, or license shall be graded.

(b) Work shall be graded in accordance with the provisions of Section 51302 or Section 51605 or in accordance with a grading scale.

The grading practice adopted by the governing board shall be published as a part of the catalog or class schedule of the Community College to which it applies. The governing board of a district may provide for withdrawal without penalty for students who withdraw from a class before the deadline established by the governing board.

Seventh -- Section 51302 is renumbered as Section 51308.

Eighth -- Section 51303 is added to read:

51303. Standards for Probation. A student shall be placed on probation if he has earned a grade point average below 2.0 in all units attempted which were graded on the basis of a grading scale. The district board shall adopt "credit--no credit" probation rules.

DO NOT WRITE IN THIS SPACE

The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for probation herein set forth and shall file a copy of such rules with the Chancellor of the California Community Colleges.

Ninth — Section 51304 is added to read:

51304. Standards for Dismissal. A student shall be dismissed if he earned a grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of a grading scale. The district board shall adopt "credit--no credit" dismissal rules.

The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor of the California Community Colleges.

Tenth -- Section 51305 is added to read:

51305. Units Attempted. For the purposes of Sections 51303 and 51304, "all units attempted" means all units of credit for which the student was enrolled in any college, university, or grades 13 and 14, regardless of whether he completed the course or received any credit or grade. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion from "all units attempted" of units in which a student did not receive a grade or "credit--no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

Eleventh — Section 51306 is added to read:

51306. Probation and Dismissal - Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points.

(b) The governing board for each Community College shall establish the point equivalencies for the grades used from the grading scale at that Community College in accordance with subsection (a) of this section. These equivalencies shall be published in the catalog of that Community College as a part of the grading practices for that Community College.

Twelfth — Section 51307 is added to read:

51307. Determination of Probation and Dismissal. Each Community College shall make every reasonable effort to notify a student of his academic probation or dismissal no later than the fifth day of classes of the semester or quarter in which it will be in effect.

DO NOT WRITE IN THIS SPACE

Thirteenth -- Section 51605 is amended to read:

51605. Credit By Examination. The governing board of a district maintaining a Community College may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing for a course listed in the catalog of a public Community College.

Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required by Section 51602.

DO NOT WRITE IN THIS SPACE

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE

(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING
SEP 29 1971
Office of Administrative Procedure

ENDORSED
APPROVED FOR FILING
(GOV. CODE 11380.1)
OCT 1 - 1971
Office of Administrative Procedure

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:

Board of Governors of the California Community Colleges
(Agency)

Date of adoption, amendment, or repeal:

September 16, 1971

By: Carl A. Erikson III
Legal Counsel
(Title)

ENDORSED
FILED
In the office of the Secretary of
of the State of California
OCT 1 - 1971
11:00 a.m.
EDMUND G. BROWN Jr., Secretary
By DAVID M. WEETMAN
Deputy

DO NOT WRITE IN THIS

ORDER ADOPTING AND AMENDING REGULATIONS OF THE
BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Sections 193, 197, and 25510 of the Education Code, and to implement, interpret, or make specific Section 25510 of the Education Code, the Board of Governors of the California Community Colleges hereby amends and adopts its regulations in Title 5, California Administrative Code, as follows:

(1) Amends the title of Chapter 7 (commencing with Section 51600) of Division 2:

(2) Renumbers Section 51605 relating to credit by examination.

(3) Adds Section 51600.5 relating to the effective date of existing regulations on degrees and certificates.

(4) Adds Chapter 8 (commencing with Section 51620) to Division 2 of Part VI relating to degrees and certificates.

Add the following as a footnote to Sections 51620 through 51626:

*The community colleges may adopt degree and certificate regulations in accordance with these regulations to be effective on or after Oct. 1, 1971 The community colleges shall adopt rules and regulations in accordance with these regulations to be effective no later than September 1, 1973.

The provisions of these regulations are not subject to the jurisdiction of the State Building Standards Commission.

DO NOT WRITE IN THIS SPACE

Part VI of Title 5 the California Administrative Code is amended as follows:

First -- The title of Chapter 7 (commencing with Section 51600) of Division 2 is amended to read:

CHAPTER 7. DEGREES AND CERTIFICATES (Pre-September 1, 1973)

Second -- Section 51600.5 is added to read:

51600.5. Effective Date. The provisions of this chapter shall apply to all degrees and certificates granted by a community college district before the effective date of regulations adopted by the governing board of that district in accordance with the provisions of Section 51620 or before September 1, 1973, whichever is the earlier.

Third -- Section 51605 is renumbered as Section 51302.5.

Fourth -- Chapter 8 (commencing with Section 51620) is added to Division 2 to read:

CHAPTER 8. DEGREES AND CERTIFICATES (Post-September 1, 1973)

51620. Effective Date. The provisions of this chapter shall apply to all degrees and certificates granted by a Community College district on and after September 1, 1973. The provisions of this chapter may be made applicable to all degrees and certificates granted on and after July 1, 1972, if the governing board of a community college district adopts regulations consistent with the provisions of this chapter which are effective on July 1, 1972.

A student who enrolls in a community college prior to September 1, 1973, shall have the option of earning his degree under the provisions of Chapter 7 or Chapter 8 of this division if the community college in which he is enrolled has changed its degree requirements in accordance with this chapter before the degree is awarded. No degree or diploma shall be awarded under the provisions of Chapter 7 after September 1, 1975.

51621. Regulations. The governing board of a community college district shall adopt regulations consistent with the provisions of this chapter.

51622. Definitions. For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit--no credit" basis or a grade point average of 2.0 or better in 13th and 14th year graded courses in the curriculum upon which the degree is based.

51623. Associate in Arts Degree. The governing board of a Community College district shall confer the degree of associate in arts upon

DO NOT WRITE IN THIS SPACE

a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that Community College:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas:

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g. chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to man as a member of society or component of society, such as the state, family, or any systematized human institution (e.g. economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

Students taking these courses may elect to use them to satisfy partially the general education requirements for a baccalaureate degree at the California State Colleges in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

51624. Associate in Science Degree. The governing board of a Community College district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculums.

51625. Certificate of Achievement. The governing board of a Community College district shall issue a certificate of achievement, when so determined by the governing board to any student who has completed successfully any course of study or curriculum as specified in the college catalog.

DO NOT WRITE IN THIS SPACE

51626. Duty to Grant Degree or Diploma. The governing board of a Community College district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

DO NOT WRITE IN THIS SPACE

FORM 400 (REV. 5-64)

FACE SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

RECEIVED FOR FILING
JUN 26 1971
Office of Administrative Procedure

ENDORSED
APPROVED FOR FILING
(GOV. CODE 11380.1)
JUN 28 1971
Office of Administrative Procedure

DO NOT WRITE IN THIS SPACE

Copy below is hereby certified to be a true and correct copy of regulations adopted, or amended, or an order of repeal by:
Board of Governors of the
California Community Colleges
(Agency)

Date of adoption, amendment, or repeal:
June 16, 1971

By: Carl Erikson III
Carl A. Erikson, III
Legal Counsel
(Title)

ENDORSED
FILED
in the office of the Secretary of State
of the State of California
JUL -1 1971
At 2:10 o'clock P M.
EDMUND G. BROWN JR., Secretary of State
By M. P. SULLIVAN
Assistant Secretary of State

DO NOT WRITE IN THIS

4

ORDER ADOPTING REGULATIONS OF THE
BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES

After proceedings had in accordance with the provisions of the Administrative Procedure Act (Gov. Code, Title 2, Div. 3, Part 1, Chapter 4.5) and pursuant to the authority vested by Section 199 of the Education Code, and to implement, interpret, or make specific Section 199 of the Education Code, the Board of Governors of the California Community Colleges hereby adopts Chapter 4 (commencing with Section 55400) of Division 6 of Part VI in Title 5 of the California Administrative Code relating to educational master plans.

The provisions of these regulations are not subject to the jurisdiction of the State Building Standards Commission.

DO NOT WRITE IN THIS SPACE

FORM 400A

CONTINUATION SHEET
FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE SECRETARY OF STATE
(Pursuant to Government Code Section 11380.1)

DO NOT WRITE IN THIS SPACE

Chapter 5 (commencing with Section 55400) is added to Division 6, Part VI, of Title V of the Administrative Code, to read:

Chapter 5. Educational Master Plans

55400. Definitions. The definitions provided in the Handbook of Definitions issued by the Chancellor shall apply to the provisions of this chapter.

55401. Current and Long Range Plans. The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

55402. Educational Master Plans. On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

55403. Form. Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

55404. Contents. Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

55405. Review and Approval. The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, he shall send a copy of his approval of it to the superintendent of each district.

Exhibit D

STATE OF CALIFORNIA

CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE
1102 Q STREET
SACRAMENTO, CA 95814-6511
(916) 445-8752
HTTP://WWW.CCCCO.EDU

March 16, 2004

RECEIVED
MAR 16 2004
COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: CSM 02-TC-25
Los Rios Community College District, Claimant
Education Code sections 66281.5, 66721.5
Title 5, California Code of Regulations, sections 51006, 54626, 54805, 55005, 55202, 55530, 55534, 55750, 55752, 55753, 55758, 55759, 55760, 55761, 55762, 55764, 55765, 55800, 58102, 58104, 59404, 59410

Dear Ms. Higashi:

As an interested state agency, the Chancellor's Office has reviewed the above Test Claim in light of the following questions addressing key issues before the Commission:

I. Do the subject statutes or regulations result in a mandated new program or a mandated higher level of service within an existing program upon local entities within the meaning of section 6, article XIIIB of the California Constitution and section 17514 of the Government Code? If so, are costs associated with the mandate reimbursable?

II. Do any of the provisions of Government Code section 17556 preclude the Commission from finding that the provisions of the subject statutes or regulations impose a reimbursable state-mandated program upon local entities?

Claimant alleges that reimbursable mandated costs arise through two Education Code sections and twenty-two regulations adopted by the Board of Governors of the California Community Colleges. The basis of the claim is that these statutes and regulations require community college districts to "prepare, publish, and implement various policies, procedures and notices to students." The claimant also alleges that no "statutes, codes or regulations" required "the specific notices to students set forth in this test claim" prior to January 1, 1975.

We believe that the Claim should be rejected in its entirety.

Education Code section 66281.5

Claimant asserts that Education Code section 66281.5(b) requires community college districts to have and implement a written policy on sexual harassment; subsection (c) requires the written policy to indicate how to report sexual harassment; subsection (d) requires the written policy to be displayed. Claimant asserts that subsections (e), (f), and (g) require districts to provide the written policy to students and employees, and include it in publications that set forth institutional rules.

We note that although Claimant summarizes its Claim as involving notices to students, by including a description of subsection (f), it appears that Claimant also wishes reimbursement for providing copies of the sexual harassment policy to employees.

Claimant asserts that Education Code section 66281.5 was added to the Education Code by Statutes 1998. We agree that section 66281.5 was added by Statutes 1998. However, the Education Code previously included comparable requirements. We will not trace the rather convoluted history because the lineage will still commence after January 1, 1975.

The requirements of Education Code section 66281.5 substantially reflect the requirements of Title IX and Title VII, two federal laws that prohibit sex discrimination and sexual harassment by the districts. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Additionally, the requirements substantially reflect the requirements of California Government Code section 12950 that apply to California employers with 15 or more employees, including the District.

Title IX

Title IX of the Education Amendments of 1972 "is designed to eliminate . . . discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. . . ." (34 CFR § 106.1.) Community college districts generally choose to receive federal financial assistance and are therefore subject to the requirements of Title IX and its implementing regulations.

These implementing regulations appear at title 34, Code of Federal Regulations, part 106, sections 106.1 through 106.71. The Office for Civil Rights ("OCR") within the U.S. Department of Education enforces Title IX and the implementing regulations.

Title IX requires community college districts that receive federal financial assistance to adopt and to publish policies prohibiting sex discrimination. Districts must also "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part." (34 C.F.R. §§106.8(b), 106.9.)

Sexual harassment is a form of sex discrimination that is prohibited by Title IX. In January, 2001, the OCR published its Title IX "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." As interpreted by the OCR, if a district's required sex discrimination policy does not specifically address sexual harassment, its policy and procedures will not be considered effective. (*Id.*, pp. 19-20.) The failure to have a policy and procedure prohibiting sex discrimination, including sexual harassment, violates the Title IX regulations even if no discrimination or harassment occurs. (*Id.*, p. 19.)

The sexual harassment policy and procedures must be distributed.

> "Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination." (*Id.*, at p. 14.)

OCR examines certain elements in determining whether a district's grievance procedures are prompt and equitable. One element is that students and employees are notified of the procedure, "including where complaints may be filed." (*Id.*, at p. 20.) The OCR notes that schools may ensure notice to students of their rights under Title IX by having copies of the procedures "available at various locations throughout the school or campus" and by "including a summary of the procedures in major publications issued by the school." (*Id.*, at p. 20.)

Based on the foregoing, by accepting federal financial assistance, community college districts obligate themselves to develop and disseminate sexual harassment policies, notify students and employees of the district as to how to file charges, and disseminate information concerning the prohibition to sexual harassment in major district publications.

Title VII

Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex, or national origin. Title VII applies to community college districts in their role as employers. Title VII is implemented by regulations adopted by the federal Equal Employment Opportunity Commission ("EEOC"). Since 1980, the regulations have confirmed that sexual harassment violates Title VII. (Guidelines on Discrimination Because of Sex, 29 C.F.R. § 1604.11.)

Sexual harassment is a violation of Title VII. "An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned." (29 C.F.R. § 1604.11(f).)

Government Code section 12950

Section 12950 is part of the Fair Employment and Housing Act ("FEHA"), and it covers virtually all California employers with 15 or more employees. Accordingly, section 12950 applies to Claimant independent of its status as a local government agency.

Section 12950 requires the Claimant to ensure a workplace free of sexual harassment, to display a poster that includes information on sexual harassment in a prominent and accessible location in the workplace (subdivision (a)), to distribute to employees an information sheet on sexual harassment that includes the definition and the internal complaint process (subdivision (b)), and such distribution is to be delivered in a manner that ensures distribution to each employee (subdivision (c)).

The FEHA has general application to nearly all California employers and does not impose unique requirements on local government agencies such as community college districts. Accordingly, the requirements to ensure a workplace free of sexual harassment, to have a sexual harassment complaint process, and to disseminate information concerning sexual harassment to employees already exist. Because the Claimant is already required by general law to do these things, these actions cannot be the basis of a claim for reimbursement. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Education Code section 66281.5 applies only to a community college district that "receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid." (Ed. Code, § 66270.)

The California Supreme Court recently addressed the circumstances that will give rise to a mandate for purposes of reimbursement. (*Department of Finance v. Commission on State Mandates (Kern High School)* (2003) 30 Cal.4th 727, hereinafter referred to as "*Kern High School.*") In that case, the Kern High School District sought reimbursement from the state for the costs of preparing notices and agenda items related to certain programs it offered. The Supreme Court found that no mandates exist where a district voluntarily participates in a program.

The requirements of Chapter 4.5, of which section 66281.5 is a part, apply only when a postsecondary institution, including a community college district, accepts state financial assistance. The "burden" of compliance with section 66281.5 results from choosing the "benefit" of receiving state financial assistance. If Claimant accepted state financial assistance, it voluntarily accepted the attendant obligations under section 66281.5. Under *Kern High School* reimbursement is not available.

The Claimant has a number of obstacles with respect to section 66281.5. All or portions of the obligations described in section 66281.5 already apply to Claimant under Title IX or Title VII. Portions of the obligations described in section 66281.5 already apply to Claimant as a California employer under Government Code section 12950. Finally, if Claimant chose to accept state financial assistance, it is required to comply with Education Code section 66281.5. However, the

discretionary nature of this choice removes Claimant's ability to establish a mandate and the corresponding ability to obtain reimbursement for the costs of complying with section 66281.5.

Education Code section 66721.5

Claimant asserts that section 66721.5 requires its governing board to provide copies of the transfer core curriculum to students, and to publish the transfer core curriculum in the published class schedule each term or by alternative means.

Claimant asserts that section 66721.5 was added to the Education Code by Statutes 2000. We agree that section 66721.5 was added as alleged by Claimant.

The question under section 66721.5 is whether the section resulted in a new program or higher level of service within an existing program. Affected "programs" are those that "carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state." *(County of Los Angeles v. State of California, supra*, 43 Cal.3d at p. 56, emphasis added.)

There is no question but that public education is a program under the Constitution and mandate statutes. The question is whether publication of information about public education is a "program" under these provisions. In *County of Los Angeles v. Department of Industrial Relations*, the county claimed reimbursement for the costs of complying with elevator safety regulations in county buildings. In assessing whether a "program" was at issue, the Court found that:

> "In determining whether these [safety] regulations are a program, the critical question is whether the *mandated program* carries out the governmental function of providing services to the public, not whether the elevators can be used to obtain these services. Providing elevators equipped with fire and earthquake safety features simply is not 'a governmental function of providing services to the public.'" (*County of Los Angeles v. Department of Industrial Relations* (1989) 214 Cal.App.3d 1538, 1546, italics in original, emphasis added.)

The Court found that the government functions were operated in various buildings that were owned or leased by the County. The various government functions in the buildings were the programs; the elevators merely assisted people in getting to the programs, but they were not the programs themselves.

Similarly, while public education is a program of which transfer principles are a part, the means by which students learn of the transfer core curriculum is not the educational program. The notices to students required by Education Code section 66721.5 are more akin to the elevators that provide a means of obtaining the program services. Under *County of Los Angeles*, we submit that the notices do not constitute a program or increased services within an existing program and that there is no basis for reimbursement.

We also note that *Kern High School* pointed out that even if costs are incurred, costs may be modest and may be permissibly payable from funds that have already been obtained from the state. (*Department of Finance v. Commission on State Mandates (Kern High School), supra,* 30 Cal.4th at p. 747.) In this regard, Education Code section 66721.5 requires publication of the class schedule and permits numerous alternative means of distributing copies of the transfer core curriculum, with various attendant costs. Assuming that Claimant receives state assistance, we find nothing that prevents Claimant from using some of the funds it has already received from the state to satisfy the costs of publishing the transfer core curriculum and distributing the information to students.

In summary, we submit that the publication of information and the distribution of information to students is not a "program" under applicable case law. Even if a program is established, compliance costs appear to be minimal and payable from moneys already received from the state.

Based upon district end of the year expenditure information reported for the 2001-02 and 2002-03 fiscal years the district maintained a 6.66% and 5.31% reserve. A district's reserve is determined by dividing the unrestricted general fund ending balance by the unrestricted general fund expenditures. The reserve amount identified for each respective year is larger than the 5% prudent reserve recommended by the Chancellor's Office. The amount greater than the prudent reserve requirement could have been applied to fund these activities.

Regulations of the Board of Governors

Claimant identifies twenty-two regulations of the Board of Governors that it claims create mandates subject to cost reimbursements. Related issues are presented by a number of the regulations, which we discuss here by way of introduction.

1. Minimum Standards Created Pursuant to a Legislative Direction That Preceded 1975 Do Not Create New Programs or Higher Levels of Service

Many of the regulations identified by Claimant reflect minimum standards that have been adopted by the Board of Governors. A recent California Attorney General opinion is instructive on the interplay of minimum standard regulations and mandated costs.

The question posed to the Attorney General concerned minimum standards for juvenile justice facilities. The Attorney General concluded that where a statute enacted prior to 1975 required a body to establish minimum standards, revising those standards does not constitute a new program or increased level of an existing program.

The Attorney General considered a county's claim for reimbursement for bringing a juvenile justice facility into compliance with the minimum standards established by the Board of Corrections. The Attorney General concluded that the Board of Corrections had been required to set minimum standards for suitable juvenile facilities since at least 1915. Therefore, regulations adopted as minimum standards did not constitute a new program because

> "Counties have been required to maintain a 'suitable' place for the detention of minors since at least 1915. [Citations omitted.] Setting the minimum standards for what is 'suitable' does not create a 'higher' level of service--it has long been the level of service required of local agencies. [Citations omitted.]" (83 Ops.Cal.Atty.Gen. 111 (2000).)

The Attorney General considered the language of Welfare and Institutions Code section 210, which provides: "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors." The term "suitable" is not part of the charge to the Board of Corrections in setting minimum standards. The term is implied.

Many regulations challenged in this Claim reflect Board of Governors' minimum standards. Based on the premise established by the Attorney General, the minimum standards of the Board of Governors do not constitute either a new program or a higher level of service if the Board of Governors was obligated to set minimum standards in these areas prior to 1975.

Pre-1975 Requirements

The Board of Governors' regulations are generally adopted pursuant to statutes that appear in the Education Code. Because the Education Code has been reorganized several times, it is important to trace statutory requirements to their original sources. This is not always an easy undertaking where the Education Code is concerned: "Entry into the Education Code is painful." (*Haase v. San Diego Community College District* (1980) 113 Cal.App.3d 913, 917.)

Most statutes that concerned public schools were first assembled in the School Code in 1929. Prior to that time, such statutes appeared in various codes. The School Code became the Education Code in 1943. The Education Code was reorganized in 1959 and again in 1976. Some sections that appear in today's Education Code show that they were added in 1976 - which date incorrectly suggests that they came into being after January 1, 1975, a critical date for purposes of finding a state mandate. However, for many sections, the 1976 date merely reflects the 1976 comprehensive reorganization of the Education Code. That date does not represent the date of initial legislative pronouncement. Accordingly, in analyzing a number of the cited regulations, we will demonstrate that the Legislature required the Board of Governors to establish minimum standards in the subject areas prior to 1975.

Under the theory articulated by the Attorney General in his 2000 opinion, no new programs or higher level of services are established by Board of Governors' regulations that set minimum standards if the Legislature required the adoption of minimum standards prior to 1975. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Education Code section 66700

Section 66700 requires the Board of Governors to prescribe minimum standards for the operation of the community colleges. Section 66700 was preceded by section 22650, that was enacted in 1960, when the State Board of Education had jurisdiction over the junior colleges in California.

(Stats. 1960, 1st Ex. Sess., ch. 49, p. 396.) Section 22650 required the State Board of Education to adopt minimum standards for the operation of the junior colleges. As the community college system developed, the obligation to adopt minimum standards was assigned to the Board of Governors and junior colleges were redesignated community colleges. (The Legislature created the Board of Governors of the California Community Colleges in 1967 by Statutes 1967, chapter 1549. It also vested in the Board of Governors the "duties, powers, purposes, responsibilities, and jurisdiction" previously vested with the State Board of Education. See Education Code section 71024, previously section 197.) Accordingly, since at least 1960, the Legislature has required the state agency having oversight responsibility to adopt minimum standards for the operation of community college districts. It has vested that responsibility in the Board of Governors since 1967.

Education Code section 70901(b)(6)

Section 70901(b)(6) requires the Board of Governors to adopt minimum standards entitling districts to receive state aid for support of community colleges. Section 70901(b)(6) was added by Statutes 1988. However, section 70901(b)(6) was preceded by section 71025 that was enacted by Statutes 1976. Former section 71025 provided that "the Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." Section 71025 was preceded by section 25510 that was added by Statutes 1963. (Stats. 1963, ch. 100, p. 760.) A 1970 amendment substituted "community college" for "junior college" and an amendment by Statutes 1974 substituted the Board of Governors of the California Community Colleges for the State Board of Education; thus the section read, "The Board of Governors of the California Community College shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." (The 1974 amendment merely conformed the Board of Governors' authority to that previously assigned by the Legislature in 1967.)

Accordingly, since at least 1963[1], the Legislature has required the state agency having oversight responsibility to adopt minimum standards enabling community college districts to receive state aid. As noted above, since 1967, that responsibility has rested with the Board of Governors.

In addition to the general requirement to adopt minimum standards, (current Ed. Code, § 66700), and the requirement to adopt minimum standards for the receipt of state aid (current Ed. Code, § 70901(b)(6)), the Board of Governors has also been required to establish minimum standards in numerous specific areas, and districts have been required to comply with those minimum standards.

The Board of Governors of the California Community Colleges has long been charged with establishing minimum student academic standards. Current Education Code section 70901(b)(1)(A) requires the Board of Governors to adopt "[m]inimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies."

---

[1] In some cases, the statutes cited herein may have existed earlier under different section numbers. However, given our resource limitations, we are not able to explore the full extent of possible previous enactments.

Prior to the placement of this requirement in section 70901(b)(1)(A), it existed in section 71066 that required the Board of Governors to adopt "minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies." Section 71066 was enacted by Statutes 1976, but it merely replaced predecessor section 200.7 that was added by Statutes 1969, and that provided: "The board of governors shall establish minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies."

Accordingly, there have been no gaps in the requirement that the Board of Governors set minimum academic standards between 1969 and the present.

In turn, community college districts have long been charged with establishing "academic standards" that are consistent with Board of Governors' minimum standards. Current Education Code section 70902(b)(3) requires district boards to, "Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors." Prior to section 70902(b)(3), Education Code section 72285 required district governing boards to "establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors." (Enacted by Stats. 1976, ch. 1010.) Before section 72285, the requirement existed in section 1010.6, added by Statutes 1969, that provided: "The district governing board shall establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors."

Thus, there have been no gaps in the requirement that districts establish academic standards consistent with Board of Governors' minimum academic standards between 1969 and the present.

The obligation of the Board of Governors to adopt minimum academic standards and the correlated obligation of districts to establish academic standards that comply with state minimum standards long preceded 1975. As such, these academic standards are not new. As noted in the 2000 Attorney General Opinion cited above, no higher level of service is created under these circumstances. Since before 1975, districts were required to adhere to the minimum academic standards set by the Board of Governors, and that has not changed. (83 Ops.Cal.Atty.Gen. 111 (2000).)

2. Optional Programs Do Not Constitute Mandates

In assessing Education Code section 66281.5, above, we noted that some requirements apply only to a community college district that receives state financial assistance. We described *Kern High School, supra,* 30 Cal.4th 727, a recent California Supreme Court decision that stands for the proposition that if districts choose to offer programs, but are not compelled to do so, costs associated with those optional programs are not mandated for purposes of reimbursement.

A number of the regulations with student notice requirements raised by Claimant reflect minimum standards for the receipt of state aid. It is only if districts desire to receive state aid that they must meet the minimum standards – i.e., only in exchange for state aid are they required to notify students of various matters. Although nearly all districts receive state aid, usually in the form of apportionment, there is no mandate that they do so. Accordingly, if Claimant chooses to receive state aid, it opts to comply with the minimum standards for doing so, and cannot claim that a mandate exists. We will identify those regulations that constitute minimum standards for the receipt of state aid and affirm that under *Kern High School, supra,* 30 Cal.4th 727, no mandate exists.

3. Notice Requirements Do Not Create Mandates

Claimants identify regulations that require districts to publish fundamental information about educational programs and services so that students and members of the public can be informed of educational opportunities. There are two bases for rejecting the costs of publishing various items in the catalogs or providing notification to students as mandated costs.

First, the threshold question is whether any program is at issue. There is no question but that public education is a program under the Constitution and statutes. The publication of information or notices, however, is not the same as public education.

As noted above, we believe the principles of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, apply here. To the extent that publishing information about courses or programs enables the public to understand or access those courses or programs, we believe the publications and notices are reasonably compared to the elevator services described above. The elevators assisted the public in accessing the programs, but were not themselves programs or part of a program. Assuming this analogy has merit, we suggest that "programs" are not at stake with respect to notices, and that the Claim for such matters be rejected.

Second, the California Supreme Court addressed similar public "notice" vehicles, i.e., Brown Act notices and agendas, in *Kern High School, supra,* 30 Cal.4th 727, (discussed above). For one of the programs, the Supreme Court did not decide whether the program was mandated; however, it noted:

> "[W]e nevertheless conclude that under the circumstances here presented, the costs necessarily incurred in complying with the notice and agenda requirements under that funded program do not entitle claimants to obtain reimbursement under article XIII B, section 6, because the state, in providing program funds to claimants, already has provided funds that may be used to cover the necessary notice and agenda related expenses. . . . [¶] [W]e have found nothing to suggest that a school district is precluded from using a portion of the funds obtained from the state for the implementation of the underlying funded program to pay the associated notice and agenda costs. . . . [E]ven if we assume for purposes of analysis that school districts have been legally compelled to participate in the funded Chacon-Moscone Bilingual-Bicultural Education program, we view the

> state's provision of program funding as satisfying, in advance, any reimbursement requirement. . . . [¶] . . . [¶] We therefore conclude that because claimants are and have been free to use funds form the Chacon-Moscone Bilingual-Bicultural Education program to pay required program expenses (including the notice and agenda costs here at issue), claimants are not entitled under article XIII B, section 6, to reimbursement from the state for such expenses." (*Kern High School, supra,* 30 Cal.4th 727, at pp. 746-748, emphasis added.)

We take the foregoing to mean that if Claimant received state funding that it may use to pay for notices to students, then it is not entitled to further reimbursement for the costs.

Turning to the individual regulations cited by Claimant, we will abbreviate the theories described above.

California Code of Regulations, title 5, section 51006

Claimant asserts that section 51006 requires community college districts to adopt a policy that classes must be open to persons admitted to the college and that the statement of this open course policy must be published in catalogs and class schedules.[2]

Claimant asserts that section 51006 was added in 1983 and last amended in 1994. We cannot verify that information at the present time.

The resources of our legal office have been severely curtailed at the same time that its workload has increased. It may be that previous versions of some of the regulations at issue in this Claim existed prior to the dates cited by Claimant because renumbering of sections occurred at various times. That renumbering can give the appearance that a section has been newly adopted when it has simply been assigned a new section number.

In the early times after the Board of Governors was established, the Office of Administrative Law retained the primary regulatory files, and we are unable to expeditiously identify whether earlier versions of current regulations existed.

We cite to multiple bases for denying the claims under the challenged regulations; it may be that the issue of earlier provisions is a moot point if other bases exist for the rejection of the claims. However, in those instances where the Claim is not disallowed on any basis and where we have been unable to verify the historic development of a regulation, we suggest that the Commission thoroughly review the regulatory history, and we will gladly lend our support to the extent we are able.

Education Code section 5754 (added by Stats 1965, ch. 842) provided in part: "No class for adults shall be maintained by any district: . . . (2) if such classes are not open to the general public. . . ." This requirement for open courses was replaced by section 84500.1 (added by Stats.

---

[2] All subsequent section numbers are to the sections in title 5 of the California Code of Regulations unless otherwise specified. Our statements of Claimant's assertions are summaries only and do not purport to fully describe Claimant's statement of the regulatory requirements.

1978, ch. 909) that required in pertinent part that "[n]o community college shall report for attendance or average daily attendance to the board of governors for apportionment any classes: . . . if such classes are not located in facilities clearly identified in such a manner, and established by procedures, to insure that attendance in such classes is open to the general public. . . ." Section 84500.1 was in effect until January 1, 1991.

Based on the foregoing, the requirement for open classes for adults has been continuous since before 1975 through to the present. "Classes for adults" generally means noncredit classes. We have not located a similar pre-1975 requirement that credit courses be open, but given the public nature of the entire system, and the origination of the system within the public school system, we contend that open courses has always been the standard. We therefore assume that the Claim only raises the issue of publication of the open course standard.

Section 51006 is a minimum standard adopted by the Board of Governors pursuant to Education Code sections 66700 and 70901. As noted above, both section 66700 and section 70901 originated prior to 1975. Based on the above Attorney General analysis of minimum standards that are adopted pursuant to legislative directive given prior to 1975, costs for section 51006 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 51006 is also a minimum standard for the receipt of state aid. Claimant is not required to apply for state aid, but having done so, must comply with attendance requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notice of the open nature of classes is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

Finally, under *Kern High School, supra,* 30 Cal.4th 727, the Claimant has not indicated why state money it already receives cannot be used to pay for including the statement concerning open courses in its catalog and class schedules.

California Code of Regulations, title 5, section 54626

Claimant asserts that section 54626(a) requires community college districts to adopt a policy that identifies categories of directory information that may be released, that subsection 54626 allows the release of directory information if annual public notice is given of the categories of directory information and the potential recipients. Claimant asserts that the notice must also specify the period of time within which students may notify the district of categories of directory information they do not want released.

Claimant asserts that section 54626 was added in 1976 and last amended in 1983. We agree.

Section 54626 restates federal law that becomes applicable if Claimant accepts federal financial assistance. The handling of student records is addressed comprehensively in the Family

Educational Rights and Privacy Act of 1974 (FERPA) and its related federal regulations. (20 U.S.C. § 1232g and 34 C.F.R, part 99.)

FERPA provides in part that:

> "Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent." (20 U.S.C. § 1232g(a)(5)(B).)

Districts that accept federal financial assistance must annually notify students of their rights under FERPA. (34 C.F.R. § 99.7.) If districts plan on releasing student directory information, they must give public notice of the types of information the district considers to be directory information, the student's right to refuse to allow the release of directory information, and the period of time during which the student must notify the district that he/she does not want directory information released. (34 C.F.R. § 99.37.)

Claimant undoubtedly receives federal funds and is therefore bound by FERPA and its implementing regulations. Therefore, section 54626 does not create any new or increased obligations. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Additionally, under *Kern High School, supra,* 30 Cal.4th 727, Claimant cannot choose to accept federal funds and then be reimbursed for costs that result from that choice.

It should be noted the district does receive federal funds for the Temporary Assistance for Needy Families (TANF), and the Vocational Technical Education Act. In the 2001-02 fiscal year the district received roughly $3.7 million and for the 2002-03 fiscal year the district received $1.7 million in federal funds.

California Code of Regulations, title 5, section 54805

Claimants assert that section 54805 mandates districts to provide students with specified information concerning the student representation fee.

Claimant asserts that section 54805 was added in 1988 and last amended in 1991; we agree with those dates.

Section 54805 implements section 76060.5 of the Education Code. That section authorizes a student representation fee if certain conditions are met. The claimed "mandate" of section 54805 is only a requirement if (1) a district authorizes the students to organize a student body organization, (2) the student body organization proposes a student body organization fee, and (3) the district's students vote to approve a student representation fee. None of these actions are

mandated by the Legislature or by Board of Governors' regulations – all of these actions are permissive and rest exclusively with the local district and its students. If all of the permissive actions occur locally, then the requirements of section 54805 apply. However, inasmuch as all actions leading to the fee are based on local choice and action, under *Kern High School, supra,* 30 Cal.4th 727, there is no state mandate.

Additionally, where the permissive actions have occurred and a student representation fee is authorized, the subject district is authorized to retain up to 7 percent of the student representation fees "equal to the actual cost of administering these fees. . . ." (Ed. Code, § 76060.5.) To the extent that Claimant incurs expenses in notifying students as provided by section 54805, Claimant is authorized to cover that expense with up to 7 percent of the amount collected. Government Code section 17556(d) provides that no mandated cost will be found where the "local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

California Code of Regulations, title 5, section 55005

Claimant asserts that section 55005 requires community colleges to make college publications available to students and to inform students concerning pertinent information about the courses.

Claimant asserts that section 55005 was added in 1981 and last amended in 1991. We cannot verify those dates at this time.

In 1969, the Board of Governors submitted regulations to the Office of Administrative Procedure for publication in title 5. Time and resource limitations of our office have permitted only a cursory review of such historic documents. The 1969 submission of the Board of Governors included regulation 51001 that allowed districts to offer courses on a credit-no credit basis, and if they did so, required them to publish that information in their catalogs. In the same 1969 submission, section 51002 required districts to establish curriculum to permit the "realization of the objectives and functions" of the college, and to adopt regulations consistent with section 51002 and to publish their standards of scholarship in their catalogs. Section 51003 required districts to describe graded courses in grades 13 and 14 in the college catalog or supplement thereto and to have a course outline available at the college. We believe that this is a sufficient showing of earlier and on-going obligations in this area that predated 1975. If the Commission does not reject reimbursement for the requirements of section 55005 on the grounds that follow, we recommend a full review of the history of this provision.

Section 55005 is part of the chapter that addresses curriculum and instruction. The chapter is embraced under section 51021which is a minimum standard for curriculum, citing Education Code sections 66700 and 70901, both of which require the Board of Governors to adopt minimum standards for community colleges. As noted above, the predecessor sections to 66700 and to 70901 both predated 1975. Based on the above Attorney General analysis of minimum standards that are adopted pursuant to legislative directive prior to 1975, costs for section 55005 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 51021 and any incorporated sections are minimum standards for the receipt of state aid. Claimant is not required to accept state aid, but having done so, must comply with curriculum requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate.

Assuming that Claimant receives state assistance, we find nothing that prevents Claimant from using some of the funds it has already received from the state to satisfy the costs of publishing course information.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notice concerning courses is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations, title 5, section 55202

Claimant notes that section 55202 requires that prerequisites, corequisites, and advisories on recommended preparation be identified in college publications as well as in the outline of record for the courses to which they pertain.

Claimant asserts that section 55202 was added in 1993. We agree.

Section 55202 addresses the establishment of prerequisites, corequisites, and advisories on recommended preparation. The initial phrase of section 55201(a) confirms the permissive nature of establishing prerequisites, corequisites, and advisories on recommended preparation. The section provides in pertinent part: "The governing board of a community college district may establish prerequisites, corequisites, and advisories on recommended preparation, but must do so in accordance with the provisions of this Article." (Emphasis added.) Thus, districts are not required to establish such matters; but if they do, they must comply with the requirements of the article, including the requirements of section 55202.

All actions leading to the establishment of prerequisites, corequisites, and advisories on recommended preparation are based on local choice and action. The obligations of section 55202 are adopted voluntarily by districts when and if they decide to establish course prerequisites, etc., so pursuant to *Kern High School, supra,* 30 Cal.4th 727, there is no state mandate.

Furthermore, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, notices of the existence of prerequisites, corequisites, or advisories on recommended preparation are not "programs" but merely mechanisms related to accessing educational programs. On either basis, the costs are not reimbursable.

California Code of Regulations, title 5, section 55530

Claimant notes that section 55530 requires districts to ensure that students have information regarding their rights and responsibilities under the chapter on curriculum and instruction.

Claimant asserts that section 55530 was added in 1990 and last amended in 1993; we agree.

Claimant's assertion highlights a drafting construction error in section 55530. The section refers to rights and responsibilities under this "Chapter," but the context and history of the section confirm that the term "chapter" should be "subchapter." The Subchapter in question is Subchapter 6. Subchapter 6 deals only with matriculation programs as opposed to all of curriculum and instruction.

The "Nomenclature Cross-Reference" chart for title 5 verifies that effective April 1, 1990, the term "subchapter" would replace "chapter." The matriculation regulations, of which section 55530 is a part, were in the final stages of adoption by the Board of Governors when the nomenclature change occurred, and the change was not incorporated consistently throughout the regulations. While the reference to "chapter" rather than "subchapter" is a drafting flaw in the regulation, the Chancellor's Office has never applied the matriculation notice to all items covered by the entire curriculum and instruction chapter.

Matriculation obligations are directly tied to participation in matriculation funding. Education Code section 78218 verifies that the statutory obligations the regulations implement are only operative if funds are specifically appropriated for matriculation purposes. Moreover, Education Code section 78211.5(b) provides in part that "any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article." Accordingly, Claimant's acceptance of matriculation funding is the source of any obligations.

The choice to participate in the matriculation program carries certain obligations so long as the funding is provided. Because participation is discretionary as to districts, under *Kern High School, supra,* 30 Cal.4th 727, the requirements of section 55530 carry no state mandate.

Districts that do apply for and accept matriculation funding are required to match each dollar of matriculation funding with three dollars of other district resources. (§ 55518.) Some of that matching money is likely other state funding dollars. Nothing in statute or regulation prohibits districts from spending matriculation funding or the matching money from other state resources to satisfy the requirements of section 55530; accordingly, the state should not have to pay again for actions Claimant may already pay for from state resources.

Furthermore, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, notices to students of their matriculation rights are not "programs" but are merely mechanisms related to accessing matriculation services. On that basis, the costs are not reimbursable.

California Code of Regulations , title 5, section 55534

Claimant notes that section 55534 requires districts to investigate and attempt to resolve any alleged violations of the matriculation subchapter. Claimant asserts that section 55534 was added in 1990 and last amended in 1994; we agree.

As noted above, the obligations of the matriculation subchapter fall only to districts that choose to participate in the program by accepting matriculation funding. The same considerations defeat the claim for reimbursement under section 55534. That is, Claimant's participation is discretionary; funding is already provided that Claimant may use for purposes of section 55534. Therefore, for the same reasons noted above for section 55530, the requirements of section 55534 carry no state mandate.

California Code of Regulations, title 5, section 55750

Claimant asserts that section 55750 requires districts to adopt and implement regulations addressing standards of scholarship and to publish those regulations in the college catalog.

Claimant asserts that section 55750 was added in 1983 and last amended in 1991. We cannot verify those dates at this time.

As noted above, our review of a 1969 regulation submission revealed section 51002, which required districts to adopt regulations establishing standards of scholarship and to publish their standards of scholarship in their catalogs. If the Commission does not reject reimbursement for the requirements of section 55750 on other grounds, we recommend a full review of the history of this provision.

Section 55750 was originally adopted under the authority of former Education Code section 72285 (enacted by Stats 1976, ch. 1010) and its predecessor section 1010.6 (enacted by Stats. 1969). Section 1010.6 required district governing boards to "establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors." Thus, we believe that the various mandates of the subchapter on standards of scholarship were embraced by 1010.6, all predated 1975, and have existed continuously since section 1010.6 took effect.

Section 55750 is established as a minimum standard by the Board of Governors. (See § 51002.) Both section 55750 and section 51002 are adopted under the authority of Education Code sections 66700 and 70901, both of which predated 1975 in requiring the Board of Governors to adopt minimum standards. Based on the above Attorney General analysis that minimum standards adopted pursuant to legislative directive that predated 1975 do not constitute mandates, costs for section 55760 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 55750 is a minimum standard for the receipt of state aid by virtue of section 51002. Claimant is not required to accept state aid, but having done so, must comply with standards of scholarship requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate. Nothing prohibits Claimant from spending state aid to satisfy the requirements of section 55750; accordingly, the state should not have to pay for actions Claimant may already pay for from state resources.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the publication of standards of scholarship is not a "program" but

merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations , title 5, section 55752

Claimant notes that section 55752 requires districts that offer credit-no credit grading options to specify in its catalog into which category each course falls. Claimant asserts that section 55752 was added in 1983 and last amended in 1991. We cannot verify those dates at this time.

As noted above, the 1969 submission of the Board of Governors included regulation 51001 that provided:

> "(a) The governing board may by regulation offer courses in either or both of the following categories, and shall specify in its catalog the category or categories in which the course falls: (In the absence of such regulation a course will be presumed to be offered on a letter-grade basis.)
> (1) Courses wherein all students are evaluated on a 'credit-no credit' basis.
> (2) Courses wherein each student may elect on registration, or within a reasonable time thereafter, whether the basis of his evaluation is to be a 'credit-no credit' or a letter grade.
> (3) All units earned on a 'credit-no credit' basis in California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of community college curriculum requirements, but such courses shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.
> (4) The governing board may authorize a student who has received credit for a course taken on a 'credit-no credit' basis within the district to convert his grade to a letter grade by taking an appropriate examination."

It is clear that former section 51001, which we believe was adopted in 1969, included requirements that now appear in section 55752, sufficient to reject a claim for reimbursement.

Additionally, the initial sentence of section 55752(a) verifies that districts may choose to provide credit-no credit grading options: "The governing board of a district maintaining a community college may by resolution offer courses in either or both of the following categories. . . ." (Emphasis added.) As with various other sections raised by Claimant, the obligation to include information in the catalog results from an optional decision by the governing board. Accordingly, under *Kern High School, supra,* 30 Cal.4th 727, no state mandate is fairly presented.

Section 55752 is also established as a minimum standard by the Board of Governors. (See § 51002.) If Claimant chooses to offer a credit-no credit option, it must comply with the standard. Both section 55752 and section 51002 are adopted under the authority of section Education Code section 70901, a predecessor to which predated 1975 in requiring the Board of Governors to adopt minimum standards. Based on the above Attorney General analysis that minimum standards adopted pursuant to legislative directive that predated 1975 do not constitute mandates, costs for section 55752 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 55752 is a minimum standard for the receipt of state aid by virtue of section 51002. Claimant is not required to accept state aid, but having done so, must comply with standards of scholarship requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate. Nothing prohibits Claimant from spending state resources it already receives to satisfy the requirements of section 55752; accordingly, the state should not have to pay for actions Claimant may already pay for from state resources.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the publication of grading options is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations , title 5, section 55753

Claimant asserts that section 55753 requires districts to adopt and publish procedures and regulations related to credit by examination in the college catalog. Claimant asserts that section 55753 was added in 1983 and last amended in 2002; we agree.

Districts have long had statutory authority to grant credit by examination. Thus, section 25518.6, enacted by Statutes 1965, chapter 1669, provided: "To the extent and subject to such requirements as the State Board of Education may, by regulation prescribe, the governing board of a district maintaining a junior college may grant credit to any student based on examinations approved and conducted by proper authorities of the college."

When the Education Code was reorganized, section 25518.6 was replaced by section 78207 (enacted by Stats. 1976, ch. 1010) that provided "To the extent and subject to such requirements as the Board of Governors of the California Community Colleges may, by regulation prescribe, the governing board of a community college district may grant credit to any student based on examinations approved and conducted by proper authorities of the college." Section 78207 was repealed in 1990; it was unnecessary because it was merely permissive and included no mandates. By 1990, the Board had already adopted section 55753. Therefore, either statutory or regulatory authority has continuously addressed credit by examination since at least 1965.

Section 55753(b) confirms that districts are authorized, but not required, to allow for credit by examination. Accordingly, under *Kern High School, supra,* 30 Cal.4th 727, Claimant may not be reimbursed for an optional activity.

Moreover, the Chancellor's Office has determined that because credit by examination is optional, an optional service fee may be imposed on students who pursue credit by examination. The cost of adopting or publishing applicable regulations would be a cost that could be included in assessing how much the service is worth to students. Government Code section 17556(d) provides that no mandated cost will be found where the "local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service." Accordingly, because Claimant can charge for this service, it cannot secure reimbursement.

California Code of Regulations , title 5, section 55758

Claimant asserts that section 55758 requires districts to publish point equivalencies of grades. Claimant asserts that section 55758 was added in 1983 and last amended in 2000. We cannot verify that information at this point.

The 1969 regulations we discussed above included section 51002 that provided for minimum standards of scholarship and that required that point equivalents to grades and grading standards be published in the college catalog. Section 51002(e)(1) included a table of grades and corresponding grade points, e.g., "A-4 grade points," the grade status for probation, and the grade status for dismissal. Accordingly, it appears at least some of the requirements existed long before 1975. If the Commission does not reject reimbursement for the requirements of section 55758 on other grounds, we request that it research the complete history of this provision.

Section 55758 is also established as a minimum standard by the Board of Governors. (See § 51002.) Both section 55758 and section 51002 are adopted under the authority of Education Code section 70901, a predecessor to which predated 1975 in requiring the Board of Governors to adopt minimum standards. Based on the above Attorney General analysis that minimum standards adopted pursuant to legislative directive that predated 1975 do not constitute mandates, costs for section 55758 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 55758 is a minimum standard for the receipt of state aid via section 51002. Claimant is not required to accept state aid, but having done so, must comply with standards of scholarship requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate. Nothing prohibits Claimant from spending state resources it already receives to satisfy the requirements of section 55758; accordingly, the state should not have to pay for actions Claimant may already pay for from state resources.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the publication of standards of scholarship such as point equivalencies for letter grades is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations , title 5, section 55759

Claimant asserts that section 55759 requires colleges to make reasonable efforts to notify students of probation or dismissal, to make an effort to provide counseling to students on probation, to notify students of their removal from probation or reinstatement after dismissal and to publish related policies and procedures in the catalog. Claimant asserts that section 55759 was added in 1983 and last amended in 1991. We cannot verify that information at this point.

The 1969 regulations we discussed above included section 51002 that provided for minimum standards of scholarship and that required that the standards be published in the college catalog. Section 51002(e)(1) required districts to notify students placed on probation that their

performance was deficient and that dismissal could occur in accordance with that section. Section 51002(h)(3) called for counseling for each student on probation. Accordingly, it appears that substantial portions of current 55759 predated 1975. If the Commission does not reject reimbursement for the requirements of section 55759 on other grounds, we recommend a complete review of the history of this provision.

To the extent that section 55759 merely requires districts to make "reasonable efforts" for student notifications, no quantifiable mandates are included.

Section 55759 is established as a minimum standard by the Board of Governors. (See § 51002). Both section 55759 and section 51002 are adopted under the authority of Education Code sections 66700 and 70901, both of which predated 1975 in requiring the Board of Governors to adopt minimum standards. Based on the above Attorney General analysis that minimum standards adopted pursuant to legislative directive that predated 1975 do not constitute mandates, costs for section 55759 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

In addition to the general directive to adopt minimum standards, the Legislature has long required the Board to specifically adopt minimum academic standards relating to student probation, dismissal, and readmission. (Ed. Code, § 70901(b)(1)(A).) This directive was initially added by Statutes 1969, as Education Code section 1010.6, and has been in place without lapse to the present. Based on the above Attorney General analysis that minimum standards adopted pursuant to legislative directive that predated 1975 do not constitute mandates, costs for section 55759 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 55759 is a minimum standard for the receipt of state aid via section 51002. Claimant is not required to accept state aid, but having done so, must comply with standards of scholarship requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate. Nothing prohibits Claimant from spending state resources it already receives to satisfy the requirements of section 55759; accordingly, the state should not have to pay for actions Claimant may already pay for from state resources.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notification to students that they are on probation or removed from probation is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations , title 5, section 55760

Claimant asserts that section 55760(b) requires districts to adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded. Claimant asserts that section 55760(b) was added in 1983 and last amended in 1991; we agree.

Sections 55760, 55761, 55762, 55764, and 55765 (which are all included in this Claim) must be read together for purposes of analysis. Taken together, it is clear that districts are not required to allow for the repetition of courses. Section 55761 requires districts to adopt and publish

procedures or regulations pertaining to course repetition; sections 55760, 55762, 55764, and 55765 establish certain parameters for course repetition. However, section 55761 merely permits repetition; it does not require it: "The procedures or regulations may allow such courses [those for which a substandard grade has been recorded] to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages." (Emphasis and parenthetic comment added.)

If districts allow such repetition, certain requirements must be met. Under *Kern High School, supra,* 30 Cal.4th 727, no mandate is present where actions are merely permissive.

Even if the sections are read as requiring districts to permit course repetition, section 55760(b) represents a Board of Governors minimum standard of scholarship. (See § 51002.). Both section 55760 and section 51002 are adopted under the authority of Education Code sections 66700 and 70901, both of which predated 1975 in requiring the Board of Governors to adopt minimum standards. Thus, if Claimant decides to allow for course repetition, it must follow the regulatory minimum standards.

In addition to the general directive to adopt minimum standards, since 1969, the Legislature has required the Board to specifically adopt minimum academic standards. (Ed. Code, § 70901(b)(1)(A) and former § 1010.6.) Based on the above Attorney General analysis that minimum standards adopted pursuant to legislative directive that predated 1975 do not constitute mandates, costs for section 55760 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 55760 also a minimum standard for the receipt of state aid via section 51002. Claimant is not required to accept state aid, but having done so, must comply with standards of scholarship requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate. Nothing prohibits Claimant from spending state resources it already receives to satisfy the requirements of section 55760; accordingly, the state should not have to pay for actions Claimant may already pay for from state resources.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notification to students concerning course repetition is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations, title 5, section 55761

Claimant asserts that section 55761 requires districts to adopt and publish procedures or regulations pertaining to repeating of courses for which substandard work has been recorded. Claimant asserts that section 55761 was added in 1983 and last amended in 1991; we agree.

The analysis for section 55760 applies equally to this section, and we incorporate it here by reference.

California Code of Regulations, title 5, section 55762

Claimant asserts that section 55762(c) requires colleges to indicate any specific courses or categories of courses that cannot be repeated after substandard academic performance. Claimant asserts that section 55762(d) requires colleges to indicate any courses that were repeated on the student's academic record, that 55762(e) requires colleges to publish procedures for implementing the section, and that 55762(g) requires districts to record course repetition actions. Claimant asserts that section 55762 was added in 1983 and last amended in 1991; we agree.

The analysis for section 55760 applies equally to this section, and we incorporate it here by reference.

In addition, the actions of maintaining a student's academic record and otherwise recording course repetitions are customary actions that are foundational to district operations. We believe they are subsumed in the basic authority to maintain a college. To assert a claim on the basis of having to maintain student records is akin to asserting a claim for having to open the doors to buildings to allow students to enter.

California Code of Regulations, title 5, section 55764

Claimant asserts that section 55764 requires colleges to adopt and publish procedures or regulations for alleviating previously recorded substandard academic performance if that work does not reflect a student's demonstrated ability. Claimant asserts that section 55764 was added in 1983 and last amended in 1991; we agree.

The analysis for section 55760 applies equally to this section, and we incorporate it here by reference.

California Code of Regulations, title 5, section 55765

Claimant asserts that section 55765(c) requires districts to adopt and publish procedures related to academic renewal. Claimant asserts that section 55765 was added in 1983 and last amended in 1991; we agree.

The analysis for section 55760 applies equally to this section, and we incorporate it here by reference.

California Code of Regulations, title 5, section 55800

Claimant asserts that section 55800 requires districts to adopt policies on degrees and certificates and publish the policies. Claimant asserts that section 55800 was added in 1983 and last amended in 1991. We cannot verify that information at this time.

The 1969 regulations we discussed above included section 51005 that addressed the requirements for degrees and certificates, including requirements for the associate in arts degree

and the associate in science degree, the awarding of diplomas, and the issuing of certificates of achievement. Accordingly, it appears that substantial portions of current 55800 predated 1975. If the Commission does not reject reimbursement for the requirements of section 55800 on other grounds, we recommend a thorough review of the history of this provision.

Section 55800 represents a Board of Governors minimum standard. (See § 51004.) Both section 55800 and section 51004 are adopted under the authority of Education Code sections 66700 and 70901, both of which predated 1975 in requiring the Board of Governors to adopt minimum standards.

In addition to the general directive to adopt minimum standards, since 1969, the Legislature has required the Board to specifically adopt minimum academic standards relating to graduation requirements. (Ed. Code, § 70901(b)(1)(A) and former § 1010.6.) Based on the above Attorney General analysis that minimum standards adopted pursuant to legislative directive that predated 1975 do not constitute mandates, costs for section 55800 are not reimbursable. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Section 55800 is also a minimum standard for the receipt of state aid via section 51004. Claimant is not required to accept state aid, but having done so, must comply with standards of scholarship requirements. Because the receipt of state aid is not compulsory, under *Kern High School, supra,* 30 Cal.4th 727, this section does not create a mandate. Nothing prohibits Claimant from spending state resources it already receives to satisfy the requirements of section 55800; accordingly, the state should not have to pay for actions Claimant may already pay for from state resources.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notification to students concerning degrees and certificates is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations, title 5, section 58102

Claimant asserts that section 58102 requires the description of courses to be included in catalogs and be clear. Claimant asserts that section 58102 was added in 1982 and last amended in 1993. We cannot verify that information at the present time.

The 1969 regulations we discussed above included section 51003 that addressed graded courses. Subsection (c)(2) provided in pertinent part that "it must be offered as described in the college catalog or a supplement thereto which provides an appropriate title, number, and accurate description of course content. A course outline is available at the college." Accordingly, it appears that substantial portions of current 58102 predated 1975. If the Commission does not reject reimbursement for the requirements of section 58102 on other grounds, we recommend a thorough review of the history of this provision.

Districts are not required to report classes for apportionment; however, if they wish to collect apportionment, they must abide by the requirements of section 58102. (See § 58050.) Under

Kern High School, supra, 30 Cal.4th 727, section 58102 creates no mandate because districts may opt not to collect apportionment. Nothing prohibits Claimant from spending state resources it already receives to satisfy the requirements of section 58102; accordingly, the state should not have to pay for actions Claimant may already pay for from state resources.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notification to students concerning courses is not a "program" but merely a mechanism related to accessing the program. On that basis, the cost is not reimbursable.

California Code of Regulations, title 5, section 58104

Claimant asserts that section 58104 requires courses to be described in the official catalog, schedule, or be reasonably well publicized if they are established after the publication of these materials.

Claimant asserts that section 58104 was added in 1982 and last amended in 1993. We cannot verify that information at the present time and we incorporate here our above response regarding section 58102.

California Code of Regulations, title 5, section 59404

Claimant asserts that section 59404 requires governing boards that make their students provide instructional materials for classes to adopt policies and specify the conditions for required materials. The policies must be published in the catalog.

Claimant asserts that section 59404 was added in 1985 and last amended in 1994; we agree.

Section 58400 clearly provides that districts may require students to provide instructional materials. The entire chapter applies only if districts choose to require instructional materials; if so, they must then adopt and publish policies. Under *Kern High School, supra,* 30 Cal.4th 727, no mandate is created because of the permissive nature of the program.

Additionally, prior Education Code section 1010.4(e), adopted by Statutes 1969, chapter 1026, required districts to "establish policies for, and approve, procedures for the adoption of instructional materials." That section was renumbered to section 72283 by Statutes 1976, chapter 1010, and remained in effect until 1990, by which time the subject regulation had taken effect. Any requirement for a policy predated 1975 and has continued without lapse.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notification to students concerning instructional materials is not a "program" but merely a mechanism related to accessing the educational program. On that basis, the cost is not reimbursable.

California Code of Regulations, title 5, section 59410

Claimant asserts that section 59410 permits districts to provide that grades, transcripts, diplomas, and registration privileges will be withheld from students who are notified that they failed to pay a financial obligation.

Claimant asserts that section 59410 was added in 1991 and last amended in 1994; we agree.

Section 59410 contains no mandate unless Claimant chooses to implement a policy of withholding items from students who owe money. Because the mechanism is a purely optional one for Claimant, under *Kern High School, supra,* 30 Cal.4th 727, the optional nature of the action precludes reimbursement.

Additionally, under the authority of *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d 1538, the notification to students concerning debt remedies is not a "program" but merely a tangential fiscal remedy unrelated to the educational program. On that basis, the cost is not reimbursable.

Further based upon the districts higher reserve level than recommended by the State, the district did have State money to pay for these costs.

Conclusion

For the reasons stated above, we believe there is no basis for reimbursement and we recommend rejection of the Claim.

Sincerely,

Frederick E. Harris

FREDERICK E. HARRIS, Assistant Vice Chancellor
College Finance and Facilities Planning

SixTen and Associates
Mandate Reimbursement Services

Exhibit E

:ITH B. PETERSEN, MPA, JD, President
-252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

April 19, 2004

RECEIVED

APR 22 2004

COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: Test Claim 02-TC-25
Los Rios Community College District
Notice to Students

Dear Ms. Higashi:

I have received the comments of the Chancellor's Office of the California Community Colleges ("CCC") dated March 16, 2004, to which I now respond on behalf of the test claimant.

A. The Comments of CCC are Incompetent and Should be Excluded

Test claimant objects to the comments of CCC, in total, as being legally incompetent and move that they be excluded from the record. Title 2, California Code of Regulations, Section 1183.02(d) requires that any:

> "...written response, opposition, or recommendations and supporting documentation shall be signed at the end of the document, under penalty of perjury by an authorized representative of the state agency, with the declaration that it is true and complete to the best of the representative's personal knowledge or information or belief."

Furthermore, the test claimant objects to any and all assertions or representations of fact made in the response since CCC has failed to comply with Title 2, California Code of Regulations, Section 1183.02(c)(1) which requires:

> "If assertions or representations of fact are made (in a response), they must be supported by documentary evidence which shall be submitted with the state agency's response, opposition, or recommendations. All documentary evidence shall be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge or information or belief."

In addition, CCC has cited numerous federal statutes and regulations without attaching a copy thereof in violation of Title 2, California Code of Regulations Section 1183.02, subdivision (c)(2), which requires that written responses, opposition or recommendations on the test claim shall contain:

> "A copy of relevant portions of...federal statutes, and executive orders that may impact the alleged mandate...unless such authorities are also cited in the test claim. The specific chapters, articles, sections, or page numbers must be identified..."

The comments of CCC do not comply with these essential requirements. Since the Commission cannot use unsworn comments or comments unsupported by declarations, but must make conclusions based upon an analysis of the statutes and facts supported in the record, test claimant requests that the comments and assertions of CCC not be included in the Staff's analysis.

Part I
Education Code Sections

B. The Requirements of Education Code Section 66281.5 Create a New Program or Higher Level of Service

(1) The Requirements of Section 66281.5 Exceed the Requirements of Title IX and 34 Code of Federal Regulations, Part 106

CCC claims that the requirements of Education Code section 66281.5 "substantially reflect" the requirements of Title IX, a federal law that prohibits sex discrimination and sexual harassment and its implementing regulations appearing at 34, Code of Federal

Regulations, part 106, sections 106.1 through 106.71.[1] CCC claims that the existence of Title IX and its implementing regulations prohibit a finding that section 66281.5 creates a new program or higher level of service.

As authority for this claim, CCC cites subdivision (c) of Government Code section 17556, which provides:

> "The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:...
>
> (c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation." (Emphasis supplied)

CCC recites the patriotic purposes of Title IX, but does not direct the Commission to any specific part of Part 106 which establishes a federal requirement or duplicates any of the activities of Education Code Section 66281.5. A possible relevant citation might be section 106.9 of part 106 of 34 CFR where:

(a) Paragraph (a)(1) requires each recipient to implement specific and continuing steps to notify applicants for admission and employment (and others) that it does not discriminate on the basis of sex in educational programs or activities.

(b) Paragraph (a)(1) also requires that the notification shall contain such information, and be made in such manner, as the Assistant Secretary finds necessary to apprise such persons of the protections against discrimination assured them by title IX and this part.

(c) Paragraph (a)(2) requires each recipient to make the initial notification required by paragraph (a)(1) within 90 days of the effective or applicable date in newspapers or other written communications distributed to every student and employee.

---

[1] Since CCC has not complied with the Title 2 Regulations that require a copy of these federal regulations be provided, a copy is attached hereto as Exhibit "B".

(d) Paragraph (b)(1) requires each recipient to prominently include a statement of the policy described in paragraph (a)[2] to be prominently included in each announcement, bulletin, catalog, or application form which it makes available to any person of a type described in paragraph (a)[3], or which is otherwise used in connection with the recruitment of students or employees. (Emphasis supplied)

(e) Paragraph (c) requires each recipient to distribute each publication described in paragraph (b) and to apprise each of its admission and employment recruitment representatives of the policy and require such representatives to adhere to such policy.

In addition to these federal requirements, the test claim alleges[4] the following additional state activities relative to Education Code Section 66281.5:

(a) Establishing and implementing policies and procedures, and periodically updating those policies and procedures, for the notification of students pursuant to the Education Code and Title 5 Regulation sections.

(b) Pursuant to subdivision (b), adopting and implementing a written policy on sexual harassment, and including the policy in its regular policy statement.

(c) Pursuant to subdivision (c), including information in the written policy on where to obtain the rules and procedures for reporting sexual harassment charges and the available remedies.

---

[2] Paragraph (a) describes a policy of nondiscrimination on the basis of sex, but does not otherwise require it to be in writing or be adopted by the governing board.

[3] Paragraph (a) describes applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions and professional organizations holding collective bargaining or professional agreements with the recipient.

[4] Test Claim, page 12, lines 2-17

(d) Pursuant to subdivision (d), displaying the written policy in a prominent location in the main administrative building or other area of the campus.

(e) Pursuant to subdivision (e), providing the written policy to new students as a part of any orientation program.

(f) Pursuant to subdivision (f), providing a copy of the written policy annually to each faculty member, administrative staff, all members of support staff, and to any newly hired employee.

(g) Pursuant to subdivision (g), publishing the written policy in any publication that sets forth the rules, regulations, procedures, and standards of conduct for the institution.

The activities alleged in the test claim exceed those required in part 106 of title 34, Code of Federal Regulations and fall within the exception of subdivision (c) of Government Code Section 17556, that is, when "the statute or executive order mandates costs which exceed the mandate in that federal law or regulation."

(2) The Requirements of Section 66281.5 Exceed the Few Requirements Found in the "Revised Guidance"

CCC also cites general provisions of "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," (hereinafter referred to as the "Revised Guidance") published in January 2001 by the Office for Civil Rights of the U.S. Department of Education.[5] Simply citing this additional publication does not resolve the issue of whether the activities alleged in the test claim exceed those required in the "Revised Guidance."

The "Revised Guidance" reaffirms the compliance standards that OCR applies in investigations and administrative enforcement of Title IX and provides the principles that a school should use to recognize and effectively respond to sexual harassment of students. ("Revised Guidance," Preamble, page i) The "Revised Guidance" provides many examples of "what to do," but provides very little requirements on "how to do"

[5] Since CCC has not complied with the Title 2 Regulations that require a copy of this Revised Sexual Harassment Guidance be provided, a copy is attached hereto as Exhibit "C".

(d) Pursuant to subdivision (d), displaying the written policy in a prominent location in the main administrative building or other area of the campus.

(e) Pursuant to subdivision (e), providing the written policy to new students as a part of any orientation program.

(f) Pursuant to subdivision (f), providing a copy of the written policy annually to each faculty member, administrative staff, all members of support staff, and to any newly hired employee.

(g) Pursuant to subdivision (g), publishing the written policy in any publication that sets forth the rules, regulations, procedures, and standards of conduct for the institution.

The activities alleged in the test claim exceed those required in part 106 of title 34, Code of Federal Regulations and fall within the exception of subdivision (c) of Government Code Section 17556, that is, when "the statute or executive order mandates costs which exceed the mandate in that federal law or regulation."

(2) The Requirements of Section 66281.5 Exceed the Few Requirements Found in the "Revised Guidance"

CCC also cites general provisions of "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," (hereinafter referred to as the "Revised Guidance") published in January 2001 by the Office for Civil Rights of the U.S. Department of Education.[5] Simply citing this additional publication does not resolve the issue of whether the activities alleged in the test claim exceed those required in the "Revised Guidance."

The "Revised Guidance" reaffirms the compliance standards that OCR applies in investigations and administrative enforcement of Title IX and provides the principles that a school should use to recognize and effectively respond to sexual harassment of students. ("Revised Guidance," Preamble, page i) The "Revised Guidance" provides many examples of "what to do," but provides very little directions on "how to do" them.

[5] Since CCC has not complied with the Title 2 Regulations that require a copy of this Revised Sexual Harassment Guidance be provided, a copy is attached hereto as Exhibit "C".

For example, CCC quotes from page 14:

> "Schools are required by the Title IX regulations to adopt and publish grievance procedures[6] providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination." (Emphasis supplied)

The test claim does not allege any "grievance procedures." And, the specific test claim allegations summarized above at subparagraphs (a) through (g) of Education Code Section 66281.5, above, go far beyond the generalized requirement to "disseminate a policy."

CCC also cites pages 19-20 of the "Revised Guidance," from a section entitled "Prompt and Equitable Grievance Procedures." (Again, the test claim does not allege grievance procedure activities.) At page 19, the "Revised Guidance" states:

> "Schools are required by Title IX regulations to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex."

Again, some "what to's" but no "how to's", and less than the specificity set forth in subparagraphs (a) through (g), above. The "Revised Guidance" continues to explain with lack of specificity:

> "Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment." (Emphasis supplied)

Most importantly, the "Revised Guidance" states that the adoption of a policy prohibiting sexual harassment is not required. Again, lots of "what to's" (e.g., "provide

---

[6] The "Revised Guidance" and CCC use the terms "grievance procedures" and "complaint procedures" interchangeably. Test claimant assumes that their use of "grievance procedures" does not refer to any collective bargaining process.

effective means") but no "how to's" (such as, "how" to provide "effective means"). At pages 19-20, the "Revised Guidance" does indicate:

> "...if, because of a lack of policy...specifically addressing sexual harassment, students are unaware of what kind of conduct constitutes sexual harassment or that such conduct is prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination complaints will not be considered effective."

In other words, if it doesn't work, it's not good enough, but no required "how to's" are included to make it work. The only specificity put forth by OCR are several elements in evaluating whether a school's grievance procedures will not be considered effective, including an unspecific notice to students, parents and employees where complaints may be filed. This, of course, is different from the more specific requirements of subparagraph (c), above, which requires the inclusion of information in the written policy on where to obtain the rules and procedures for reporting sexual harassment charges and the available remedies.

Then, again, at page 20, OCR becomes non specific:

> "Procedures adopted by schools will vary considerably in detail, specificity, and components, reflecting differences in audiences, school sizes and administrative structures, State or local legal requirements, and past experience."

Finally, OCR concludes this discussion by commenting:

> "Many schools ensure adequate notice to students by having copies of the procedures available at various locations throughout the school or campus; publishing the procedures as a separate document; including a summary of the procedures in major publications issued by the school, such as handbooks and catalogs for students, ...faculty and staff; and identifying individuals who can explain how the procedures work."

This observation by OCR is no more than that, an observation, perhaps a suggestion. They are not executive orders. The activities of Education Code section 66281.5 mandate costs which exceed any suggestions found in the "Revised Guidance."

(3) The Requirements of Section 66281.5 Exceed the Requirements of Title VII and 29 Code of Federal Regulations, Part 1604

Part 1604 of 29 Code of Federal Regulations[6] regulates employment discrimination on the basis of sex. CCC quotes a portion of 1604.11(f) which states in whole:

> "Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under title VII, and developing methods to sensitize all concerned." (Emphasis supplied)

The section does not contain any requirements of the federal government so as to include it within the provisions of subdivision (c) of Government Code Section 17556. Even if it could be so construed, the activities described in subparagraphs (a) through (g), above, are activities which exceed those activities in section 1604.11(f) of title 29 of the Code of Federal Regulations.

(4) Education Code Section 66281.5 is not a Law of General Application

At page 4 of its comments, CCC cites Government Code Section 12950[7], notes that it is part of the Fair Employment and Housing Act ("FEHA") and concludes that "FEHA" has general application to nearly all California employers and does not impose unique requirements on local government agencies such as community college districts. CCC cites *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56-57 as its authority.

CCC errs because the test must be applied to the test claim legislation, i.e., Education Code Section 66281.5 and not to "FEHA." The analysis of section 66281.5 describing its mandated activities in subparagraphs (a) through (g), above, show why it is not a law which applies generally to all residents and entities in the state.

The decision in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56

---

[6] Since CCC has not complied with the Title 2 Regulations that require a copy of Part 1604 of 29 Code of Federal Regulations be provided, a copy is attached hereto as Exhibit "D".

[7] Under Government Code Section 12950, employers are required "to post" a poster provided by the Department of Fair Employment and Housing and "distribute" to its employees an information sheet supplied by the Department.

(hereinafter "*County of Los Angeles*) was further relied upon and explained in *City of Sacramento v. State of California* (1990) 50 Cal.3d 51. (hereinafter "*Sacramento II*") There, the California Supreme Court explained its *County of Los Angeles* decision:

> "Most private employers in the state already were required to provide unemployment protection to their employees. Extension of this requirement to local governments, together with the state government and nonprofit corporations, merely makes the local agencies 'indistinguishable in this respect from private employers.'" (Opinion, at page 67)

The above analysis of section 66281.5, at subparagraphs (a) through (g), above, shows that community colleges, when complying with Education Code Section 66281.5 are, in fact, "distinguishable from private employers" when complying with "FEHA". The situation is similar to that discussed by the court in *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 172 where the court held that "although numerous private schools exist, education in our society is considered to be a peculiarly governmental function."

(5) Legal Compulsion is not Necessarily Required for a Finding of a Mandate

At page 4 of its response CCC states that Education Code Section 66281.5 applies only to a community college district that receives, or benefits from, state financial aid. CCC then cites *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727 ("*Kern*") and interprets *Kern* to hold that school districts are not entitled to reimbursement "where a district voluntarily participates in a program." This is not a correct interpretation of *Kern*. A finding of legal compulsion is not an absolute prerequisite to a finding of a reimbursable mandate. The controlling case law on the subject of legal compulsion *vis-a-vis* non-legal compulsion is still *Sacramento II*.

(a) *Sacramento II* Facts:

The adoption of the Social Security Act of 1935 provided for a Federal Unemployment Tax ("FUTA"). FUTA assesses an annual tax on the gross wages paid by covered private employers nationwide. However, employers in a state with a federally "certified" unemployment insurance program receive a "credit" against the federal tax in an amount determined as 90 percent of contributions made to the state system. A "certified" state program also qualifies for federal administrative funds.

California enacted its unemployment insurance system in 1935 and has sought to maintain federal compliance ever since.

In 1976, Congress enacted Public Law number 94-566 which amended FUTA to require, for the first time, that a "certified" state plan include coverage of public employees. States that did not alter their unemployment compensation laws accordingly faced a loss of both the federal tax credit and the administrative subsidy.

In response, the California Legislature adopted Chapter 2, Statutes of 1978 (hereinafter chapter 2/78), to conform to Public Law 94-566, and required the state and all local governments to participate in the state unemployment insurance system on behalf of their employees.

(b) *Sacramento I* Litigation

The City of Sacramento and the County of Los Angeles filed claims with the State Board of Control seeking state subvention of the costs imposed on them by chapter 2/78. The State Board denied the claim. On mandamus, the Sacramento Superior Court overruled the Board and found the costs to be reimbursable. In *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182 (hereinafter *Sacramento I*) the Court of Appeal affirmed concluding, *inter alia*, that chapter 2/78 imposed state-mandated costs reimbursable under section 6 of article XIII B. It also held, however, that the potential loss of federal funds and tax credits did not render Public Law 94-566 so coercive as to constitute a "mandate of the federal government" under Section 9(b).[8]

In other words, *Sacramento I* concluded, *inter alia*, that the loss of federal funds and tax credits did not amount to "compulsion."

(c) *Sacramento II* Litigation

After remand, the case proceeded through the courts again. In *Sacramento II*, the Supreme Court held that the obligations imposed by chapter 2/78 failed to meet the "program" and "service" standards for mandatory subvention because it imposed no "unique" obligation on local governments, nor did it require them to provide new or increased governmental services to the public. The Court of Appeal decision, finding the expenses reimbursable, was overruled.

---

[8] Section 1 of article XIII B limits annual "appropriations". Section 9(b) provides that "appropriations subject to limitation" do not include "appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly."

However, the court also overruled that portion of *Sacramento I* which held that the loss of federal funds and tax credits did not amount to "compulsion."

(d) *Sacramento II* "Compulsion" Reasoning

Plaintiffs argued that the test claim legislation required a clear legal compulsion not present in Public Law 94-566. Defendants responded that the consequences of California's failure to comply with the federal "carrot and stick" scheme were so substantial that the state had no realistic "discretion" to refuse.

In disapproving *Sacramento I*, the court explained:

> "If California failed to conform its plan to new federal requirements as they arose, its businesses faced a new and serious penalty - full, double unemployment taxation by both state and federal governments." (Opinion, at page 74)

Plaintiffs argued that California was not compelled to comply because it could have chosen to terminate its own unemployment insurance system, leaving the state's employers faced only with the federal tax. The court replied to this suggestion:

> "However, we cannot imagine the drafters and adopters of article XIII B intended to force the state to such draconian ends. (¶) ...The alternatives were so far beyond the realm of practical reality that they left the state 'without discretion' to depart from federal standards." (Opinion, at page 74, emphasis supplied)

In other words, terminating its own system was not an acceptable option because it was so far beyond the realm of practical reality so as to be a draconian response, leaving the state without discretion. The only reasonable alternative was to comply with the new legislation, since the state was practically "without discretion" to do otherwise.

The Supreme Court in *Sacramento II* concluded by stating that there is no final test for a determination of "mandatory" versus "optional":

> "Given the variety of cooperative federal-state-local programs, we here attempt no final test for 'mandatory' versus 'optional' compliance with federal law. A determination in each case must depend on such factors as the nature and purpose of the federal program; whether its design suggests an intent to coerce; when state and/or local participation began;

> the penalties, if any, assessed for withdrawal or refusal to participate or comply; and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal." (Opinion, at page 76)

(e) The "Kern" Case Did Not Change the Standard

In *Kern*, at page 736, the Supreme Court first made it clear that the decision did not hold that legal compulsion was necessary in order to find a reimbursable mandate:

> "For the reasons explained below, although we shall analyze the legal compulsion issue, we find it unnecessary in this case to decide whether a finding of legal compulsion is *necessary* in order to establish a right to reimbursement under article XIII B, section 6,[9] because we conclude that even if there are some circumstances in which a state mandate may be found in the absence of legal compulsion, the circumstances presented in this case do not constitute such a mandate." (Emphasis in the original, underlining supplied)

After concluding that the facts in *Kern* did not rise to the standard of non-legal compulsion, the court reaffirmed that either double taxation or other draconian consequences could result in non-legal compulsion:

> "In sum, the circumstances presented *in the case before us* do not constitute the type of non-legal compulsion that reasonably could constitute, in claimants' phrasing, a 'de facto' reimbursable state mandate. Contrary to the situation that we described in (*Sacramento II*), a claimant that elects to discontinue participation in one of the programs *here at issue* does not face 'certain and severe...penalties' such as 'double...taxation' or other 'draconian' consequences (citation), but simply must adjust to the withdrawal of grant money along with the lifting of program obligations." (Opinion, at page 754, emphasis supplied to illustrate holding is limited to facts presented)

The test for determining the existence of a mandate is whether compliance with the test

---

[9] This *Kern* disclaimer that "we find it unnecessary in this case to decide whether a finding of legal compulsion is *necessary* in order to establish a right to reimbursement" refutes CCC's interpretation that legal compulsion is always necessary for a finding of a mandate.

claim legislation is a matter of true choice, that is, whether participation is truly voluntary. *Hayes v. Commission on State Mandates*, (1992) 11 Cal.App.4th 1564, 1582 Under the "carrot and stick" analysis of both *Kern* and *Hayes*, community college districts' acceptance of state aid is not truly voluntary, the carrot is too large and the stick is too short.

(6) Educating California Students is not an Option

When CCC argues that accepting state aid to educate students is a discretionary act, implying that community colleges are not required to educate students, it ignores a Constitutional mandate to do so.

Since its admission to the Union, California has assumed specific responsibility for a statewide public education system open on equal terms to all. The Constitution in 1849 directed the Legislature to "provide for a system of common schools[10], by which a school shall be kept up and supported in each district." That constitutional command, with the additional proviso that the school maintained by each district be "free" has persisted to the present day. *Butt v. State of California*[11] (1992) 4 Cal.4th 668, 680 The California Constitution requires the education of community college students. In *Butt* the court explained:

"Accordingly, California courts have adhered to the following principles: Public education is an obligation which the State assumed by the adoption of the Constitution. (Citations) The system of public schools, although administered through local districts created by the Legislature, is 'one system...applicable to all the common schools...' (Citation) In view of the importance of education to society and to the individual child, the opportunity to receive the schooling furnished by the state must be made available to all on an equal basis. (Citation) 'Management and control of the public schools [is] a matter of state[, not local,] care and supervision...' (citations) The Legislature's 'plenary' power over public education is subject only to constitutional restrictions.

---

[10] The California Community Colleges are postsecondary schools and shall continue to be part of the public school system of this state. Education Code Section 66700 Education in our society is considered to be a peculiarly governmental function administered by local agencies to provide service to the public. *Long Beach Unified School District v. State of California* (supra, at 172)

[11] Pursuant to Title 2, California Code of Regulations, Section 1183.03(2), a copy of Butt v. State of California is attached hereto as Exhibit "E".

(Citations) Local districts are the State's agents for local operation of the common school system (Citations), and the State's ultimate responsibility for public education cannot be delegated to any other entity. (citation)" (Opinion, at pages 680-681)

Then after the court reminded us that, in *Serrano I*[12], the court had struck down the then existing State public school financing scheme, which caused the amount of basic revenues per pupil to vary substantially among the respective districts depending on their taxable property values (Opinion, at page 683), the Supreme Court concluded:

> "It therefore appears well settled that the California Constitution makes public education uniquely a fundamental concern of the State and prohibits maintenance and operation of the common public school system in a way which denies basic educational equality to the students of particular districts. The State itself bears the ultimate authority and responsibility to ensure that its district-based system of common schools provides basic equality of educational opportunity. (¶)...Whatever the requirements of the free school guaranty, the equal protection clause precludes the State from maintaining its common school system in a manner that denies the students of one district an education basically equivalent to that provided elsewhere throughout the State." (Opinion, at page 685)

CCC's argument that community college districts need not accept state funding is tantamount to saying that each district is "on its own" when it comes to funding. Since the quality of the education provided by each community college district would then depend on the wealth of each individual district, CCC's argument also violates the equal protection laws of the State constitution. (Article I, §7, subdivisions (a), (b); Article IV, §16, subdivision (a))

C. The Requirements of Education Code Section 66721.5 are a New Program or a Higher Level of Service

(1) The Mandated Activities of Education Code Section 66721.5 Constitute a "Program"

CCC concurs, at page 5 of its comments, that Education Code Section 66721.5 is "new" in that it was added to the Education Code in 2000. It questions whether the

[12] *Serrano v. Priest* (1971) 5 Cal.3d 584

activities required (providing and distributing copies of a district's current transfer core curriculum) are a "program," citing *County of Los Angeles v. Department of Industrial Relations* (1989) 214 Cal.App.3d 1538. (hereinafter *Los Angeles v. DIR*),

In *Los Angeles v. DIR*, OSHA added or amended elevator fire and earthquake safety measures in Title 8 Regulations which applied to all elevators, whether publicly or privately owned. (Opinion, at pages 1540-1541) The court first held that the elevator safety regulations did not satisfy the second prong requirement of *County of Los Angeles* in that they applied to all elevators, not just those which were publicly owned and, therefore, did not impose unique requirements that did not apply to all residents and entities in the state. (Opinion, at page 1545)

Having lost this argument, the county then urged the court that the regulations satisfied the first prong of the test in that the regulations were programs that carried out the governmental function of providing services to the public. To buttress this theory, the county offered a declaration which offered the opinion of a declarant that "without those elevators no peculiarly governmental functions and no purposes mandated on County by State Law could be performed in those County buildings." After questioning the sincerity of the declaration[13], the court concluded:

> "County has missed the point. The regulations at issue do not mandate elevator service; they simply establish safety measures....Providing elevators equipped with fire and earthquake safety features simply is not 'a governmental function of providing services to the public'." (Opinion, at page 1546)

The court affirmed the superior court's order granting a motion for summary judgment because "[T]he regulations at issue (did) not mandate elevator service..."

CCC argues disingenuously, at page 5, that providing and distributing copies of a district's current transfer core curriculum "are more akin to the elevators that provide a means of obtaining the program services" and therefore "do not constitute a program or increased services within an existing program and that there is no basis for reimbursement."

---

[13] "These thoughts had occurred to counsel only shortly before County's opposition to the summary judgment motion was due to be filed." (Opinion, at page 1545)

Education Code Section 66720 requires the development, maintenance, and dissemination of a common core curriculum for the purposes of transfer which, upon completion will be deemed to have thereby completed all lower division general education requirements of the University of California and the California State University. Section 66721 requires the common core curriculum to be published and distributed. It is essential to, and part of, the education of California's students that they are informed and know which courses must be completed to fulfill the lower division general education requirements of the University of California and the California State University. Otherwise, it would result in education without direction and students would be denied transfers to the University of California and the California State Universities.

It is not necessary to further argue the ups and downs of CCC's "elevator" argument. *County of Los Angeles* (supra, at 56) held that "programs" *either* carry out the governmental function of providing services to the public, *or*, are laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. Only one of these findings is necessary to trigger reimbursement. *Carmel Valley Fire Protection District V. State of California* (1987) 190 Cal.App.3d 521, 537 (hereinafter "*Carmel*")

Providing and distributing copies of a district's current transfer core curriculum is required by a law, to implement a state policy, which imposes on community college districts a unique requirement that does not apply generally to all residents and entities in the state. Having satisfied this one prong of the test, it is not necessary to satisfy the other.

(2) The Test Claim Alleges Sufficient Costs Which are not Required to be Paid From Other District Funds

CCC notes that in *Kern*, the court found the costs to be "modest" and that "nothing . . . prevents Claimant from using some of the funds it has already received from the state to satisfy the costs . . . " What CCC neglects to note is that the funds "already received" in *Kern* were funds received from underlying school-related educational programs. Where CCC's argument fails, is that the general fund balances of community college districts are not additional revenues generated by the same statute and specifically intended to fund the costs of the state mandate, as required by Government Code Section 17556(e).

> "...we have found nothing to suggest that a school district is precluded from using a portion of the funds obtained from the state for the

> implementation of the underlying funded program to pay the associated notice and agenda costs." (*Kern* opinion, at page 747, emphasis supplied)

Education Code Section 66721.5 provides no additional revenues specifically intended to fund the costs of the test claim legislation.

Part II
Title 5 Regulations

D. CCC Exculpatory Comments Repeated in Response to Title 5 Regulations

In its comments to the Title 5 Regulations alleged in the test claim, CCC repeats several issues in its response to one or more regulations. This Part D will respond to each of those issues only once.

(1) Insufficient Time to Research

Test Claimant also notes the excuse of CCC, initially appearing at page 11 of its comments, relative to the addition and effective dates of several Title 5 Regulations:

> "We cannot verify that information at the present time. (¶) The resources of our legal office have been severely curtailed at the same time that its workload has increased. It may be that previous versions of some of the regulations at issue in this Claim existed prior to the dates cited by Claimant because renumbering of sections occurred at various times. That renumbering can give the appearance that a section has been newly adopted when it has simply been assigned a new section number."

CCC then suggests that the Commission (meaning Commission staff) thoroughly review the regulatory history.

The instant test claim was filed on June 5, 2003. The Commission's letter inviting comments was dated June 19, 2003. The CCC finally submitted its comments on March 16, 2004. Test claimant suggests that if CCC cannot find contradictory evidence of the filing of its own regulations in nearly nine months, perhaps it does not exist.

On several other occasions, CCC offers its unverified and unsworn statement that the Board of Governors submitted similar regulations to the Office of the Administrative

Procedure for publication in 1969 and "believes" these other regulations were published. No other proof is offered other than these unverified and unsworn statements. What CCC has not offered is any admissible statement that the Office of Administrative Procedure did, in fact, follow prerequisites for publication or that the "similar regulations" were ever published. Test claimant has attached to the test claim as Exhibit 4, official copies of the regulations as published in cited Registers and on cited dates. This is not only the best evidence before the Commission, it is the only competent evidence before the Commission.

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

(2) CCC Misconstrues the Attorney General Opinion

Before embarking on a discussion of the opinion of the Attorney General, test claimant must remind the Commission that such an opinion is subject to three rules of interpretation.

1. Although an opinion of the California Attorney General is entitled to considerable weight, it is not binding.

2. The opinion will be found unpersuasive where the Attorney General has aligned himself with one of the parties.[14]

3. Dissimilar facts are another basis to conclude the opinion to be unpersuasive.

People ex rel. Foundation for Taxpayer & Consumer Rights v. Duque (2003) 105 Cal.App.4th 259, 267-268

CCC cites an Opinion of the California Attorney General (83 Opinions of the California Attorney General 111 (2000)) and makes a quantum leap to conclude that the minimum standards of the Board of Governors do not constitute either a new program or a higher level of service so long as the Board was obligated to set minimum standards in those areas prior to 1975. As will be shown, this misconstrues the Attorney General Opinion.

The facts presented to the Attorney General related to Welfare & Institutions Code Sections 210 and 210.2. Section 210 provided:

[14] In this regard, test claimant requests the Commission to take notice of the fact that the Attorney General, at the time of its opinion, and now, often represents the Department of Finance in matters opposing the adoption of test claims.

> "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors."

The Attorney General was asked for an opinion as to two questions, the second of which was:

> "When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, is the state required to reimburse the local agency for the costs incurred in meeting the standards?" (AG Opinion, at page 111)

At page 119 of the opinion, the Attorney General noted that:

> "Counties have been required to maintain a 'suitable' place for the detention of minors since at least 1915 (citations) Setting the minimum standards for what is 'suitable' does not create a 'higher' level of service – it has long been the level of service required of local agencies."

Stated more succinctly, prior to 1975, local agencies were required to provide a "suitable" place for the detention of juveniles. Therefore, any regulations establishing what constitutes "suitable" are not new.

Contrary to the interpretation of CCC, the opinion only went so far as to determine the effect of minimum standards for suitability, it did not render an opinion on minimum standards for every other conceivable activity of the juvenile court system. It certainly did not opine that regulations issued pursuant to a pre-1975 general authority of a state agency to set minimum standards could never constitute either a new program or a higher level of service.

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

(3) Education Code Section 66700 Does Not Bar a Finding of a Mandate

CCC cites Education Code Section 66700:

> "The California Community Colleges are postsecondary schools and shall continue to be a part of the public school system of this state. The Board of Governors of the California Community Colleges shall prescribe minimum standards for the formation and operation of the California

> Community Colleges and exercise general supervision over the California Community Colleges."

Launching from its incorrect conclusion relative to the Attorney General's Opinion as to the statutory requirement to establish minimum standards for suitability, CCC then argues that, since Education Code Section 66700 requires the Board of Governors to prescribe minimum standards for the formation and operation of, and to exercise general supervision over, the community colleges, that means that any regulation made by the Board of Governors on any subject does not create a reimbursable mandate because the regulation was made pursuant to the general authority of the Board of Governors to prescribe minimum standards and exercise general supervision. That is not the law. "Costs mandated by the state" means any increased costs which a local agency or school district is required to incur as a result of any statute or any executive order implementing any statute which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIIIB of the California Constitution. Government Code Section 17514

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

(4) Minimum Standards are No Longer a "Condition" for State Aid

Immediately prior to 1975, former Education Code Section 25510 (as amended by Chapter 989, Statutes of 1974, Section 23[15]) read:

> "The Board of Governors of the California Community Colleges will adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges."

Former Education Code Section 25510 was recodified and renumbered as section 71025 by Chapter Chapter 1010, Statutes of 1976, Section 2, Statutes of 1976, section 2[16]. As recodified, section 71025 read:

> "The Board of Governors of the California Community Colleges shall

---

[15] A copy of Chapter 989, Statutes of 1974, Section 23 is attached hereto in Exhibit "A".

[16] A copy of Chapter 1010, Statutes of 1976, Section 2, which includes Education Code Section 71025 is attached hereto in Exhibit "A".

adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges."

Former Section 71025 was repealed by Chapter 973, Statutes of 1988, section 12.1. It was reenacted as Section 70901, by Chapter 973, Statutes of 1988, section 8[17, 18]. As

---

[17] A copy of Chapter 973, Statutes of 1988, Section 8, is attached hereto in Exhibit "A".

[18] Education Code Section 70901, added by Chapter 973, Statutes of 1988, Section 8, as amended by Chapter 1023, Statutes of 1998, Section 1:

"(a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and

academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with

enacted, the new section 70901 is greatly expanded and different from its pre-1975

---

secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors."

predecessor[19]. CCC has overlooked this important change. Without discussing the entire statute, the following relevant observations are made:

The "minimum standards" language is now found in subdivision (b)(1):

> "(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and will, in furtherance thereof, perform the following functions:
> (1) Establish minimum standards as required by law, including, but not limited to, the following:..." (emphasis supplied)

but, these "minimum standards" are only applicable to:

> "(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.
> (B) Minimum standards for the employment of academic and administrative staff in community colleges.
> (C) Minimum standards for the formation of community colleges and districts.
> (D) Minimum standards for credit and noncredit classes.
> (E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards"

and, the regulations alleged in the test claim do not encompass any of these subjects, i.e., they do not allege activities relative to student academic standards, employment of academic and administrative staff, formation of districts, credit and noncredit classes or

---

[19] Section 70901 was amended again by Chapter 1023, Statutes of 1998, Section 1, to add a new subdivision (b)(15) which allows contracting for the procurement of goods and services, which is not relevant to this test claim. The chapter also renumbered former subdivision (b)(15) as (b)(16).

shared governance. Therefore, the test claim regulations are not part of "minimum standards", as set forth in Education Code Section 70901.

The language concerning "state aid" has now been shifted to subdivision (b)(6) and is subject to minimum conditions, not minimum standards.

> "(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors." (Emphasis supplied)

Therefore, when discussing "minimum standards," minimum standards are limited to those found in Education Code Section 70901, subdivisions (b)(1)(A) through (E), none of which are applicable to this test claim.

It would appear that CCC has seriously confused "minimum standards" providing general supervision with "minimum conditions" for state aid, where the only similarity is the use of the word "minimum."

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

(5) Any Discussion of Academic Standards is Irrelevant

Commencing at page 8 to page 9, CCC sets forth a lengthy discussion of the requirement of Education Code Section 70901, subdivision (b)(1)(A) to:

> "Establish minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies." (Emphasis supplied)

Since the test claim does not seek reimbursement for any activities relating to student academic standards relating to graduation requirements, probation, dismissal, and readmission policies, any discussion of those standards are irrelevant to this test claim.

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

(6) There are no Optional Programs - None of the Regulations are Minimum Standards for the Receipt of State Aid

Arguing that some of the Title 5 regulation requirements apply only to a community college district that receives state financial assistance, it cites *Kern* again for the proposition that if districts choose to offer programs, but are not compelled to do so, those costs are never mandated for purposes of reimbursement.

As for the "optional" argument, see prior discussion above in part B(5), commencing at page 9, especially the *Kern* quotation on page 12, to the effect that the court found it unnecessary to decide whether a finding of legal compulsion is necessary in order to establish a right to reimbursement.

As for the argument that some of the regulations reflect minimum standards for the receipt of state aid, see prior discussion above in part D(3), commencing at page 20, where it is pointed out that the reference to state aid is now found in Education Code Section 70901, subdivision (b)(6), subject to the minimum conditions of Title 5 regulation sections 51000 through 51102 which are not alleged in the test claim; and especially at page 21-25, where it is pointed out that minimum standards are now set forth in Education Code Section 70901, subdivision (b)(1)(A) through (b)(1)(E), describing activities none of which are alleged in the test claim.

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

(7) Educating Students is not a Discretionary Act

Again with reference to the Title 5 regulations, at page 10 of its comments, CCC renews its argument that "[A]lthough nearly all districts receive state aid, usually in the form of apportionment, there is no mandate that they do so."

As for the argument that receiving state aid is discretionary, and the implication that the education of students is a discretionary act, see prior discussion above in part B(6), commencing at page 13, especially the observation that such a suggestion, if followed, would result in a violation of the equal protection laws of the California Constitution, article I, §7, subdivisions (a), (b) and article IV, §16, subdivision (a).

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

(8) Publication of Information About Education is an Integral Part of Education

At page 10 of its comments, referring now to the Title 5 regulations, CCC again argues that "[T]he publication of information or notices, however, is not the same as public education."

As for the "elevator" argument of CCC with its interpretation of *Los Angeles v. DIR*, see prior discussion above in part C(1), commencing at page 15, especially the citation to *Carmel*, at page 16, which holds that only one of two *County of Los Angeles* findings is necessary. The Title 5 regulations alleged in the test claim are regulations which, to implement a state policy, impose unique requirements on community college districts that do not apply generally to all residents and entities in the state. As such, the regulations are "programs" as defined in *County of Los Angeles*.

This rebuttal, by this reference, is made again whenever this issue is repeated by CCC.

E. Comments on Section-Specific Title 5 Regulations

(1) Title 5, California Code of Regulations Section 51006

Section 51006 refers to open classes. For its initial comment, CCC creates a "blue sky" argument. CCC refers to prior statutes which related to reports of average daily attendance for purposes of apportionment and classes for adults. Since this prior statute has nothing to do with open classes, CCC needed a bridge, so, at page 12, it created one:

> "'Classes for adults' generally means noncredit classes. We have not located a similar pre-1975 requirement that credit courses be open, but given the public nature of the entire system, and the origination of the system within the public school system, we contend that open courses has always been the standard." (Emphasis supplied)

Since the argument is admittedly contrived, it is "blue sky" and nothing more.

(2) Title 5, California Code of Regulations Section 54805

Section 54805 requires district governing boards to include in materials given to each student at registration, information pertaining to the student representation fee.

CCC argues that section 54805 merely implements Education Code Section 76060.5. CCC overlooks the superseding intervening events contained therein.

Section 76060.5 provides that the governing body of the association may (or may not) order that an election be held for the purpose of establishing a student representation fee. The section further provides that the affirmative vote of two-thirds of the students

voting in the election shall be required and that the election shall not be sufficient unless the number of students who vote in the election equals or exceeds the average of the number of students who voted in the previous three student body association elections. Therefore, whether or not an election is held, and whether or not a sufficient percentage of students voting approves the fee, and whether or not the number of students voting meets a numerical minimum, is so far beyond the ability of a community college district to control, there is no longer any discretion left to the district.

As for the reference to subdivision (d) of Education Code Section 17556, that subdivision provides:

> "The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:...
>
> (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service...."

Since there is no admissible evidence before the Commission that the 7 percent (maximum) of the student representation fee collected is sufficient to pay for the mandated program or increased level of service, it is not a bar to a finding of a mandate. Any fees collected would be an offset to the costs of providing the service.

(3) Title 5, California Code of Regulations Section 55005

CCC offers its unverified and unsworn statement that the Board of Governors submitted similar regulations to the Office of Administrative Procedure for publication in 1969 and believes this unverified and unsworn statement "is a sufficient showing of earlier and on-going obligations..." What CCC has not offered is any statement that the Office of Administrative Procedure did, in fact, follow the prerequisites for publication or that the "similar regulations" were ever published. Test claimant has attached to the test claim, as Exhibit 4, at page 404, an official copy of the regulations as published in Register 95, Nos. 19-20, on May 19, 1995. This not only the best evidence before the Commission, it is the only competent evidence before the Commission.

(4) Title 5, California Code of Regulations Section 55202

No new arguments are presented in response to this section.

(5) Title 5, California Code of Regulations Section 55530

CCC attempts to obfuscate the activities alleged, first with an argument applied to the entire section, and then pleading foul because of a "drafting construction error." Then, by tying the error to Education Code Section 78218 which limits the activities related to the entire matriculation process to only when such funding is received.

First of all, the claim of a "drafting construction error" (existing uncorrected for 14 years) is made by unverified and unsworn comment. Secondly, there is nothing in the record to support that assertion. For example, subdivision (a) of section 55530 uses the word "Subchapter", so the argument that the Board of Governors mistakenly used the word "Chapter" in subdivision (b) appears to be specious.

Finally, Education Code Section 78218 provides that the article shall be operative only if funds are specifically appropriated for the purposes of the article. There is nothing in the record to indicate that the funds, if and when appropriated, are sufficient, to cover notice costs.

(6) Title 5, California Code of Regulations Section 55534

No new arguments are presented in response to this section.

(7) Title 5, California Code of Regulations Section 55750

No new arguments are presented in response to this section.

(8) Title 5, California Code of Regulations Section 55752

No new arguments are presented in response to this section.

(9) Title 5, California Code of Regulations Section 55753

CCC argues that the Chancellor's Office "has determined" that because credit by examination is optional, an optional service fee may be imposed on students. CCC cites no statute, no regulation or no executive order in support of this naked assertion. It totally lacks foundation.

CCC cites subdivision (d) of Government Code Section 17556 as its statutory authority that the collection of these fees defeat a determination of a state mandate. Subdivision (d) provides:

> "The commission shall not find costs mandated by the state, as defined in

> Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:...
> (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service...."

CCC's argument fails because there is no competent evidence before the Commission that districts have the authority to levy a fee, and there is no evidence before the Commission that the authorized fees are in an amount sufficient to pay for the mandated program.

(10) Title 5, California Code of Regulations Section 55758

No new arguments are presented in response to this section.

(11) Title 5, California Code of Regulations Section 55759

CCC argues that since section 55759 "merely" requires districts to make "reasonable efforts" for student notifications, "no quantifiable mandates are included." Does that mean that CCC is telling its community college districts that no effort is required because it is not possible to measure "reasonable?" Not only is that argument unreasonable, it lacks credulity.

(12) Title 5, California Code of Regulations Section 55760

No new arguments are presented in response to this section.

(13) Title 5, California Code of Regulations Section 55761

No new arguments are presented in response to this section.

(14) Title 5, California Code of Regulations Section 55762

CCC argues that the actions of maintaining a student's academic record and otherwise recording course repetition are customary actions that are foundational to district operations. CCC goes on to state "We *believe* they are subsumed in the basic authority to maintain a college." (Emphasis supplied) CCC concludes:

> "To assert a claim on the basis of having to maintain student records is akin to asserting a claim for having to open the doors to buildings to allow

students to enter."

The legal response to this "belief" is that it is not one of the legal objections set forth in Government Code Section 17556. The factual response is that opening doors would be a reimbursable expense if it was mandated by statute or regulation adopted after 1974.

(15) Title 5, California Code of Regulations Section 55764

No new arguments are presented in response to this section.

(16) Title 5, California Code of Regulations Section 55765

No new arguments are presented in response to this section.

(17) Title 5, California Code of Regulations Section 58102

No new arguments are presented in response to this section.

(18) Title 5, California Code of Regulations Section 58104

No new arguments are presented in response to this section.

(19) Title 5, California Code of Regulations Section 59404

No new arguments are presented in response to this section.

/

/

/

/

/

/

/

(20) Title 5, California Code of Regulations Section 59410

No new arguments are presented in response to this section.

CERTIFICATION

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information or belief.

Sincerely,

Keith B. Petersen

C: Per Mailing List Attached

DECLARATION OF SERVICE

RE: Notice to Students 02-TC-25
CLAIMANT: Los Rios Community College District

I declare:

I am employed in the office of SixTen and Associates, which is the appointed representative of the above named claimant(s). I am 18 years of age or older and not a party to the within entitled matter.

On the date indicated below, I served the attached: letter of April 19, 2004, addressed as follows:

Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

AND per mailing list attached

FAX: (916) 445-0278

☒ **U.S. MAIL:** I am familiar with the business practice at SixTen and Associates for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at SixTen and Associates is deposited with the United States Postal Service that same day in the ordinary course of business.

☐ **OTHER SERVICE:** I caused such envelope(s) to be delivered to the office of the addressee(s) listed above by:

(Describe)

☐ **FACSIMILE TRANSMISSION:** On the date below from facsimile machine number (858) 514-8645, I personally transmitted to the above-named person(s) to the facsimile number(s) shown above, pursuant to California Rules of Court 2003-2008. A true copy of the above-described document(s) was(were) transmitted by facsimile transmission and the transmission was reported as complete and without error.

☐ A copy of the transmission report issued by the transmitting machine is attached to this proof of service.

☐ **PERSONAL SERVICE:** By causing a true copy of the above-described document(s) to be hand delivered to the office(s) of the addressee(s).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on 4/20/04, at San Diego, California.

Diane Bramwell

Original List Date: 6/19/2003
Last Updated: 6/19/2003
List Print Date: 10/17/2003
Claim Number: 02-TC-25
Issue: Notice to Students

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Thomas J. Nussbaum (G-01)
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 445-2738
Fax: (916) 323-8245

Mr. Keith B. Petersen
SixTen & Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Claimant Representative
Tel: (858) 514-8605
Fax: (858) 514-8645

Mr. Jon Sharpe
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Claimant
Tel: (559) 244-5910
Fax: (559) 243-1949

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 987
Sun City, CA 92586

Tel: (909) 672-9964
Fax: (909) 672-9963

Mr. Paul Minney
Spector, Middleton, Young & Minney, LLP
7 Park Center Drive
Sacramento, CA 95825

Tel: (916) 646-1400
Fax: (916) 646-1300

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Tel: (916) 727-1350
Fax: (916) 727-1734

Mr. Steve Smith Mandated Cost Systems, Inc. 11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670	Tel: Fax:	(916) 669-0888 (916) 669-0889
Dr. Carol Berg Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: Fax:	(916) 446-7517 (916) 446-2011
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: Fax:	(916) 454-7310 (916) 454-7312
Mr. Arthur Palkowitz San Diego Unified School District 4100 Normal Street, Room 3159 San Diego, CA 92103-8363	Tel: Fax:	(619) 725-7565 (619) 725-7569
Ms. Beth Hunter Centration, Inc. 8316 Red Oak Street, Suite 101 Rancho Cucamonga, CA 91730	Tel: Fax:	(866) 481-2642 (866) 481-5383
Mr. Keith Gmeinder Department of Finance (A-15) 915 L Street, 8th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-8913 (916) 327-0225
Mr. Michael Havey State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 500 Sacramento, CA 95816	Tel: Fax:	(916) 445-8757 (916) 323-4807

EXHIBIT 'A'
ADDITIONAL STATUTES CITED

electors of the district to authorize the issuance of bonds for such purpose at an election held for such purpose and if the district is unable to obtain adequate facilities within the district with the funds available to the district for such purpose.

SEC. 21. Section 25509.5 of the Education Code is amended to read:

25509.5. The governing board of a community college district may establish and maintain community college classes outside of the state, comprising a part of an aircraft pilot training program conducted by the district under an agreement with the federal government or any agency thereof, during the time that it is unlawful by reason of any law or order of the federal government or any agency thereof for such classes to be maintained within the district.

The governing board may make such expenditures and do such things in connection with the establishment and maintenance of classes under this section as it could do were the classes established and maintained within the district.

SEC. 22. Section 25509.6 of the Education Code is amended to read:

25509.6. The governing board of a community college district may enter into a contract on a full-cost basis with the federal government or any agency of the federal government to provide community college courses and classes to persons in the military service of the United States at any military camp, post, installation, base, vessel, or location, whether within or outside the district or the state.

SEC. 23. Section 25510 of the Education Code is amended to read:

25510. The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges.

SEC. 24. Section 25510.5 of the Education Code is amended to read:

25510.5. The chancellor's office shall annually investigate each community college to determine whether it has met the standards. As part of such investigation, representatives of the chancellor's office may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the chancellor's office, who may be appointed by the chancellor, may serve as a member of the accrediting commission which accredits the public community colleges.

SEC. 25. Section 25511 of the Education Code is amended to read:

25511. The Board of Governors of the California Community Colleges shall establish criteria and standards for graded classes in grades 13 and 14.

SEC. 26. Section 25513 of the Education Code is amended to read:

25513. The president of any two-year community college may admit 11th and 12th grade students to vocational education classes

section and who are employed by the trustees prior to July 1, 1962, shall be provided with personnel rights and benefits at least equal to those accumulated by them as employees of such state agencies.

CHAPTER 9. COMMUNITY COLLEGES

66700. The public community colleges are secondary schools and shall continue to be a part of the public school system of this state. The Board of Governors of the California Community Colleges shall prescribe minimum standards for the formation and operation of public community colleges and exercise general supervision over public community colleges.

66701. Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree. Their program may include but shall not be limited to: standard collegiate courses for transfer to other institutions; vocational and technical fields leading to employment; general or liberal arts courses; and community services.

CHAPTER 10. INTERSTATE ATTENDANCE AGREEMENTS

66800. The Legislature recognizes that existing community colleges in California may benefit from larger and more heterogeneous enrollment in certain curricula and that additional enrollment may often be added with little or no increase in the total operational cost of a given curriculum. It also recognizes that California residents can be provided more complete and more useful curricula in many cases if the curricula is planned and offered on the basis of the needs of an entire region.

The Legislature encourages California community college districts and the Board of Governors of the California Community Colleges to include the educational needs of, and facilities available in, territory adjacent to California in their planning and to make use of those needs and facilities to the extent possible in the conduct of community college education in California.

66801. The Board of Governors of the California Community Colleges is authorized to enter into an interstate attendance agreement with any statewide public agency of another state, which is responsible for public schools providing instruction in grades 13 and 14 and which is an agency of a state which is a party to the Western Interstate Compact for Higher Education, for the exchange of residents, on a one-for-one basis, for the purposes of instruction. The agreement shall contain such terms as the board of governors may adopt and which are consistent with the authority and responsibility of California community college districts and the community colleges they maintain. In no event shall such an agreement permit or require the entry of California residents into institutions in another state on terms substantially different from

may exclude from any such meeting, whether public or closed to the public, during the examination of a witness, any or all other witnesses in the matter being investigated.

71023. It is the intent of the Legislature that the Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of community colleges as an integral and effective element in the structure of public higher education in the state. The work of the board shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local autonomy and control in the administration of the community colleges.

71024. The Board of Governors of the California Community Colleges has the duties, powers, purposes, responsibilities, and jurisdiction heretofore vested in the State Board of Education, Superintendent of Public Instruction, the Department of Education, and the Director of Education with respect to the management, administration, and control of the community colleges.

Whenever in any law other than a provision of the Education Code, enacted prior to January 1, 1977, relating to the management, administration and control of the community colleges reference is made to the State Board of Education, Superintendent of Public Instruction, the Department of Education, or the Director of Education, such reference shall be deemed to mean the Board of Governors of the California Community Colleges.

71025. The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges.

71026. The chancellor's office shall annually investigate each community college to determine whether it has met the standards prescribed pursuant to Section 71025. As part of such investigation, representatives of the chancellor's office may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the chancellor's office, who may be appointed by the chancellor, may serve as a member of the accrediting commission which accredits the public community colleges.

71027. The Board of Governors of the California Community Colleges shall establish criteria and standards for graded classes in grades 13 and 14.

71028. The board of governors shall review and approve academic master plans and master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district. Master plans for facilities submitted pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of Division 7 of this title shall satisfy the requirements of this section in relation to master plans for facilities. Each district shall annually submit changes in its approved academic master plan for approval by the

(b) Whether the program provides preventative, proactive, social, or educational services.

(c) Whether there is a need to expand the program to a statewide basis, and whether the services provided by the program are duplicative of other state or local services.

(d) The direct and indirect program benefits to the parents and children who are participants in the program.

(e) The effectiveness of the program in preventing family crises, child abuse, and neglect.

(f) The characteristics of the targeted service population.

8219. This article shall become inoperative on June 30, 1992, and, as of January 1, 1993, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of thirty-seven thousand five hundred dollars ($37,500) is hereby appropriated from the General Fund to the State Department of Education for the purposes of Article 2.5 (commencing with Section 8216) of Chapter 2 of Part 6 of the Education Code for the period of January 1, 1989, to June 30, 1989, inclusive. It is the intent of the Legislature that funds necessary in future years for the purpose of the Parent-Child Information Pilot Project as added to Article 2.5 (commencing with Section 8216) of Chapter 2 of Part 6 of the Education Code, be appropriated in the Budget Act of subsequent fiscal years.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to initiate the system provided for under Section 1 of this act in response to current critical needs related to child care and development, it is necessary that this act take effect immediately.

CHAPTER 973

An act to amend Sections 66701, 71000, 71001, 78205, 84381, 84713, 87102, 87104, 87454, 87457, 87602, 87663, and 87743 of, to add Sections 71020.5, 71090.5, 78212.5, 84750, 84755, 87001, 87107, 87482.6, 87608.5, 87610.1, 87615, 87743.1, 87743.2, 87743.3, 87743.4, and 87743.5 to, to add Article 5 (commencing with Section 87150) to Chapter 1 of Part 51 of, to add Chapter 9.2 (commencing with Section 66720) to Part 40 of, and Chapter 2.5 (commencing with Section 87350) to Part 51 of, to add Part 43.5 (commencing with Section 70900) to Division 7 of, to repeal and add Sections 71020, 72411.5, 87458, 87605, 87608, 87609, 87610, and 87611 of, to repeal Sections 71023, 71025, 71026, 71027, 71028, 71062, 71063, 71064, 71066, 71068, 71069, 71070, 71071, 71072, 71073, 71075, 71076, 71079, 71080, 71091, 72201, 72230, 72231.5, 72233, 72282, 72284, 72285, 72286, 72287, 72288, 72289, 72290, 72291, 72292,

72300, 78200, 87455, and 87456 of, and to repeal Chapter 2 (commencing with Section 87200) of Part 51 of, the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 19, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows, with regard to the general background and intent of this act:

(a) The California Community Colleges face an unprecedented challenge in the coming two decades, as California undergoes a major demographic, social, and economic transformation. The community colleges are at the center of this change, and the state's future as a healthy and free, diverse, and creative society depends in major part upon the commitments expressed through and in the community colleges.

(b) The community colleges educate hundreds of thousands of Californians every year, are the route to higher education for the majority of our people, provide access to language and citizenship for tens of thousands of immigrants annually, retrain workers in an economy changing more rapidly than any in history, and are the last hope for older citizens seeking skills and involvement in their communities. To do these things well, to bring excitement and power into the lives of students so diverse and needing so much, to serve the economy and society through its service of these students, requires a deep commitment from all who teach and learn, from those who administer and counsel, from those who fund and regulate.

(c) The community colleges embody an historic commitment to provide an opportunity for college instruction for all Californians capable of benefiting from instruction. The community colleges have historically found their mission in the statewide scheme for higher education, the Master Plan for Higher Education, and in local commitments to meet the needs of different communities—urban and rural, middle class and poor. From these sources have come the conviction, and the fact, that the community colleges ought to provide high quality lower division instruction for purposes of transfer to baccalaureate institutions, and a wide range of courses and programs to meet vocational and basic education needs. The community colleges have been notable because they are local and accessible, diverse in their responsiveness to local needs, and yet have maintained standards capable of placing students in any of the state's universities or in any of the state's industries.

(d) Since the development of the original master plan, there has been a significant change in the populations served by the community colleges, and in the anticipated needs of the state as we

Trustees of the California State University, with appropriate consultation with the Academic Senates of the respective segments, shall jointly develop, maintain, and disseminate a common core curriculum in general education courses for the purposes of transfer. Any person who has successfully completed the transfer core curriculum, shall be deemed to have thereby completed all lower division general education requirements for the University of California and the California State University.

66721. Upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University shall jointly cause the curriculum to be published and distributed to each public school in this state that provides instruction in any of the grades 7 to 12, inclusive, and to each community college in this state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities. In addition, the Board of Governors shall distribute that transfer core curriculum to the State Board of Education, which shall apply that information to ensure, through its curriculum development activities, that public school pupils enrolled in any of the grades 9 to 12, inclusive, are aware of the academic requirements for preparation for higher education and may receive any necessary academic remediation in a timely manner.

66723. No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, makes that provision applicable.

SEC. 8. Part 43.5 (commencing with Section 70900) is added to Division 7 of the Education Code, to read:

PART 43.5. THE CALIFORNIA COMMUNITY COLLEGES

70900. There is hereby created the California Community Colleges, a postsecondary education system consisting of community college districts heretofore and hereafter established pursuant to law and the Board of Governors of the California Community Colleges. The board of governors shall carry out the functions specified in Section 70901 and local districts shall carry out the functions specified in Section 70902.

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with

established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule

delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

70901.5. (a) The board of governors shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

(1) Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(3) The board of governors shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.

(4) Prior to the adoption of regulations, the board of governors shall consider and respond to all written and oral comments received during the comment period.

(5) The effective date for a regulation shall be suspended if, within 30 days after adoption by the board of governors, at least two-thirds of all governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the board of governors shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

(B) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly

adopted regulation, and shall go into effect in accordance with those procedures.

(C) Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed necessary to clarify the intent of the original regulation. If the board of governors decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any further appeal within the California Community Colleges.

(6) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the board of governors shall not adopt the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.

(7) Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the board of governors, the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the board of governors.

70902. (a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of the provisions of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the

board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right to participate effectively in district and college governance, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision

(b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate; provided, however, that the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

SEC. 9. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of all of the following:

(a) Thirteen members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate. Of the members appointed by the Governor, two shall be current or former elected members of local community college district governing boards. The Governor shall appoint the current or former members of the governing board of a community college district for staggered six-year terms. The voting members who are current or former members of the governing board of a community college district shall first be appointed no later than January 15, 1990, and January 15, 1992, respectively.

(b) One voting student who is enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of his or her term of appointment, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester prior to his or her appointment and shall meet and maintain the minimum standards of scholarship prescribed for community college students. The student member shall be appointed by the Governor for a one-year term commencing on June 1.

(c) Two voting tenured faculty members from a community college, who shall be appointed by the Governor for two-year terms. The Governor shall appoint each faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. The first voting tenured faculty member appointed to the board shall occupy the seat on the board that is made available by the next full-term vacancy of a four-year term that exists after January 1, 1984. The first voting tenured faculty member appointed to the additional voting tenured faculty member seat on the board provided by the amendments to this section enacted by the Statutes of 1987 shall occupy the second seat on the board that is made available by the next full-term vacancies that exist after January 1, 1988. Thereafter, each seat shall be designated as a

the Education Code, the adoption of regulations as required by Sections 70901.5, 87356, 87359, 87107, and 87482.6 of the Education Code and Section 69 of this act, the development of a list of disciplines, as required by Section 87357 of the Education Code, and the review required by Section 87359.5 of the Education Code	$300,000
(d) For purposes of commencing implementation of Section 84750 of the Education Code, during the period of January 1, 1989, through June 30, 1990	$300,000
(e) For purposes of subdivision (b) of Section 87104 of the Education Code	$300,000
(f) For purposes of Section 71020.5 of the Education Code.....	$150,000
(g) To the Community College Fund for instructional improvement pursuant to Section 84381 of the Education Code.....	$200,000

CHAPTER 974

An act to amend and supplement Section 2.00 of the Budget Act of 1988 by augmenting Items 0540-001-001, 2200-001-001, 2240-001-001, 3360-001-465, 3720-001-001, 4170-101-001, 4200-101-001, 4260-101-001, 4260-111-001, 4260-121-001, 4440-101-001, 4440-111-001, 5240-001-001, 5450-001-001, 5460-001-001, 7980-111-001, 7980-121-001, 8260-001-001, 8300-001-001, 8570-001-001, 9800-001-001, 9800-001-494, and 9800-001-988 thereof, amending Items 6440-025-001 and 6610-025-001 thereof, and adding Items 0820-301-001, 2200-001-036, 2200-101-036, and 9210-102-001 thereto, relating to the support of the State of California, and making an appropriation therefor, to take effect immediately, usual current expenses.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 19, 1988.]

I am deleting the $3 million transfer to the General Fund contained in Section 17 of Assembly Bill No. 1903. This action is necessary due to the lack of funds in the Special Account for Capital Outlay.

With this deletion, I approve Assembly Bill No. 1903.

GEORGE DEUKMEJIAN

The people of the State of California do enact as follows:

SECTION 1. Item 0820-301-001 is added to Section 2.00 of the Budget Act of 1988, to read:

Community Colleges As Part of Public School System; Duties of State Board of Education

22650. The public community colleges are secondary schools and shall continue to be a part of the public school system of this state. The State Board of Education shall prescribe minimum standards for the formation and operation of public community colleges and exercise general supervision over public community colleges.

(Amended by Stats. 1970, Ch. 102.)

Scope of Instruction by Community Colleges

22651. Public community colleges shall offer instruction through but not beyond the 14th grade level, which instruction may include, but shall not be limited to, programs in one or more of the following categories: (1) standard collegiate courses for transfer to higher institutions; (2) vocational and technical fields leading to employment; and (3) general or liberal arts courses. Studies in these fields may lead to the associate in arts or associate in science degree.

(Amended by Stats. 1970, Ch. 102.)

CHAPTER 5. CO-ORDINATING COUNCIL FOR HIGHER EDUCATION

(Chapter 5 repealed by Stats. 1973, Ch. 1187. Operative April 1, 1974. See note following Section 22710)

22700–22705. (Repealed by Stats. 1973, Ch. 1187. Operative April 1, 1974. See note following Section 22710.)

Note: Chapter 5, consisting of Sections 22700–22705, effective until April 1, 1974, reads as follows:

CHAPTER 5. CO-ORDINATING COUNCIL FOR HIGHER EDUCATION

22700. (a) There is hereby created an advisory body, the Coordinating Council for Higher Education, to be composed of one representative each of the University of California, the California State Colleges, the public community colleges, the private colleges and universities in the state, one nonvoting ex officio member of the State Board of Education, and six representatives of the general public. The university shall be represented by a person appointed by the regents. The California State Colleges shall be represented by a person appointed by the trustees. The public community colleges shall be represented by a person appointed by the Board of Governors of the California Community Colleges. The private colleges and universities shall be represented by a person appointed by the Governor after consideration of a list or lists of not less than three persons submitted to him by an association or associations of such institutions and subject to confirmation by the Senate. The State Board of Education shall be represented by a board member appointed by the president of the board. The general public shall be represented by six members appointed by the Governor subject to confirmation by the Senate. The terms of the appointments made pursuant to this section shall be as follows:

(1) The representative appointed by the regents shall serve a one-year term.

(2) The representative appointed by the trustees shall serve a one-year term.

(3) The representative appointed by the Board of Governors of the California Community Colleges shall serve a one-year term.

tenance of classes under this section as it could do were the classes established and maintained within the district.

(Amended by Stats. 1970, Ch. 102.)

Contract With Federal Government to Provide Classes and Courses for Servicemen

25509.6. The governing board of any school district maintaining a community college may enter into a contract on a full-cost basis with the federal government or any agency of the federal government to provide community college courses and classes to persons in the military service of the United States at any military camp, post, installation, base, vessel, or location, whether within or outside the district or the state.

(Added by Stats. 1971, Ch. 1153.)

Adoption of Minimum Standards for Receipt of State Aid

25510. The State Board of Education shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges.

(Amended by Stats. 1970, Ch. 102.)

Annual Investigation to Determine if Standards Are Met

25510.5. The State Department of Education shall annually investigate each community college to determine whether it has met the standards. As part of such investigation, representatives of the department may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the department, who may be appointed by the Superintendent of Public Instruction, may serve as a member of the accrediting commission which accredits the public community colleges.

(Amended by Stats. 1970, Ch. 102.)

Standards for Graded Classes in Grades 13 and 14

25511. The State Board of Education shall establish criteria and standards for graded classes in grades 13 and 14.

(Added by Stats. 1963, Ch. 100.)

Maintenance of Summer School; "Academic Year" Defined

25511.5. The governing board of a district maintaining one or more community colleges may maintain a summer school at any of such community colleges during the period between the close of one academic year and the beginning of the succeeding academic year in accordance with rules and regulations of the State Board of Education and with the prior written approval of the Superintendent of Public Instruction.

The term "academic year" as used in this section means that portion of the school year during which the regular day community college is maintained, which period must include not less than the number of days of teaching required to entitle the district to apportionments of state funds.

(Amended by Stats. 1970, Ch. 102.)

(c) The Superintendent of Public Instruction shall appoint an advisory committee to assist with the development of the data collection instrument, the review of the data collected, and continued improvement of the data collection system. The committee shall consist of at least one representative each from the Department of Finance, the office of the Legislative Analyst, the statewide associations representing continuation high schools, independent study, school administrators, and teachers. Members of the advisory committee shall serve without compensation, but the State Department of Education shall reimburse members for travel expenses.

(d) This section shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 2. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the General Fund for the 1998–99 fiscal year to the State Department of Education for the purposes of Section 33319.6 of the Education Code.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

So that data collection and reporting required by this act may take place as soon as possible, it is necessary that this act take effect immediately.

SCHOOLS AND SCHOOL DISTRICTS—COMMUNITY COLLEGES—BOARD OF GOVERNORS

CHAPTER 1023

A.B. No. 2329

AN ACT to amend Section 70901 of the Education Code, and to amend Sections 10295, 10430, 12100.5, and 12120 of, and to add Sections 20661 and 20662 to, the Public Contract Code, relating to community colleges.

[Approved by Governor September 30, 1998.]

[Filed with Secretary of State September 30, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2329, Firestone. Community colleges: contracts.

Under existing law, the Regents of the University of California and the Trustees of the California State University are not subject to laws governing contracts for the state procurement of materials, goods, supplies, or services, or for the acquisition of electronic data-processing and telecommunications goods and services, with certain exceptions. Under existing law, the trustees are required to develop policies and procedures that further expressed legislative policies for procurement without the involvement of the Department of Finance or the Department of General Services.

This bill would provide that the Board of Governors of the California Community Colleges is not subject to the laws described above, but would require the board to develop policies and procedures that further express legislative policies for procurement without the involvement of the Department of Finance or the Department of General Services.

Under existing law, Section 8 of Article XVI of the California Constitution (Proposition 98) sets forth a formula for computing the minimum amount of General Fund revenues that the state is required to appropriate for the support of school districts, as defined, and community college districts for each fiscal year.

The bill would authorize the Chancellor of the California Community Colleges to enter into a contract on behalf of one or more community college districts, subject to certain restrictions. The bill would require the chancellor to report to the Legislature and the Governor by

January 1, 2001, on contracts entered into pursuant to these provisions and any resultant cost savings. The bill would authorize the chancellor to enter into a contract with a community college district whereby the district performs services or acts as a fiscal agent on behalf of the California Community Colleges when the funds for the contract or agreement are in satisfaction of the state obligation to provide funding pursuant to Section 8 of Article XVI of the California Constitution. The bill would authorize the Board of Governors of the California Community Colleges to adopt regulations to implement the provisions of this paragraph.

This bill would incorporate additional changes in Section 10430 of the Public Contract Code proposed by SB 412, to be operative if SB 412 and this bill are both enacted and become effective on or before January 1, 1999, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 70901 of the Education Code is amended to read:

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general

apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Contract for the procurement of goods and services, as necessary.

(16) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

SEC. 2. Section 10295 of the Public Contract Code, as amended by Chapter 88 of the Statutes of 1998, is amended to read:

10295. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or elementary school textbooks, (b) services, whether or not the services involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval. This section applies to any state agency that by general or specific statute is expressly or impliedly authorized to enter into transactions referred to in this section. This section does not apply to any transaction entered into by the Trustees of the California State University, by the Board of Governors of the California Community Colleges, or by a department under the State Contract Act or the California State University Contract Law, any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code, any contract entered into by the Department of Transportation that is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, any contract entered into by the Department of Personnel Administration for state employees in State Bargaining Unit 16 for employee benefits, occupational health and safety, training services, or combination thereof any contract let by the Legislature, or any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 3. Section 10430 of the Public Contract Code, as amended by Section 72 of Chapter 88 of the Statutes of 1998, is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b) Transactions covered under Chapter 3 (commencing with Section 12100).

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295 or 10295.1. However, the Trustees of the California State University and the Board of Governors of the California Community Colleges shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment for each meeting of the board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section 4648 of the Welfare and Institutions Code if the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

SEC. 3.5. Section 10430 of the Public Contract Code, as amended by Section 72 of Chapter 88 of the Statutes of 1998, is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b)(1) Transactions covered under Chapter 3 (commencing with Section 12100), except that Sections 10365.5, 10410, and 10411 shall apply to all individuals, companies, corporations, or other entities that bid on or are awarded contracts, either as contractors or subcontractors, pursuant to that chapter.

(2) The changes made to this subdivision during the 1998 portion of the 1997–98 Regular Session shall not be construed to have retroactive effect on any pending action, arbitration, or administrative proceeding, but shall only apply to an action, arbitration, or administrative proceeding, at law or in equity, that is commenced on or after January 1, 1999.

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295 or 10295.1. However, the Trustees of the California State University and the Board of Governors of the California Community Colleges shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment for each meeting of the board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section 4648 of the Welfare and Institutions Code if the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

SEC. 4. Section 12100.5 of the Public Contract Code is amended to read:

12100.5. The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges shall not be subject to this chapter except that the trustees shall develop policies and procedures maintained in its state university administrative manual and the board shall adopt policies and procedures maintained in its administrative manual that further the legislative policies for procurement expressed in this chapter but without the involvement of the Director of Finance and the Director of General Services or the Department of Finance and the Department of General Services.

SEC. 5. Section 12120 of the Public Contract Code is amended to read:

12120. The Legislature finds and declares that, with the advent of deregulation in the telecommunications industry, substantial cost savings can be realized by the state through the specialized evaluation and procurement of alternative telecommunications systems. All contracts for the acquisition of telecommunications services and all contracts for the acquisition of telecommunications goods, whether by lease or purchase, shall be made by, or under the supervision of, the Department of General Services. All procurements shall be accomplished in accordance with Chapter 3 (commencing with Section 12100), relating to the acquisition of electronic data-processing goods and services, except to the extent any directive or provision is uniquely applicable to electronic data-processing acquisitions. The Department of General Services shall have responsibility for the establishment of policy and procedures for telecommunications. The Department of General Services shall have responsibility for the establishment of tactical policy and procedures for data-processing acquisitions consistent with statewide strategic policy as established by the Department of Finance. The Department of Finance shall have review and approval responsibility of data-processing information and telecommunication acquisitions to assure consistency with budgetary objectives. The Trustees of the California State University and the Board of Governors of the California Community Colleges shall assume the functions of the Department of Finance and the Department of General Services with regard to procurement of telecommunication goods and services by the California State University and the California Community Colleges respectively. The trustees and the board shall each grant to the Department of General Services, Division of Telecommunications, an opportunity to bid whenever the university or the college system solicits bids for telecommunications goods and services.

SEC. 6. Section 20661 is added to the Public Contract Code, to read:

20661. (a) The Chancellor of the California Community Colleges is authorized to enter into a contract on behalf of one or more community college districts, subject to the following restrictions:

(1) No district may be required to participate in any contract entered into pursuant to this section.

(2) The cost to each district that is a party to or a beneficiary of a contract entered into pursuant to this section must be lower than the cost the district could obtain through its standard contracting procedures. No contract for the procurement of goods or services may be made when a bid has been received by a participating district for the procurement of the same goods or services unless the contract would result in a lower price for the goods or services upon the same terms, conditions, and specifications.

(3) The state shall not incur any financial responsibility in connection with a contract entered into pursuant to this section.

(b) The Chancellor of the California Community Colleges is authorized to charge a fee, commission, or other charge to either or both of the following:

(1) Each provider of goods or services under a contract entered into pursuant to this section.

(2) Each community college district that the chancellor enters into a contract on behalf of pursuant to this section.

(c) On or before January 1, 2001, the Chancellor of the California Community Colleges shall report to the Legislature and the Governor on contracts entered into pursuant to this section and any resultant cost savings.

(d) The Board of Governors of the California Community Colleges shall adopt regulations to implement this section.

SEC. 7. Section 20662 is added to the Public Contract Code, to read:

20662. The Chancellor of the California Community Colleges is authorized to enter into a contract or other agreement with the governing board of any community college district whereby the district performs services or acts as a fiscal agent on behalf of the California Community colleges. This section shall apply only when the funds for the contract or agreement are in satisfaction of the state obligation to provide funding pursuant to Section 8 of Article XVI of the California Constitution.

SEC. 7.5. (a) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code applies to the Board of Governors of the California Community Colleges and to the Chancellor's Office of the California Community Colleges. The Legislature finds and declares that this subdivision is declaratory of existing law.

(b) Nothing in this act shall be construed to provide any exemption from Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code for the Board of Governors of the California Community Colleges or the Chancellor's Office of the California Community Colleges.

SEC. 8. It is the intent of the Legislature that this act will result in greater efficiency in the operation of the California Community Colleges.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 10430 of the Public Contract Code proposed by both this bill and SB 412. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 10430 of the Public Contract Code, and (3) this bill is enacted after SB 412, in which case Section 3 of this bill shall not become operative.

SEC. 320. Section 22635 of the Education Code is amended to read:

22635. The Regents of the University of California, the Trustees of the California State Colleges, and the governing board of every community college or school district maintaining a community college, shall adopt or provide for the adoption of specific rules and regulations governing student behavior along with applicable penalties for violation of such rules and regulations. Every student at such institutions of higher education shall, at the time of registration for a semester or quarter, as the case may be, at such institutions, be provided with a copy of such rules and regulations together with a statement of the applicable penalties which may be incurred by violation thereof. The Regents of the University of California, the Trustees of the California State Colleges, and the governing board of every community college or school district maintaining a community college shall provide for the distribution of any revision of such rules and regulations to students enrolled in such institutions.

SEC. 321. The heading of Chapter 4 (commencing with Section 22650) of Division 16.5 of the Education Code is amended to read:

CHAPTER 4. COMMUNITY COLLEGES

SEC. 322. Section 22650 of the Education Code is amended to read:

22650. The public community colleges are secondary schools and shall continue to be a part of the public school system of this state. The State Board of Education shall prescribe minimum standards for the formation and operation of public community colleges and exercise general supervision over public community colleges.

SEC. 323. Section 22651 of the Education Code is amended to read:

22651. Public community colleges shall offer instruction through but not beyond the 14th grade level, which instruction may include, but shall not be limited to, programs in one or more of the following categories: (1) standard collegiate courses for transfer to higher institutions; (2) vocational and technical fields leading to employment; and (3) general or liberal arts courses. Studies in these fields may lead to the associate in arts or associate in science degree.

SEC. 324. Section 22700 of the Education Code is amended to read:

22700. There is hereby created an advisory body, the Coordinating Council for Higher Education, to be composed of three representatives each of the University of California, the California State Colleges, the public community colleges, the private colleges and universities in the state, and six representatives of the general public. The university shall be represented by the president and two regents appointed by the

and the Regents of the University of California.

SEC. 210. Section 66017 of the Education Code is amended to read:

66017. The respective governing boards of the California Community Colleges, the California State University, or the University of California shall adopt appropriate procedures and designate appropriate persons to take disciplinary action against any student, member of the faculty, member of the support staff, or member of the administration of the community college, state college, or state university who, after a prompt hearing by a campus body, has been found to have willfully disrupted the orderly operation of the campus. Nothing in this section shall be construed to prohibit, where an immediate suspension is required in order to protect lives or property and to ensure the maintenance of order, interim suspension pending a hearing; provided that a reasonable opportunity be afforded the suspended person for a hearing within 10 days. The disciplinary action may include, but need not be limited to, suspension, dismissal, or expulsion. Sections 89538 to 89540, inclusive, shall be applicable to any state university or college employee dismissed pursuant to this section.

SEC. 211. Section 66021 of the Education Code is amended to read:

66021. It is the intent of the Legislature that the Budget Act for each fiscal year provide sufficient funding for financial aid for students with demonstrated financial need at the University of California, the California State University, and the California Community Colleges to offset increases in student charges at those institutions. The Legislature intends that funds for increased student financial aid be provided from sources other than student fees.

SEC. 213. Section 66101 of the Education Code is repealed.

SEC. 214. Section 66102 of the Education Code is repealed.

SEC. 215. Section 66200 of the Education Code is repealed.

SEC. 219. Section 66700 of the Education Code is amended to read:

66700. The California Community Colleges are postsecondary schools and shall continue to be a part of the public school system of this state. The Board of Governors of the California Community Colleges shall prescribe minimum standards for the formation and operation of the California Community Colleges and exercise general supervision over the California Community Colleges.

SEC. 220. Section 66700.5 of the Education Code is repealed.

SEC. 222. Section 66902.5 of the Education Code is repealed.

SEC. 224. Section 67007 of the Education Code is repealed.

SEC. 225. Section 68010 of the Education Code is repealed.

SEC. 226. Section 68011 of the Education Code is amended to read:

68011. "Institution" means the University of California, the California State University, the California Maritime Academy, or a college of the California Community Colleges.

EXHIBIT 'B'

34 CFR PART 106

and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.

(4) If an action required to comply with this section would result in that alteration or those burdens, the Department shall take any other action that would not result in the alteration or burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§ 105.41 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the Department.

(b) As provided in § 105.30, the Department shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Deputy Under Secretary for Management is responsible for coordinating implementation of this section. Complaints may be sent to the U.S. Department of Education, Office of Management, Federal Building No. 6, 400 Maryland Avenue SW., Washington, DC 20202.

(d) The Department shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The Department may extend this time period for good cause.

(e) If the Department receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Department shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Department shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the Department of the letter required by § 105.41(g). The Department may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Secretary.

(j) If the Secretary determines that additional information is needed for the complainant, he or she shall notify the complainant of the additional information needed to make his or her determination on the appeal.

(k) The Secretary shall notify the complainant of the results of the appeal.

(l) The time limit in paragraph (g) of this section may be extended by the Secretary.

(m) The Secretary may delegate the authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§ 105.42 Effective date.

The effective date of this part is October 9, 1990.

PART 106—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.

106.1 Purpose and effective date.
106.2 Definitions.
106.3 Remedial and affirmative action and self-evaluation.
106.4 Assurance required.
106.5 Transfers of property.
106.6 Effect of other requirements.

106.7 Effect of employment opportunities.
106.8 Designation of responsible employee and adoption of grievance procedures.
106.9 Dissemination of policy.

Subpart B—Coverage

106.11 Application.
106.12 Educational institutions controlled by religious organizations.
106.13 Military and merchant marine educational institutions.
106.14 Membership practices of certain organizations.
106.15 Admissions.
106.16 Educational institutions eligible to submit transition plans.
106.17 Transition plans.

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

106.21 Admission.
106.22 Preference in admission.
106.23 Recruitment.

Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

106.31 Education programs or activities.
106.32 Housing.
106.33 Comparable facilities.
106.34 Access to course offerings.
106.35 Access to schools operated by LEAs.
106.36 Counseling and use of appraisal and counseling materials.
106.37 Financial assistance.
106.38 Employment assistance to students.
106.39 Health and insurance benefits and services.
106.40 Marital or parental status.
106.41 Athletics.
106.42 Textbooks and curricular material.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

106.51 Employment.
106.52 Employment criteria.
106.53 Recruitment.
106.54 Compensation.
106.55 Job classification and structure.
106.56 Fringe benefits.
106.57 Marital or parental status.
106.58 Effect of State or local law or other requirements.
106.59 Advertising.
106.60 Pre-employment inquiries.
106.61 Sex as a bona-fide occupational qualification.

Subpart F—Procedures [Interim]

106.71 Procedures.

SUBJECT INDEX TO TITLE IX PREAMBLE AND REGULATION
APPENDIX A—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS [NOTE]

AUTHORITY: 20 U.S.C. 1681 *et seq.*, unless otherwise noted.

SOURCE: 45 FR 30955, May 9, 1980, unless otherwise noted.

Subpart A—Introduction

§ 106.1 Purpose and effective date.

The purpose of this part is to effectuate title IX of the Education Amendments of 1972, as amended by Pub. L. 93–568, 88 Stat. 1855 (except sections 904 and 906 of those Amendments) which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in this part. This part is also intended to effectuate section 844 of the Education Amendments of 1974, Pub. L. 93–380, 88 Stat. 484. The effective date of this part shall be July 21, 1975.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682, as amended by Pub. L. 93–568, 88 Stat. 1855, and sec. 844, Education Amendments of 1974, 88 Stat. 484, Pub. L. 93–380)

§ 106.2 Definitions.

As used in this part, the term:

(a) *Title IX* means title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by section 3 of Pub. L. 93–568, 88 Stat. 1855, except sections 904 and 906 thereof; 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

(b) *Department* means the Department of Education.

(c) *Secretary* means the Secretary of Education.

(d) *Assistant Secretary* means the Assistant Secretary for Civil Rights of the Department.

(e) *Reviewing Authority* means that component of the Department delegated authority by the Secretary to appoint, and to review the decisions of, administrative law judges in cases arising under this part.

(f) *Administrative law judge* means a person appointed by the reviewing authority to preside over a hearing held under this part.

(g) *Federal financial assistance* means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

(h) *Program or activity* and *program* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or local government; or

(ii) The entity of a State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity that is established by two or more of the entities described in paragraph (h)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

(Authority: 20 U.S.C. 1687)

(i) *Recipient* means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives such assistance, including any subunit, successor, assignee, or transferee thereof.

(j) *Applicant* means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

(k) *Educational institution* means a local educational agency (LEA) as defined by section 1001(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381), a preschool, a private elementary or secondary school, or an applicant or recipient of the type

defined by paragraph (l), (m), (n), or (o) of this section.

(l) *Institution of graduate higher education* means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(m) *Institution of undergraduate higher education* means:

(1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(n) *Institution of professional education* means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the Secretary.

(o) *Institution of vocational education* means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.

(p) *Administratively separate unit* means a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

(q) *Admission* means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

(r) *Student* means a person who has gained admission.

(s) *Transition plan* means a plan subject to the approval of the Secretary pursuant to section 901(a)(2) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980; 45 FR 37426, June 3, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.3 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the Assistant Secretary finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the Assistant Secretary deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) *Self-evaluation.* Each recipient education institution shall, within one year of the effective date of this part:

(1) Evaluate, in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students,

treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity;

(2) Modify any of these policies and practices which do not or may not meet the requirements of this part; and

(3) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) *Availability of self-evaluation and related materials.* Recipients shall maintain on file for at least three years following completion of the evaluation required under paragraph (c) of this section, and shall provide to the Assistant Secretary upon request, a description of any modifications made pursuant to paragraph (c)(ii) of this section and of any remedial steps taken pursuant to paragraph (c)(iii) of this section.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.4 Assurance required.

(a) *General.* Every application for Federal financial assistance shall as condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Assistant Secretary, that the education program or activity operated by the applicant or recipient and to which this part applies will be operated in compliance with this part. An assurance of compliance with this part shall not be satisfactory to the Assistant Secretary if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with § 106.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Assistant Secretary of such assurance.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Form.* The Director will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 45 FR 86298, Dec. 30, 1980; 65 FR 68056, Nov. 13, 2000]

§ 106.5 Transfers of property.

If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of subpart B of this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.6 Effect of other requirements.

(a) *Effect of other Federal provisions.* The obligations imposed by this part are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; sections 704 and 855 of the Public Health Service Act (42 U.S.C. 292d and 298b–2); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act

(29 U.S.C. 206 and 206(d)); and any other Act of Congress or Federal regulation.

(Authority: Secs. 901, 902, 905, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1685)

(b) *Effect of State or local law or other requirements.* The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with this part is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives Federal financial assistance.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.7 Effect of employment opportunities.

The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.8 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all its students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.9 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational program or activity which it operates, and that it is required by title IX and this part not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the Assistant Secretary finds necessary to apprise such persons of the protections against discrimination assured them by title IX and this part, but shall state at least that the requirement not to discriminate in the education program or activity extends to employment therein, and to admission thereto unless Subpart C does not apply to the recipient, and that inquiries concerning the application of title IX and this part to such recipient may be referred to the employee designated pursuant to § 106.8, or to the Assistant Secretary.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this part or of the date this part first applies to such recipient, whichever comes later, which notification shall include publication in:

(i) Local newspapers;

(ii) Newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and

(iii) Memoranda or other written communications distributed to every student and employee of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type, described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by this part.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

Subpart B—Coverage

§ 106.11 Application.

Except as provided in this subpart, this part 106 applies to every recipient and to the education program or activity operated by such recipient which receives Federal financial assistance.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 86298, Dec. 30, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.12 Educational institutions controlled by religious organizations.

(a) *Application.* This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section, shall do so by submitting in writing to the Assistant Secretary a statement by the highest ranking official of the institution, identifying the provisions of this part which conflict with a specific tenet of the religious organization.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.13 Military and merchant marine educational institutions.

This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.14 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* This part does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) *YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls.* This part does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts and Camp Fire Girls.

(c) *Voluntary youth service organizations.* This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of

1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; sec. 3(a) of P.L. 93-568, 88 Stat. 1862 amending Sec. 901)

§ 106.15 Admissions.

(a) Admissions to educational institutions prior to June 24, 1973, are not covered by this part.

(b) *Administratively separate units.* For the purposes only of this section, §§ 106.16 and 106.17, and subpart C, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of subpart C.* Except as provided in paragraphs (d) and (e) of this section, subpart C applies to each recipient. A recipient to which subpart C applies shall not discriminate on the basis of sex in admission or recruitment in violation of that subpart.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Subpart C does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 45 FR 86298, Dec. 30, 1980]

§ 106.16 Educational institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which subpart C applies which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but thereafter admitted as regular students, students of the sex not admitted prior to June 23, 1965.

(b) *Provision for transition plans.* An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of subpart C unless it is carrying out a transition plan approved by the Secretary as described in § 106.17, which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than June 23, 1979.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.17 Transition plans.

(a) *Submission of plans.* An institution to which § 106.16 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the Secretary a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so, when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which §106.16 applies shall result in treatment of applicants to or students of such recipient in violation of subpart C unless such treatment is necessitated by an obstacle identified in paragraph (b) (3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b) (4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which §106.16 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment which emphasizes the institution's commitment to enrolling students of the sex previously excluded.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

§ 106.21 Admission.

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which this subpart applies, except as provided in §§106.16 and 106.17.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes;

(3) Shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admision, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.22 Preference in admission.

A recipient to which this subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.23 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 106.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 106.3(b).

(b) *Recruitment at certain institutions.* A recipient to which this subpart applies shall not recruit primarily or exclusively at educational institutions, schools or entities which admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

§ 106.31 Education programs or activities.

(a) *General.* Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. This subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which subpart C does not apply, or (2) an entity, not a recipient, to which subpart C would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided,* a recipient educational institution which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to

members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Aid, benefits or services not provided by recipient.* (1) This paragraph applies to any recipient which requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in educational consortia and cooperative employment and student-teaching assignments.

(2) Such recipient:

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student, or employee of such recipient which this part would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 47 FR 32527, July 28, 1982; 65 FR 68056, Nov. 13, 2000]

§ 106.32 Housing.

(a) *Generally.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by such recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole:

(i) Proportionate in quantity and

(ii) Comparable in quality and cost to the student.

A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

(Authority: Secs. 901, 902, 907, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1686)

§ 106.33 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374)

§ 106.34 Access to course offerings.

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. With respect to physical education classes and

activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.35 Access to schools operated by LEAs.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.36 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.37 Financial assistance.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, in providing financial assistance to any of its students, a recipient shall not:

(1) On the basis of sex, provide different amount or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other

services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such recipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified therein; *Provided,* That the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and

(iii) No student is denied the award for which he or she was selected under paragraph (b)(2)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 106.41.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; and Sec. 844, Education Amendments of 1974, Pub. L. 93–380, 88 Stat. 484)

§ 106.38 Employment assistance to students.

(a) *Assistance by recipient in making available outside employment.* A recipient which assists any agency, organization or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient which employs any of its students shall not do so in a manner which violates subpart E of this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.39 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate Subpart E of this part if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.40 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental,

family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the separate portion is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.41 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Assistant Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; and Sec. 844, Education Amendments of 1974, Pub. L. 93–380, 88 Stat. 484)

§ 106.42 Textbooks and curricular material.

Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

§ 106.51 Employment.

(a) *General.* (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part.

(b) *Application.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including those that are social or recreational; and

(10) Any other term, condition, or privilege of employment.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.52 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.53 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.54 Compensation.

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.55 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in § 106.61.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.56 Fringe benefits.

(a) *Fringe benefits defined.* For purposes of this part, *fringe benefits* means: Any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment not subject to the provision of § 106.54.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, or for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.57 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.58 Effect of State or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.59 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex

is a *bona-fide* occupational qualification for the particular job in question.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.60 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.61 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682

Subpart F—Procedures [Interim]

§ 106.71 Procedures.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 34 CFR 100.6–100.11 and 34 CFR, part 101.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

SUBJECT INDEX TO TITLE IX PREAMBLE AND REGULATION[1]

A

Access to Course Offerings [43, 55, 56, 57, 58]; 106.34
Access to Schools Operated by LEA's, [44]; 106.35
Admissions, [5, 6, 30]; 106.15, 106.21
  Affirmative and remedial action, [16, 17, 24]; 106.3(a); (b)
  Administratively separate units, [30]; 106.15(b) 106.2(c)
  Educational Institutions, [30], 106.15(d), 106.2(n)
  General, 106.21(a), 106.2(p),
  Prohibitions relating to marital and parental status, [32, 36]; 106.21(c)
  Professional schools, [30], 106.2(m)
  Public institutions of undergraduate higher education, 106.15(e)
  Recruitment, [34, 35]; 106.23
  Specific prohibitions, 106.21(b)
  Tests, [31]; 106.21(b) (2)
  Preference in admission, [35]; 106.22
Advertising, 106.59
Affirmative Action, see "Remedial and Affirmative Actions"
Assistance to "outside" discriminatory organizations, [40, 53]; 106.31(b) (7), (c)
Assurances, [18]; 106.4
  Duration of obligation, 106.4(b)
  Form, 106.4(c)
Athletics, [69 to 78]; 106.41
  Adjustment period, [78]; 106.41(d)
  Contact sport defined, 106.41(d)
  Equal opportunity, [76, 77]; 106.41(d)
  Determining factors, 106.41(c) (i) to (x)
  Equipment, 106.41(c)
  Expenditures, 106.41(c)
  Facilities, 106.41(c)
  Travel, 106.41(c)
  Scholarships, [64, 65]; 106.37(d)
  General, [69, 70, 71, 72, 73, 74, 75]; 106.41(a)
  Separate teams, [75]; 106.41(b)

B

BFOQ, [96]; 106.61

C

Comparable facilities
  Housing, [42, 54]; 106.32
  Other, 106.33, 106.35(b)
Compensation, [84, 87, 92]; 106.54
Counseling

[1] Preamble paragraph numbers are in brackets [].

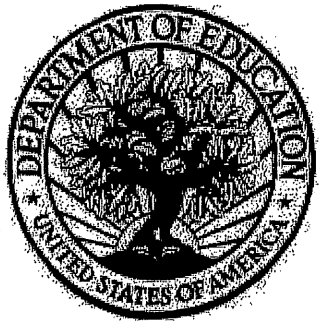
EXHIBIT 'C'

REVISED SEXUAL HARASSMENT GUIDANCE

OFFICE FOR CIVIL RIGHTS - JANUARY 2001

REVISED SEXUAL HARASSMENT GUIDANCE: HARASSMENT OF STUDENTS BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES

TITLE IX



January 2001

U.S. Department of Education
Office for Civil Rights

PREAMBLE

Summary

The Assistant Secretary for Civil Rights, U.S. Department of Education (Department), issues a new document (revised guidance) that replaces the 1997 document entitled "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," issued by the Office for Civil Rights (OCR) on March 13, 1997 (1997 guidance). We revised the guidance in limited respects in light of subsequent Supreme Court cases relating to sexual harassment in schools.

The revised guidance reaffirms the compliance standards that OCR applies in investigations and administrative enforcement of Title IX of the Education Amendments of 1972 (Title IX) regarding sexual harassment. The revised guidance re-grounds these standards in the Title IX regulations, distinguishing them from the standards applicable to private litigation for money damages and clarifying their regulatory basis as distinct from Title VII of the Civil Rights Act of 1964 (Title VII) agency law. In most other respects the revised guidance is identical to the 1997 guidance. Thus, we intend the revised guidance to serve the same purpose as the 1997 guidance. It continues to provide the principles that a school[1] should use to recognize and effectively respond to sexual harassment of students in its program as a condition of receiving Federal financial assistance.

Purpose and Scope of the Revised Guidance

In March 1997, we published in the Federal Register "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." 62 FR 12034. We issued the guidance pursuant to our authority under Title IX, and our Title IX implementing regulations, to eliminate discrimination based on sex in education programs and activities receiving Federal financial assistance. It was grounded in longstanding legal authority establishing that sexual harassment of students can be a form of sex discrimination covered by Title IX. The guidance was the product of extensive consultation with interested parties, including students, teachers, school administrators, and researchers. We also made the document available for public comment.

Since the issuance of the 1997 guidance, the Supreme Court (Court) has issued several important decisions in sexual harassment cases, including two decisions specifically addressing sexual harassment of students under Title IX: Gebser v. Lago Vista Independent School District (Gebser), 524 U.S. 274 (1998), and Davis v. Monroe County Board of Education (Davis), 526 U.S. 629 (1999). The Court held in Gebser that a school can be liable for monetary damages if a teacher sexually harasses a student, an

[1] As in the 1997 guidance, the revised guidance uses the term "school" to refer to all schools, colleges, universities, and other educational institutions that receive Federal funds from the Department.

official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment. In Davis, the Court announced that a school also may be liable for monetary damages if one student sexually harasses another student in the school's program and the conditions of Gebser are met.

The Court was explicit in Gebser and Davis that the liability standards established in those cases are limited to private actions for monetary damages. See, e.g., Gebser, 524 U.S. 283, and Davis, 526 U.S. at 639. The Court acknowledged, by contrast, the power of Federal agencies, such as the Department, to "promulgate and enforce requirements that effectuate [Title IX's] nondiscrimination mandate," even in circumstances that would not give rise to a claim for money damages. See, Gebser, 524 U.S. at 292.

In an August 1998 letter to school superintendents and a January 1999 letter to college and university presidents, the Secretary of Education informed school officials that the Gebser decision did not change a school's obligations to take reasonable steps under Title IX and the regulations to prevent and eliminate sexual harassment as a condition of its receipt of Federal funding. The Department also determined that, although in most important respects the substance of the 1997 guidance was reaffirmed in Gebser and Davis, certain areas of the 1997 guidance could be strengthened by further clarification and explanation of the Title IX regulatory basis for the guidance.

On November 2, 2000, we published in the Federal Register a notice requesting comments on the proposed revised guidance (62 FR 66092). A detailed explanation of the Gebser and Davis decisions, and an explanation of the proposed changes in the guidance, can be found in the preamble to the proposed revised guidance. In those decisions and a third opinion, Oncale v. Sundowner Offshore Services, Inc. (Oncale), 523 U.S. 75 (1998) (a sexual harassment case decided under Title VII), the Supreme Court confirmed several fundamental principles we articulated in the 1997 guidance. In these areas, no changes in the guidance were necessary. A notice regarding the availability of this final document appeared in the Federal Register on January 19, 2001.

Enduring Principles from the 1997 Guidance

It continues to be the case that a significant number of students, both male and female, have experienced sexual harassment, which can interfere with a student's academic performance and emotional and physical well-being. Preventing and remedying sexual harassment in schools is essential to ensuring a safe environment in which students can learn. As with the 1997 guidance, the revised guidance applies to students at every level of education. School personnel who understand their obligations under Title IX, e.g., understand that sexual harassment can be sex discrimination in violation of Title IX, are in the best position to prevent harassment and to lessen the harm to students if, despite their best efforts, harassment occurs.

One of the fundamental aims of both the 1997 guidance and the revised guidance has been to emphasize that, in addressing allegations of sexual harassment, the good judgment and common sense of teachers and school administrators are important elements of a response that meets the requirements of Title IX.

A critical issue under Title IX is whether the school recognized that sexual harassment has occurred and took prompt and effective action calculated to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. If harassment has occurred, doing nothing is always the wrong response. However, depending on the circumstances, there may be more than one right way to respond. The important thing is for school employees or officials to pay attention to the school environment and not to hesitate to respond to sexual harassment in the same reasonable, commonsense manner as they would to other types of serious misconduct.

It is also important that schools not overreact to behavior that does not rise to the level of sexual harassment. As the Department stated in the 1997 guidance, a kiss on the cheek by a first grader does not constitute sexual harassment. School personnel should consider the age and maturity of students in responding to allegations of sexual harassment.

Finally, we reiterate the importance of having well- publicized and effective grievance procedures in place to handle complaints of sex discrimination, including sexual harassment complaints. Nondiscrimination policies and procedures are required by the Title IX regulations. In fact, the Supreme Court in Gebser specifically affirmed the Department's authority to enforce this requirement administratively in order to carry out Title IX's nondiscrimination mandate. 524 U.S. at 292. Strong policies and effective grievance procedures are essential to let students and employees know that sexual harassment will not be tolerated and to ensure that they know how to report it.

Analysis of Comments Received Concerning the Proposed Revised Guidance and the Resulting Changes

In response to the Assistant Secretary's invitation to comment, OCR received approximately 11 comments representing approximately 15 organizations and individuals. Commenters provided specific suggestions regarding how the revised guidance could be clarified. Many of these suggested changes have been incorporated. Significant and recurring issues are grouped by subject and discussed in the following sections:

Distinction Between Administrative Enforcement and Private Litigation for Monetary Damages

In Gebser and Davis, the Supreme Court addressed for the first time the appropriate standards for determining when a school district is liable under Title IX for money damages in a private lawsuit brought by or on behalf of a student who has been sexually harassed. As explained in the preamble to the proposed revised guidance, the Court was explicit in Gebser and Davis that the liability standards established in these cases are limited to private actions for monetary damages. See, e.g., Gebser, 524 U.S. at 283, and Davis, 526 U.S. at 639. The Gebser Court recognized and contrasted lawsuits for money damages with the incremental nature of administrative enforcement of Title IX. In Gebser, the Court was concerned with the possibility of a money damages award against a school for harassment about which it had not known. In contrast, the process of administrative enforcement requires enforcement agencies such as OCR to make schools

aware of potential Title IX violations and to seek voluntary corrective action before pursuing fund termination or other enforcement mechanisms.

Commenters uniformly agreed with OCR that the Court limited the liability standards established in Gebser and Davis to private actions for monetary damages. See, e.g., Gebser, 524 U.S. 283, and Davis, 526 U.S. at 639. Commenters also agreed that the administrative enforcement standards reflected in the 1997 guidance remain valid in OCR enforcement actions.[2] Finally, commenters agreed that the proposed revisions provided important clarification to schools regarding the standards that OCR will use and that schools should use to determine compliance with Title IX as a condition of the receipt of Federal financial assistance in light of Gebser and Davis.

Harassment by Teachers and Other School Personnel

Most commenters agreed with OCR's interpretation of its regulations regarding a school's responsibility for harassment of students by teachers and other school employees. These commenters agreed that Title IX's prohibitions against discrimination are not limited to official policies and practices governing school programs and activities. A school also engages in sex-based discrimination if its employees, in the context of carrying out their day-to-day job responsibilities for providing aid, benefits, or services to students (such as teaching, counseling, supervising, and advising students) deny or limit a student's ability to participate in or benefit from the schools program on the basis of sex. Under the Title IX regulations, the school is responsible for discrimination in these cases, whether or not it knew or should have known about it, because the discrimination occurred as part of the school's undertaking to provide nondiscriminatory aid, benefits, and services to students. The revised guidance distinguishes these cases from employee harassment that, although taking place in a school's program, occurs outside of the context of the employee's provision of aid, benefits, and services to students. In these latter cases, the school's responsibilities are not triggered until the school knew or should have known about the harassment.

One commenter expressed concern that it was inappropriate ever to find a school out of compliance for harassment about which it knew nothing. We reiterate that, although a school may in some cases be responsible for harassment caused by an employee that occurred before other responsible employees of the school knew or should have known about it, OCR always provides the school with actual notice and the opportunity to take appropriate corrective action before issuing a finding of violation. This is consistent with the Court's underlying concern in Gebser and Davis.

Most commenters acknowledged that OCR has provided useful factors to determine whether harassing conduct took place "in the context of providing aid, benefits, or services." However, some commenters stated that additional clarity and examples regarding the issue were needed. Commenters also suggested clarifying

---

[2] It is the position of the United States that the standards set out in OCR's guidance for finding a violation and seeking voluntary corrective action also would apply to private actions for injunctive and other equitable relief. See brief of the United States as Amicus Curiae in Davis v. Monroe County.

references to quid pro quo and hostile environment harassment as these two concepts, though useful, do not determine the issue of whether the school itself is considered responsible for the harassment. We agree with these concerns and have made significant revisions to the sections "Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program" and "Harassment by Teachers and Other Employees" to clarify the guidance in these respects.

Gender-based Harassment, Including Harassment Predicated on Sex-stereotyping

Several commenters requested that we expand the discussion and include examples of gender-based harassment predicated on sex stereotyping. Some commenters also argued that gender-based harassment should be considered sexual harassment, and that we have "artificially" restricted the guidance only to harassment in the form of conduct of a sexual nature, thus, implying that gender-based harassment is of less concern and should be evaluated differently.

We have not further expanded this section because, while we are also concerned with the important issue of gender-based harassment, we believe that harassment of a sexual nature raises unique and sufficiently important issues that distinguish it from other types of gender-based harassment and warrants its own guidance.

Nevertheless, we have clarified this section of the guidance in several ways. The guidance clarifies that gender-based harassment, including that predicated on sex-stereotyping, is covered by Title IX if it is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program. Thus, it can be discrimination on the basis of sex to harass a student on the basis of the victim's failure to conform to stereotyped notions of masculinity and femininity. Although this type of harassment is not covered by the guidance, if it is sufficiently serious, gender-based harassment is a school's responsibility, and the same standards generally will apply. We have also added an endnote regarding Supreme Court precedent for the proposition that sex stereotyping can constitute sex discrimination.

Several commenters also suggested that we state that sexual and non-sexual (but gender-based) harassment should not be evaluated separately in determining whether a hostile environment exists. We note that both the proposed revised guidance and the final revised guidance indicate in several places that incidents of sexual harassment and non-sexual, gender-based harassment can be combined to determine whether a hostile environment has been created. We also note that sufficiently serious harassment of a sexual nature remains covered by Title IX, as explained in the guidance, even though the hostile environment may also include taunts based on sexual orientation.

Definition of Harassment

One commenter urged OCR to provide distinct definitions of sexual harassment to be used in administrative enforcement as distinguished from criteria used to maintain private actions for monetary damages. We disagree. First, as discussed in the preamble to the proposed revised guidance, the definition of hostile environment sexual harassment used by the Court in Davis is consistent with the definition found in the proposed guidance. Although the terms used by the Court in Davis are in some ways different from

the words used to define hostile environment harassment in the 1997 guidance (see, e.g., 62 FR 12041, "conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program, or to create a hostile or abusive educational environment"), the definitions are consistent. Both the Court's and the Department's definitions are contextual descriptions intended to capture the same concept -- that under Title IX, the conduct must be sufficiently serious that it adversely affects a student's ability to participate in or benefit from the school's program. In determining whether harassment is actionable, both Davis and the Department tell schools to look at the "constellation of surrounding circumstances, expectations, and relationships" (526 U.S. at 651 (citing Oncale)), and the Davis Court cited approvingly to the underlying core factors described in the 1997 guidance for evaluating the context of the harassment. Second, schools benefit from consistency and simplicity in understanding what is sexual harassment for which the school must take responsive action. A multiplicity of definitions would not serve this purpose.

Several commenters suggested that we develop a unique Title IX definition of harassment that does not rely on Title VII and that takes into account the special relationship of schools to students. Other commenters, by contrast, commended OCR for recognizing that Gebser and Davis did not alter the definition of hostile environment sexual harassment found in OCR's 1997 guidance, which derives from Title VII caselaw, and asked us to strengthen the point. While Gebser and Davis made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the Davis Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX. We also believe that the factors described in both the 1997 guidance and the revised guidance to determine whether sexual harassment has occurred provide the necessary flexibility for taking into consideration the age and maturity of the students involved and the nature of the school environment.

Effective Response

One commenter suggested that the change in the guidance from "appropriate response" to "effective response" implies a change in OCR policy that requires omniscience of schools. We disagree. Effectiveness has always been the measure of an adequate response under Title IX. This does not mean a school must overreact out of fear of being judged inadequate. Effectiveness is measured based on a reasonableness standard. Schools do not have to know beforehand that their response will be effective. However, if their initial steps are ineffective in stopping the harassment, reasonableness may require a series of escalating steps.

The Relationship Between FERPA and Title IX

In the development of both the 1997 guidance and the current revisions to the guidance, commenters raised concerns about the interrelation of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and Title IX. The concerns relate to two issues: (1) the harassed student's right to information about the outcome of a sexual harassment complaint against another student, including information about sanctions imposed on a student found guilty of harassment; and (2) the due process rights of

individuals, including teachers, accused of sexual harassment by a student, to obtain information about the identity of the complainant and the nature of the allegations.

FERPA generally forbids disclosure of information from a student's "education record" without the consent of the student (or the student's parent). Thus, FERPA may be relevant when the person found to have engaged in harassment is another student, because written information about the complaint, investigation, and outcome is part of the harassing student's education record. Title IX is also relevant because it is an important part of taking effective responsive action for the school to inform the harassed student of the results of its investigation and whether it counseled, disciplined, or otherwise sanctioned the harasser. This information can assure the harassed student that the school has taken the student's complaint seriously and has taken steps to eliminate the hostile environment and prevent the harassment from recurring.

The Department currently interprets FERPA as not conflicting with the Title IX requirement that the school notify the harassed student of the outcome of its investigation, i.e., whether or not harassment was found to have occurred, because this information directly relates to the victim. It has been the Department's position that there is a potential conflict between FERPA and Title IX regarding disclosure of sanctions, and that FERPA generally prevents a school from disclosing to a student who complained of harassment information about the sanction or discipline imposed upon a student who was found to have engaged in that harassment.[3]

There is, however, an additional statutory provision that may apply to this situation. In 1994, as part of the Improving America's Schools Act, Congress amended the General Education Provisions Act (GEPA) -- of which FERPA is a part -- to state that nothing in GEPA "shall be construed to affect the applicability of ... title IX of the Education Amendments of 1972...."[4] The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between requirements of FERPA and requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. The Department is in the process of developing a consistent approach and specific factors for implementing this provision. OCR and the Department's Family Policy Compliance Office (FPCO) intend to issue joint guidance, discussing specific areas of potential conflict between FERPA and Title IX.

---

[3] Exceptions include the case of a sanction that directly relates to the person who was harassed (e.g., an order that the harasser stay away from the harassed student), or sanctions related to offenses for which there is a statutory exception, such as crimes of violence or certain sex offenses in postsecondary institutions.

[4] 20 U.S.C. 1221(d). A similar amendment was originally passed in 1974 but applied only to Title VI of the Civil Rights Act of 1964 (prohibiting race discrimination by recipients). The 1994 amendments also extended 20 U.S.C. 1221(d) to Section 504 of the Rehabilitation Act of 1973 (prohibiting disability-based discrimination by recipients) and to the Age Discrimination Act.

FERPA is also relevant when a student accuses a teacher or other employee of sexual harassment, because written information about the allegations is contained in the student's education record. The potential conflict arises because, while FERPA protects the privacy of the student accuser, the accused individual may need the name of the accuser and information regarding the nature of the allegations in order to defend against the charges. The 1997 guidance made clear that neither FERPA nor Title IX override any federally protected due process rights of a school employee accused of sexual harassment.

Several commenters urged the Department to expand and strengthen this discussion. They argue that in many instances a school's failure to provide information about the name of the student accuser and the nature of the allegations seriously undermines the fairness of the investigative and adjudicative process. They also urge the Department to include a discussion of the need for confidentiality as to the identity of the individual accused of harassment because of the significant harm that can be caused by false accusations. We have made several changes to the guidance, including an additional discussion regarding the confidentiality of a person accused of harassment and a new heading entitled "Due Process Rights of the Accused," to address these concerns.

REVISED SEXUAL HARASSMENT GUIDANCE: HARASSMENT OF STUDENTS[1] BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES

Outline of Contents

I. Introduction

II. Sexual Harassment

III. Applicability of Title IX

IV. Title IX Regulatory Compliance Responsibilities

V. Determining a School's Responsibilities

- A. Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program
  - 1. Factors Used to Evaluate Hostile Environment Sexual Harassment
  - 2. Welcomeness
- B. Nature of a School's Responsibility to Address Sexual Harassment
  - 1. Harassment by Teachers and Other Employees
  - 2. Harassment by Other Students or Third Parties
- C. Notice of Employee, Peer, or Third Party Harassment
- D. The Role of Grievance Procedures

VI. OCR Case Resolution

VII. Recipient's Response

- A. Response to Student or Parent Reports of Harassment; Response to Direct Observation of Harassment by a Responsible Employee
- B. Confidentiality
- C. Response to Other Types of Notice

VIII. Prevention

IX. Prompt and Equitable Grievance Procedures

X. Due Process Rights of the Accused

XI. First Amendment

I. Introduction

Title IX of the Education Amendments of 1972 (Title IX) and the Department of Education's (Department) implementing regulations prohibit discrimination on the basis of sex in federally assisted education programs and activities.[2] The Supreme Court, Congress, and Federal executive departments and agencies, including the Department, have recognized that sexual harassment of students can constitute discrimination prohibited by Title IX.[3] This guidance focuses on a school's[4] fundamental compliance responsibilities under Title IX and the Title IX regulations to address sexual harassment of students as a condition of continued receipt of Federal funding. It describes the regulatory basis for a school's compliance responsibilities under Title IX, outlines the circumstances under which sexual harassment may constitute discrimination prohibited by the statute and regulations, and provides information about actions that schools should take to prevent sexual harassment or to address it effectively if it does occur.[5]

II. Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.[6] Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX under the circumstances described in this guidance.

It is important to recognize that Title IX's prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct. For example, a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee will not be considered sexual harassment.[7] Similarly, one student's demonstration of a sports maneuver or technique requiring contact with another student will not be considered sexual harassment. However, in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, a teacher's repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment.

III. Applicability of Title IX

Title IX applies to all public and private educational institutions that receive Federal funds, i.e., recipients, including, but not limited to, elementary and secondary schools, school districts, proprietary schools, colleges, and universities. The guidance uses the terms "recipients" and "schools" interchangeably to refer to all of those institutions. The "education program or activity" of a school includes all of the school's operations.[8] This means that Title IX protects students in connection with all of the academic, educational, extra-curricular, athletic, and other programs of the school,

whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

A student may be sexually harassed by a school employee,[9] another student, or a non-employee third party (e.g., a visiting speaker or visiting athletes). Title IX protects any "person" from sex discrimination. Accordingly, both male and female students are protected from sexual harassment[10] engaged in by a school's employees, other students, or third parties. Moreover, Title IX prohibits sexual harassment regardless of the sex of the harasser, i.e., even if the harasser and the person being harassed are members of the same sex.[11] An example would be a campaign of sexually explicit graffiti directed at a particular girl by other girls.[12]

Although Title IX does not prohibit discrimination on the basis of sexual orientation,[13] sexual harassment directed at gay or lesbian students that is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's program constitutes sexual harassment prohibited by Title IX under the circumstances described in this guidance.[14] For example, if a male student or a group of male students target a gay student for physical sexual advances, serious enough to deny or limit the victim's ability to participate in or benefit from the school's program, the school would need to respond promptly and effectively, as described in this guidance, just as it would if the victim were heterosexual. On the other hand, if students heckle another student with comments based on the student's sexual orientation (e.g., "gay students are not welcome at this table in the cafeteria"), but their actions do not involve conduct of a sexual nature, their actions would not be sexual harassment covered by Title IX.[15]

Though beyond the scope of this guidance, gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping,[16] but not involving conduct of a sexual nature, is also a form of sex discrimination to which a school must respond, if it rises to a level that denies or limits a student's ability to participate in or benefit from the educational program.[17] For example, the repeated sabotaging of female graduate students' laboratory experiments by male students in the class could be the basis of a violation of Title IX. A school must respond to such harassment in accordance with the standards and procedures described in this guidance.[18] In assessing all related circumstances to determine whether a hostile environment exists, incidents of gender-based harassment combined with incidents of sexual harassment could create a hostile environment, even if neither the gender-based harassment alone nor the sexual harassment alone would be sufficient to do so.[19]

IV. Title IX Regulatory Compliance Responsibilities

As a condition of receiving funds from the Department, a school is required to comply with Title IX and the Department's Title IX regulations, which spell out prohibitions against sex discrimination. The law is clear that sexual harassment may constitute sex discrimination under Title IX.[20]

Recipients specifically agree, as a condition for receiving Federal financial assistance from the Department, to comply with Title IX and the Department's Title IX regulations. The regulatory provision requiring this agreement, known as an assurance of

compliance, specifies that recipients must agree that education programs or activities operated by the recipient will be operated in compliance with the Title IX regulations, including taking any action necessary to remedy its discrimination or the effects of its discrimination in its programs.[21]

The regulations set out the basic Title IX responsibilities a recipient undertakes when it accepts Federal financial assistance, including the following specific obligations.[22] A recipient agrees that, in providing any aid, benefit, or service to students, it will not, on the basis of sex—

- Treat one student differently from another in determining whether the student satisfies any requirement or condition for the provision of any aid, benefit, or service;[23]
- Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;[24]
- Deny any student any such aid, benefit, or service;[25]
- Subject students to separate or different rules of behavior, sanctions, or other treatment;[26]
- Aid or perpetuate discrimination against a student by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to students;[27] and
- Otherwise limit any student in the enjoyment of any right, privilege, advantage, or opportunity.[28]

For the purposes of brevity and clarity, this guidance generally summarizes this comprehensive list by referring to a school's obligation to ensure that a student is not denied or limited in the ability to participate in or benefit from the school's program on the basis of sex.

The regulations also specify that, if a recipient discriminates on the basis of sex, the school must take remedial action to overcome the effects of the discrimination.[29]

In addition, the regulations establish procedural requirements that are important for the prevention or correction of sex discrimination, including sexual harassment. These requirements include issuance of a policy against sex discrimination[30] and adoption and publication of grievance procedures providing for prompt and equitable resolution of complaints of sex discrimination.[31] The regulations also require that recipients designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging noncompliance.[32]

To comply with these regulatory requirements, schools need to recognize and respond to sexual harassment of students by teachers and other employees, by other students, and by third parties. This guidance explains how the requirements of the Title IX regulations apply to situations involving sexual harassment of a student and outlines measures that schools should take to ensure compliance.

V. Determining a School's Responsibilities

In assessing sexually harassing conduct, it is important for schools to recognize that two distinct issues are considered. The first issue is whether, considering the types of harassment discussed in the following section, the conduct denies or limits a student's ability to participate in or benefit from the program based on sex. If it does, the second issue is the nature of the school's responsibility to address that conduct. As discussed in a following section, this issue depends in part on the identity of the harasser and the context in which the harassment occurred.

A. Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program

This guidance moves away from specific labels for types of sexual harassment.[33] In each case, the issue is whether the harassment rises to a level that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. However, an understanding of the different types of sexual harassment can help schools determine whether or not harassment has occurred that triggers a school's responsibilities under, or violates, Title IX or its regulations.

The type of harassment traditionally referred to as quid pro quo harassment occurs if a teacher or other employee conditions an educational decision or benefit on the student's submission to unwelcome sexual conduct.[34] Whether the student resists and suffers the threatened harm or submits and avoids the threatened harm, the student has been treated differently, or the student's ability to participate in or benefit from the school's program has been denied or limited, on the basis of sex in violation of the Title IX regulations.[35]

By contrast, sexual harassment can occur that does not explicitly or implicitly condition a decision or benefit on submission to sexual conduct. Harassment of this type is generally referred to as hostile environment harassment.[36] This type of harassing conduct requires a further assessment of whether or not the conduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program based on sex.[37]

Teachers and other employees can engage in either type of harassment. Students and third parties are not generally given responsibility over other students and, thus, generally can only engage in hostile environment harassment.

1. Factors Used to Evaluate Hostile Environment Sexual Harassment

As outlined in the following paragraphs, OCR considers a variety of related factors to determine if a hostile environment has been created, i.e., if sexually harassing conduct by an employee, another student, or a third party is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. OCR considers the conduct from both a subjective[38] and objective[39] perspective. In evaluating the severity and pervasiveness of the conduct, OCR considers all relevant circumstances, i.e., "the constellation of surrounding circumstances, expectations, and relationships."[40] Schools should also use these factors to evaluate conduct in order to draw commonsense distinctions between conduct that constitutes

sexual harassment and conduct that does not rise to that level. Relevant factors include the following:

- The degree to which the conduct affected one or more students' education. OCR assesses the effect of the harassment on the student to determine whether it has denied or limited the student's ability to participate in or benefit from the school's program. For example, a student's grades may go down or the student may be forced to withdraw from school because of the harassing behavior.[41] A student may also suffer physical injuries or mental or emotional distress.[42] In another situation, a student may have been able to keep up his or her grades and continue to attend school even though it was very difficult for him or her to do so because of the teacher's repeated sexual advances. Similarly, a student may be able to remain on a sports team, despite experiencing great difficulty performing at practices and games from the humiliation and anger caused by repeated sexual advances and intimidation by several team members that create a hostile environment. Harassing conduct in these examples would alter a reasonable student's educational environment and adversely affect the student's ability to participate in or benefit from the school's program on the basis of sex.

  A hostile environment can occur even if the harassment is not targeted specifically at the individual complainant.[43] For example, if a student, group of students, or a teacher regularly directs sexual comments toward a particular student, a hostile environment may be created not only for the targeted student, but also for others who witness the conduct.

- The type, frequency, and duration of the conduct. In most cases, a hostile environment will exist if there is a pattern or practice of harassment, or if the harassment is sustained and nontrivial.[44] For instance, if a young woman is taunted by one or more young men about her breasts or genital area or both, OCR may find that a hostile environment has been created, particularly if the conduct has gone on for some time, or takes place throughout the school, or if the taunts are made by a number of students. The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. For instance, if the conduct is more severe, e.g., attempts to grab a female student's breasts or attempts to grab any student's genital area or buttocks, it need not be as persistent to create a hostile environment. Indeed, a single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment.[45] On the other hand, conduct that is not severe will not create a hostile environment, e.g., a comment by one student to another student that she has a nice figure. Indeed, depending on the circumstances, this may not even be conduct of a sexual nature.[46] Similarly, because students date one another, a request for a date or a gift of flowers, even if unwelcome, would not create a hostile environment. However, there may be circumstances in which repeated, unwelcome requests for dates or similar conduct could create a hostile environment. For example, a person, who has been refused previously, may request dates in an intimidating or threatening manner.

- The identity of and relationship between the alleged harasser and the subject or subjects of the harassment. A factor to be considered, especially in cases involving allegations of sexual harassment of a student by a school employee, is the identity of

and relationship between the alleged harasser and the subject or subjects of the harassment. For example, due to the power a professor or teacher has over a student, sexually based conduct by that person toward a student is more likely to create a hostile environment than similar conduct by another student.[47]

- The number of individuals involved. Sexual harassment may be committed by an individual or a group. In some cases, verbal comments or other conduct from one person might not be sufficient to create a hostile environment, but could be if done by a group. Similarly, while harassment can be directed toward an individual or a group,[48] the effect of the conduct toward a group may vary, depending on the type of conduct and the context. For certain types of conduct, there may be "safety in numbers." For example, following an individual student and making sexual taunts to him or her may be very intimidating to that student, but, in certain circumstances, less so to a group of students. On the other hand, persistent unwelcome sexual conduct still may create a hostile environment if directed toward a group.

- The age and sex of the alleged harasser and the subject or subjects of the harassment. For example, in the case of younger students, sexually harassing conduct is more likely to be intimidating if coming from an older student.[49]

- The size of the school, location of the incidents, and context in which they occurred. Depending on the circumstances of a particular case, fewer incidents may have a greater effect at a small college than at a large university campus. Harassing conduct occurring on a school bus may be more intimidating than similar conduct on a school playground because the restricted area makes it impossible for students to avoid their harassers.[50] Harassing conduct in a personal or secluded area, such as a dormitory room or residence hall, can have a greater effect (e.g., be seen as more threatening) than would similar conduct in a more public area. On the other hand, harassing conduct in a public place may be more humiliating. Each incident must be judged individually.

- Other incidents at the school. A series of incidents at the school, not involving the same students, could — taken together — create a hostile environment, even if each by itself would not be sufficient.[51]

- Incidents of gender-based, but nonsexual harassment. Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment.[52]

It is the totality of the circumstances in which the behavior occurs that is critical in determining whether a hostile environment exists. Consequently, in using the factors discussed previously to evaluate incidents of alleged harassment, it is always important to use common sense and reasonable judgement in determining whether a sexually hostile environment has been created.

2. Welcomeness

The section entitled "Sexual Harassment" explains that in order for conduct of a sexual nature to be sexual harassment, it must be unwelcome. Conduct is unwelcome if

the student did not request or invite it and "regarded the conduct as undesirable or offensive."[53] Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.[54] For example, a student may decide not to resist sexual advances of another student or may not file a complaint out of fear. In addition, a student may not object to a pattern of demeaning comments directed at him or her by a group of students out of a concern that objections might cause the harassers to make more comments. The fact that a student may have accepted the conduct does not mean that he or she welcomed it.[55] Also, the fact that a student willingly participated in conduct on one occasion does not prevent him or her from indicating that the same conduct has become unwelcome on a subsequent occasion. On the other hand, if a student actively participates in sexual banter and discussions and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome.[56]

If younger children are involved, it may be necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. Accordingly, OCR will consider the age of the student, the nature of the conduct involved, and other relevant factors in determining whether a student had the capacity to welcome sexual conduct.

Schools should be particularly concerned about the issue of welcomeness if the harasser is in a position of authority. For instance, because students may be encouraged to believe that a teacher has absolute authority over the operation of his or her classroom, a student may not object to a teacher's sexually harassing comments during class; however, this does not necessarily mean that the conduct was welcome. Instead, the student may believe that any objections would be ineffective in stopping the harassment or may fear that by making objections he or she will be singled out for harassing comments or other retaliation.

In addition, OCR must consider particular issues of welcomeness if the alleged harassment relates to alleged "consensual" sexual relationships between a school's adult employees and its students. If elementary students are involved, welcomeness will not be an issue: OCR will never view sexual conduct between an adult school employee and an elementary school student as consensual. In cases involving secondary students, there will be a strong presumption that sexual conduct between an adult school employee and a student is not consensual. In cases involving older secondary students, subject to the presumption,[57] OCR will consider a number of factors in determining whether a school employee's sexual advances or other sexual conduct could be considered welcome.[58] In addition, OCR will consider these factors in all cases involving postsecondary students in making those determinations.[59] The factors include the following:

- The nature of the conduct and the relationship of the school employee to the student, including the degree of influence (which could, at least in part, be affected by the student's age), authority, or control the employee has over the student.
- Whether the student was legally or practically unable to consent to the sexual conduct in question. For example, a student's age could affect his or her ability to do so. Similarly, certain types of disabilities could affect a student's ability to do so.

If there is a dispute about whether harassment occurred or whether it was welcome — in a case in which it is appropriate to consider whether the conduct would be welcome — determinations should be made based on the totality of the circumstances. The following types of information may be helpful in resolving the dispute:

- Statements by any witnesses to the alleged incident.
- Evidence about the relative credibility of the allegedly harassed student and the alleged harasser. For example, the level of detail and consistency of each person's account should be compared in an attempt to determine who is telling the truth. Another way to assess credibility is to see if corroborative evidence is lacking where it should logically exist. However, the absence of witnesses may indicate only the unwillingness of others to step forward, perhaps due to fear of the harasser or a desire not to get involved.
- Evidence that the alleged harasser has been found to have harassed others may support the credibility of the student claiming the harassment; conversely, the student's claim will be weakened if he or she has been found to have made false allegations against other individuals.
- Evidence of the allegedly harassed student's reaction or behavior after the alleged harassment. For example, were there witnesses who saw the student immediately after the alleged incident who say that the student appeared to be upset? However, it is important to note that some students may respond to harassment in ways that do not manifest themselves right away, but may surface several days or weeks after the harassment. For example, a student may initially show no signs of having been harassed, but several weeks after the harassment, there may be significant changes in the student's behavior, including difficulty concentrating on academic work, symptoms of depression, and a desire to avoid certain individuals and places at school.
- Evidence about whether the student claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred. However, failure to immediately complain may merely reflect a fear of retaliation or a fear that the complainant may not be believed rather than that the alleged harassment did not occur.
- Other contemporaneous evidence. For example, did the student claiming harassment write about the conduct and his or her reaction to it soon after it occurred (e.g., in a diary or letter)? Did the student tell others (friends, parents) about the conduct (and his or her reaction to it) soon after it occurred?

B. Nature of the School's Responsibility to Address Sexual Harassment

A school has a responsibility to respond promptly and effectively to sexual harassment. In the case of harassment by teachers or other employees, the nature of this responsibility depends in part on whether the harassment occurred in the context of the employee's provision of aid, benefits, or services to students.

1. Harassment by Teachers and Other Employees

Sexual harassment of a student by a teacher or other school employee can be discrimination in violation of Title IX.[60] Schools are responsible for taking prompt and effective action to stop the harassment and prevent its recurrence. A school also may be responsible for remedying the effects of the harassment on the student who was harassed. The extent of a recipient's responsibilities if an employee sexually harasses a student is determined by whether or not the harassment occurred in the context of the employee's provision of aid, benefits, or services to students.

A recipient is responsible under the Title IX regulations for the nondiscriminatory provision of aid, benefits, and services to students. Recipients generally provide aid, benefits, and services to students through the responsibilities they give to employees. If an employee who is acting (or who reasonably appears to be acting) in the context of carrying out these responsibilities over students engages in sexual harassment – generally this means harassment that is carried out during an employee's performance of his or her responsibilities in relation to students, including teaching, counseling, supervising, advising, and transporting students – and the harassment denies or limits a student's ability to participate in or benefit from a school program on the basis of sex,[61] the recipient is responsible for the discriminatory conduct.[62] The recipient is, therefore, also responsible for remedying any effects of the harassment on the victim, as well as for ending the harassment and preventing its recurrence. This is true whether or not the recipient has "notice" of the harassment. (As explained in the section on "Notice of Employee, Peer, or Third Party Harassment," for purposes of this guidance, a school has notice of harassment if a responsible school employee actually knew or, in the exercise of reasonable care, should have known about the harassment.) Of course, under OCR's administrative enforcement, recipients always receive actual notice and the opportunity to take appropriate corrective action before any finding of violation or possible loss of federal funds.

Whether or not sexual harassment of a student occurred within the context of an employee's responsibilities for providing aid, benefits, or services is determined on a case-by-case basis, taking into account a variety of factors. If an employee conditions the provision of an aid, benefit, or service that the employee is responsible for providing on a student's submission to sexual conduct, i.e., conduct traditionally referred to as quid pro quo harassment, the harassment is clearly taking place in the context of the employee's responsibilities to provide aid, benefits, or services. In other situations, i.e., when an employee has created a hostile environment, OCR will consider the following factors in determining whether or not the harassment has taken place in this context, including:

- The type and degree of responsibility given to the employee, including both formal and informal authority, to provide aids, benefits, or services to students, to direct and control student conduct, or to discipline students generally;
- the degree of influence the employee has over the particular student involved, including in the circumstances in which the harassment took place;
- where and when the harassment occurred;
- the age and educational level of the student involved; and

- as applicable, whether, in light of the student's age and educational level and the way the school is run, it would be reasonable for the student to believe that the employee was in a position of responsibility over the student, even if the employee was not.

These factors are applicable to all recipient educational institutions, including elementary and secondary schools, colleges, and universities. Elementary and secondary schools, however, are typically run in a way that gives teachers, school officials, and other school employees a substantial degree of supervision, control, and disciplinary authority over the conduct of students.[63] Therefore, in cases involving allegations of harassment of elementary and secondary school-age students by a teacher or school administrator during any school activity,[64] consideration of these factors will generally lead to a conclusion that the harassment occurred in the context of the employee's provision of aid, benefits, or services.

For example, a teacher sexually harasses an eighth- grade student in a school hallway. Even if the student is not in any of the teacher's classes and even if the teacher is not designated as a hall monitor, given the age and educational level of the student and the status and degree of influence of teachers in elementary and secondary schools, it would be reasonable for the student to believe that the teacher had at least informal disciplinary authority over students in the hallways. Thus, OCR would consider this an example of conduct that is occurring in the context of the employee's responsibilities to provide aid, benefits, or services.

Other examples of sexual harassment of a student occurring in the context of an employee's responsibilities for providing aid, benefits, or services include, but are not limited to -- a faculty member at a university's medical school conditions an intern's evaluation on submission to his sexual advances and then gives her a poor evaluation for rejecting the advances; a high school drama instructor does not give a student a part in a play because she has not responded to sexual overtures from the instructor; a faculty member withdraws approval of research funds for her assistant because he has rebuffed her advances; a journalism professor who supervises a college newspaper continually and inappropriately touches a student editor in a sexual manner, causing the student to resign from the newspaper staff; and a teacher repeatedly asks a ninth grade student to stay after class and attempts to engage her in discussions about sex and her personal experiences while they are alone in the classroom, causing the student to stop coming to class. In each of these cases, the school is responsible for the discriminatory conduct, including taking prompt and effective action to end the harassment, prevent it from recurring, and remedy the effects of the harassment on the victim.

Sometimes harassment of a student by an employee in the school's program does not take place in the context of the employee's provision of aid, benefits, or services, but nevertheless is sufficiently serious to create a hostile educational environment. An example of this conduct might occur if a faculty member in the history department at a university, over the course of several weeks, repeatedly touches and makes sexually suggestive remarks to a graduate engineering student while waiting at a stop for the university shuttle bus, riding on the bus, and upon exiting the bus. As a result, the student stops using the campus shuttle and walks the very long distances between her classes. In this case, the school is not directly responsible for the harassing conduct because it did not occur in the context of the employee's responsibilities for the provision

of aid, benefits, or services to students. However, the conduct is sufficiently serious to deny or limit the student in her ability to participate in or benefit from the recipient's program. Thus, the school has a duty, upon notice of the harassment,[65] to take prompt and effective action to stop the harassment and prevent its recurrence.

If the school takes these steps, it has avoided violating Title IX. If the school fails to take the necessary steps, however, its failure to act has allowed the student to continue to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program. The school, therefore, has engaged in its own discrimination. It then becomes responsible, not just for stopping the conduct and preventing it from happening again, but for remedying the effects of the harassment on the student that could reasonably have been prevented if the school had responded promptly and effectively. (For related issues, see the sections on "OCR Case Resolution" and "Recipient's Response.")

2. Harassment by Other Students or Third Parties

If a student sexually harasses another student and the harassing conduct is sufficiently serious to deny or limit the student's ability to participate in or benefit from the program, and if the school knows or reasonably should know[66] about the harassment, the school is responsible for taking immediate effective action to eliminate the hostile environment and prevent its recurrence.[67] As long as the school, upon notice of the harassment, responds by taking prompt and effective action to end the harassment and prevent its recurrence, the school has carried out its responsibility under the Title IX regulations. On the other hand, if, upon notice, the school fails to take prompt, effective action, the school's own inaction has permitted the student to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program on the basis of sex.[68] In this case, the school is responsible for taking effective corrective actions to stop the harassment, prevent its recurrence, and remedy the effects on the victim that could reasonably have been prevented had it responded promptly and effectively.

Similarly, sexually harassing conduct by third parties, who are not themselves employees or students at the school (e.g., a visiting speaker or members of a visiting athletic team), may also be of a sufficiently serious nature to deny or limit a student's ability to participate in or benefit from the education program. As previously outlined in connection with peer harassment, if the school knows or should know[69] of the harassment, the school is responsible for taking prompt and effective action to eliminate the hostile environment and prevent its recurrence.

The type of appropriate steps that the school should take will differ depending on the level of control that the school has over the third party harasser.[70] For example, if athletes from a visiting team harass the home school's students, the home school may not be able to discipline the athletes. However, it could encourage the other school to take appropriate action to prevent further incidents; if necessary, the home school may choose not to invite the other school back. (This issue is discussed more fully in the section on "Recipient's Response.")

If, upon notice, the school fails to take prompt and effective corrective action, its own failure has permitted the student to be subjected to a hostile environment that limits

the student's ability to participate in or benefit from the education program.[71] In this case, the school is responsible for taking corrective actions to stop the harassment, prevent its recurrence, and remedy the effects on the victim that could reasonably have been prevented had the school responded promptly and effectively.

C. Notice of Employee, Peer, or Third Party Harassment

As described in the section on "Harassment by Teachers and Other Employees," schools may be responsible for certain types of employee harassment that occurred before the school otherwise had notice of the harassment. On the other hand, as described in that section and the section on "Harassment by Other Students or Third Parties," in situations involving certain other types of employee harassment, or harassment by peers or third parties, a school will be in violation of the Title IX regulations if the school "has notice" of a sexually hostile environment and fails to take immediate and effective corrective action.[72]

A school has notice if a responsible employee "knew, or in the exercise of reasonable care should have known," about the harassment.[73] A responsible employee would include any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility.[74] Accordingly, schools need to ensure that employees are trained so that those with authority to address harassment know how to respond appropriately, and other responsible employees know that they are obligated to report harassment to appropriate school officials. Training for employees should include practical information about how to identify harassment and, as applicable, the person to whom it should be reported.

A school can receive notice of harassment in many different ways. A student may have filed a grievance with the Title IX coordinator[75] or complained to a teacher or other responsible employee about fellow students harassing him or her. A student, parent, or other individual may have contacted other appropriate personnel, such as a principal, campus security, bus driver, teacher, affirmative action officer, or staff in the office of student affairs. A teacher or other responsible employee of the school may have witnessed the harassment. The school may receive notice about harassment in an indirect manner, from sources such as a member of the school staff, a member of the educational or local community, or the media. The school also may have learned about the harassment from flyers about the incident distributed at the school or posted around the school. For the purposes of compliance with the Title IX regulations, a school has a duty to respond to harassment about which it reasonably should have known, i.e., if it would have learned of the harassment if it had exercised reasonable care or made a "reasonably diligent inquiry."[76]

For example, in some situations if the school knows of incidents of harassment, the exercise of reasonable care should trigger an investigation that would lead to a discovery of additional incidents.[77] In other cases, the pervasiveness of the harassment may be enough to conclude that the school should have known of the hostile environment — if the harassment is widespread, openly practiced, or well-known to students and staff

(such as sexual harassment occurring in the hallways, graffiti in public areas, or harassment occurring during recess under a teacher's supervision.)[78]

If a school otherwise knows or reasonably should know of a hostile environment and fails to take prompt and effective corrective action, a school has violated Title IX even if the student has failed to use the school's existing grievance procedures or otherwise inform the school of the harassment.

D. The Role of Grievance Procedures

Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination.[79] (These issues are discussed in the section on "Prompt and Equitable Grievance Procedures.") These procedures provide a school with a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems, as required by the Title IX regulations. By having a strong policy against sex discrimination and accessible, effective, and fairly applied grievance procedures, a school is telling its students that it does not tolerate sexual harassment and that students can report it without fear of adverse consequences.

Without a disseminated policy and procedure, a student does not know either of the school's policy against and obligation to address this form of discrimination, or how to report harassment so that it can be remedied. If the alleged harassment is sufficiently serious to create a hostile environment and it is the school's failure to comply with the procedural requirements of the Title IX regulations that hampers early notification and intervention and permits sexual harassment to deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex,[80] the school will be responsible under the Title IX regulations, once informed of the harassment, to take corrective action, including stopping the harassment, preventing its recurrence, and remedying the effects of the harassment on the victim that could reasonably have been prevented if the school's failure to comply with the procedural requirements had not hampered early notification.

VI. OCR Case Resolution

If OCR is asked to investigate or otherwise resolve incidents of sexual harassment of students, including incidents caused by employees, other students, or third parties, OCR will consider whether — (1) the school has a disseminated policy prohibiting sex discrimination under Title IX[81] and effective grievance procedures;[82] (2) the school appropriately investigated or otherwise responded to allegations of sexual harassment;[83] and (3) the school has taken immediate and effective corrective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.[84] (Issues related to appropriate investigative and corrective actions are discussed in detail in the section on "Recipient's Response.")

If the school has taken, or agrees to take, each of these steps, OCR will consider the case against the school resolved and will take no further action, other than monitoring compliance with an agreement, if any, between the school and OCR. This is true in cases

in which the school was in violation of the Title IX regulations (e.g., a teacher sexually harassed a student in the context ofproviding aid, benefits, or services to students), as well as those in which there has been no violation of the regulations (e.g., in a peer sexual harassment situation in which the school took immediate, reasonable steps to end the harassment and prevent its recurrence). This is because, even if OCR identifies a violation, Title IX requires OCR to attempt to secure voluntary compliance.[85] Thus, because a school will have the opportunity to take reasonable corrective action before OCR issues a formal finding of violation, a school does not risk losing its Federal funding solely because discrimination occurred.

VII. Recipient's Response

Once a school has notice of possible sexual harassment of students — whether carried out by employees, other students, or third parties — it should take immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps

reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. These steps are the school's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action.[86] As described in the next section, in appropriate circumstances the school will also be responsible for taking steps to remedy the effects of the harassment on the individual student or students who were harassed. What constitutes a reasonable response to information about possible sexual harassment will differ depending upon the circumstances.

A. Response to Student or Parent Reports of Harassment; Response to Direct Observation of Harassment by a Responsible Employee

If a student or the parent of an elementary or secondary student provides information or complains about sexual harassment of the student, the school should initially discuss what actions the student or parent is seeking in response to the harassment. The school should explain the avenues for informal and formal action, including a description of the grievance procedure that is available for sexual harassment complaints and an explanation of how the procedure works. If a responsible school employee has directly observed sexual harassment of a student, the school should contact the student who was harassed (or the parent, depending upon the age of the student),[87] explain that the school is responsible for taking steps to correct the harassment, and provide the same information described in the previous sentence.

Regardless of whether the student who was harassed, or his or her parent, decides to file a formal complaint or otherwise request action on the student's behalf (including in cases involving direct observation by a responsible employee), the school must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. The specific steps in an investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. However, in all cases the inquiry must be prompt, thorough, and impartial. (Requests by the student who

was harassed for confidentiality or for no action to be taken, responding to notice of harassment from other sources, and the components of a prompt and equitable grievance procedure are discussed in subsequent sections of this guidance.)

It may be appropriate for a school to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to place the students immediately in separate classes or in different housing arrangements on a campus, pending the results of the school's investigation. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate. In cases involving potential criminal conduct, school personnel should determine whether appropriate law enforcement authorities should be notified. In all cases, schools should make every effort to prevent disclosure of the names of all parties involved -- the complainant, the witnesses, and the accused -- except to the extent necessary to carry out an investigation.

If a school determines that sexual harassment has occurred, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation.[88] Appropriate steps should be taken to end the harassment. For example, school personnel may need to counsel, warn, or take disciplinary action against the harasser, based on the severity of the harassment or any record of prior incidents or both.[89] A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.[90] In some cases, it may be appropriate to further separate the harassed student and the harasser, e.g., by changing housing arrangements[91] or directing the harasser to have no further contact with the harassed student. Responsive measures of this type should be designed to minimize, as much as possible, the burden on the student who was harassed. If the alleged harasser is not a student or employee of the recipient, OCR will consider the level of control the school has over the harasser in determining what response would be appropriate.[92]

Steps should also be taken to eliminate any hostile environment that has been created. For example, if a female student has been subjected to harassment by a group of other students in a class, the school may need to deliver special training or other interventions for that class to repair the educational environment. If the school offers the student the option of withdrawing from a class in which a hostile environment occurred, the school should assist the student in making program or schedule changes and ensure that none of the changes adversely affect the student's academic record. Other measures may include, if appropriate, directing a harasser to apologize to the harassed student. If a hostile environment has affected an entire school or campus, an effective response may need to include dissemination of information, the issuance of new policy statements, or other steps that are designed to clearly communicate the message that the school does not tolerate harassment and will be responsive to any student who reports that conduct.

In some situations, a school may be required to provide other services to the student who was harassed if necessary to address the effects of the harassment on that student.[93] For example, if an instructor gives a student a low grade because the student failed to respond to his sexual advances, the school may be required to make arrangements for an independent reassessment of the student's work, if feasible, and change the grade accordingly; make arrangements for the student to take the course again

with a different instructor; provide tutoring; make tuition adjustments; offer reimbursement for professional counseling; or take other measures that are appropriate to the circumstances. As another example, if a school delays responding or responds inappropriately to information about harassment, such as a case in which the school ignores complaints by a student that he or she is being sexually harassed by a classmate, the school will be required to remedy the effects of the harassment that could have been prevented had the school responded promptly and effectively.

Finally, a school should take steps to prevent any further harassment[94] and to prevent any retaliation against the student who made the complaint (or was the subject of the harassment), against the person who filed a complaint on behalf of a student, or against those who provided information as witnesses.[95] At a minimum, this includes making sure that the harassed students and their parents know how to report any subsequent problems and making follow-up inquiries to see if there have been any new incidents or any retaliation. To prevent recurrences, counseling for the harasser may be appropriate to ensure that he or she understands what constitutes harassment and the effects it can have. In addition, depending on how widespread the harassment was and whether there have been any prior incidents, the school may need to provide training for the larger school community to ensure that students, parents, and teachers can recognize harassment if it recurs and know how to respond.[96]

B. Confidentiality

The scope of a reasonable response also may depend upon whether a student, or parent of a minor student, reporting harassment asks that the student's name not be disclosed to the harasser or that nothing be done about the alleged harassment. In all cases, a school should discuss confidentiality standards and concerns with the complainant initially. The school should inform the student that a confidentiality request may limit the school's ability to respond. The school also should tell the student that Title IX prohibits retaliation and that, if he or she is afraid of reprisals from the alleged harasser, the school will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs. If the student continues to ask that his or her name not be revealed, the school should take all reasonable steps to investigate and respond to the complaint consistent with the student's request as long as doing so does not prevent the school from responding effectively to the harassment and preventing harassment of other students.

OCR enforces Title IX consistent with the federally protected due process rights of public school students and employees. Thus, for example, if a student, who was the only student harassed, insists that his or her name not be revealed, and the alleged harasser could not respond to the charges of sexual harassment without that information, in evaluating the school's response, OCR would not expect disciplinary action against an alleged harasser.

At the same time, a school should evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The factors that a school may consider in this regard include the seriousness of the alleged harassment, the age of the student harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the

accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result.[97]

Similarly, a school should be aware of the confidentiality concerns of an accused employee or student. Publicized accusations of sexual harassment, if ultimately found to be false, may nevertheless irreparably damage the reputation of the accused. The accused individual's need for confidentiality must, of course, also be evaluated based on the factors discussed in the preceding paragraph in the context of the school's responsibility to ensure a safe environment for students.

Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual complaint of harassment, other means may be available to address the harassment. There are steps a recipient can take to limit the effects of the alleged harassment and prevent its recurrence without initiating formal action against the alleged harasser or revealing the identity of the complainant. Examples include conducting sexual harassment training for the school site or academic department where the problem occurred, taking a student survey concerning any problems with harassment, or implementing other systemic measures at the site or department where the alleged harassment has occurred.

In addition, by investigating the complaint to the extent possible — including by reporting it to the Title IX coordinator or other responsible school employee designated pursuant to Title IX — the school may learn about or be able to confirm a pattern of harassment based on claims by different students that they were harassed by the same individual. In some situations there may be prior reports by former students who now might be willing to come forward and be identified, thus providing a basis for further corrective action. In instances affecting a number of students (for example, a report from a student that an instructor has repeatedly made sexually explicit remarks about his or her personal life in front of an entire class), an individual can be put on notice of allegations of harassing behavior and counseled appropriately without revealing, even indirectly, the identity of the student who notified the school. Those steps can be very effective in preventing further harassment.

C. Response to Other Types of Notice

The previous two sections deal with situations in which a student or parent of a student who was harassed reports or complains of harassment or in which a responsible school employee directly observes sexual harassment of a student. If a school learns of harassment through other means, for example, if information about harassment is received from a third party (such as from a witness to an incident or an anonymous letter or telephone call), different factors will affect the school's response. These factors include the source and nature of the information; the seriousness of the alleged incident; the specificity of the information; the objectivity and credibility of the source of the report; whether any individuals can be identified who were subjected to the alleged harassment; and whether those individuals want to pursue the matter. If, based on these factors, it is reasonable for the school to investigate and it can confirm the allegations, the considerations described in the previous sections concerning interim measures and appropriate responsive action will apply.

For example, if a parent visiting a school observes a student repeatedly harassing a group of female students and reports this to school officials, school personnel can speak with the female students to confirm whether that conduct has occurred and whether they view it as unwelcome. If the school determines that the conduct created a hostile environment, it can take reasonable, age-appropriate steps to address the situation. If on the other hand, the students in this example were to ask that their names not be disclosed or indicate that they do not want to pursue the matter, the considerations described in the previous section related to requests for confidentiality will shape the school's response.

In a contrasting example, a student newspaper at a large university may print an anonymous letter claiming that a professor is sexually harassing students in class on a daily basis, but the letter provides no clue as to the identity of the professor or the department in which the conduct is allegedly taking place. Due to the anonymous source and lack of specificity of the information, a school would not reasonably be able to investigate and confirm these allegations. However, in response to the anonymous letter, the school could submit a letter or article to the newspaper reiterating its policy against sexual harassment, encouraging persons who believe that they have been sexually harassed to come forward, and explaining how its grievance procedures work.

VIII. Prevention

A policy specifically prohibiting sexual harassment and separate grievance procedures for violations of that policy can help ensure that all students and employees understand the nature of sexual harassment and that the school will not tolerate it. Indeed, they might even bring conduct of a sexual nature to the school's attention so that the school can address it before it becomes sufficiently serious as to create a hostile environment. Further, training for administrators, teachers, and staff and age-appropriate classroom information for students can help to ensure that they understand what types of conduct can cause sexual harassment and that they know how to respond.

IX. Prompt and Equitable Grievance Procedures

Schools are required by the Title IX regulations to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex.[98] Accordingly, regardless of whether harassment occurred, a school violates this requirement of the Title IX regulations if it does not have those procedures and policy in place.[99]

A school's sex discrimination grievance procedures must apply to complaints of sex discrimination in the school's education programs and activities filed by students against school employees, other students, or third parties.[100] Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment. Thus, if, because of the lack of a policy or procedure specifically addressing sexual harassment, students are unaware of what kind of conduct constitutes sexual harassment or that such conduct is

prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination complaints will not be considered effective.[101]

OCR has identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable, including whether the procedures provide for —

- Notice to students, parents of elementary and secondary students, and employees of the procedure, including where complaints may be filed;
- Application of the procedure to comp laints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- Designated and reasonably prompt timeframes for the major stages of the complaint process;
- Notice to the parties of the outcome of the complaint;[102] and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.[103]

Many schools also provide an opportunity to appeal the findings or remedy, or both. In addition, because retaliation is prohibited by Title IX, schools may want to include a provision in their procedures prohibiting retaliation against any individual who files a complaint or participates in a harassment inquiry.

Procedures adopted by schools will vary considerably in detail, specificity, and components, reflecting differences in audiences, school sizes and administrative structures, State or local legal requirements, and past experience. In addition, whether complaint resolutions are timely will vary depending on the complexity of the investigation and the severity and extent of the harassment. During the investigation it is a good practice for schools to inform students who have alleged harassment about the status of the investigation on a periodic basis.

A grievance procedure applicable to sexual harassment complaints cannot be prompt or equitable unless students know it exists, how it works, and how to file a complaint. Thus, the procedures should be written in language appropriate to the age of the school's students, easily understood, and widely disseminated. Distributing the procedures to administrators, or including them in the school's administrative or policy manual, may not by itself be an effective way of providing notice, as these publications are usually not widely circulated to and understood by all members of the school community. Many schools ensure adequate notice to students by having copies of the procedures available at various locations throughout the school or campus; publishing the procedures as a separate document; including a summary of the procedures in major publications issued by the school, such as handbooks and catalogs for students, parents of elementary and secondary students, faculty, and staff; and identifying individuals who can explain how the procedures work.

A school must designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities.[104] The school must notify all of its students and employees of the name, office address, and telephone number of the employee or employees designated.[105] Because it is possible that an employee designated to handle Title IX complaints may himself or herself engage in harassment, a school may want to designate more than one employee to be responsible for handling complaints in order to ensure that students have an effective means of reporting harassment.[106] While a school may choose to have a number of employees responsible for Title IX matters, it is also advisable to give one official responsibility for overall coordination and oversight of all sexual harassment complaints to ensure consistent practices and standards in handling complaints. Coordination of recordkeeping (for instance, in a confidential log maintained by the Title IX coordinator) will also ensure that the school can and will resolve recurring problems and identify students or employees who have multiple complaints filed against them.[107] Finally, the school must make sure that all designated employees have adequate training as to what conduct constitutes sexual harassment and are able to explain how the grievance procedure operates.[108]

Grievance procedures may include informal mechanisms for resolving sexual harassment complaints to be used if the parties agree to do so.[109] OCR has frequently advised schools, however, that it is not appropriate for a student who is complaining of harassment to be required to work out the problem directly with the individual alleged to be harassing him or her, and certainly not without appropriate involvement by the school (e.g., participation by a counselor, trained mediator, or, if appropriate, a teacher or administrator). In addition, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In some cases, such as alleged sexual assaults, mediation will not be appropriate even on a voluntary basis. Title IX also permits the use of a student disciplinary procedure not designed specifically for Title IX grievances to resolve sex discrimination complaints, as long as the procedure meets the requirement of affording a complainant a "prompt and equitable" resolution of the complaint.

In some instances, a complainant may allege harassing conduct that constitutes both sex discrimination and possible criminal conduct. Police investigations or reports may be useful in terms of fact gathering. However, because legal standards for criminal investigations are different, police investigations or reports may not be determinative of whether harassment occurred under Title IX and do not relieve the school of its duty to respond promptly and effectively.[110] Similarly, schools are cautioned about using the results of insurance company investigations of sexual harassment allegations. The purpose of an insurance investigation is to assess liability under the insurance policy, and the applicable standards may well be different from those under Title IX. In addition, a school is not relieved of its responsibility to respond to a sexual harassment complaint filed under its grievance procedure by the fact that a complaint has been filed with OCR.[111]

X. Due Process Rights of the Accused

A public school's employees have certain due process rights under the United States Constitution. The Constitution also guarantees due process to students in public and State-supported schools who are accused of certain types of infractions. The rights established under Title IX must be interpreted consistent with any federally guaranteed due process rights involved in a complaint proceeding. Furthermore, the Family Educational Rights and Privacy Act (FERPA) does not override federally protected due process rights of persons accused of sexual harassment. Procedures that ensure the Title IX rights of the complainant, while at the same time according due process to both parties involved, will lead to sound and supportable decisions. Of course, schools should ensure that steps to accord due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant. In both public and private schools, additional or separate rights may be created for employees or students by State law, institutional regulations and policies, such as faculty or student handbooks, and collective bargaining agreements. Schools should be aware of these rights and their legal responsibilities to individuals accused of harassment.

XI. First Amendment

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved.[112] Free speech rights apply in the classroom (e.g., classroom lectures and discussions)[113] and in all other education programs and activities of public schools (e.g., public meetings and speakers on campus; campus debates, school plays and other cultural events[114]; and student newspapers, journals, and other publications[115]). In addition, First Amendment rights apply to the speech of students and teachers.[116]

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX.[117] In order to establish a violation of Title IX, the harassment must be sufficiently serious to deny or limit a student's ability to participate in or benefit from the education program.[118]

Moreover, in regulating the conduct of its students and its faculty to prevent or redress discrimination prohibited by Title IX (e.g., in responding to harassment that is sufficiently serious as to create a hostile environment), a school must formulate, interpret, and apply its rules so as to protect academic freedom and free speech rights. For instance, while the First Amendment may prohibit a school from restricting the right of students to express opinions about one sex that may be considered derogatory, the school can take steps to denounce those opinions and ensure that competing views are heard. The age of the students involved and the location or forum may affect how the school can respond consistently with the First Amendment.[119] As an example of the application of free speech rights to allegations of sexual harassment, consider the following:

Example 1: In a college level creative writing class, a professor's required reading list includes excerpts from literary classics that contain descriptions of explicit

sexual conduct, including scenes that depict women in submissive and demeaning roles. The professor also assigns students to write their own materials, which are read in class. Some of the student essays contain sexually derogatory themes about women. Several female students complain to the Dean of Students that the materials and related classroom discussion have created a sexually hostile environment for women in the class. What must the school do in response?

Answer: Academic discourse in this example is protected by the First Amendment even if it is offensive to individuals. Thus, Title IX would not require the school to discipline the professor or to censor the reading list or related class discussion.

Example 2: A group of male students repeatedly targets a female student for harassment during the bus ride home from school, including making explicit sexual comments about her body, passing around drawings that depict her engaging in sexual conduct, and, on several occasions, attempting to follow her home off the bus. The female student and her parents complain to the principal that the male students' conduct has created a hostile environment for girls on the bus and that they fear for their daughter's safety. What must a school do in response?

Answer: Threatening and intimidating actions targeted at a particular student or group of students, even though they contain elements of speech, are not protected by the First Amendment. The school must take prompt and effective actions, including disciplinary action if necessary, to stop the harassment and prevent future harassment.

Endnotes

[1] This guidance does not address sexual harassment of employees, although that conduct may be prohibited by Title IX. 20 U.S.C. 1681 et seq.; 34 CFR part 106, subpart E. If employees file Title IX sexual harassment complaints with OCR, the complaints will be processed pursuant to the Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance. 28 CFR 42.604. Employees are also protected from discrimination on the basis of sex, including sexual harassment, by Title VII of the Civil Rights Act of 1964. For information about Title VII and sexual harassment, see the Equal Employment Opportunity Commission's (EEOC's) Guidelines on Sexual Harassment, 29 CFR 1604.11, for information about filing a Title VII charge with the EEOC, see 29 CFR 1601.7–1607.13, or see the EEOC's website at www.eeoc.gov.

[2] 20 U.S.C. 1681; 34 CFR part 106.

[3] See, e.g., Davis v. Monroe County Bd. of Educ., 526 U.S. 629, 649-50 (1999); Gebser v. Lago Vista Ind. Sch. Dist., 524 U.S. 274, 281 (1998); Franklin v. Gwinnett County Pub. Sch., 503 U.S. 60, 75 (1992); S. REP. NO. 100-64, 100th Cong., 1st Sess. 14 (1987); Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (1997 guidance), 62 FR 12034 (1997).

[4] As described in the section on "Applicability," this guidance applies to all levels of education.

[5] For practical information about steps that schools can take to prevent and remedy all types of harassment, including sexual harassment, see "Protecting Students from Harassment and Hate Crime, A Guide for Schools," which we issued jointly with the National Association of Attorneys General. This Guide is available at our web site at: www.ed.gov/pubs/Harassment.

[6] See, e.g., Davis, 526 U.S. at 653 (alleged conduct of a sexual nature that would support a sexual harassment claim included verbal harassment and "numerous acts of objectively offensive touching;" Franklin, 503 U.S. at 63 (conduct of a sexual nature found to support a sexual harassment claim under Title IX included kissing, sexual intercourse); Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 60-61 (1986) (demands for sexual favors, sexual advances, fondling, indecent exposure, sexual intercourse, rape, sufficient to raise hostile environment claim under Title VII); Ellison v. Brady, 924 F.2d 872, 873-74, 880 (9th Cir. 1991) (allegations sufficient to state sexual harassment claim under Title VII included repeated requests for dates, letters making explicit references to sex and describing the harasser's feelings for plaintiff); Lipsett v. University of Puerto Rico, 864 F.2d 881, 904-5 (1st Cir. 1988) (sexually derogatory comments, posting of sexually explicit drawing of plaintiff, sexual advances may support sexual harassment claim); Kadiki v. Virginia Commonwealth University, 892 F.Supp. 746, 751 (E.D. Va. 1995)

(professor's spanking of university student may constitute sexual conduct under Title IX); Doe v. Petaluma, 830 F.Supp. 1560, 1564-65 (N.D. Cal. 1996) (sexually derogatory taunts and innuendo can be the basis of a harassment claim); Denver School Dist. #2, OCR Case No. 08-92-1007 (same to allegations of vulgar language and obscenities, pictures of nude women on office walls and desks, unwelcome touching, sexually offensive jokes, bribery to perform sexual acts, indecent exposure); Nashoba Regional High School, OCR Case No. 01-92-1377 (same as to year-long campaign of derogatory, sexually explicit graffiti and remarks directed at one student.

[7] See also Shoreline School Dist., OCR Case No. 10-92-1002 (a teacher's patting a student on the arm, shoulder, and back, and restraining the student when he was out of control, not conduct of a sexual nature); Dartmouth Public Schools, OCR Case No. 01-90-1058 (same as to contact between high school coach and students); San Francisco State University, OCR Case No. 09-94-2038 (same as to faculty advisor placing her arm around a graduate student's shoulder in posing for a picture); Analy Union High School Dist., OCR Case No. 09-92-1249 (same as to drama instructor who put his arms around both male and female students who confided in him).

[8] 20 U.S.C. 1687 (codification of the amendment to Title IX regarding scope of jurisdiction, enacted by the Civil Rights Restoration Act of 1987). See 65 FR 68049 (November 13, 2000) (Department's amendment of the Title IX regulations to incorporate the statutory definition of "program or activity").

[9] If a school contracts with persons or organizations to provide benefits, services, or opportunities to students as part of the school's program, and those persons or employees of those organizations sexually harass students, OCR will consider the harassing individual in the same manner that it considers the school's employees, as described in this guidance. (See section on "Harassment by Teachers and Other Employees.") See Brown v. Hot, Sexy, and Safer Products, Inc., 68 F.3d 525, 529 (1st Cir. 1995) (Title IX sexual harassment claim brought for school's role in permitting contract consultant hired by it to create allegedly hostile environment).

In addition, if a student engages in sexual harassment as an employee of the school, OCR will consider the harassment under the standards described for employees. (See section on "Harassment by Teachers and Other Employees.") For example, OCR would consider it harassment by an employee if a student teaching assistant who is responsible for assigning grades in a course, i.e., for providing aid, benefits, or services to students under the recipient's program, required a student in his or her class to submit to sexual advances in order to obtain a certain grade in the class.

[10] Cf. John Does 1 v. Covington County Sch. Bd., 884 F.Supp. 462, 464-65 (M.D. Ala. 1995) (male students alleging that a teacher sexually harassed and abused them stated cause of action under Title IX).

[11] Title IX and the regulations implementing it prohibit discrimination "on the basis of sex;" they do not restrict protection from sexual harassment to those circumstances in

which the harasser only harasses members of the opposite sex. See 34 CFR 106.31. In Oncale v. Sundowner Offshore Services, Inc. the Supreme Court held unanimously that sex discrimination consisting of same-sex sexual harassment can violate Title VII's prohibition against discrimination because of sex. 523 U.S. 75, 82 (1998). The Supreme Court's holding in Oncale is consistent with OCR policy, originally stated in its 1997 guidance, that Title IX prohibits sexual harassment regardless of whether the harasser and the person being harassed are members of the same sex. 62 FR 12039. See also Kinman v. Omaha Public School Dist., 94 F.3d 463, 468 (8th Cir. 1996), rev'd on other grounds, 171 F.3d 607 (1999) (female student's allegation of sexual harassment by female teacher sufficient to raise a claim under Title IX); Doe v. Petaluma, 830 F.Supp. 1560, 1564-65, 1575 (N.D. Cal. 1996) (female junior high student alleging sexual harassment by other students, including both boys and girls, sufficient to raise a claim under Title IX); John Does 1, 884 F.Supp. at 465 (same as to male students' allegations of sexual harassment and abuse by a male teacher.) It can also occur in certain situations if the harassment is directed at students of both sexes. Chiapuzo v. BLT Operating Corp., 826 F.Supp. 1334, 1337 (D.Wyo. 1993) (court found that if males and females were subject to harassment, but harassment was based on sex, it could violate Title VII); but see Holman v. Indiana, 211 F.3d 399, 405 (7th Cir. 2000) (if male and female both subjected to requests for sex, court found it could not violate Title VII).

In many circumstances, harassing conduct will be on the basis of sex because the student would not have been subjected to it at all had he or she been a member of the opposite sex; e.g., if a female student is repeatedly propositioned by a male student or employee (or, for that matter, if a male student is repeatedly propositioned by a male student or employee.) In other circumstances, harassing conduct will be on the basis of sex if the student would not have been affected by it in the same way or to the same extent had he or she been a member of the opposite sex; e.g., pornography and sexually explicit jokes in a mostly male shop class are likely to affect the few girls in the class more than it will most of the boys.

In yet other circumstances, the conduct will be on the basis of sex in that the student's sex was a factor in or affected the nature of the harasser's conduct or both. Thus, in Chiapuzo, a supervisor made demeaning remarks to both partners of a married couple working for him, e.g., as to sexual acts he wanted to engage in with the wife and how he would be a better lover than the husband. In both cases, according to the court, the remarks were based on sex in that they were made with an intent to demean each member of the couple because of his or her respective sex. 826 F.Supp. at 1337. See also Steiner v. Showboat Operating Co., 25 F.3d 1459, 1463-64 (9th Cir. 1994), cert. denied, 115 S.Ct. 733 (1995); but see Holman, 211 F.3d at 405 (finding that if male and female both subjected to requests for sex, Title VII could not be violated).

[12] Nashoba Regional High School, OCR Case No. 01-92-1397. In Conejo Valley School Dist., OCR Case No. 09-93-1305, female students allegedly taunted another female student about engaging in sexual activity; OCR found that the alleged comments were sexually explicit and, if true, would be sufficiently severe, persistent, and pervasive to create a hostile environment.

[13] See Williamson v. A.G. Edwards & Sons, Inc., 876 F2d 69, 70 (8th Cir. 1989, cert. denied 493 U.S. 1089 (1990); DeSantis v. Pacific Tel. & Tel. Co., Inc., 608 F.2d 327, 329-30 (9th Cir. 1979)(same); Blum v. Gulf Oil Corp., 597 F.2d 936, 938 (5th Cir. 1979)(same).

[14] It should be noted that some State and local laws may prohibit discrimination on the basis of sexual orientation. Also, under certain circumstances, courts may permit redress for harassment on the basis of sexual orientation under other Federal legal authority. See Nabozny v. Podlesny, 92 F.3d 446, 460 (7th Cir. 1996) (holding that a gay student could maintain claims alleging discrimination based on both gender and sexual orientation under the Equal Protection Clause of the United States Constitution in a case in which a school district failed to protect the student to the same extent that other students were protected from harassment and harm by other students due to the student's gender and sexual orientation).

[15] However, sufficiently serious sexual harassment is covered by Title IX even if the hostile environment also includes taunts based on sexual orientation.

[16] See also, Price Waterhouse v. Hopkins, 490 U.S. 228, 251 (1989) (plurality opinion) (where an accounting firm denied partnership to a female candidate, the Supreme Court found Title VII prohibits an employer from evaluating employees by assuming or insisting that they match the stereotype associated with their sex).

[17] See generally Gebser; Davis; See also Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 65-66 (1986); Harris v. Forklift Systems Inc., 510 U.S. 14, 22 (1993); see also Hicks v. Gates Rubber Co., 833 F.2d 1406, 1415 (10th Cir. 1987) (concluding that harassment based on sex may be discrimination whether or not it is sexual in nature); McKinney v. Dole, 765 F.2d 1129, 1138 (D.C. Cir. 1985) (physical, but nonsexual, assault could be sex-based harassment if shown to be unequal treatment that would not have taken place but for the employee's sex); Cline v. General Electric Capital Auto Lease, Inc., 757 F.Supp. 923, 932-33 (N.D. Ill. 1991).

[18] See, e.g., sections on "Harassment by Teachers and Other Employees," "Harassment by Other Students or Third Parties," "Notice of Employee, Peer, or Third Party Harassment," "Factors Used to Evaluate a Hostile Environment," "Recipient's Response," and "Prompt and Equitable Grievance Procedures."

[19] See Lipsett, 864 F.2d at 903-905 (general antagonism toward women, including stated goal of eliminating women from surgical program, statements that women shouldn't be in the program, and assignment of menial tasks, combined with overt sexual harassment); Harris, 510 U.S. at 23; Andrews v. City of Philadelphia, 895 F.2d 1469, 1485-86 (3rd Cir. 1990) (court directed trial court to consider sexual conduct as well as theft of female employees' files and work, destruction of property, and anonymous phone calls in determining if there had been sex discrimination); see also Hall v. Gus Construction Co., 842 F.2d 1010, 1014 (8th Cir. 1988) (affirming that harassment due to the employee's sex

may be actionable even if the harassment is not sexual in nature); Hicks, 833 F.2d at 1415; Eden Prairie Schools, Dist. #272, OCR Case No. 05-92-1174 (the boys made lewd comments about male anatomy and tormented the girls by pretending to stab them with rubber knives; while the stabbing was not sexual conduct, it was directed at them because of their sex, i.e., because they were girls).

[20] Davis, 526 U.S. at 650 ("Having previously determined that 'sexual harassment' is 'discrimination' in the school context under Title IX, we are constrained to conclude that student-on-student sexual harassment, if sufficiently severe, can likewise rise to the level of discrimination actionable under the statute."); Franklin, 503 U.S. at 75 ("Unquestionably, Title IX placed on the [school] the duty not to discriminate on the basis of sex, and 'when a supervisor sexually harasses a subordinate because of the subordinate's sex, that supervisor "discriminate[s]" on the basis of sex.' ... We believe the same rule should apply when a teacher sexually harasses and abuses a student." (citation omitted)).

OCR's longstanding interpretation of its regulations is that sexual harassment may constitute a violation. 34 CFR 106.31; See Sexual Harassment Guidance, 62 FR 12034 (1997). When Congress enacted the Civil Rights Restoration Act of 1987 to amend Title IX to restore institution-wide coverage over federally assisted education programs and activities, the legislative history indicated not only that Congress was aware that OCR interpreted its Title IX regulations to prohibit sexual harassment, but also that one of the reasons for passing the Restoration Act was to enable OCR to investigate and resolve cases involving allegations of sexual harassment. S. REP. NO. 64, 100th Cong., 1st Sess. at 12 (1987). The examples of discrimination that Congress intended to be remedied by its statutory change included sexual harassment of students by professors, id. at 14, and these examples demonstrate congressional recognition that discrimination in violation of Title IX can be carried out by school employees who are providing aid, benefits, or services to students. Congress also intended that if discrimination occurred, recipients needed to implement effective remedies. S. REP. NO. 64 at 5.

[21] 34 CFR 106.4.

[22] These are the basic regulatory requirements. 34 CFR 106.31(a)(b). Depending upon the facts, sexual harassment may also be prohibited by more specific regulatory prohibitions. For example, if a college financial aid director told a student that she would not get the student financial assistance for which she qualified unless she slept with him, that also would be covered by the regulatory provision prohibiting discrimination on the basis of sex in financial assistance, 34 CFR 106.37(a).

[23] 34 CFR 106.31(b)(1).

[24] 34 CFR 106.31(b)(2).

[25] 34 CFR 106.31(b)(3).

[26] 34 CFR 106.31(b)(4).

[27] 34 CFR 106.31(b)(6).

[28] 34 CFR 106.31(b)(7).

[29] 34 CFR 106.3(a).

[30] 34 CFR 106.9.

[31] 34 CFR 106.8(b).

[32] 34 CFR 106.8(a).

[33] The 1997 guidance referred to quid pro quo harassment and hostile environment harassment. 62 FR 12038–40.

[34] See Alexander v. Yale University, 459 F.Supp. 1, 4 (D.Conn. 1977), aff'd, 631 F.2d 178 (2nd Cir. 1980)(stating that a claim "that academic advancement was conditioned upon submission to sexual demands constitutes [a claim of] sex discrimination in education..."); Crandell v. New York College, Osteopathic Medicine, 87 F.Supp.2d 304, 318 (S.D.N.Y. 2000) (finding that allegations that a supervisory physician demanded that a student physician spend time with him and have lunch with him or receive a poor evaluation, in light of the totality of his alleged sexual comments and other inappropriate behavior, constituted a claim of quid pro quo harassment); Kadiki, 892 F.Supp. at 752 (reexamination in a course conditioned on college student's agreeing to be spanked should she not attain a certain grade may constitute quid pro quo harassment).

[35] 34 CFR 106.31(b).

[36] Davis, 526 U.S. at 651 (confirming, by citing approvingly both to Title VII cases (Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57,67 (1986) (finding that hostile environment claims are cognizable under Title VII), and Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 82 (1998)) and OCR's 1997 guidance, 62 FR at 12041-42, that determinations under Title IX as to what conduct constitutes hostile environment sexual harassment may continue to rely on Title VII caselaw).

[37] 34 CFR 106.31(b). See Davis, 526 U.S. at 650 (concluding that allegations of student-on-student sexual harassment that is "so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits" supports a claim for money damages in an implied right of action).

[38] In Harris, the Supreme Court explained the requirement for considering the "subjective perspective" when determining the existence of a hostile environment. The Court stated– – "... if the victim does not subjectively perceive the environment to be abusive, the

conduct has not actually altered the conditions of the victim's employment, and there is no Title VII violation." 510 U.S. at 21-22.

[39] See Davis, 526 U.S. at 650 (conduct must be "objectively offensive" to trigger liability for money damages); Elgamil v. Syracuse University, 2000 U.S. Dist. LEXIS 12598 at 17 (N.D.N.Y. 2000) (citing Harris); Booher v. Board of Regents, 1998 U.S. Dist. LEXIS 11404 at 25 (E.D. Ky. 1998) (same). See Oncale, 523 U.S. at 81, in which the Court "emphasized ... that the objective severity of harassment should be judged from the perspective of a reasonable person in the [victim's] position, considering 'all the circumstances,'" and citing Harris, 510 U.S. at 20, in which the Court indicated that a "reasonable person" standard should be used to determine whether sexual conduct constituted harassment. This standard has been applied under Title VII to take into account the sex of the subject of the harassment, see, e.g., Ellison, 924 F.2d at 878-79 (applying a "reasonable woman" standard to sexual harassment), and has been adapted to sexual harassment in education under Title IX, Patricia H. v. Berkeley Unified School Dist., 830 F.Supp. 1288, 1296 (N.D. Cal. 1993) (adopting a "reasonable victim" standard and referring to OCR's use of it).

[40] See Davis, 526 U.S. at 651, citing both Oncale, 523 U.S. at 82, and OCR's 1997 guidance (62 FR 12041-12042).

[41] See, e.g., Davis, 526 U.S. at 634 (as a result of the harassment, student's grades dropped and she wrote a suicide note); Doe v. Petaluma, 830 F. Supp. at 1566 (student so upset about harassment by other students that she was forced to transfer several times, including finally to a private school); Modesto City Schools, OCR Case No. 09-93-1391 (evidence showed that one girl's grades dropped while the harassment was occurring); Weaverville Elementary School, OCR Case No. 09-91-1116 (students left school due to the harassment). Compare with College of Alameda, OCR Case No. 09-90-2104 (student not in instructor's class and no evidence of any effect on student's educational benefits or service, so no hostile environment).

[42] Doe v. Petaluma, 830 F.Supp. at 1566.

[43] See Waltman v. Int'l Paper Co., 875 F.2d 468, 477 (5th Cir. 1989) (holding that although not specifically directed at the plaintiff, sexually explicit graffiti on the walls was "relevant to her claim"); Monteiro v. Tempe Union High School, 158 F.3d 1022, 1033-34 (9th Cir. 1998) (Title VI racial harassment case, citing Waltman; see also Hall, 842 F. 2d at 1015 (evidence of sexual harassment directed at others is relevant to show hostile environment under Title VII).

[44] See, e.g., Elgmil 2000 U.S. Dist. LEXIS at 19 ("in order to be actionable, the incidents of harassment must occur in concert or with a regularity that can reasonably be termed pervasive"); Andrews, 895 F.2d at 1484 ("Harassment is pervasive when 'incidents of harassment occur either in concert or with regularity'"); Moylan v. Maries County, 792 F.2d 746, 749 (8th Cir. 1986).

[45] 34 CFR 106.31(b). See Vance v. Spencer County Public School District, 231 F.3d 253 (6th Cir. 2000); Doe v. School Admin. Dist. No. 19, 66 F.Supp.2d 57, 62 (D. Me. 1999). See also statement of the U.S. Equal Employment Opportunity Commission (EEOC): "The Commission will presume that the unwelcome, intentional touching of [an employee's] intimate body areas is sufficiently offensive to alter the conditions of her working environment and constitute a violation of Title VII. More so than in the case of verbal advances or remarks, a single unwelcome physical advance can seriously poison the victim's working environment." EEOC Policy Guidance on Current Issues of Sexual Harassment, 17. Barrett v. Omaha National Bank, 584 F. Supp. 22, 30 (D. Neb. 1983), aff'd, 726 F. 2d 424 (8th Cir. 1984) (finding that hostile environment was created under Title VII by isolated events, i.e., occurring while traveling to and during a two-day conference, including the co-worker's talking to plaintiff about sexual activities and touching her in an offensive manner while they were inside a vehicle from which she could not escape).

[46] See also Ursuline College, OCR Case No. 05-91-2068 (a single incident of comments on a male student's muscles arguably not sexual; however, assuming they were, not severe enough to create a hostile environment).

[47] Davis, 526 U.S. at 653 ("The relationship between the harasser and the victim necessarily affects the extent to which the misconduct can be said to breach Title IX's guarantee of equal access to educational benefits and to have a systemic effect on a program or activity. Peer harassment, in particular, is less likely to satisfy these requirements than is teacher student harassment."); Patricia H., 830 F. Supp. at 1297 (stating that the "grave disparity in age and power" between teacher and student contributed to the creation of a hostile environment); Summerfield Schools, OCR Case No. 15-92-1929 ("impact of the ... remarks was heightened by the fact that the coach is an adult in a position of authority"); cf. Doe v. Taylor I.S.D., 15 F.3d 443, 460 (5th Cir. 1994) (Sec. 1983 case; taking into consideration the influence that the teacher had over the student by virtue of his position of authority to find that a sexual relationship between a high school teacher and a student was unlawful).

[48] See, e.g., McKinney, 765 F.2d at 1138-49; Robinson v. Jacksonville Shipyards, 760 F. Supp. 1486, 1522 (M.D. Fla. 1991).

[49] Cf. Patricia H., 830 F. Supp. at 1297.

[50] See, e.g., Barrett, 584 F. Supp. at 30 (finding harassment occurring in a car from which the victim could not escape particularly severe).

[51] See Hall, 842 F. 2d at 1015 (stating that "evidence of sexual harassment directed at employees other than the plaintiff is relevant to show a hostile environment") (citing Hicks, 833 F. 2d, 1415-16). Cf. Midwest City-Del City Public Schools, OCR Case No. 06-92-1012 (finding of racially hostile environment based in part on several racial incidents at school shortly before incidents in complaint, a number of which involved the same student involved in the complaint).

[52] In addition, incidents of racial or national origin harassment directed at a particular individual may also be aggregated with incidents of sexual or gender harassment directed at that individual in determining the existence of a hostile environment. Hicks, 833 F.2d at 1416; Jefferies v. Harris County Community Action Ass'n, 615 F.2d 1025, 1032 (5th Cir. 1980).

[53] Does v. Covington Sch. Bd. of Educ., 930 F.Supp. 554, 569 (M.D. Ala. 1996); Henson v. City of Dundee, 682 F.2d 897, 903 (11th Cir. 1982).

[54] See Meritor Savings Bank, 477 U.S. at 68. "[T]he fact that sex-related conduct was 'voluntary,' in the sense that the complainant was not forced to participate against her will, is not a defense to a sexual harassment suit brought under Title VII.... The correct inquiry is whether [the subject of the harassment] by her conduct indicated that the alleged sexual advances were unwelcome, not whether her actual participation in sexual intercourse was voluntary."

[55] Lipsett, 864 F.2d at 898 (while, in some instances, a person may have the responsibility for telling the harasser "directly" that the conduct is unwelcome, in other cases a "consistent failure to respond to suggestive comments or gestures may be sufficient...."); Danna v. New York Tel. Co., 752 F.Supp. 594, 612 (despite a female employee's own foul language and participation in graffiti writing, her complaints to management indicated that the harassment was not welcome); see also Carr v. Allison Gas Turbine Div. GMC., 32 F.3d 1007, 1011 (7th Cir. 1994) (finding that cursing and dirty jokes by a female employee did not show that she welcomed the sexual harassment, given her frequent complaints about it: "Even if ... [the employee's] testimony that she talked and acted as she did [only] in an effort to be one of the boys is ... discounted, her words and conduct cannot be compared to those of the men and used to justify their conduct.... The asymmetry of positions must be considered. She was one woman; they were many men. Her use of [vulgar] terms ... could not be deeply threatening....").

[56] See Reed v. Shepard, 939 F.2d 484, 486-87, 491-92 (7th Cir. 1991) (no harassment found under Title VII in a case in which a female employee not only tolerated, but also instigated the suggestive joking activities about which she was now complaining); Weinsheimer v. Rockwell Int'l Corp., 754 F.Supp. 1559, 1563-64 (M.D. Fla. 1990) (same, in case in which general shop banter was full of vulgarity and sexual innuendo by men and women alike, and plaintiff contributed her share to this atmosphere.) However, even if a student participates in the sexual banter, OCR may in certain circumstances find that the conduct was nevertheless unwelcome if, for example, a teacher took an active role in the sexual banter and a student reasonably perceived that the teacher expected him or her to participate.

[57] The school bears the burden of rebutting the presumption.

[58] Of course, nothing in Title IX would prohibit a school from implementing policies prohibiting sexual conduct or sexual relationships between students and adult employees.

[59] See note 58.

[60] Gebser, 524 U.S. at 281 ("Franklin ... establishes that a school district can be held liable in damages [in an implied action under Title IX] in cases involving a teacher's sexual harassment of a student...."; 34 CFR 106.31; See 1997 Sexual Harassment Guidance, 62 FR 12034.

[61] See Davis, 526 U.S. at 653 (stating that harassment of a student by a teacher is more likely than harassment by a fellow student to constitute the type of effective denial of equal access to educational benefits that can breach the requirements of Title IX).

[62] 34 CFR 106.31(b). Cf. Gebser, 524 U.S. at 283-84 (Court recognized in an implied right of action for money damages for teacher sexual harassment of a student that the question of whether a violation of Title IX occurred is a separate question from the scope of appropriate remedies for a violation).

[63] Davis, 526 U.S. at 646.

[64] See section on "Applicability of Title IX" for scope of coverage.

[65] See section on "Notice of Employee, Peer, or Third Party Harassment."

[66] See section on "Notice of Employee, Peer, or Third Party Harassment."

[67] 34 CFR 106.31(b).

[68] 34 CFR 106.31(b).

[69] See section on "Notice of Employee, Peer, or Third Party Harassment."

[70] Cf. Davis, 526 U.S. at 646.

[71] 34 CFR 106.31(b).

[72] 34 CFR 106.31(b).

[73] Consistent with its obligation under Title IX to protect students, cf. Gebser, 524 U.S. at 287, OCR interprets its regulations to ensure that recipients take reasonable action to address, rather than neglect, reasonably obvious discrimination. Cf. Gebser, 524 U.S. at 287-88; Davis, 526 U.S. at 650 (actual notice standard for obtaining money damages in private lawsuit).

[74] Whether an employee is a responsible employee or whether it would be reasonable for a student to believe the employee is, even if the employee is not, will vary depending on

factors such as the age and education level of the student, the type of position held by the employee, and school practices and procedures, both formal and informal.
The Supreme Court held that a school will only be liable for money damages in a private lawsuit where there is actual notice to a school official with the authority to address the alleged discrimination and take corrective action. Gebser, 524 U.S. at 290, and Davis, 526 U.S. at 642. The concept of a "responsible employee" under our guidance is broader. That is, even if a responsible employee does not have the authority to address the discrimination and take corrective action, he or she does have the obligation to report it to appropriate school officials.

[75] The Title IX regulations require that recipients designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the regulations, including complaint investigations. 34 CFR 106.8(a).

[76] 34 CFR 106.31. See Yates v. Avco Corp., 819 F.2d 630, 636 (6th Cir. 1987); Katz v. Dole, 709 F.2d 251, 256 (4th Cir. 1983).

[77] For example, a substantiated report indicating that a high school coach has engaged in inappropriate physical conduct of a sexual nature in several instances with different students may suggest a pattern of conduct that should trigger an inquiry as to whether other students have been sexually harassed by that coach. See also Doe v. School Administrative Dist. No. 19, 66 F.Supp.2d 57, 63-64 and n.6 (D.Me. 1999) (in a private lawsuit for money damages under Title IX in which a high school principal had notice that a teacher may be engaging in a sexual relationship with one underage student and did not investigate, and then the same teacher allegedly engaged in sexual intercourse with another student, who did not report the incident, the court indicated that the school's knowledge of the first relationship may be sufficient to serve as actual notice of the second incident).

[78] Cf. Katz, 709 F.2d at 256 (finding that the employer "should have been aware of the problem both because of its pervasive character and because of [the employee's] specific complaints ..."); Smolsky v. Consolidated Rail Corp., 780 F.Supp. 283, 293 (E.D. Pa. 1991), reconsideration denied, 785 F.Supp. 71 (E.D. Pa. 1992) "where the harassment is apparent to all others in the work place, supervisors and coworkers, this may be sufficient to put the employer on notice of the sexual harassment" under Title VII); Jensen v. Eveleth Taconite Co., 824 F.Supp. 847, 887 (D.Minn. 1993); "[s]exual harassment ... was so pervasive that an inference of knowledge arises .... The acts of sexual harassment detailed herein were too common and continuous to have escaped Eveleth Mines had its management been reasonably alert."); Cummings v. Walsh Construction Co., 561 F.Supp. 872, 878 (S.D. Ga. 1983) ("... allegations not only of the [employee] registering her complaints with her foreman ... but also that sexual harassment was so widespread that defendant had constructive notice of it" under Title VII); but see Murray v. New York Univ. College of Dentistry, 57 F.3d 243, 250-51 (2nd Cir. 1995) (concluding that other students' knowledge of the conduct was not enough to charge the school with notice, particularly because these students may not have been aware that the conduct was offensive or abusive).

[79] 34 CFR 106.9 and 106.8(b).

[80] 34 CFR 106.8(b) and 106.31(b).

[81] 34 CFR 106.9.

[82] 34 CFR 106.8(b).

[83] 34 CFR 106.31.

[84] 34 CFR 106.31 and 106.3. Gebser, 524 U.S. at 288 ("In the event of a violation, [under OCR's administrative enforcement scheme] a funding recipient may be required to take 'such remedial action as [is] deem[ed] necessary to overcome the effects of [the] discrimination.' §106.3.").

[85] 20 U.S.C. 1682. In the event that OCR determines that voluntary compliance cannot be secured, OCR may take steps that may result in termination of Federal funding through administrative enforcement, or, alternatively, OCR may refer the case to the Department of Justice for judicial enforcement.

[86] Schools have an obligation to ensure that the educational environment is free of discrimination and cannot fulfill this obligation without determining if sexual harassment complaints have merit.

[87] In some situations, for example, if a playground supervisor observes a young student repeatedly engaging in conduct toward other students that is clearly unacceptable under the school's policies, it may be appropriate for the school to intervene without contacting the other students. It still may be necessary for the school to talk with the students (and parents of elementary and secondary students) afterwards, e.g., to determine the extent of the harassment and how it affected them.

[88] Gebser, 524 U.S. at 288; Bundy v. Jackson, 641 F.2d 934, 947 (D.C. Cir. 1981) (employers should take corrective and preventive measures under Title VII); accord, Jones v. Flagship Int'l, 793 F.2d 714, 719-720 (5th Cir. 1986) (employer should take prompt remedial action under Title VII).

[89] See Doe ex rel. Doe v. Dallas Indep. Sch. Dist., 220 F.3d 380 (5th Cir. 2000) (citing Waltman); Waltman, 875 F.2d at 479 (appropriateness of employer's remedial action under Title VII will depend on the "severity and persistence of the harassment and the effectiveness of any initial remedial steps"); Dornhecker v. Malibu Grand Prix Corp., 828 F.2d 307, 309-10 (5th Cir. 1987); holding that a company's quick decision to remove the harasser from the victim was adequate remedial action).

[90] See Intlekofer v. Turnage, 973 F.2d 773, 779-780 (9th Cir. 1992)(holding that the employer's response was insufficient and that more severe disciplinary action was

necessary in situations in which counseling, separating the parties, and warnings of possible discipline were ineffective in ending the harassing behavior).

[91] Offering assistance in changing living arrangements is one of the actions required of colleges and universities by the Campus Security Act in cases of rape and sexual assault. See 20 U.S.C. 1092(f).

[92] See section on "Harassment by Other Students or Third Parties."

[93] University of California at Santa Cruz, OCR Case No. 09-93-2141 (extensive individual and group counseling); Eden Prairie Schools, Dist. #272, OCR Case No. 05-92-1174 (counseling).

[94] Even if the harassment stops without the school's involvement, the school may still need to take steps to prevent or deter any future harassment — to inform the school community that harassment will not be tolerated. Wills v. Brown University, 184 F.3d 20, 28 (1st Cir. 1999) (difficult problems are posed in balancing a student's request for anonymity or limited disclosure against the need to prevent future harassment); Fuller v. City of Oakland, 47 F.3d 1522, 1528-29 (9th Cir. 1995) (Title VII case).

[95] 34 CFR 106.8(b) and 106.71, incorporating by reference 34 CFR 100.7(e). The Title IX regulations prohibit intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX.

[96] Tacoma School Dist. No. 10, OCR Case No. 10-94-1079 (due to the large number of students harassed by an employee, the extended period of time over which the harassment occurred, and the failure of several of the students to report the harassment, the school committed as part of corrective action plan to providing training for students); Los Medanos College, OCR Case No. 09-84-2092 (as part of corrective action plan, school committed to providing sexual harassment seminar for campus employees); Sacramento City Unified School Dist., OCR Case No. 09-83-1063 (same as to workshops for management and administrative personnel and in-service training for non-management personnel).

[97] In addition, if information about the incident is contained in an "education record" of the student alleging the harassment, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, the school should consider whether FERPA would prohibit the school from disclosing information without the student's consent. Id. In evaluating whether FERPA would limit disclosure, the Department does not interpret FERPA to override any federally protected due process rights of a school employee accused of harassment.

[98] 34 CFR 106.8(b). This requirement has been part of the Title IX regulations since their inception in 1975. Thus, schools have been required to have these procedures in place since that time. At the elementary and secondary level, this responsibility generally lies

with the school district. At the postsecondary level, there may be a procedure for a particular campus or college or for an entire university system.

[99] Fenton Community High School Dist. #100, OCR Case 05-92-1104.

[100] While a school is required to have a grievance procedure under which complaints of sex discrimination (including sexual harassment) can be filed, the same procedure may also be used to address other forms of discrimination.

[101] See generally Meritor, 477 U.S. at 72-73 (holding that "mere existence of a grievance procedure" for discrimination does not shield an employer from a sexual harassment claim).

[102] The Family Educational Rights and Privacy Act (FERPA) does not prohibit a student from learning the outcome of her complaint, i.e., whether the complaint was found to be credible and whether harassment was found to have occurred. It is the Department's current position under FERPA that a school cannot release information to a complainant regarding disciplinary action imposed on a student found guilty of harassment if that information is contained in a student's education record unless — (1) the information directly relates to the complainant (e.g., an order requiring the student harasser not to have contact with the complainant); or (2) the harassment involves a crime of violence or a sex offense in a postsecondary institution. See note 97. If the alleged harasser is a teacher, administrator, or other non-student employee, FERPA would not limit the school's ability to inform the complainant of any disciplinary action taken.

[103] The section in the guidance on "Recipient's Response" provides examples of reasonable and appropriate corrective action.

[104] 34 CFR 106.8(a).

[105] Id.

[106] See Meritor, 477 U.S. at 72-73.

[107] University of California, Santa Cruz, OCR Case No. 09-93-2131. This is true for formal as well as informal complaints. See University of Maine at Machias, OCR Case No. 01-94-6001 (school's new procedures not found in violation of Title IX in part because they require written records for informal as well as formal resolutions). These records need not be kept in a student's or employee's individual file, but instead may be kept in a central confidential location.

[108] For example, in Cape Cod Community College, OCR Case No. 01-93-2047, the College was found to have violated Title IX in part because the person identified by the school as the Title IX coordinator was unfamiliar with Title IX, had no training, and did not even realize he was the coordinator.

[109] Indeed, in University of Maine at Machias, OCR Case No. 01-94-6001, OCR found the school's procedures to be inadequate because only formal complaints were investigated. While a school isn't required to have an established procedure for resolving informal complaints, they nevertheless must be addressed in some way. However, if there are indications that the same individual may be harassing others, then it may not be appropriate to resolve an informal complaint without taking steps to address the entire situation.

[110] Academy School Dist. No 20, OCR Case No. 08-93-1023 (school's response determined to be insufficient in a case in which it stopped its investigation after complaint filed with police); Mills Public School Dist., OCR Case No. 01-93-1123, (not sufficient for school to wait until end of police investigation).

[111] Cf. EEOC v. Board of Governors of State Colleges and Universities, 957 F.2d 424 (7th Cir. 1992), cert. denied, 506 U.S. 906 (1992).

[112] The First Amendment applies to entities and individuals that are State actors. The receipt of Federal funds by private schools does not directly subject those schools to the U.S. Constitution. See Rendell-Baker v. Kohn, 457 U.S. 830, 840 (1982). However, all actions taken by OCR must comport with First Amendment principles, even in cases involving private schools that are not directly subject to the First Amendment.

[113] See, e.g., George Mason University, OCR Case No. 03-94-2086 (law professor's use of a racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment); Portland School Dist. 1J, OCR Case No. 10-94-1117 (reading teacher's choice to substitute a less offensive term for a racial slur when reading an historical novel aloud in class constituted an academic decision on presentation of curriculum, not racial harassment).

[114] See Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University, 993 F.2d 386 (4th Cir. 1993) (fraternity skit in which white male student dressed as an offensive caricature of a black female constituted student expression).

[115] See Florida Agricultural and Mechanical University, OCR Case No. 04-92-2054 (no discrimination in case in which campus newspaper, which welcomed individual opinions of all sorts, printed article expressing one student's viewpoint on white students on campus.)

[116] Tinker v. Des Moines Indep. Community Sch. Dist., 393 U.S. 503, 506 (1969) (neither students nor teachers shed their constitutional rights to freedom of expression at the schoolhouse gates); Cf. Cohen v. San Bernardino Valley College, 92 F.3d 968, 972 (9th Cir. 1996) (holding that a college professor could not be punished for his longstanding teaching methods, which included discussion of controversial subjects such as obscenity and consensual sex with children, under an unconstitutionally vague sexual harassment policy); George Mason University, OCR Case No. 03-94-2086 (law professor's use of a

racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment.)

[117] See, e.g., University of Illinois, OCR Case No. 05-94-2104 (fact that university's use of Native American symbols was offensive to some Native American students and employees was not dispositive, in and of itself, in assessing a racially hostile environment claim under Title VI.)

[118] See Meritor, 477 U.S. at 67 (the "mere utterance of an ethnic or racial epithet which engenders offensive feelings in an employee" would not affect the conditions of employment to a sufficient degree to violate Title VII), quoting Henson, 682 F.2d at 904; cf. R.A.V. v. City of St. Paul, 505 U.S. 377, 389 (1992) (citing with approval EEOC's sexual harassment guidelines); Monteiro, 158 F.3d at 1032-34 (9th Cir. 1998) (citing with approval OCR's racial harassment investigative guidance).

[119] Compare Bethel School Dist. No. 403 v. Fraser, 478 U.S. 675, 685 (1986) (Court upheld discipline of high school student for making lewd speech to student assembly, noting that "[t]he undoubted freedom to advocate unpopular and controversial issues in schools must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate behavior."), with Iota Xi, 993 F.2d 386 (holding that, notwithstanding a university's mission to create a culturally diverse learning environment and its substantial interest in maintaining a campus free of discrimination, it could not punish students who engaged in an offensive skit with racist and sexist overtones).

EXHIBIT 'D'

29 CFR PART 1604

GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

(b) When an administrative law judge certifies a matter for interlocutory review under §1603.213, the Commission may, in its discretion, issue a decision on the matter or send the matter back to the administrative law judge without decision.

(c) The Commission will not accept or consider new evidence on appeal unless the Commission, in its discretion, reopens the record on appeal.

(d) The decision of the Commission on appeal shall be its final order and shall be served on all parties.

(e) In the absence of a timely appeal under §1603.302, the decision of the administrative law judge under §1603.217 or a dismissal under §1603.107 shall become the final order of the Commission. A final order under this paragraph shall not have precedential significance.

§ 1603.305 Modification or withdrawal of Commission decision.

At any time, the Commission may modify or withdraw a decision for any reason provided that no petition for review in a United States Court of Appeals has been filed.

§ 1603.306 Judicial review.

Any party to a complaint who is aggrieved by a final decision under §1603.304 may obtain a review of such final decision under chapter 158 of title 28 of the United States Code by filing a petition for review with a United States Court of Appeals within 60 days after issuance of the final decision. Such petition for review should be filed in the judicial circuit in which the petitioner resides, or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

PART 1604—GUIDELINES ON DISCRIMINATION BECAUSE OF SEX

Sec.

1604.1 General principles.
1604.2 Sex as a bona fide occupational qualification.
1604.3 Separate lines of progression and seniority systems.
1604.4 Discrimination against married women.
1604.5 Job opportunities advertising.
1604.6 Employment agencies.
1604.7 Pre-employment inquiries as to sex.
1604.8 Relationship of title VII to the Equal Pay Act.
1604.9 Fringe benefits.
1604.10 Employment policies relating to pregnancy and childbirth.
1604.11 Sexual harassment.
APPENDIX TO PART 1604—QUESTIONS AND ANSWERS ON THE PREGNANCY DISCRIMINATION ACT, PUBLIC LAW 95-555, 92 STAT. 2076 (1978).

AUTHORITY: Sec. 713(b), 78 Stat. 265, 42 U.S.C. 2000e–12.

SOURCE: 37 FR 6836, April 5, 1972, unless otherwise noted.

§ 1604.1 General principles.

(a) References to "employer" or "employers" in this part 1604 state principles that are applicable not only to employers but also to labor organizations and to employment agencies insofar as their action or inaction may adversely affect employment opportunities.

(b) To the extent that the views expressed in prior Commission pronouncements are inconsistent with the views expressed herein, such prior views are hereby overruled.

(c) The Commission will continue to consider particular problems relating to sex discrimination on a case-by-case basis.

§ 1604.2 Sex as a bona fide occupational qualification.

(a) The commission believes that the bona fide occupational qualification exception as to sex should be interpreted narrowly. Label—"Men's jobs" and "Women's jobs"—tend to deny employment opportunities unnecessarily to one sex or the other.

(1) The Commission will find that the following situations do not warrant the application of the bona fide occupational qualification exception:

(i) The refusal to hire a woman because of her sex based on assumptions of the comparative employment characteristics of women in general. For example, the assumption that the turnover rate among women is higher than among men.

(ii) The refusal to hire an individual based on stereotyped characterizations of the sexes. Such stereotypes include, for example, that men are less capable of assembling intricate equipment;

that women are less capable of aggressive salesmanship. The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group.

(iii) The refusal to hire an individual because of the preferences of coworkers, the employer, clients or customers except as covered specifically in paragraph (a)(2) of this section.

(2) Where it is necessary for the purpose of authenticity or genuineness, the Commission will consider sex to be a bona fide occupational qualification, e.g., an actor or actress.

(b) Effect of sex-oriented State employment legislation.

(1) Many States have enacted laws or promulgated administrative regulations with respect to the employment of females. Among these laws are those which prohibit or limit the employment of females, e.g., the employment of females in certain occupations, in jobs requiring the lifting or carrying of weights exceeding certain prescribed limits, during certain hours of the night, for more than a specified number of hours per day or per week, and for certain periods of time before and after childbirth. The Commission has found that such laws and regulations do not take into account the capacities, preferences, and abilities of individual females and, therefore, discriminate on the basis of sex. The Commission has concluded that such laws and regulations conflict with and are superseded by title VII of the Civil Rights Act of 1964. Accordingly, such laws will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception.

(2) The Commission has concluded that State laws and regulations which discriminate on the basis of sex with regard to the employment of minors are in conflict with and are superseded by title VII to the extent that such laws are more restrictive for one sex. Accordingly, restrictions on the employment of minors of one sex over and above those imposed on minors of the other sex will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception.

(3) A number of States require that minimum wage and premium pay for overtime be provided for female employees. An employer will be deemed to have engaged in an unlawful employment practice if:

(i) It refuses to hire or otherwise adversely affects the employment opportunities of female applicants or employees in order to avoid the payment of minimum wages or overtime pay required by State law; or

(ii) It does not provide the same benefits for male employees.

(4) As to other kinds of sex-oriented State employment laws, such as those requiring special rest and meal periods or physical facilities for women, provision of these benefits to one sex only will be a violation of title VII. An employer will be deemed to have engaged in an unlawful employment practice if:

(i) It refuses to hire or otherwise adversely affects the employment opportunities of female applicants or employees in order to avoid the provision of such benefits; or

(ii) It does not provide the same benefits for male employees. If the employer can prove that business necessity precludes providing these benefits to both men and women, then the State law is in conflict with and superseded by title VII as to this employer. In this situation, the employer shall not provide such benefits to members of either sex.

(5) Some States require that separate restrooms be provided for employees of each sex. An employer will be deemed to have engaged in an unlawful employment practice if it refuses to hire or otherwise adversely affects the employment opportunities of applicants or employees in order to avoid the provision of such restrooms for persons of that sex.

§ 1604.3 Separate lines of progression and seniority systems.

(a) It is an unlawful employment practice to classify a job as "male" or "female" or to maintain separate lines of progression or separate seniority

lists based on sex where this would adversely affect any employee unless sex is a bona fide occupational qualification for that job. Accordingly, employment practices are unlawful which arbitrarily classify jobs so that:

(1) A female is prohibited from applying for a job labeled "male," or for a job in a "male" line of progression; and vice versa.

(2) A male scheduled for layoff is prohibited from displacing a less senior female on a "female" seniority list; and vice versa.

(b) A Seniority system or line of progression which distinguishes between "light" and "heavy" jobs constitutes an unlawful employment practice if it operates as a disguised form of classification by sex, or creates unreasonable obstacles to the advancement by members of either sex into jobs which members of that sex would reasonably be expected to perform.

§ 1604.4 Discrimination against married women.

(a) The Commission has determined that an employer's rule which forbids or restricts the employment of married women and which is not applicable to married men is a discrimination based on sex prohibited by title VII of the Civil Rights Act. It does not seem to us relevant that the rule is not directed against all females, but only against married females, for so long as sex is a factor in the application of the rule, such application involves a discrimination based on sex.

(b) It may be that under certain circumstances, such a rule could be justified within the meaning of section 703(e)(1) of title VII. We express no opinion on this question at this time except to point out that sex as a bona fide occupational qualification must be justified in terms of the peculiar requirements of the particular job and not on the basis of a general principle such as the desirability of spreading work.

§ 1604.5 Job opportunities advertising.

It is a violation of title VII for a help-wanted advertisement to indicate a preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job involved. The placement of an advertisement in columns classified by publishers on the basis of sex, such as columns headed "Male" or "Female," will be considered an expression of a preference, limitation, specification, or discrimination based on sex.

§ 1604.6 Employment agencies.

(a) Section 703(b) of the Civil Rights Act specifically states that it shall be unlawful for an employment agency to discriminate against any individual because of sex. The Commission has determined that private employment agencies which deal exclusively with one sex are engaged in an unlawful employment practice, except to the extent that such agencies limit their services to furnishing employees for particular jobs for which sex is a bona fide occupational qualification.

(b) An employment agency that receives a job order containing an unlawful sex specification will share responsibility with the employer placing the job order if the agency fills the order knowing that the sex specification is not based upon a bona fide occupational qualification. However, an employment agency will not be deemed to be in violation of the law, regardless of the determination as to the employer, if the agency does not have reason to believe that the employer's claim of bona fide occupations qualification is without substance and the agency makes and maintains a written record available to the Commission of each such job order. Such record shall include the name of the employer, the description of the job and the basis for the employer's claim of bona fide occupational qualification.

(c) It is the responsibility of employment agencies to keep informed of opinions and decisions of the Commission on sex discrimination.

§ 1604.7 Pre-employment inquiries as to sex.

A pre-employment inquiry may ask "Male....., Female....."; or "Mr. Mrs. Miss," provided that the inquiry is made in good faith for a nondiscriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directly

or indirectly any limitation, specification, or discrimination as to sex shall be unlawful unless based upon a bona fide occupational qualification.

§ 1604.8 Relationship of title VII to the Equal Pay Act.

(a) The employee coverage of the prohibitions against discrimination based on sex contained in title VII is coextensive with that of the other prohibitions contained in title VII and is not limited by section 703(h) to those employees covered by the Fair Labor Standards Act.

(b) By virtue of section 703(h), a defense based on the Equal Pay Act may be raised in a proceeding under title VII.

(c) Where such a defense is raised the Commission will give appropriate consideration to the interpretations of the Administrator, Wage and Hour Division, Department of Labor, but will not be bound thereby.

§ 1604.9 Fringe benefits.

(a) "Fringe benefits," as used herein, includes medical, hospital, accident, life insurance and retirement benefits; profit-sharing and bonus plans; leave; and other terms, conditions, and privileges of employment.

(b) It shall be an unlawful employment practice for an employer to discriminate between men and women with regard to fringe benefits.

(c) Where an employer conditions benefits available to employees and their spouses and families on whether the employee is the "head of the household" or "principal wage earner" in the family unit, the benefits tend to be available only to male employees and their families. Due to the fact that such conditioning discriminatorily affects the rights of women employees, and that "head of household" or "principal wage earner" status bears no relationship to job performance, benefits which are so conditioned will be found a prima facie violation of the prohibitions against sex discrimination contained in the act.

(d) It shall be an unlawful employment practice for an employer to make available benefits for the wives and families of male employees where the same benefits are not made available for the husbands and families of female employees; or to make available benefits for the wives of male employees which are not made available for female employees; or to make available benefits to the husbands of female employees which are not made available for male employees. An example of such an unlawful employment practice is a situation in which wives of male employees receive maternity benefits while female employees receive no such benefits.

(e) It shall not be a defense under title VIII to a charge of sex discrimination in benefits that the cost of such benefits is greater with respect to one sex than the other.

(f) It shall be an unlawful employment practice for an employer to have a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex, or which differentiates in benefits on the basis of sex. A statement of the General Counsel of September 13, 1968, providing for a phasing out of differentials with regard to optional retirement age for certain incumbent employees is hereby withdrawn.

§ 1604.10 Employment policies relating to pregnancy and childbirth.

(a) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy, childbirth or related medical conditions is in prima facie violation of title VII.

(b) Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. Written or unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy, childbirth or related medical conditions on the same terms

and conditions as they are applied to other disabilities. Health insurance benefits for abortion, except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion, are not required to be paid by an employer; nothing herein, however, precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.

(c) Where the termination of an employee who is temporarily disabled is caused by an employment policy under which insufficient or no leave is available, such a termination violates the Act if it has a disparate impact on employees of one sex and is not justified by business necessity.

(d)(1) Any fringe benefit program, or fund, or insurance program which is in effect on October 31, 1978, which does not treat women affected by pregnancy, childbirth, or related medical conditions the same as other persons not so affected but similar in their ability or inability to work, must be in compliance with the provisions of §1604.10(b) by April 29, 1979. In order to come into compliance with the provisions of 1604.10(b), there can be no reduction of benefits or compensation which were in effect on October 31, 1978, before October 31, 1979 or the expiration of a collective bargaining agreement in effect on October 31, 1978, whichever is later.

(2) Any fringe benefit program implemented after October 31, 1978, must comply with the provisions of §1604.10(b) upon implementation.

[44 FR 23805, Apr. 20, 1979]

§1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of section 703 of title VII.[1] Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) [Reserved]

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under title VII, and developing methods to sensitize all concerned.

(g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors,

[1] The principles involved here continue to apply to race, color, religion or national origin.

the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

APPENDIX A TO § 1604.11—BACKGROUND INFORMATION

The Commission has rescinded §1604.11(c) of the Guidelines on Sexual Harassment, which set forth the standard of employer liability for harassment by supervisors. That section is no longer valid, in light of the Supreme Court decisions in *Burlington Industries, Inc.* v. *Ellerth*, 524 U.S. 742 (1998), and *Faragher* v. *City of Boca Raton*, 524 U.S. 775 (1998). The Commission has issued a policy document that examines the Faragher and Ellerth decisions and provides detailed guidance on the issue of vicarious liability for harassment by supervisors. EEOC Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (6/18/99), EEOC Compliance Manual (BNA), N:4075 [Binder 3]; also available through EEOC's web site, at www.eeoc.gov., or by calling the EEOC Publications Distribution Center, at 1-800-669-3362 (voice), 1-800-800-3302 (TTY).

(Title VII, Pub. L. 88-352, 78 Stat. 253 (42 U.S.C. 2000e *et seq.*))

[45 FR 74677, Nov. 10, 1980, as amended at 64 FR 58334, Oct. 29, 1999]

APPENDIX TO PART 1604—QUESTIONS AND ANSWERS ON THE PREGNANCY DISCRIMINATION ACT, PUBLIC LAW 95-555, 92 STAT. 2076 (1978)

INTRODUCTION

On October 31, 1978, President Carter signed into law the *Pregnancy Discrimination Act* (Pub. L. 95-955). The Act is an amendment to title VII of the Civil Rights Act of 1964 which prohibits, among other things, discrimination in employment on the basis of sex. The *Pregnancy Discrimination Act* makes it clear that "because of sex" or "on the basis of sex", as used in title VII, includes "because of or on the basis of pregnancy, childbirth or related medical conditions." Therefore, title VII prohibits discrimination in employment against women affected by pregnancy or related conditions.

The basic principle of the Act is that women affected by pregnancy and related conditions must be treated the same as other applicants and employees on the basis of their ability or inability to work. A woman is therefore protected against such practices as being fired, or refused a job or promotion, merely because she is pregnant or has had an abortion. She usually cannot be forced to go on leave as long as she can still work. If other employees who take disability leave are entitled to get their jobs back when they are able to work again, so are women who have been unable to work because of pregnancy.

In the area of fringe benefits, such as disability benefits, sick leave and health insurance, the same principle applies. A woman unable to work for pregnancy-related reasons is entitled to disability benefits or sick leave on the same basis as employees unable to work for other medical reasons. Also, any health insurance provided must cover expenses for pregnancy-related conditions on the same basis as expenses for other medical conditions. However, health insurance for expenses arising from abortion is not required except where the life of the mother would be endangered if the fetus were carried to term, or where medical complications have arisen from an abortion.

Some questions and answers about the *Pregnancy Discrimination Act* follow. Although the questions and answers often use only the term "employer," the Act—and these questions and answers—apply also to unions and other entities covered by title VII.

1. Q. What is the effective date of the Pregnancy Discrimination Act?

A. The Act became effective on October 31, 1978, except that with respect to fringe benefit programs in effect on that date, the Act will take effect 180 days thereafter, that is, April 29, 1979.

To the extent that title VII already required employers to treat persons affected by pregnancy-related conditions the same as persons affected by other medical conditions, the Act does not change employee rights arising prior to October 31, 1978, or April 29, 1979. Most employment practices relating to pregnancy, childbirth and related conditions—whether concerning fringe benefits or other practices—were already controlled by title VII prior to this Act. For example, title VII has always prohibited an employer from firing, or refusing to hire or promote, a woman because of pregnancy or related conditions, and from failing to accord a woman on pregnancy-related leave the same seniority retention and accrual accorded those on other disability leaves.

2. Q. If an employer had a sick leave policy in effect on October 31, 1978, by what date must the employer bring its policy into compliance with the Act?

A. With respect to payment of benefits, an employer has until April 29, 1979, to bring into compliance any fringe benefit or insurance program, including a sick leave policy, which was in effect on October 31, 1978. However, any such policy or program created after October 31, 1978, must be in compliance when created.

With respect to all aspects of sick leave policy other than payment of benefits, such

EXHIBIT 'E'

BUTT V. STATE OF CALIFORNIA

4 Cal.4th 668; 15 Cal.Rptr.2d 480; 842 P.2d 1240

[No. S020835. Dec. 31, 1992.]

THOMAS K. BUTT et al., Plaintiffs and Respondents, v.
THE STATE OF CALIFORNIA et al., Defendants and Appellants.

SUMMARY

Parents of school children enrolled in a unified school district filed a class action for injunctive relief against the state and the district's board of education, seeking to prevent the district from closing its schools six weeks before the official end of the school year due to a projected revenue shortfall. After granting plaintiffs' motion to amend the complaint to include the state Superintendent of Public Instruction and the state Controller as defendants, the trial court granted plaintiffs' motion for a preliminary injunction, ordering the state and the superintendent to ensure that the schools remained open until the end of the school year or to provide the students with a substantially equivalent educational opportunity. The court subsequently issued another order, pursuant to the superintendent's plan, authorizing the Controller to disburse an emergency loan to the district from unspent portions of appropriations for the Greater Avenues for Independence (GAIN) program and another unified school district, and authorizing the superintendent to relieve the present board, and to develop recovery and repayment plans. The state's appeal from the trial court's orders was transferred from the Court of Appeal to the Supreme Court. (Superior Court of Contra Costa County, No. C91-01645, Ellen Sickles James, Judge.)

The Supreme Court reversed the trial court's second order insofar as it approved funding of an emergency loan from appropriations for the GAIN program and the other school district; in all other respects, the court affirmed the orders, and directed the Court of Appeal to remand the matter to the trial court for further proceedings. The court held that the trial court, in deciding the propriety of a preliminary injunction, did not abuse its discretion in finding that there was a reasonable probability that plaintiffs would succeed on the merits of their case, since the early closure of the district's schools would have deprived the students of their fundamental right to basic equality in public education, and the state was required to intervene to prevent a deprivation of that right. The court also held that the trial court properly found that denial of the preliminary injunction would have caused students and their parents substantial and irreparable harm greater than that which defendants would suffer if the injunction were granted. The court held that

the trial court acted within its equitable powers in ordering the superintendent to displace the board, operate the district, and impose a plan for the district's permanent financial recovery, but that it was improper for the trial court to order the state to extend the loan by using unspent funds from appropriations for the GAIN program and the other school district, since those funds were not "reasonably available" for that purpose. (Opinion by Baxter, J., with Panelli, Arabian and George, JJ., concurring. Separate concurring and dissenting opinions by Lucas, C. J., Mosk and Kennard, JJ.)

HEADNOTES

Classified to California Digest of Official Reports

(1) **Appellate Review § 119—Dismissal—Grounds—Mootness—Exception for Matters of Public Interest—Issues Concerning Injunction Requiring Emergency State Loan to Fund School District.**—On the state's appeal from a preliminary injunction requiring it to extend an emergency loan to a school district so that it could keep its schools open until the end of the school year despite revenue shortfalls, and to implement a recovery plan for the district, some issues were moot due to the fact that a plan had already been implemented and the state did not seek rescission of the loan. Nevertheless, the Supreme Court had discretion to decide the issues, which included whether the state was responsible to ensure the students' fundamental right to basic educational equality and whether the trial court had authority to order a loan from funds the Legislature had appropriated for other purposes, since those issues involved potentially recurring questions of public importance. As to the appropriations issue, there was a substantial possibility that similar crises would produce similar emergency orders in the future, thus favoring review. Moreover, the state had fully litigated the issue, and any mootness stemmed from the Supreme Court's denial of the state's request for a stay pending appeal.

(2) **Injunctions § 21—Preliminary Injunctions—Appeal—Scope of Review.**—Appellate review of a trial court's decision as to whether to issue a preliminary injunction is limited to whether the decision was an abuse of discretion. In deciding whether to issue a preliminary injunction, the trial court must weigh two "interrelated" factors: (1) the likelihood that the moving party will ultimately prevail on the merits, and (2) the relative interim harm to the parties resulting from the issuance or nonissuance of the injunction. The trial court's determination must be guided by a "mix" of the two factors, and the greater the

plaintiff's showing on one, the less must be shown on the other to support an injunction. The scope of available preliminary relief is necessarily limited by the scope of the relief likely to be obtained at a trial on the merits, and the trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim. Thus, unless the potential merit of the claim is conceded, the appellate court must address that issue when reviewing an order granting a preliminary injunction.

(3a-3c) **Schools § 4—School Districts; Financing; Funds—Shortening School Year on Emergency Basis Due to Budget Shortfall—State's Obligation.**—In an action for injunctive relief by parents against the state, two state officials, and the board of education of a school district, seeking to prevent the district from ending the school year six weeks early due to a budget shortfall, the trial court, in granting plaintiffs a preliminary injunction, did not abuse its discretion in finding that there was a reasonable probability that plaintiffs would succeed on the merits of their case. Basic equality in public education for all students, regardless of the district in which they reside, is a fundamental right under the California Constitution, and denials of that right are subject to strict scrutiny. The state has the ultimate responsibility for assuring equal operation of the public school system, and is obliged to intervene when a local district's fiscal problems prevent its students from receiving basic educational equality. Moreover, there was no state policy of local autonomy and accountability at the district level that was compelling enough to justify the state's tolerance of the extreme and unprecedented educational deprivation that would have resulted from the early closure of the district's schools.

[See **Cal.Jur.3d,** Schools, §§ 291, 299.]

(4) **Schools § 1—Legislature's Nondelegable Responsibility Over Public School System.**—Public education is an obligation that the state assumed by adoption of the state Constitution. The public school system, although administered through local districts created by the Legislature, is one system applicable to all of the common schools. In view of the importance of education to society and to the individual child, the opportunity to receive the schooling furnished by the state must be made available to all on an equal basis. The Legislature's "plenary" power over public education is subject only to constitutional restrictions. Local districts are the state's agents for local operation of the common school system, and the state's ultimate responsibility for public education cannot be delegated to any other entity.

(5) **Constitutional Law § 87.2—Equal Protection—Classification—Judicial Review—Strict Standard of Review for Suspect Classifications or Classifications Touching on Fundamental Interests—Right to Education.**—Under the equal protection clauses of the federal and state Constitutions, heightened judicial scrutiny applies to state-maintained discrimination whenever the disfavored class is suspect or the disparate treatment has a real and appreciable impact on a fundamental right or interest. Education is such a fundamental interest for purposes of equal protection analysis under the California Constitution.

(6) **Schools § 4—School Districts; Financing; Funds—Shortening School Year on Emergency Basis Due to Budget Shortfall—Preliminary Injunction Against State—Balancing Harm to Parents and Students Against Harm to District.**—In an action for injunctive relief by parents against the state, two state officials, and the board of education of a school district to prevent closure of the district's schools six weeks early due to a budget shortfall, the trial court properly found that denial of the parents' motion for a preliminary injunction would have caused district students and their parents substantial and irreparable harm that was greater than that which defendants would suffer if the injunction were granted. Plaintiffs' declarations suggested that the district's inability to complete the school year arose from its ever-worsening fiscal condition and the deterioration of negotiations for emergency aid, and that the teachers' lesson plans did not provide for the contingency of early closure. They also detailed the difficulties of maintaining the educational progress of over 31,000 suddenly displaced students. While plaintiffs may not have demonstrated that "irreparable" harm to students was unavoidable by other means, the trial court's findings both that plaintiffs had a reasonable probability of success on the merits and that they would suffer more harm if an injunction were denied than the state would suffer if it were granted fully justified its decision to grant the preliminary injunction.

(7a, 7b) **Schools § 4—School Districts; Financing; Funds—District in Financial Distress Due to Mismanagement—Trial Court's Equitable Power to Grant Relief—Ordering Superintendent of Public Instruction to Assume Management.**—In an action for injunctive relief by parents against the state, the state Superintendent of Public Instruction, the state Controller, and the board of education of a school district, seeking to prevent the school district from ending the school year six weeks early due to a budget shortfall, the trial court did not exceed its powers in issuing an order, based on a plan submitted by the superintendent and the Controller, authorizing the superintendent to

displace the board, operate the district, and impose a plan for the district's permanent financial recovery. Although no statute gave the superintendent such authority, the takeover order was within the trial court's inherent equitable power to enforce the state's constitutional obligations in light of the unique situation. The state was justified in satisfying its duty by extending a loan with conditions to ensure appropriate use of the funds and minimize the risk of default, especially since the district's ability to administer the loan under its existing systems and managers was uniquely suspect.

(8) **Constitutional Law § 40—Distribution of Governmental Powers—Between Branches of Government—Judicial Power—To Order Discretionary Acts By Executive or Legislature.**—In general, courts have equitable authority to enforce their constitutional judgments. Principles of comity and separation of powers, however, place significant restraints on the authority of courts to order or ratify acts that are normally committed to the discretion of other branches or officials. In particular, the separation of powers doctrine (Cal. Const., art. III, § 3) obliges the judiciary to respect the separate constitutional roles of the Executive and the Legislature. Moreover, a judicial remedy must be tailored to the harm at issue. A court should always strive for the least disruptive remedy that is adequate to its legitimate task.

(9) **Constitutional Law § 40—Distribution of Governmental Powers—Between Branches of Government—Judicial Power—To Order Spending of Legislative Appropriations—Ordering Emergency Loan to School District From Funds Appropriated for Other Educational Purposes.**—In an action for injunctive relief by parents against the state, two state officials, and the board of education of a school district, seeking to prevent the school district from ending the school year six weeks early due to a budget shortfall, the trial court improperly ordered the state to extend the district an emergency loan of $19 million out of unspent funds appropriated for the Greater Avenues for Independence (GAIN) program and for an emergency loan to another school district. The appropriations did not make funds "reasonably available" for the purpose of financing the remainder of the district's school term. GAIN's purpose is to provide employment, adult education, and job training to recipients of public aid. The GAIN appropriation was expressly designated for that program alone, and was not intended to fund the needs of non-GAIN students. Similarly, the emergency loan to the other district was specifically appropriated for that district, with conditions addressed to the circumstances of that case. The funding of the remainder of the district's term was clearly

outside the particular purposes for which the appropriations were reserved.

[See 7 **Witkin,** Summary of Cal. Law (9th ed. 1988) Constitutional Law, §§ 112, 115.]

COUNSEL

Daniel E. Lungren, Attorney General, Robert L. Mukai, Chief Assistant Attorney General, Charlton G. Holland, Assistant Attorney General, D. Robert Shuman, Richard J. Chivaro, Joseph R. Symkowick, Roger D. Wolfertz, Michael E. Hersher, Allan H. Keown and Stuart Biegel for Defendants and Appellants.

Frank R. Calton, Howard P. Abelson, Ronald A. Zumbrun and Anthony T. Caso as Amici Curiae on behalf of Defendants and Appellants.

Eva Paterson, Michael Harris, Morrison & Foerster, Darryl Rains, Arturo J. Gonzalez and Katherine E. Schuelke for Plaintiffs and Respondents.

Beverly Tucker, A. Eugene Huguenin, Jr., Robert Einar Lindquist, Constance de la Vega, Ann Fagan Ginger, Linda Fullerton, Alan L. Schlosser, Edward M. Chen, Matthew A. Coles, Margaret C. Crosby, Richard Briffault, John A. Powell, Helen Hershkoff, Adam S. Cohen, Winslow & Fassler, Martin Fassler, Bunch & Grimes and Michael C. Grimes as Amici Curiae on behalf of Plaintiffs and Respondents.

Robert J. Bezemek as Amicus Curiae.

OPINION

BAXTER. J.—In late April 1991, after a period of mounting deficits, the Richmond Unified School District (District) announced it lacked funds to complete the final six weeks of its 1990-1991 school term. The District proposed to close its doors on May 1, 1991. The Superior Court of Contra Costa County issued a preliminary injunction directing the State of California (State), its Controller, and its Superintendent of Public Instruction (SPI) to ensure that the District's students would receive a full school term or its equivalent. The court approved the SPI's plan for an emergency State loan, and for appointment by the SPI of an administrator to take temporary charge of the District's operation.

We declined to stay implementation of the plan pending the State's appeal. However, we transferred the appeal here in order to decide an important issue of first impression: Whether the State has a constitutional duty, aside from the equal allocation of educational funds, to prevent the budgetary problems of a particular school district from depriving its students of "basic" educational equality.

We affirm the trial court's determination that such a duty exists under the California Constitution. Further, the court did not err in concluding, on the basis of the plaintiffs' preliminary showing, that the particular circumstances of this case demanded immediate State intervention. However, the court exceeded its judicial powers by approving the diversion of emergency loan funds from appropriations clearly intended by the Legislature for other purposes.

FACTS AND PROCEDURAL HISTORY[1]

On April 17, 1991, Thomas K. Butt and other named District parents filed a class action for temporary and permanent injunctive relief against the State and the District's board of education (Board).[2] The complaint alleged as follows: The State is responsible for educating all California children, and the Board is the State's agent for carrying out this responsibility in the District. The scheduled final day of the District's 1990-1991 school term was June 14, 1991, but the District had announced that its 44 elementary, secondary, and adult schools would close on May 1, 1991. The resulting loss of six weeks of instruction would cause serious, irreparable harm to the District's 31,500 students and would deny them their "fundamental right to an effective public education" under the California Constitution. Moreover, as an unjustified discrimination against District students compared to those elsewhere in California, the closure would violate equal protection guarantees of the California and United States Constitutions. Therefore, defendants should be enjoined from closing the District's schools before the scheduled end of the scholastic term.

On April 22, 1991, plaintiffs noticed a motion for preliminary injunction. In an attached declaration, Frank R. Calton, a member of the Board, stated

[1]The State, as appellant, has elected to proceed by way of an appendix in lieu of the clerk's transcript, as permitted by rule 5.1 of the California Rules of Court. Some of the documents contained in the appendix, though they include handwritten filing dates, bear no official file stamps and have no proofs of service attached. However, rule 5.1 expressly allows the use of unofficial conformed copies (subd. (c)(1)) and provides that the filing of an appendix "constitutes a representation by counsel that the appendix consists of true and correct copies of the papers in the superior court file" (subd. (i)(1)). No party having urged otherwise, we adopt that assumption for purposes of this opinion.

[2]The named plaintiffs sued on behalf of themselves, their children, and other parents and students of the District.

that the District projected a revenue shortfall of $23 million for the 1990-1991 academic year and only had sufficient funds to pay its employees through April 1991. Calton declared the District would have to close at the end of April unless new funds were obtained or employees agreed to work for registered warrants in lieu of paychecks. He indicated that the District's efforts to obtain an emergency loan from the State had not yet succeeded, and the District was preparing to file for bankruptcy.

Plaintiffs' motion papers also included declarations by District teachers, academicians in the field of education, and members of the Contra Costa County board of education. These statements detailed the serious disruptive effect the proposed closure would have upon the educational process in the District and upon the quality of education afforded its students.

The motion was heard on April 29, 1991. The Attorney General represented the State in opposition. Counsel for the District represented that the Board's appearance was precluded by an automatic bankruptcy stay. The trial court granted plaintiffs' unopposed motion for amendment of the complaint to include the SPI and the Controller as defendants. Pending applications for intervention and amicus curiae status were not formally granted,[3] but as stipulated by the parties, the court heard argument from the applicants and agreed to consider their briefs.

At the conclusion of the hearing, the trial court ruled orally that under the California Constitution, the State itself is responsible for the "fundamental" educational rights of California students and must remedy a local district's inability to provide its students an education "basically equivalent" to that provided elsewhere in the State. Concluding that the threatened closure would deny the District's students a "constitutionally [equal] education," the court ordered the State and the SPI to act as "they deem appropriate" to ensure that District schools remained open until June 14, 1991, or to provide District students a "substantially equivalent educational opportunity" within the statutory school year ending June 30, 1991.

This oral decision was followed by two written orders filed May 2. One of these, drafted by plaintiffs' counsel, purported to formalize the April 29 ruling. It made findings that closure of District schools by May 1 would cause District students irreparable harm, that the balance of harm favored a preliminary injunction, that education is a "fundamental right" in California,

[3]Applications to appear as amici curiae were submitted by the Richmond Federation of Teachers (RFT) and jointly by the Meiklejohn Civil Liberties Institute, the National Lawyers Guild, and Multi-Cultural Education, Training, and Advocacy, Inc. (collectively Meiklejohn). Complaints in intervention and/or applications for leave to intervene were submitted by the Oakland Unified School District (OUSD), RFT, and United Teachers of Richmond (UTR).

that no "compelling interest" justified denying District students six weeks of instruction available to "every other child in the State," and that plaintiffs' ultimate success on the merits was reasonably probable. The State and its agents again were directed to act "as . . . appropriate" to ensure District students, within the school year ending June 30, 1991, an education "equivalent basically" to that provided elsewhere in California for a full school term. The Controller was added as a State official expressly bound by the court's commands.

On the same day, May 2, the SPI and the Controller submitted their plan for compliance with the preliminary injunction. With counsel for all interested parties present, the court took evidence indicating that uncommitted funds exceeding the estimated $19 million necessary to complete the District's school year were available from existing State appropriations to the Greater Avenues for Independence (GAIN) program and for emergency assistance to the OUSD. Counsel for the OUSD stipulated that his client had "no objection" to use of the $10 million OUSD appropriation for purposes of an emergency loan to the District.

Accordingly, the court executed an order, drafted by counsel for the SPI, approving in principle the submitted plan.[4] The order authorized the Controller to disburse an emergency loan to the District from unspent portions of the GAIN and OUSD appropriations. (See Stats. 1989, ch. 93, § 22.00; Stats. 1989, ch. 1438, § 1 et seq.) Meanwhile, the SPI, by virtue of the State's "ultimate responsibility" for equal education and his own statutory obligation to "superintend the schools of this state" (Ed. Code, § 33112, subd. (a)),[5] would have authority to "relieve the . . . [B]oard of its legal duties and powers, appoint a trustee, develop a recovery plan and, subject to the approval of the Controller, [develop] a repayment plan on the [D]istrict's behalf as necessary" to ensure completion of the school term, the District's financial recovery, and the protection of the loaned funds.[6]

The Attorney General timely noticed appeals from the April 29 and May 2 orders on behalf of the State. Defendants SPI and Controller did not

[4]Though the court's order recites that the SPI and the Controller "presented . . . , after notice to all parties, an agreement" to provide an emergency loan, neither the agreement itself, nor a description of its precise terms, has been made part of the record on appeal.

[5]All further statutory references are to the Education Code unless otherwise indicated.

[6]The preliminary injunction motion was litigated with understandable haste, and evidence of the causes of the District's apparent insolvency was not presented below. On appeal, the SPI invites us to take judicial notice of grand jury findings on this subject which were released after the preliminary injunction was granted. (See The Financial Affairs of the Richmond Unified School District, Rep. of 1990-1991 Contra Costa County Grand Jury (May 29, 1991) [hereafter Report].) Without objection, we may note the Report's contents. (Evid. Code, §§ 452, subds. (c), (d), 455, 459; see *People* v. *Gonzalez* (1990) 51 Cal.3d 1179, 1259, fn. 54 [275 Cal.Rptr. 729, 800 P.2d 1159].) Of course, we cannot accept its findings as evidence or its criticisms of the District and the Board as conclusively founded. We are

appeal. The State immediately requested transfer of the appeal from the Court of Appeal, First Appellate District, to this court (see Cal. Rules of Court, rule 20) and also asked that we stay enforcement of the trial court's orders pending appeal. (1)(See fn. 7.) The SPI and the Controller opposed a stay but supported transfer of the appeal to this court. We granted the transfer request but denied a stay.[7]

DISCUSSION

1. *Standard of review.*

(2) In deciding whether to issue a preliminary injunction, a court must weigh two "interrelated" factors: (1) the likelihood that the moving party

particularly loath to do so when the District and the Board were disabled below from defending against claims of mismanagement and, except for a special appearance at oral argument, have not participated in the appeal.

Nonetheless, we cannot ignore the grand jury's assessment that despite repeated warnings, an earnest but financially inexperienced Board permitted massive, accelerating deficit spending over a period of several years to expand staff, boost salaries and benefits, and support innovative programs installed by the District's former superintendent. (Report, pp. 3-5.) According to the Report, the resulting deficit for the years 1986-1990 was $29.5 million, with an $18.1 million deficit for 1990 alone. (*Id.*, at p. 4.) In 1990, the District had received a State emergency loan exceeding $9 million, in consequence of which a limited-powers trustee appointed by the SPI was overseeing District financial affairs during the 1990-1991 school term. (*Id.*, at p. 5.)

[7]Our denial of a stay allowed implementation of the plan approved by the trial court, and the District's school year was completed. Though the State vigorously contends the court lacked power to invade the GAIN and OUSD appropriations, it does not demand actual rescission of the court-approved loan. Moreover, we judicially notice without objection that in June 1992, the SPI approved a repayment and recovery plan adopted by the District, restored the Board's powers, and terminated the court-authorized appointment of the State administrator. (See Evid. Code, §§ 452, subds. (c), (h), 455, 459.) Although portions of the appeal may therefore be technically moot, we have discretion to decide the issues presented as potentially recurring questions of public importance. (E.g., *O'Hare* v. *Superior Court* (1987) 43 Cal.3d 86, 91, fn. 1 [233 Cal.Rptr. 332, 729 P.2d 766]; *DiGiorgio Fruit Corp.* v. *Dept. of Employment* (1961) 56 Cal.2d 54, 58 [13 Cal.Rptr. 663, 362 P.2d 487]; *People* v. *West Coast Shows, Inc.* (1970) 10 Cal.App.3d 462, 468 [89 Cal.Rptr. 290].)

The Chief Justice objects in particular that we neither must nor should address whether the sources of funding approved by the trial court were proper. However, he fails to indicate why this important and sensitive issue is any more moot, or any less worthy of consideration, than other portions of the trial court's order which have also been irretrievably implemented. Indeed, in these uncertain times, the substantial possibility arises that similar future crises will produce similar emergency orders for immediate diversion of State funds from expedient sources. Hence, contrary to the Chief Justice's suggestion, the issue is one capable of repetition but difficult to review, and this concern favors its prompt consideration under the "public interest" exception to the mootness doctrine. (*DiGiorgio Fruit Corp.*, *supra*, 56 Cal.2d at p. 58.) Moreover, the State has fully litigated the merits of the appropriations issue throughout, and any mootness in this or other aspects of the injunction stems from our denial of the State's request for a stay pending appeal. Under these circumstances, the State should not be penalized on appeal for conceding that State funds already expended by the District cannot practicably be recovered.

will ultimately prevail on the merits and (2) the relative interim harm to the parties from issuance or nonissuance of the injunction. (*Common Cause* v. *Board of Supervisors* (1989) 49 Cal.3d 432, 441-442 [261 Cal.Rptr. 574, 777 P.2d 610].) Appellate review is limited to whether the trial court's decision was an abuse of discretion. (*Cohen* v. *Board of Supervisors* (1985) 40 Cal.3d 277, 286 [219 Cal.Rptr. 467, 707 P.2d 840].)

The trial court's determination must be guided by a "mix" of the potential-merit and interim-harm factors; the greater the plaintiff's showing on one, the less must be shown on the other to support an injunction. (*King* v. *Meese* (1987) 43 Cal.3d 1217, 1227-1228 [240 Cal.Rptr. 829, 743 P.2d 889].) Of course, "[t]he scope of available preliminary relief is necessarily limited by the scope of the relief likely to be obtained at trial on the merits." (*Common Cause*, *supra*, 49 Cal.3d at p. 442.) A trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim. (*Id.*, at pp. 442-443.) Unless potential merit is conceded, an appellate court must therefore address that issue when reviewing an order granting a preliminary injunction.

Here, the trial court found that plaintiffs' constitutional demand for State intervention had potential merit, and that the balance of interim harm justified the issuance of a preliminary injunction against the State. For the reasons that follow, we conclude that each of these determinations was within the court's discretion.[8]

2. *Merits of plaintiffs' claims.*

(3a) The trial court expressly found "[t]here is a reasonable probability that plaintiffs will succeed on the merits of their case." The court agreed with plaintiffs' claim that the equal protection guaranties of the California Constitution (art. I, § 7, subds. (a), (b); art. IV, § 16, subd. (a)) require State intervention to ensure that fiscal problems do not deprive a local district's

[8]The State insists that under the circumstances of this case, appellate review should not be limited to whether the trial court "abused its discretion" when weighing "interim" harm and "probable" merit. The State stresses that the unstayed injunction, though preliminary in form, was both final and unprecedented in fact. Accordingly, the State suggests, we must decide, as on appeal from a final judgment, whether plaintiffs were entitled to the relief they received.

We disagree. The abuse-of-discretion standard acknowledges that the propriety of preliminary relief turns upon difficult estimates and predictions from a record which is necessarily truncated and incomplete. Here, the urgency of the situation forced plaintiffs to produce, and the State to rebut, a hasty tentative showing of constitutional necessity. The evidence on which the trial court was forced to act may thus be significantly different from that which would be available after a trial on the merits. Neither the trial court nor this court could undertake a final adjudication of plaintiffs' lawsuit under such circumstances.

students of basic educational equality.[9] The court also accepted plaintiffs' preliminary showing that the effect of the District's crisis on its students' educational rights was serious enough to trigger the State's constitutional duty. The State, supported by amicus curiae Pacific Legal Foundation (Pacific),[10] assails these conclusions on multiple grounds.

At the outset, the State does not claim it lacks any and all constitutional role in local educational affairs. Instead, its reasoning proceeds as follows: The State fulfills its financial responsibility for educational equality by subjecting all local districts, rich and poor, to an equalized statewide revenue base.[11] Unless a district fails to provide the minimum six-month school term set forth in the "free school" clause (Cal. Const., art. IX, § 5),[12] the State has no duty to ensure prudent use of the equalized funds by local administrators. Even if local mismanagement causes one district's services to fall seriously below prevailing statewide standards, the resulting educational inequality is

[9]Article I, section 7, subdivision (a) provides in pertinent part that "[a] person may not be . . . denied equal protection of the laws. . . ." Article I, section 7, subdivision (b) provides in pertinent part that "[a] citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. . . ." Article IV, section 16, subdivision (a) provides that "[a]ll laws of a general nature have uniform operation."

[10]The positions adopted by the various parties and numerous amici curiae in this appeal are diverse. The Attorney General, representing the State as defendant and appellant, opposes all aspects of the trial court orders. Though they were joined as defendants below, the SPI and the Controller, deeming themselves "respondents" on appeal, support plaintiffs' view that the orders were proper in all respects. Amicus curiae Pacific supports the State's position. Amici curiae RFT and UTR approve State financial aid but object to displacement of the local governing board by a State administrator. Amici curiae Frank R. Calton and Howard P. Abelson urge that the Board acted correctly by deciding to close District schools and should not have been displaced. Calton and Abelson also suggest the injunction was improper because the Board had no opportunity to appear and defend against claims of mismanagement. Amici curiae Mario Diaz and Rebecca Hazlewood Bezemek (Diaz and Bezemek) take no position on State financial assistance but argue that the SPI's takeover of District government was improper. Amicus curiae briefs in support of plaintiffs have been filed by the American Civil Liberties Union Foundation, Human Rights Advocates, and Meiklejohn.

[11]The funding scheme for public education is complex, but no party disputes the summary description provided in the State's brief: "The Legislature has attempted to equalize school district funding . . . by the use of a 'base revenue limit' for each district. Each district is classified by size and type. ([Ed.] Code, [§] 42238.) Based upon this classification scheme, each district has a 'base revenue limit' per unit of average daily attendance. The base revenue limit for any district includes the amount of property tax revenues a district can raise, with other specific local revenues, coupled with an equalization payment by the State, thus bringing each district into a rough equivalency of revenues. (Compare [Cal. Code Regs., tit. 5, [§] 15371, *et seq.*[; Ed.] Code [§] 42238 et seq.) [¶] Because the student population is so diverse, the Legislature had to supplement the base revenue limit with specific augmentations targeted for categories of children with needs that require special attention. These supplements are designated as 'categorical' aid. . . ."

[12]Article IX, section 5 provides: "The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established."

not grounded in district wealth, nor does it involve a "suspect classification" such as race. Thus, "strict scrutiny" of the disparity is not required, and the State's refusal to intervene must be upheld as rationally related to its policy of local control and accountability. Even if strict scrutiny is appropriate, the local-control policy is "compelling" enough to justify the State's inaction.

Under the unprecedented circumstances of this case, we cannot accept the State's contentions. We set forth our reasons in detail.

Since its admission to the Union, California has assumed specific responsibility for a statewide public education system open on equal terms to all. The Constitution of 1849 directed the Legislature to "provide for a system of common schools, by which a school shall be kept up and supported in each district . . . ." (Cal. Const. of 1849, art. IX, § 3.) That constitutional command, with the additional proviso that the school maintained by each district be "free," has persisted to the present day. (Cal. Const., art. IX, § 5.)

In furtherance of the State system of free public education, the Constitution also creates State and county educational offices, including a Superintendent of Public Instruction and a State Board of Education. (Cal. Const., art. IX, §§ 2-3.3, 7.) It authorizes the formation of local school districts (*id.*, §§ 6½, 14), requires that all public elementary and secondary schools be administered within the Public School System (*id.*, § 6), establishes a State School Fund (Fund) (*id.*, § 4), reserves a minimum portion of State revenues for allocation to the Fund (*id.*, art. XVI, §§ 8, 8.5), guarantees minimum allocations from the Fund for each public school (*id.*, art. IX, § 6), specifies minimum salaries for public school teachers (*ibid.*), authorizes the State Board of Education to approve public school textbooks (*id.*, § 7.5), and permits the Legislature to grant local districts such authority over their affairs as does not "conflict with the laws and purposes for which school districts are established" (*id.*, § 14).

(4) Accordingly, California courts have adhered to the following principles: Public education is an obligation which the State assumed by the adoption of the Constitution. (*San Francisco Unified School Dist.* v. *Johnson* (1971) 3 Cal.3d 937, 951-952 [92 Cal.Rptr. 309, 479 P.2d 669]; *Piper* v. *Big Pine School Dist.* (1924) 193 Cal. 664, 669 [226 P. 926].) The system of public schools, although administered through local districts created by the Legislature, is "*one* system . . . applicable to all the common schools . . . ." (*Kennedy* v. *Miller* (1893) 97 Cal. 429, 432 [32 P. 558], italics in original.) ". . . In view of the importance of education to society and to the individual child, the opportunity to receive the schooling furnished by the state must be made available to all on an equal basis. . . ." (*Jackson* v.

Pasadena City School Dist. (1963) 59 Cal.2d 876, 880 [31 Cal.Rptr. 606, 382 P.2d 878].) "[M]anagement and control of the public schools [is] a matter of state[, not local,] care and supervision. . . ." (*Kennedy* v. *Miller*, *supra*, 97 Cal. at p. 431; see also *Hall* v. *City of Taft* (1956) 47 Cal.2d 177, 181 [302 P.2d 574]; *California Teachers Assn.* v. *Huff* (1992) 5 Cal.App.4th 1513, 1523-1524 [7 Cal.Rptr.2d 699].) The Legislature's "plenary" power over public education is subject only to constitutional restrictions. (*Hall* v. *City of Taft*, *supra*, at pp. 180-181 [302 P.2d 574]; *Tinsley* v. *Palo Alto Unified School Dist.* (1979) 91 Cal.App.3d 871, 903-904 [154 Cal.Rptr. 591].) Local districts are the State's agents for local operation of the common school system (*Hall* v. *City of Taft*, *supra*, at p. 181; *San Francisco Unified School Dist.* v. *Johnson*, *supra*, 3 Cal.3d at p. 952; *California Teachers Assn.*, *supra*), and the State's ultimate responsibility for public education cannot be delegated to any other entity (*Hall* v. *City of Taft*, *supra*; *Piper* v. *Big Pine School Dist.*, *supra*, 193 Cal. at p. 669).

(**3b**) It is true that the Legislature has assigned much of the governance of the public schools to the local districts (e.g., §§ 14000, 35160 et seq., 35160.1), which operate under officials who are locally elected and appointed (§§ 35020, 35100 et seq.). The districts are separate political entities for some purposes. (E.g., *Johnson* v. *San Diego Unified School Dist.* (1990) 217 Cal.App.3d 692, 698-700 [266 Cal.Rptr. 187] [general theory of respondeat superior does not make State liable for torts of local district or its employees]; *Gonzales* v. *State of California* (1972) 29 Cal.App.3d 585, 590-592 [105 Cal.Rptr. 804] [same]; *First Interstate Bank* v. *State of California* (1987) 197 Cal.App.3d 627, 633-634 [243 Cal.Rptr. 8] [State not vicariously liable for district's breach of contract]; *Board of Education* v. *Calderon* (1973) 35 Cal.App.3d 490, 496 [110 Cal.Rptr. 916] [local district is not the "state" or the "People," so as to be civilly bound in dismissal proceedings by teacher's acquittal of criminal sex offense under principles of res judicata].)

Yet the existence of this local-district system has not prevented recognition that the State itself has broad responsibility to ensure basic educational equality under the California Constitution. Because access to a public education is a uniquely fundamental personal interest in California, our courts have consistently found that the State charter accords broader rights against State-maintained educational discrimination than does federal law. Despite contrary federal authority, California constitutional principles require State assistance to correct basic "interdistrict" disparities in the system of common schools, even when the discriminatory effect was not produced by the purposeful conduct of the State or its agents.

In *Serrano* v. *Priest* (1971) 5 Cal.3d 584 [96 Cal.Rptr. 601, 487 P.2d 1241, 41 A.L.R.3d 1187] (*Serrano I*), this court struck down the existing State

public school financing scheme, which caused the amount of basic revenues per pupil to vary substantially among the respective districts depending on their taxable property values. *Serrano I* concluded at length that such a scheme violated both state and federal equal protection guaranties because it discriminated against a fundamental interest—education—on the basis of a suspect classification—district wealth—and could not be justified by a compelling state interest under the strict scrutiny test thus applicable. (Pp. 596-619.) As the court concluded, "where fundamental rights *or* suspect classifications are at stake, a state's general freedom to discriminate on a geographical basis will be significantly curtailed by the equal protection clause. [Citation.]" (P. 612, italics added.)

Among other things, *Serrano I* rejected a claim that the wealth-based financing scheme was immune from challenge because the interdistrict revenue disparities it produced were not de jure, but merely de facto. Our opinion detailed the purposeful state legislative action which had produced the geographically based wealth classifications. It also made clear, however, that under California principles developed in cases involving school racial segregation, the absence of purposeful conduct by the State would not prevent a finding that the State system for funding public education had produced unconstitutional results. (*Serrano I*, *supra*, 5 Cal.3d at pp. 603-604, citing *Jackson* v. *Pasadena City School Dist.*, *supra*, 59 Cal.2d 876, 881.)

Serrano I also discussed two groups of federal cases suggesting that place of residence was an impermissible basis for State discrimination in the quality of education. *Serrano I* cited with approval *Hall* v. *St. Helena Parish School Board* (E.D.La. 1961) 197 F.Supp. 649. This federal decision struck down a Louisiana statute permitting local parishes to close their schools rather than integrate them. As *Serrano I* noted, *Hall* v. *St. Helena Parish* found an equal protection violation not only because of the statute's racial consequences, but also " 'because its application in one parish, while the state provides public schools elsewhere, would unfairly discriminate against the residents of that parish, irrespective of race. . . . [A]bsent a reasonable basis for so classifying, a state cannot close the public schools in one area while, at the same time, it maintains schools elsewhere with public funds.' " (*Serrano I*, *supra*, 5 Cal.3d at p. 612, quoting *Hall* v. *St. Helena Parish*, *supra*, 197 F. Supp. at pp. 651, 656.)

Serrano I further noted a "second group of cases, dealing with apportionment [of votes], [in which] the high court has held that accidents of geography and arbitrary boundary lines of local government can afford no ground for discrimination among a state's citizens. [Citation.] . . . If a voter's address may not determine the weight to which his ballot is entitled,

surely it should not determine the quality of his child's education. [Fn.]" (*Serrano I, supra*, 5 Cal.3d at p. 613.)

Finally, *Serrano I* rejected the State's claim that plaintiffs' wealth-discrimination theory would apply equally, and with disastrous effect, to all public services dependent in part on local property taxes. "[W]e are satisfied," the majority concluded, that whatever the status of other public services, "its uniqueness among public activities clearly demonstrates that *education* must respond to the command of the equal protection clause." (*Serrano I, supra*, 5 Cal.3d at p. 614, italics in original.)

In *San Antonio School District* v. *Rodriguez* (1973) 411 U.S. 1 [36 L.Ed.2d 16, 93 S.Ct. 1278], decided after *Serrano I*, the United States Supreme Court declined to subject Texas's similar local-property-tax based school financing scheme to heightened scrutiny under the Fourteenth Amendment. The *Rodriguez* majority concluded that a school finance scheme dependent on district tax values does not discriminate against the poor as a distinct class; in any event, the majority observed, wealth alone had never been deemed a suspect classification for federal purposes. Moreover, the majority reasoned, education is not a fundamental interest protected by the federal Constitution. Therefore finding the strict scrutiny standard of review inapplicable, the majority upheld Texas's system as rationally related to that state's policy of local control of schools. (411 U.S. at pp. 18-55.)

Nonetheless, in *Serrano* v. *Priest* (1976) 18 Cal.3d 728 [135 Cal.Rptr. 345, 557 P.2d 929] (*Serrano II*), this court reaffirmed the reasoning and result of *Serrano I* as required by the separate equal protection guaranties of the California Constitution. (*Serrano II, supra*, 18 Cal.3d at pp. 760-768.) Among other things, *Serrano II* reiterated that for California purposes, education remains a fundamental interest "which [lies] at the core of our free and representative form of government [fn.] . . . ." (*Id.*, at pp. 767-768.)

Hence, *Serrano II* declared, "[i]n applying our state constitutional provisions guaranteeing equal protection of the laws we shall continue to apply strict and searching judicial scrutiny" to claims of discriminatory educational classifications. (*Serrano II, supra*, at p. 767.) More recent cases confirm that education is a fundamental interest under the California equal protection guaranties (e.g., *Steffes* v. *California Interscholastic Federation* (1986) 176 Cal.App.3d 739, 746 [222 Cal.Rptr. 355]) and that the unique importance of public education in California's constitutional scheme requires careful scrutiny of state interference with basic educational rights (see, e.g., *Hartzell* v. *Connell* (1984) 35 Cal.3d 899, 906-909 [201 Cal.Rptr. 601, 679 P.2d 35] [scope of free school guarantee]).

In *Tinsley* v. *Palo Alto Unified School Dist.*, *supra*, 91 Cal.App.3d 871, parents sought mandate requiring several neighboring San Mateo and Santa Clara County school districts, the State, and certain State school officials, to submit a plan for the redress of interdistrict racial segregation in the affected locality. The petitioners declined to allege any specific acts committed by State or local parties as the cause of the interdistrict imbalance.

The State respondents answered the petition, but the districts successfully demurred, and the petition was dismissed as to them. The Court of Appeal reversed, holding that the California Constitution, unlike its federal counterpart as construed in *Milliken* v. *Bradley* (1974) 418 U.S. 717 [41 L.Ed.2d 1069, 94 S.Ct. 3112], contemplates interdistrict relief to remedy mere de facto racial imbalance which extends across district lines. (*Tinsley*, *supra*, 91 Cal.App.3d at pp. 899-907.) Several aspects of the *Tinsley* decision emphasize the State's ultimate responsibility for maintaining a nondiscriminatory common school system.

At the outset, the districts asserted that an appeal was premature under the "one final judgment" rule, because as mere agencies of the State, which had not demurred, they had no separate legal interests which an appeal from their dismissal could finally resolve. The Court of Appeal observed that if the districts' claim of mere agency was correct, any relief ordered against the State would necessarily affect them, and the judgment dismissing them from the action should therefore be reversed. In any event, the court concluded, the premise of identical interests did not bear scrutiny, because while "[t]he local districts, as agents, may have limited powers in interdistrict affairs, . . . the state . . . has plenary powers in all school district affairs. . . ." (*Tinsley*, *supra*, 91 Cal.App.3d at pp. 880-881.)

Turning to the merits, *Tinsley* dismissed the majority reasoning in *Milliken* insofar as based on the federal rule, long rejected in California (see *Crawford* v. *Board of Education* (1976) 17 Cal.3d 280 [130 Cal.Rptr. 724, 551 P.2d 28]; *Jackson* v. *Pasadena City School Dist.*, *supra*, 59 Cal.2d 876), that only de jure racial segregation is a constitutional violation. (*Tinsley*, *supra*, 91 Cal.App.3d at p. 903.) *Tinsley* also distinguished the *Milliken* majority's concern that it "would disrupt and alter" Michigan's entrenched system of local control of schools to impose an interdistrict remedy for Detroit city school segregation without proof that the state or affected suburban districts had engaged in intentional segregative conduct. The *Tinsley* court noted, among other things, that in California, the State shares responsibility with "the local entities it has created" to provide "equal educational opportunity

to the youth of the state" and "has a duty to intervene to prevent unconstitutional discrimination" in its schools. (*Id.*, at pp. 903-904.)[13]

It therefore appears well settled that the California Constitution makes public education uniquely a fundamental concern of the State and prohibits maintenance and operation of the common public school system in a way which denies basic educational equality to the students of particular districts. The State itself bears the ultimate authority and responsibility to ensure that its district-based system of common schools provides basic equality of educational opportunity.

The State claims it need only ensure the six-month minimum term guaranteed by the free school clause (Cal. Const., art. IX, § 5). This contention, however, misconstrues the basis of the trial court's decision. Whatever the requirements of the free school guaranty, the equal protection clause precludes the State from maintaining its common school system in a manner that denies the students of one district an education basically equivalent to that provided elsewhere throughout the State.

The State argues that even if the District's fiscal problems threatened its students' basic educational equality, any State duty to redress the discrimination must be judged under the most lenient standard of equal protection review. The State reasons as follows: Plaintiffs do not claim discrimination on the suspect basis of race. Nor is wealth-based discrimination at issue; as all parties concede, the District received the full benefit of the equalized funding system mandated by our *Serrano* decisions. At most, plaintiffs assert that a misuse of equalized funds by the District's officials caused a geographical disparity in service. Because residence and geography are not suspect classifications, the State's failure to prevent educational discrimination on those grounds is not subject to strict scrutiny. Rather, State inaction must be accepted as rationally related to the legitimate State policy of local control of schools.

(5) However, both federal and California decisions make clear that heightened scrutiny applies to State-maintained discrimination whenever the

[13]In November 1979, the voters adopted a Senate amendment to the California Constitution's equal protection clause, article I, section 7, subdivision (a). The amendment declares that nothing in the California Constitution imposes upon the State, or any local district or official, any obligations beyond those imposed by the Fourteenth Amendment of the United States Constitution "with respect to the use of pupil school assignment or pupil transportation." The amendment further forbids California courts from imposing any school-assignment or pupil-transportation obligation except when a violation of the Fourteenth Amendment has occurred, and unless a federal court could impose such a remedy for the violation. Whatever effect this amendment may have on *Tinsley*'s result, it does not affect consistent interpretations of the California equal protection guaranty where, as here, assignment or transportation of students is not at issue.

disfavored class is suspect *or* the disparate treatment has a real and appreciable impact on a fundamental right or interest. (*Plyler* v. *Doe* (1982) 457 U.S. 202, 216-217 [72 L.Ed.2d 786, 102 S.Ct. 2382]; *Shapiro* v. *Thompson* (1969) 394 U.S. 618, 634 [22 L.Ed.2d 600, 614-615, 89 S.Ct. 1322]; *Darces* v. *Woods* (1984) 35 Cal.3d 871, 885, 888 [201 Cal.Rptr. 807, 679 P.2d 458]; *Fair Political Practices Com.* v. *Superior Court* (1979) 25 Cal.3d 33, 47 [157 Cal.Rptr. 855, 599 P.2d 46]; *Serrano II*, *supra*, 18 Cal.3d 728, 761, 767-768; *Weber* v. *City Council* (1973) 9 Cal.3d 950, 959 [109 Cal.Rptr. 553, 513 P.2d 601]; *Serrano I*, *supra*, 5 Cal.3d 584, 597; *Westbrook* v. *Mihaly* (1970) 2 Cal.3d 765, 784-785 [87 Cal.Rptr. 839, 471 P.2d 487].) As we have seen, education is such a fundamental interest for purposes of equal protection analysis under the California Constitution.

(3c) The State suggests there was no showing that the impact of the threatened closure on District students' fundamental right to basic educational equality was real and appreciable. Of course, the Constitution does not prohibit all disparities in educational quality or service. Despite extensive State regulation and standardization (see discussion, *post*), the experience offered by our vast and diverse public school system undoubtedly differs to a considerable degree among districts, schools, and individual students. These distinctions arise from inevitable variances in local programs, philosophies, and conditions. "[A] requirement that [the State] provide [strictly] 'equal' educational opportunities would thus seem to present an entirely unworkable standard requiring impossible measurements and comparisons. . . ." (*Hendrick Hudson Dist. Bd. of Ed.* v. *Rowley* (1982) 458 U.S. 176, 198 [73 L.Ed.2d 690, 707, 102 S.Ct. 3034].) Moreover, principles of equal protection have never required the State to remedy all ills or eliminate all variances in service.

Accordingly, the California Constitution does not guarantee uniformity of term length for its own sake. While the current statutory system for allocating State educational funds strongly encourages a term of at least 175 days (see fn. 14, *post*, at p. 687), that system is not constitutionally based and is subject to change. In an uncertain future, local districts, faced with mounting fiscal pressures, may be forced to seek creative ways to gain maximum educational benefit from limited resources. In such circumstances, a planned reduction of overall term length might be compensated by other means, such as extended daily hours, more intensive lesson plans, summer sessions, volunteer programs, and the like. An individual district's efforts in this regard are entitled to considerable deference.

Even unplanned truncation of the intended school term will not necessarily constitute a denial of "basic" educational equality. A finding of constitutional disparity depends on the individual facts. Unless the actual quality

of the district's program, viewed as a whole, falls fundamentally below prevailing statewide standards, no constitutional violation occurs.

Here, however, plaintiffs' preliminary showing suggested that closure of the District's schools on May 1, 1991, would cause an extreme and unprecedented disparity in educational service and progress. District students faced the sudden loss of the final six weeks, or almost one-fifth, of the standard school term originally intended by the District and provided everywhere else in California.[14] The record indicates that the decision to close early was a desperate, unplanned response to the District's impending insolvency and the impasse in negotiations for further emergency State aid.[15] Several District teachers declared that they were operating on standard-term lesson schedules made at the beginning of the school year. These declarants outlined in detail how the proposed early closure would prevent them from completing instruction and grading essential for academic promotion, high school graduation, and college entrance.[16] Faced with evidence of such extensive educational disruption, the trial court did not abuse its discretion

[14]The trial court record contains no evidence of the prevailing term length in California, but the parties assumed below that a minimum term of 175 days prevails, and no dispute has arisen on the issue here. The statutes provide that an established local district may not receive any part of its annual apportionment from the State School Fund if it failed to remain in session at least 175 days during the most recent fiscal year, unless specified circumstances excusing the failure are established to the satisfaction of the SPI. (§§ 41420, subd. (a), 41422.) In an appendix to his brief, the SPI provides copies of local district certifications, submitted to the SPI as a condition of funding under section 41420, which indicate that virtually every established school district in California operated for at least 175 days during the 1990-1991 school year. The SPI asks us to take judicial notice of this information. Having received no objection, we do so. (Evid. Code, §§ 452, subds. (c), (h), 455, 459.)

[15]The declaration of Board member Calton, dated April 12, 1991, detailed the District's growing financial woes and stated the following: ". . . The District has only enough money to pay its employees through April 1991 [even under the most favorable accounting assumptions]. . . . Unless (a) additional funds are received, or (b) employees are willing to work for registered warrants, not redeemable checks, the District will have no alternative but to close all of its public schools at the end of April 1991. [¶] . . . The District has applied to the State of California for a loan, but that request has not been approved. It is my understanding that [collective bargaining concessions demanded by the State] have not been made, although negotiations are continuing. The District has retained bankruptcy counsel, . . . and is preparing to file for bankruptcy prior to April 30, 1991, if necessary."

[16]For example, John Enos, a high school government/economics teacher, stated that early termination of his required senior government class would eliminate intended lessons covering the State's executive and judicial branches, and county and local government. Geoffrey Cantrell, a high school mathematics teacher, stated that if the District closed early, Algebra I students would miss essential instruction in quadratic equations; Algebra II students would miss essential instruction in trigonometry; and geometry students would miss lessons in coordinate systems, logical proof, and trigonometric ratios. Craig Brammer, another high school mathematics teacher who also teaches a preparatory course for the Scholastic Aptitude Test (SAT), opined that loss of six weeks' instruction would severely impair his students' chances on the mathematics portion of the SAT. Betty Jean Crenshaw, a teacher of first-year languages, declared that early closure would prevent students from learning vocabulary and

by concluding that the proposed closure would have a real and appreciable impact on the affected students' fundamental California right to basic educational equality.

The State asserts that its financial obligation to equal education is limited to the equalized system of interdistrict funding required by our *Serrano* decisions. Once revenues are fairly apportioned at the beginning of each school year, the State insists, it cannot be constitutionally liable for how local officials manage the funds.

Nothing in the *Serrano* cases themselves, or in other California decisions, supports the State's argument. On the contrary, the cases suggest that the State's responsibility for basic equality in its system of common schools extends beyond the detached role of fair funder or fair legislator. In extreme circumstances at least, the State "has a duty to intervene to prevent unconstitutional discrimination" at the local level. (*Tinsley*, *supra*, 91 Cal.App.3d at p. 904.)

The State's most vigorous contention is that its nonintervention should have been upheld even under the strict scrutiny standard of equal protection analysis. Allowing the District's students to absorb the consequences of District mismanagement, the State urges, was necessary to preserve the State's compelling educational policy of local autonomy and accountability. However, the State fails to demonstrate a policy of local control so compelling as to justify State tolerance of the extreme local educational deprivation at issue here.

In the first place, the local-district system of school administration, though recognized by the Constitution and deeply rooted in tradition, is not a constitutional mandate, but a legislative choice. (See Cal. Const., art. IX, §§ 6½, 14.) The Constitution has always vested "plenary" power over education not in the districts, but in the State, through its Legislature, which may create, dissolve, combine, modify, and regulate local districts at pleasure. (See *Tinsley*, *supra*, 91 Cal.App.3d at p. 904.) The legislative decision

grammar necessary for advancement to second-year courses. Amy Shinsako, a first grade teacher, stated that early closure would prevent instruction in phonics, reading comprehension, creative writing, handwriting skills, two-digit addition and subtraction, and addition with three addends, all necessary for advancement to the second grade. Several declarants noted that failure to complete the term would prevent the scheduling of final examinations and other term-end projects crucial to the assignment of final grades. Other declarants detailed the difficulties District students would face if forced to transfer to other districts to complete the year's studies. They also noted that unless graduating seniors completed required courses and received final grades, the District might not be able to award high school diplomas, any diplomas awarded would be "stigmatized," and the ability of departing seniors to qualify for college admission might be seriously compromised.

to emphasize local administration does not end the State's constitutional responsibility for basic equality in the operation of its common school system. Nor does disagreement with the fiscal practices of a local district outweigh the rights of its blameless students to basic educational equality.

Moreover, though the Constitution and statutes encourage maximum local program and spending authority consistent with State law (Cal. Const., art. IX, § 14; Ed. Code, §§ 14000, 35160, 35160.1), the degree of supervision voluntarily retained by the State over the common school system is high indeed. The volume and scope of State regulation indicate the pervasive role the State itself has chosen to assume in order to ensure a fair, high quality public education for all California students.

School finance aside, the statutes address at length such matters as county and district organization, elections, and governance (§§ 4000-5450, 35000-35780); educational programs, instructional materials, and proficiency testing (§§ 51000-62008); sex discrimination and affirmative action (§§ 40-41, 200-263, 44100-44105); admission standards (§§ 48000-48053); compulsory attendance (§§ 48200-48416); school facilities (§§ 39000-40048); rights and responsibilities of students and parents (§§ 48900-49079); holidays (§§ 37220-37223); school health, safety, and nutrition (§§ 32000-32254, 49300-49570); teacher credentialing and certification (§§ 44200-44481); rights and duties of public school employees (§§ 44000-44104, 44800-45460; see also Gov. Code §§ 3540-3549.3 [organizational and bargaining rights]); and the pension system for public school teachers (§§ 22000-24924). The statutory scheme has spawned further voluminous regulations administered by the State's Department of Education and the SPI. (Cal. Code Regs., tit. 5, §§ 1-23005.) This long-established level of State involvement in the public education system undermines any claim that local control is a paramount and compelling State policy for all purposes.

Nor is there any indication that the State has had a compelling policy of absolute budgetary freedom and responsibility for local districts. On the contrary, during the years in which the District's deficit developed, districts were required to adopt budgets meeting State standards, and to submit them for oversight and approval by county and State authorities. (§§ 33127, former §§ 42120-42129.) Failure to adopt a conforming budget precluded State or county funding of the district (former § 42128), and a district was required to operate under its most recent approved budget (former § 42127.4).

The State argues that by saddling the District with long-term debt to cover short-term operations, the trial court's orders undermine the District's future

financial health and compromise its ability to provide basic educational equivalency in years to come. The State also urges that other districts will feel free to overspend if encouraged to believe in the availability of State relief.

These are indeed troubling concerns, but we cannot accept the implication that the State deems them compelling. In fact, the State itself has endorsed a policy of emergency conditional loan assistance to districts in financial difficulty.

Under statutes in effect since 1977, distressed districts may, through the SPI, seek specific legislative apportionments for emergency loans. (§§ 41310, 41310.5, 41320 et seq.) As a condition of such aid, a district must prepare a financial recovery plan and obtain approval of the plan from the county superintendent and the SPI. (§ 41320.) The district must also accept a temporary SPI-appointed trustee with veto power over financially significant actions of the local governing board. (§ 41320.1.)

The District itself had received a $9,525,000 conditional State loan under this program in spring 1990 (Stats. 1990, ch. 171, § 3), and its operations were already being monitored by a State trustee at the time closure of District schools was threatened in April 1991. The 1989 Legislature had also appropriated $10 million for a similar emergency loan-with-trustee to the OUSD. (Stats. 1989, ch. 1438, §§ 1-11.) Under these circumstances, the State cannot claim it follows a compelling policy of local control by declining to intervene when financial adversity threatens a district's operations.

Shortly before this lawsuit began, the District faced the prospect of further legislative intervention in its crisis. Assembly Bill No. 128, 1991-1992 Regular Session (A.B. 128), as introduced in December 1990 and thereafter amended, would have appropriated an additional $29 million for emergency loans to the District. Acceptance of the proposed loan would have subjected the District to unprecedented restrictions on self-government. These included a temporary takeover of all District affairs by an SPI-appointed administrator pending approval and implementation of a plan for financial recovery and loan repayment. The administrator would have had broad power, among others, to unilaterally determine wages and benefits for all District employees who, as of April 29, 1991, were not covered by ratified collective bargaining agreements meeting the requirements of an approved recovery plan. (A.B. 128, Sen. Amend. of Jan. 18, 1991, §§ 2, 5.)

A.B. 128 failed passage, but that fact does not suggest a compelling policy against emergency State financial assistance to a local district. On the

contrary, the State has forged into the realm of emergency assistance and control, using the "specific appropriation" requirement (§ 41320) to decide on a case-by-case basis whether, and on what terms, it will intervene.

The State claims that emergency assistance to mismanaged districts contravenes the compelling principle of equalized funding established in our *Serrano* decisions. As we have seen, however, nothing in the *Serrano* cases, which addressed wealth-based disparities in district revenues, prohibits emergency State assistance to a particular district which is experiencing financial difficulties despite its receipt of equalized funding.[17]

Finally, nothing in our analysis is intended to immunize local school officials from accountability for mismanagement, or to suggest that they may indulge in fiscal irresponsibility without penalty. The State is constitutionally free to legislate against any recurrence of the Richmond crisis. It may further tighten budgetary oversight, impose prudent, nondiscriminatory conditions on emergency State aid, and authorize intervention by State education officials to stabilize the management of local districts whose imprudent policies have threatened their fiscal integrity. To the extent such conditions compromise local autonomy and mortgage a district's future, they are not calculated to persuade local officials or their constituents that mismanagement and profligacy will be rewarded.

Indeed, in response to this case, the Legislature and the Governor have already agreed to tighter county and State control of local district budgets and spending.[18] Under certain circumstances, this new legislation *requires* the SPI's complete takeover of an insolvent district as a precondition of an

[17]The *Serrano* decisions themselves, as well as the subsequent adoption of Proposition 13, have exacerbated the need for occasional emergency State intervention by restricting one aspect of local control—the power of local districts to tax themselves out of financial crises. Our *Serrano* opinions condemned the former dependence of school finance on local ad valorem property taxes, because, as a practical matter, however willing a local district might be to increase taxes for education, "districts with small [real property] tax bases simply cannot levy taxes at a rate sufficient to produce the revenue that more affluent districts reap with minimal tax efforts. . . ." (*Serrano I*, *supra*, 5 Cal.3d 584, 598.) In obedience to *Serrano* principles, the current system of public school finance largely eliminates the ability of local districts, rich or poor, to increase local ad valorem property taxes to fund current operations at a level exceeding their State-equalized revenue per average daily attendance. (§ 42238 et seq.) Moreover, Proposition 13 places a general ceiling on the ad valorem property taxes which may be levied on behalf of local governments and school districts. (Cal. Const., art. XIII A, § 1.).

[18]Legislation adopted in 1991 provides, among other things, that if a local district's proposed budget fails to win final county and State approval, the county superintendent of schools shall adopt a governing budget for the district which permits the district to meet current and "multiyear" commitments. The county superintendent may rescind any district action or payment which is inconsistent with the county superintendent's budget, except those

emergency State appropriation.[19] Thus, the State has already made vast inroads on the principle that local control is paramount to State intervention in an insolvent district's affairs. The State's plenary power over education includes ample means to discourage future mismanagement in the day-to-day operations of local districts.

In sum, the California Constitution guarantees "basic" equality in public education, regardless of district residence. Because education is a fundamental interest in California, denials of basic educational equality on the basis of district residence are subject to strict scrutiny. The State is the entity with ultimate responsibility for equal operation of the common school system. Accordingly, the State is obliged to intervene when a local district's fiscal problems would otherwise deny its students basic educational equality, unless the State can demonstrate a compelling reason for failing to do so.

The preliminary facts before the trial court support the inference that the District's impending failure to complete the final six weeks of its scheduled school term would cause educational disruption sufficient to deprive District students of basic educational equality. The State has identified no compelling interest which negated its duty to intervene. We therefore find no abuse of discretion in the trial court's conclusion that plaintiffs' constitutional claims had potential merit.[20]

3. *Interim harm.*

The trial court also expressly concluded that plaintiffs, District students and their parents, would suffer "substantial and irreparable harm" if a preliminary injunction were denied. This harm, the court further found,

in performance of a previously effective collective bargaining agreement. (§ 42127.3, subd. (b)(1), as amended by Stats. 1991, ch. 1213, § 18.) The county superintendent must also monitor all local budgets continuously to ensure that each district can meet its financial obligations for the current and ensuing fiscal years. A county superintendent's determination that a district will be unable to meet its obligations triggers a process which may culminate in forced revisions to the district's budget and rescission of actions, other than collective bargaining obligations, which are inconsistent with the revisions. (§ 42127.6, added by Stats. 1991, ch. 1213, § 20.)

[19]New sections 41325 through 41327 provide that when a local district accepts an emergency appropriation more than twice the size of its State-recommended reserve, the SPI must take control of the district for at least two fiscal years, assume all duties and powers of the local governing board, fire district officials who took no action to avert insolvency, impose a recovery plan including a ten-year repayment schedule, and remain in control until satisfied that local compliance with recovery requirements is probable.

[20]Our conclusion that the trial court's finding of probable merit is supported by the equal protection clauses of the California Constitution makes it unnecessary to address claims that a State duty of intervention may also have arisen under the "free school" clause or the Fourteenth Amendment.

would be "greater . . . than defendants will suffer if the injunction is granted."

These determinations were based upon the uncontradicted declarations of District teachers, local and regional public school officials, and academic specialists in the field of public education. Besides detailing the severe and immediate academic disruption which would arise from the pending closure (see discussion, *ante*, fn. 16, at p. 687), these declarations set forth at length the "ripple" effect on District parents and students. For example, the declarations recounted, working parents, including the high percentage of needy families in the District, would be faced with expensive child care for the lost school hours; difficult efforts would be required to obtain other placement of the students for the remainder of the year; and special-need students would lose carefully nurtured progress.

The State submitted no evidence that it would suffer comparable or greater harm by offering emergency loan assistance necessary to ensure completion of the District's academic program for 1990-1991. Instead, the State simply argued that court-ordered State aid would damage the State's public school policies of local control and accountability.

(6) The State nonetheless claims plaintiffs' "interim harm" showing was inadequate as a matter of law. In the State's view, plaintiffs' declarations failed to establish that the early closure was unforeseeable, or to explain persuasively why any adverse effects on student progress could not be ameliorated.

We find the trial court's interim-harm findings amply supported. As previously noted, plaintiffs' preliminary showing suggested that the District's inability to complete its school year arose from its ever-worsening fiscal condition and from the deterioration of its negotiations for emergency aid. The declarations of District teachers uniformly indicated that their lesson plans did not provide for the contingency of early closure. Other declarations detailed the difficulties of alternate arrangements to maintain the educational progress of over 31,000 suddenly displaced District students, who included high school seniors poised for graduation. The court could reasonably infer that orderly planning to minimize the resulting educational disruption had not taken place and was not realistically possible.

In any event, the court was not obliged to deny a preliminary injunction simply because plaintiffs failed to demonstrate that "irreparable" harm to students was unavoidable by other means. The preliminary record properly convinced the court *both* that plaintiffs had a reasonable probability of

success on the merits, *and* that they would suffer more harm in the meantime if an injunction were denied than the State would suffer if it were granted. This "mix" of the "interrelated" relevant factors fully justified the court's decision to grant the injunction. (See *Common Cause* v. *Board of Supervisors*, *supra*, 49 Cal.3d at pp. 441-442; *King* v. *Meese*, *supra*, 43 Cal.3d at p. 1227.) No error appears.

4. *Scope of remedial order.*

In orders dated April 29, 1991, and May 2, 1991, the trial court directed the State, the SPI, and the Controller to ensure "by whatever means they deem appropriate" that District students would receive their educational rights; both orders made clear that "[h]ow these defendants accomplish this is up to the discretion of defendants. . . ." When no other State official proposed a solution, the SPI and the Controller, on May 2, 1991, offered a conditional loan plan for approval by the court.

After a hearing on that day, the court found that $19 million in aid funds proposed by the SPI and the Controller were presently available, and the court authorized the Controller to apportion such funds as an emergency loan to the District. The court further determined that, given the State's obligation to provide an equal education, the SPI's statutory authority to "[s]uperintend the schools of this state" (§ 33112, subd. (a)), and the "unique" emergency circumstances, "the [SPI] . . . has authority to relieve the [Board] of its legal duties and powers, appoint a trustee, develop a recovery plan and, subject to the approval of the Controller, [develop] a repayment plan on the [D]istrict's behalf as necessary to ensure the operation of the schools through June 14, 1991, the financial recovery of the [D]istrict, and the protection of State funds loaned to the [D]istrict."

(7a) The State and several amici curiae contend that even if the trial court could require State intervention to prevent violation of the District students' constitutional rights, there was no legal or equitable basis for the court's order authorizing the SPI to displace the Board, operate the District through his own administrator, and impose a plan for the District's permanent financial recovery. Under the circumstances presented by this case, however, we conclude that this portion of the court's order did not exceed its powers.

We agree that the statutes themselves provided no direct authority for the approach taken by the trial court. In general, though they act as regulated State agents, local governing boards are vested by statute with immediate jurisdiction over day-to-day district affairs. (§§ 14000, 35000 et seq.) The

SPI has important statutory responsibilities for allocating school funds (§§ 33118, 14000 et seq.), monitoring local budgets (§§ 42120 et seq., 41450), and administering the conditions of emergency loans *appropriated by the Legislature* (§§ 41310, 41320 et seq.; see also § 41325 et seq.), but no statute grants him emergency powers to operate a local district under other circumstances.[21]

The court relied in part on section 33112, subdivision (a), which provides that the SPI shall "[s]uperintend the schools of this state." But no case has interpreted this statute to vest the SPI with nonexpress powers, and an older decision construed similar language narrowly against a county superintendent. (*McKenzie* v. *Board of Education* (1905) 1 Cal.App. 406, 409 [82 P. 392].) Indeed, counsel for the SPI conceded in the trial court that the SPI had no statutory authority to take over the District's government.

The trial court also believed its takeover order was within its inherent equitable power to enforce the State's constitutional obligations in light of the "unique emergency financial conditions" presented by the case. In the court's view, ratification of all loan conditions proposed by the SPI was necessary to ensure the District's continued operation through June 14, 1991, promote its permanent financial recovery, and protect the loan itself. We agree.

(8) In general, courts have equitable authority to enforce their constitutional judgments. (E.g., *Crawford* v. *Board of Education*, *supra*, 17 Cal.3d 280, 308.) Of course, principles of comity and separation of powers place significant restraints on courts' authority to order or ratify acts normally committed to the discretion of other branches or officials. (*Common Cause* v. *Board of Supervisors*, *supra*, 49 Cal.3d 432, 445-446; *Mandel* v. *Myers* (1981) 29 Cal.3d 531, 540 [174 Cal.Rptr. 841, 629 P.2d 935]; *Serrano II*, *supra*, 18 Cal.3d 728, 751; *Crawford* v. *Board of Education*, *supra*, 17 Cal.3d at pp. 305-306; cf. *Missouri* v. *Jenkins* (1990) 495 U.S. 33, 50-58 [109 L.Ed.2d 31, 53-59, 110 S.Ct. 1651].) In particular, the separation of powers doctrine (Cal. Const., art. III, § 3) obliges the judiciary to respect the separate constitutional roles of the Executive and the Legislature.

Moreover, a judicial remedy must be tailored to the harm at issue. (E.g., *Sheet Metal Workers* v. *EEOC* (1986) 478 U.S. 421, 476 [92 L.Ed.2d 344, 388, 106 S.Ct. 3019]; *Dayton Board of Education* v. *Brinkman* (1977) 433

[21] A.B. 128 would have granted the SPI powers of this magnitude over the District, but the bill failed passage. (See discussion, *ante*, at p. 690.) 1991 statutory amendments call for the SPI's takeover of districts that accept large emergency insolvency *appropriations* (§ 41325 et seq.; see discussion, *ante*, fn. 18 at p. 691), but even after 1991, the SPI has no such statutory authority *independent* of a specific insolvency appropriation by the Legislature.

U.S. 406, 420 [53 L.Ed.2d 851, 863-864, 97 S.Ct. 2766].) A court should always strive for the least disruptive remedy adequate to its legitimate task.

(7b) The trial court's remedial order in this case fell within proper boundaries. Having correctly held the State constitutionally responsible for the students' rights, the court could not deny the State and its officials effective means of fulfilling its obligation. Under the circumstances, the court was warranted in authorizing temporary transfer to the SPI of the Board's statutory powers over District affairs.

The emergency the court confronted on May 2, 1991, demanded a prompt State-assisted solution to prevent immediate closure of the District's schools. The State was justified in satisfying its constitutional duty of aid by extending a loan that would impose the ultimate consequences of the District's self-created predicament upon the District, rather than upon the State, its taxpayers, and the students of other districts. The State was also entitled to conditions on the loan that would ensure its appropriate use for the intended constitutional purpose, and would minimize the risk of the District's default in repayment.

The District's ability to administer the new loan under its existing systems and managers was uniquely suspect. As a matter of public record, the District's worsening financial situation had recently led the Legislature to provide a loan in excess of $9 million. A limited-powers State trustee appointed to monitor the District's fiscal affairs in connection with that loan had not been able to stem a growing District deficit estimated by one declarant, a member of the Board, to exceed $23 million for the 1990-1991 school year alone. In response to these difficulties, the Board had caused the District to seek bankruptcy protection against its existing creditors.

As counsel for the SPI explained on April 29, 1991, the District's unprecedented financial collapse indicated systemic management problems. Hence, counsel reported, the SPI considered it foolhardy to extend further substantial State credit to the District unless its management was placed in competent hands, its administrative practices were reformed and restructured from the outside, and a long-term plan for its financial recovery was imposed.[22] On behalf of the State, the Attorney General contested the legality of vesting such extraordinary powers in the SPI, but no party disputed the logic of the SPI's position.

[22]The following colloquy occurred between the court and counsel for the SPI: "[¶] MR. HERSHER [SPI's counsel]: . . . [The SPI] does not want to make . . . 20 to 30 million dollars in state funds available to a district that has already demonstrated substantial financial irresponsibility. It's pouring state money into a hole and it's never going to come back out. [¶] THE COURT: Would he want to do that if the State was given the responsibility for running the district as you suggested? [¶] MR. HERSHER: I believe so. I think what Bill Honig sees is that

Nor can we. Given the emergency circumstances, and under the extreme and aggravated conditions disclosed by the evidence, the court below could properly conclude that orderly completion of the District's 1990-1991 school term, and the sound financing essential to achieve that end, required temporary displacement of the sitting Board and the operation of the District by the SPI's designee for the purpose of stabilizing its financial affairs.[23] We conclude that the order approving temporary takeover of the District by the SPI was within the court's inherent equitable power to remedy the constitutional crisis.[24]

5. *Source of loan funds.*

In order to obtain the necessary $19 million in emergency loan funds, the trial court authorized the Controller to disburse (1) $9 million of unspent funds from a special contingency appropriation to the Department of Education for the GAIN program, and (2) the unused $10 million appropriated as an emergency loan to the OUSD. (9) The State and amicus curiae Pacific argue that because the Legislature had not earmarked either of these sums

the District has to be reorganized. The financial management of the District needs to be completely restructured, and there needs to be a long-term recovery plan . . . . [I]t has always been [the SPI's] position that somebody needs to . . . take over the District, come up with a long-term plan in which all the creditors of the District suffer equally or equitably."

[23]Amici curiae Diaz and Bezemek ask us to receive additional evidence and make findings about the SPI's record as administrator of the District after May 2, 1991. Among other things, Diaz and Bezemek allege that the SPI's administrator has withdrawn the District's bankruptcy petition, dismantled essential programs, failed to reappoint a citizens' advisory committee, restructured the District's administration, dismissed faculty and counselors, obstructed reorganization of the District's existing debt, imposed an unconscionable interest rate on the court-approved loan, and diverted educational funds to debt repayment. Diaz and Bezemek claim this evidence supports their contention that the SPI's governance of the District presents an inherent conflict between his role as protector of State-loaned funds and his duty to restore the District to financial and educational health.

Appellate courts have limited powers to take evidence and find facts in nonjury civil cases. (Cal. Const., art. VI, § 11; Code Civ. Proc., § 909; Cal. Rules of Court, rule 23(b).) However, the matters Diaz and Bezemek seek to present are beyond the scope of this lawsuit and unnecessary to our analysis. Moreover, Diaz and Bezemek concede the proffered evidence is disputed; appellate courts will not resolve such factual conflicts. (E.g., *In re Marriage of Davis* (1983) 141 Cal.App.3d 71, 75-76 [190 Cal.Rptr. 104]; see *McCracken* v. *Teets* (1953) 41 Cal.2d 648, 653 [262 P.2d 561].) We therefore deny the motion.

[24]The State argues that even if extraordinary judicial interference in the District's affairs was necessary to guarantee the constitutional rights of District students, the court erred by granting the SPI extralegal "discretion" to act rather than assuming control over the District itself, with the SPI as the court's appointed agent. The State cites no authority for its proposition that the court's remedial options were so narrowly confined. The remedial order of May 2, 1991, makes clear that the authority therein accorded the SPI flows from a direct and critical exercise of the court's equitable power and jurisdiction over the constitutional dispute. The order laudably minimizes direct judicial involvement in matters best left to officials with specific responsibilities and expertise in education, but its effect is no different than if it had expressly made the SPI a court functionary. We find no error.

for purposes "reasonably related" to resolving the District's financial crisis, the court improperly invaded the nonjudicial power of appropriation.

We agree. In a valid exercise of its constitutional powers, the Legislature had directed each of these sums to specific agencies and narrow purposes which did not include the District and its financial emergency. Hence, the Legislature had not made these funds reasonably available for disbursement to the District. By diverting the funds from their earmarked destinations and purposes, the court invaded the Legislature's constitutional authority.

Article III, section 3 of the Califonia Constitution provides that "[t]he powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution." Article XVI, section 7 provides that "[m]oney may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant." Article IV, sections 10 and 12 set forth the respective powers of the Legislature and Governor over the enactment of appropriations. It has long been clear that these separation-of-powers principles limit judicial authority over appropriations. (*Myers* v. *English* (1858) 9 Cal. 341, 349; see *Westinghouse Electric Co.* v. *Chambers* (1915) 169 Cal. 131, 135 [145 P. 1025]; *California State Employees' Assn.* v. *Flournoy* (1973) 32 Cal.App.3d 219, 234 [108 Cal.Rptr. 251]; see also *Payne* v. *Superior Court* (1976) 17 Cal.3d 908, 920, fn. 6 [132 Cal.Rptr. 405, 553 P.2d 565].)

In certain narrow circumstances, California courts have concluded that judicial orders for the disbursement of appropriated funds do not invade valid legislative functions. *Mandel* v. *Myers*, *supra*, 29 Cal.3d 531, is the only decision by this court which found judicial power to "commandeer" appropriated funds. The facts and analysis of that case demonstrate the strict limits on the judicial authority it recognized.

The plaintiff in *Mandel*, a Department of Health Services (DHS) worker, had prevailed in litigation challenging DHS's practice of allowing paid employee leave on Good Friday. The judgment against the State included an award of attorney fees. However, the Legislature removed appropriations for payment from successive claims and budget bills, including the 1978-1979 Budget Act (Act). The Act included the usual appropriation to DHS for "general operating expenses and equipment," which expressly included expenses for "services" and "all other proper purposes." Such "catchall" budget categories for State agencies had traditionally been used to pay agency legal expenses. However, the Act expressly precluded use of any appropriation therein "to achieve any purpose which has been denied by any formal action of the Legislature."

We upheld the trial court's order that the Controller pay the fee award from the general operating budget of DHS. We noted first that the "catchall" appropriation was "reasonably" or "generally" available for payment of legal expenses incurred by DHS, because the broad terms of the appropriation, as well as its historical uses, indicated such a legislative intent. In effect, we concluded that the Legislature had voluntarily made an appropriation for payments of this general kind. (*Mandel* v. *Myers*, *supra*, 29 Cal.3d at pp. 539-545.)

We further explained that, once having made an appropriation generally available, the Legislature may not impose specific restrictions which are unconstitutionally discriminatory, or which constitute an impermissible legislative attempt to readjudicate the merits of a final court judgment. Hence, we reasoned, the Legislature's attempt to avoid payment of the *Mandel* award in particular must be struck down. The DHS "catchall" appropriation thus remained "available" under its general terms for payment of the judgment. (*Mandel* v. *Myers*, *supra*, 29 Cal.3d at pp. 545-551.)

Subsequent Court of Appeal decisions adhered to these principles of *Mandel*. In *Serrano* v. *Priest* (1982) 131 Cal.App.3d 188 [182 Cal.Rptr. 387], attorneys who had won the school-finance class action sought judicial help after the State rebuffed their informal efforts to collect a court-ordered fee award. After *Mandel* was decided, the State conceded that the trial court had properly ordered payment from a "catchall" appropriation to the Department of Education, the SPI, and the State Board of Education for "operating expenses and equipment." (Pp. 197-198.) In *Committee to Defend Reproductive Rights* v. *Cory* (1982) 132 Cal.App.3d 852 [183 Cal.Rptr. 475], the court concluded, after disregarding an unconstitutional budget act provision against use of Medi-Cal funds for abortions (see *Committee to Defend Reproductive Rights* v. *Myers* (1981) 29 Cal.3d 252 [172 Cal.Rptr. 866, 625 P.2d 779, 20 A.L.R.4th 1118]), that abortion funding could be ordered from monies appropriated for other Medi-Cal pregnancy services. (132 Cal.App.3d at pp. 857-858.)

Plaintiffs and the SPI suggest that two more recent Court of Appeal decisions, *Long Beach Unified Sch. Dist.* v. *State of California* (1990) 225 Cal.App.3d 155 [275 Cal.Rptr. 449] and *Carmel Valley Fire Protection Dist.* v. *State of California* (1987) 190 Cal.App.3d 521 [234 Cal.Rptr. 795], have expanded *Mandel*'s concept of "reasonable [or] general availability." The trial court in the instant case apparently relied on these decisions to conclude that it could divert the GAIN and OUSD appropriations to the District because they were "generally related" to education.

Long Beach and *Carmel Valley* do make occasional use of the term "generally related" to describe *Mandel*'s principle of reasonable or general

"availability." (See *Long Beach*, *supra*, 225 Cal.App.3d at p. 181; *Carmel Valley*, *supra*, 190 Cal.App.3d at p. 541.) But nothing in those cases supports the trial court's apparent view that funds appropriated for one specific educational purpose may be judicially diverted to another. So far as the face of the opinions discloses, the stated intent of the target appropriation in each case, or its historical uses, indicated that the court's application of the funds was plausibly within purposes the Legislature might have contemplated.[25] No court has suggested that *Mandel* principles permit court-ordered diversion of an appropriation away from a clear, narrow, and valid purpose specified by the Legislature. We affirm that the words "generally related," as used in *Long Beach* and *Carmel Valley*, do not countenance such judicial incursions into the legislative power over appropriations.[26]

The instant trial court misapplied *Mandel* when it authorized the diversion of appropriated funds from the specific purposes and programs for which the Legislature had validly earmarked them. Nine million dollars was taken from an appropriation in the 1989-1990 Budget Act for the GAIN program. (Stats. 1989, ch. 93, § 22.00.) GAIN's purpose is to provide employment, adult

[25]In *Carmel Valley*, the Court of Appeal struck down budgetary language which had been inserted to foreclose the constitutionally required reimbursement of local agencies for expenses incurred in upgrading firefighter protective clothing as mandated by the State. (See Cal. Const., art. XIII B, § 6.) After disregarding these unconstitutional restrictions, the Court of Appeal quite logically determined that funds appropriated to the Department of Industrial Relations for Program 40, the Prevention of Industrial Injuries and Deaths of California Workers, were available for this expense. (*Carmel Valley*, *supra*, 190 Cal.App.3d at p. 541.) In *Long Beach*, a local school district sought reimbursement for the State-mandated expenses of developing desegregation programs. After the Legislature deleted an appropriation for this purpose from the 1985-1986 budget bill, the district obtained a trial court order for reimbursement from specified line-item accounts related to education, and from the general operating budget of the Department of Education, which had mandated the programs. The Court of Appeal affirmed on grounds that the record substantially supported the trial court's order. As the Court of Appeal explained, these and similar accounts had historically been used to support programs such as the one for which reimbursement was sought, and were logical sources of funding for this specific purpose. (*Long Beach*, *supra*, 225 Cal.App.3d at pp. 181-182; see also p. 185.)

[26]We are aware that in *Missouri* v. *Jenkins*, *supra*, 495 U.S. 33, the United States Supreme Court upheld the power of federal courts to order local tax levies to enforce judicial remedies for unconstitutional school segregation. However, even if the federal Constitution permits federal courts to impose far-reaching remedies for State government violations of federal constitutional rights, it does not follow that California courts are exempt from the constraints imposed by the California Constitution upon their power to invade the functions of a coequal branch of State government.

Indeed, the California Constitution's separation of powers clause precludes any branch from usurping or improperly interfering with the essential operations of either of the other two branches. (See Cal. Const., art. IV, § 1 [legislative power]; Cal. Const., art. V, § 1 [executive power]; Cal. Const., art. VI, § 1 [judicial power].) Nothing in this opinion should be interpreted as sanctioning or immunizing such unconstitutional interference, or as addressing the question of the appropriate remedies that may be invoked in the event one branch improperly impinges on the essential operations of a coequal branch.

education, and job training to recipients of public assistance. (Welf. & Inst. Code, § 11320 et seq.) Local school districts can receive GAIN funds for adult education and training classes (*id.*, §§ 11320.8, 11322, 11323), and the Legislature intended that the 1989-1990 GAIN appropriation might include such funding subject to strict conditions (see Stats. 1989, ch. 93, § 22.00, subd. (b)). However, this appropriation was expressly designated for that program alone and was not intended to fund the needs of non-GAIN students. Nothing in the trial court's order restricted use of the GAIN-derived funds to uses contemplated by the appropriation.

Similar considerations govern the remaining $10 million of the emergency loan, which was derived from the 1989 Legislature's special appropriation for the OUSD. This appropriation, by its express terms, was "for the purpose of an emergency loan *to* [*that*] [*d*]*istrict* in compliance with Article 2 (commencing with Section 41320) of Chapter 3 of Part 24 of the Education Code." (Stats. 1989, ch. 1438, § 1, italics added.)

Section 41310 expresses the intent that emergency loans to distressed districts under section 41320 et seq. not occur "unless funds have been *specifically* appropriated *therefor* by the Legislature." (Italics added.) The statutory scheme imposes detailed conditions on emergency loans granted under its auspices (§§ 41320.1-41323), and the Legislature further refined the conditions on the OUSD appropriation to address the particular circumstances of that case (Stats. 1989, ch. 1438, §§ 2-9).

When it makes an appropriation to a specific district, under specific conditions addressed to the problems of that district, the Legislature clearly intends and contemplates that the appropriation will only be used for that purpose, and under those conditions. Hence, the appropriation is not reasonably available for court-ordered diversion to another district under different conditions.

The trial court, understandably anxious to resolve the crisis, concluded that it could fund its order from any monies previously appropriated "for a purpose that is reasonably related to educational purposes." The court found that the GAIN and OUSD appropriations were "reasonably related to the State's obligation to keep the Richmond schools open through June 14, 1991 . . . ."

As we have seen, however, the test of reasonable availability under *Mandel* does not extend to uses clearly outside the particular purpose for which an appropriation was reserved. The GAIN and OUSD appropriations were earmarked for purposes entirely distinct from the subject matter of this

lawsuit.[27] They were not reasonably available for court diversion to finance the remainder of the District's school term.

In her concurring and dissenting opinion, Justice Kennard claims that by flatly disclaiming judicial power to divert appropriations from the purposes specified by the Legislature, we adopt a "formalistic" and outmoded view of the separation of powers. Citing language from two United States Supreme Court decisions (*Mistretta* v. *United States* (1989) 488 U.S. 361 [102 L.Ed.2d 714, 109 S.Ct. 647]; *Nixon* v. *Administrator of General Services* (1977) 433 U.S. 425 [53 L.Ed.2d 867, 97 S.Ct. 2777]), she proposes that interbranch conflicts of this kind be resolved under a "pragmatic" and "flexible" case-by-case balancing test, in which the derogation of one branch's powers by another may be warranted to promote overriding objectives within the "constitutional authority" of the latter. Because both the OUSD and GAIN appropriations were "generally related" to elementary and secondary education, she reasons, diversion of these funds to the District was not a "great" or "extreme" intrusion upon the appropriations power, and the court's action was justified by its constitutional responsibility to District students.

We cannot accept these contentions. Our adherence to *Mandel* can hardly be deemed rigid or formalistic; our decision in that case strained to find a practical, sensitive, and principled balance between legislative and judicial power over appropriations. In effect, Justice Kennard urges abandonment of *Mandel*'s careful analysis in favor of a rule giving the judiciary unchecked power to override the valid budgetary acts of coequal branches.

However, nothing in the California or federal cases on which Justice Kennard relies even hints that a court may *nullify* a *specific and valid exercise* by the Legislature and the Executive of fundamental budgetary powers explicitly entrusted to those branches, simply for the purpose of

[27]No party or amicus curiae suggests that the purposes specified by the Legislature for these two appropriations were "improper or invalid . . . restriction[s]" on their use which may be disregarded by the courts. (*Mandel* v. *Myers*, *supra*, 29 Cal.3d at p. 542.) This is not a case where the Legislature, in defiance of the Constitution or the judicial branch, had prohibited use of appropriations for particular purposes to which they would otherwise logically extend.

We recognize that, at the May 2 hearing, counsel for the OUSD indicated his client had "no objection" to diversion of its loan appropriation for the court's purposes. The OUSD's position may not have been entirely altruistic; on April 29, counsel had committed the OUSD to accepting an influx of displaced District students but expressed concern about the disruption such a solution would cause. Even if the OUSD believed that diversion of its appropriation was in its own best interests, however, the OUSD could not unilaterally alter the terms and conditions the Legislature had imposed on the appropriation. Moreover, the OUSD's waiver was conditional; counsel made clear that the OUSD reserved its right to demand refunding of the OUSD appropriation "if and when [the OUSD] chooses to exercise its rights to request a loan from the state of [$]10 million at any time up until June 30, 1993."

satisfying a judgment or order that is *unrelated* to the appropriation. (Compare, e.g., *Mistretta* v. *United States*, *supra*, 488 U.S. 361, 380-384 [102 L.Ed.2d 714, 735-738] [Congress's creation of United States Sentencing Commission, a judicial-branch agency charged with establishing mandatory federal sentencing guidelines, did not usurp authority of individual judicial officers or grant forbidden legislative power to judicial branch]; *Nixon* v. *Administrator of General Services*, *supra*, 433 U.S. 425, 441-446 [53 L.Ed.2d 867, 889-893] [legislation vesting Administrator of General Services with limited control over presidential papers of resigned chief executive did not undermine authority of executive branch]; *Wilson* v. *Eu* (1991) 54 Cal.3d 471, 473 [286 Cal.Rptr. 280, 816 P.2d 1306] [Legislature's failure to reapportion justifies judicial adoption of reapportionment plan]; *Davis* v. *Municipal Court* (1988) 46 Cal.3d 64, 72-87 [249 Cal.Rptr. 300, 757 P.2d 11] [District attorney's statutory power to disapprove local misdemeanor-diversion program was not improper delegation of legislative authority; prosecutor's absolute discretion to prevent diversion by charging "wobbler" as felony did not constitute forbidden judicial power]; *Younger* v. *Superior Court* (1978) 21 Cal.3d 102, 115-118 [145 Cal.Rptr. 674, 577 P.2d 1014] [statute requiring Department of Justice to destroy individual's marijuana arrest and conviction records upon application after sentence is complete did not create impermissible conflict with executive clemency powers].)

The balance proposed by Justice Kennard in this case would elevate the judiciary above its coequal brethren, upset the delicate system of checks and balances, and stand the separation of powers clause on its head. Applying *Mandel*'s well-settled principles, we remain satisfied that the trial court acted in excess of its authority when it funded the District's loan with appropriations specifically earmarked by the Legislature for other purposes.[28]

CONCLUSION AND DISPOSITION

The District's financial inability to complete the final six weeks of its 1990-1991 school term threatened to deprive District students of their

[28]Although the instant record is silent on the point, Justice Kennard worries that there *may* have been no unearmarked educational appropriations available to enforce this trial court's order. She suggests further that such funds *may* also not be available under current laws and budgetary constraints to permit judicial enforcement of students' constitutional rights in similar future cases. These concerns have no practical effect in the instant lawsuit, because the State does not seek rescission of the District's loan, and the educational rights of the District's students are secure. In any event, we cannot overlook the fact that the urgency of the District's crisis denied the Legislature any opportunity to respond to the trial court's injunctive order. Once alerted by the trial court's constitutional ruling, however, the Legislature and the Governor have taken significant steps to prevent or remedy recurrences of the District's crisis. We may not assume they will fail or refuse to respond as necessary to our final determination of the State's constitutional responsibilities.

California constitutional right to basic educational equality with other public school students in this State. As the court further concluded, discrimination of this nature against education, a fundamental interest, could only be justified as necessary to serve a compelling interest. The State itself, as the entity with plenary constitutional responsibility for operation of the common school system, had a duty to protect District students against loss of their right to basic educational equality. Local control of public schools was not a compelling interest which would justify the State's failure to intervene.

The trial court thus properly ordered the State and its officials to protect the students' rights. The court also acted within its remedial powers by authorizing the SPI to assume control of the District's affairs, relieve the Board of its duties, and supervise the District's financial recovery. However, the court invaded the exclusive legislative power of appropriation by approving the diversion of appropriations for GAIN and the OUSD to an emergency loan for the District.

Accordingly, we reverse the trial court's remedial order of May 2, 1991, insofar as it approves funding of an emergency loan to the District from appropriations for the Oakland Unified School District and the Greater Avenues for Independence program. In all other respects, the court's orders of April 29 and May 2, 1991, are affirmed. The Court of Appeal is directed to remand the cause to the trial court for such further proceedings as may be appropriate under the views expressed in this opinion.

Panelli, J., Arabian, J., and George, J., concurred.

LUCAS, C. J., Concurring and Dissenting.—I concur with the majority's conclusions regarding the constitutional obligations of the State of California (State) to assure educational equality. I would not, however, address the propriety of the sources approved by the trial court to provide an emergency loan.

In my view, we need not consider questions regarding the use of the Oakland Unified School District (OUSD) emergency appropriation or the unused appropriation for the Greater Avenues for Independence (GAIN) program because the issues are moot and their resolution will have no impact on the status quo in this case. As the majority notes, at the May 2, 1991, proceeding, the State continued to object to the trial court's order arising out of the April 29, 1991, hearing. That order required the State, Superintendent of Public Instruction (SPI) and Controller, at their discretion and "by whatever means they deem appropriate," to ensure Richmond students were not deprived of six weeks of education provided to other students within California. In addition to renewing its basic position on the merits of the

constitutional arguments, the State also objected to use of the specific funds proposed by the SPI and Controller. It offered no alternative sources of funding and appealed from both orders.

Before us, however, the State does not demand rescission of the court-approved loan or any change in the status of that funding. The funding was granted as a loan and a loan repayment agreement has been worked out by the parties. The State, acknowledging those facts, expressly asserts "We do not argue that the Controller must be compelled immediately to recover the money." In other words, it seeks no relief from the trial court's order granting payment from the challenged sources and compelling repayment of the funds under a prescribed repayment schedule.

Accordingly, as the SPI observes, the matter is moot. The State's response, found in its reply brief, is only that "the trial court in the next case will still be guided by, unless this court disapproves the test, the 'generally related' test set forth in *Carmel Valley [Fire Protection Dist.* v. *State of California* (1987) 190 Cal.App.3d 521, 540-541 (234 Cal.Rptr. 795)] and *Long Beach [Unified Sch. Dist.* v. *State of California* (1990) 225 Cal.App.3d 155, 181-182 (275 Cal.Rptr. 449)]." It does not assert that this issue is capable of evading review because of timing or that a present controversy over the use of these particular funds still exists. Instead, it seeks guidance only for the future. I would decline to render what would essentially be an advisory opinion here. (See *People* ex rel. *Lynch* v. *Superior Court* (1970) 1 Cal.3d 910, 912 [83 Cal.Rptr. 670, 464 P.2d 126] ["The rendering of advisory opinions falls within neither the functions nor the jurisdiction of this court"].)

MOSK, J., Concurring and Dissenting.—I am in general agreement with the views expressed in Justice Kennard's concurring and dissenting opinion.

However, I cannot embrace the ill-advised concession that the trial court's order "did pose a potential for disruption of a function of the legislative branch" although the degree of potential disruption "is not great" and the purported infringement on the legislative function is "not substantial." (Kennard, J., *post*, conc. and dis. opn. at pp. 710, 711.)

The theory of potential interference with legislative functions to any extent is inconsistent with the ultimate conclusion that the funds used for the emergency loan were "reasonably related" to the educational purposes of the legislation, and, indeed, "the trial court's order furthered, rather than defeated, that valid legislative purpose." As persuasively observed in footnote 2, the "funds were appropriated for purposes reasonably and closely related

to the purpose for which the trial court ordered them to be used." (Kennard, J., *post*, conc. and dis. opn. at p. 711.)

Under the foregoing circumstances—with which I agree—there cannot be some conceptual interference, even though "not great," with the functions of the legislative branch.

With that caveat, I join the concurring and dissenting opinion.

KENNARD, J., Concurring and Dissenting.—I agree with the majority that the threatened closure of the schools of the Richmond Unified School District (District) was such an extreme departure from prevailing educational standards as to infringe on the students' state constitutional rights to basic educational equality, requiring the State of California (State) to intervene to protect those rights.

I do not agree, however, that the trial court violated the separation of powers doctrine by ordering that emergency loan funds be made available from an unused special appropriation to the Department of Education and an unused emergency appropriation to the Oakland Unified School District (OUSD). The majority has, in effect, declared that although the students' right to education is fundamental, no means may exist by which our judicial system can enforce that right. In my view, the trial court's order was an appropriate and pragmatic resolution of a difficult case under extreme pressure. Because the Legislature had already appropriated the funds in question for educational purposes reasonably related to the District's needs, I discern no constitutional violation, and would affirm the trial court's orders in their entirety.

I

On April 17, 1991, the District, facing a $23 million budgetary shortfall, announced its schools would close on May 1, 1991, rather than as scheduled on June 14, 1991. Parents of students in the District's schools then filed a class action against the State and the District's board of education, alleging the closure would deprive children of their fundamental right to education and would violate equal protection guarantees. The trial court granted plaintiffs' motion for a preliminary injunction, finding that "education is a fundamental right in California [and] unless injunctive relief is granted children in the District will be denied six weeks of instruction that will be provided to every other child in the State." The trial court ordered the State, the Superintendent of Public Instruction (Superintendent), and the State Controller "to ensure that the students in the District are not deprived of six

weeks of public education while others within the state are not so deprived." The trial court added that "how these defendants accomplish this is up to the discretion of the defendants."

Thereafter, the Superintendent and the Controller proposed a plan to keep the schools open. They proposed that $19 million in unspent funds from two educational programs—from the Greater Avenues for Independence (GAIN) program and from an appropriation to the OUSD—be loaned to the District. After an evidentiary hearing, the trial court ordered the State Controller to disburse an emergency loan to the District from these funds. This court denied the State's motion to stay the order pending appeal, but transferred the case here.

II

The majority holds that the trial court's remedial order violated the doctrine of separation of powers. Essentially, the majority reasons that by ordering that the unused funds be loaned to the District, the trial court impermissibly engaged in the appropriation of funds, an area of exclusive legislative concern.

The majority's conclusion originates from a fundamental misunderstanding of the separation of powers doctrine. Implicit in the majority's discussion is the assumption that under our tripartite scheme of government, particular powers can be definitively categorized as belonging to one of the three branches, and that these powers can never be exercised by a branch other than the designated branch. Thus, under the majority's approach, appropriation is exclusively a legislative function, and unless the Legislature has either appropriated funds for a specific purpose, or made a "catchall" appropriation under which a specific use of funds may fall, funds are simply not available for any purpose, no matter what rights are at stake.

This formalistic interpretation of the separation of powers concept is, however, contrary to modern understanding. The opinions of the United States Supreme Court, although not binding on this court in interpreting the separation of powers principles of the California Constitution, supply a persuasive body of case authority. Just as our state Constitution provides for the separation of the powers of government into three branches (Cal. Const., art. III, § 3), so does the federal Constitution segregate the branches of government (U.S. Const., art. I, § 1, art. II, § 1, & art. III, § 1).

The United States Supreme Court has "squarely rejected the argument that the Constitution contemplates a complete division of authority between the

three branches." (*Nixon* v. *Administrator of General Services* (1977) 433 U.S. 425, 443 [53 L.Ed.2d 867, 891, 97 S.Ct. 2777].) Rather than reading the federal Constitution as " 'requiring three airtight departments of government,' " the high court has adopted a "pragmatic, flexible approach." (*Id.* at pp. 443, 442 [53 L.Ed.2d at pp. 891, 890-891.) This approach, the court has explained, is supported by historical understanding. James Madison, one of the principal architects of the United States Constitution, wrote that the concept of separation of powers " 'd[oes] not mean that these departments ought to have no *partial agency* in, or no *control* over the acts of each other,' " but instead that " 'where the *whole* power of one department is exercised by the same hands which possess the *whole* power of another department, the fundamental principles of a free constitution are subverted.' " (J. Madison, The Federalist No. 47, pp. 325-326 (J. Cooke ed. 1961) (original italics), quoted in *Mistretta* v. *United States* (1989) 488 U.S. 361, 380-381 [102 L.Ed.2d 714, 735-736, 109 S.Ct. 647].) Thus, the basic purpose of the separation of powers is to guard against the concentration of power in the hands of one branch, but it is important to distinguish "partial agency" from those aggrandizements of power that pose genuine threats to the constitutional scheme.

The pragmatic and flexible approach favored by the nation's highest court is also appropriate because, in a society growing ever more complex, the practical requirements of efficient government action by each of the three branches must be considered. " 'While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government.' " (*Mistretta* v. *United States*, *supra*, 488 U.S. at p. 381 [102 L.Ed.2d at p. 736], quoting *Youngstown Sheet & Tube Co.* v. *Sawyer* (1952) 343 U.S. 579, 635 [96 L.Ed. 1153, 1199, 72 S.Ct. 863, 26 A.L.R.2d 1378] (conc. opn. of Jackson, J.).) In contemporary society, concerns about the workability of government are especially weighty.

Thus, the high court has not evolved a rigid classification of governmental powers as belonging exclusively to one branch or another. Instead, the court has stated that "the proper inquiry focuses on the extent to which [the act complained of] prevents [one of the three branches] from accomplishing its constitutionally assigned functions." (*Nixon* v. *Administrator of General Services*, *supra*, 433 U.S. at p. 443 [53 L.Ed.2d at p. 891]; *Mistretta* v. *United States*, *supra*, 488 U.S. at p. 383 [102 L.Ed.2d at pp. 737-738].) If the "potential for disruption is present," the court must then "determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority" of the branch whose action is challenged. (*Nixon* v. *Administrator of General Services*, *supra*, 433 U.S. at p. 443 [53

L.Ed.2d at p. 891]; *Mistretta* v. *United States*, *supra*, 488 U.S. at p. 383, fn. 13 [102 L.Ed.2d at p. 737].)

This court has expressed a similar understanding. We have recognized that the purpose of the doctrine of separation of powers "is to prevent one branch of government from exercising the *complete* power constitutionally vested in another [citation]; it is not intended to prohibit one branch from taking action properly within its sphere that has the *incidental* effect of duplicating a function or procedure delegated to another branch. [Citation.]" (*Younger* v. *Superior Court* (1978) 21 Cal.3d 102, 117 [145 Cal.Rptr. 674, 577 P.2d 1014] [original italics].)

More recently, this court reiterated that the separation of powers doctrine " 'has not been interpreted as requiring the rigid classification of all the incidental activities of government, with the result that once a technique or method of procedure is associated with a particular branch of the government, it can never be used thereafter by another.' . . . 'From the beginning, each branch has exercised all three kinds of powers.' " (*Davis* v. *Municipal Court* (1988) 46 Cal.3d 64, 76 [249 Cal.Rptr. 300, 757 P.2d 11] [citations and italics omitted].)

III

A line of cases from California courts has established the principle that a court does not violate the separation of powers doctrine when it orders appropriate expenditures from already existing funds, if such funds are reasonably available for the expenditures in question. (*Mandel* v. *Myers* (1981) 29 Cal.3d 531, 540 [174 Cal.Rptr. 841, 629 P.2d 935]; *Long Beach Unified Sch. Dist.* v. *State of California* (1990) 225 Cal.App.3d 155, 180-181 [275 Cal.Rptr. 449]; *Carmel Valley Fire Protection Dist.* v. *State of California* (1987) 190 Cal.App.3d 521, 538-539 [234 Cal.Rptr. 795]; *Committee to Defend Reproductive Rights* v. *Cory* (1982) 132 Cal.App.3d 852, 856 [183 Cal.Rptr. 475].) The precise question in this case is whether funds can be considered "reasonably available" when they are not made part of a "catchall" appropriation under which the specific use of the funds may fall. The majority concludes that unless the funds are part of a "catchall" appropriation, they are not reasonably available.[1]

I would announce no such categorical rule. In my view, the proper inquiry is that set forth by the United States Supreme Court in *Nixon* v. *Administrator of General Services*, *supra*, 433 U.S. 425 and *Mistretta* v. *United States*,

[1]The majority purports to reaffirm the rule of these cases, but in fact undermines it. The "catchall" appropriation exception to the majority's rule could easily be eliminated if the Legislature took the time to label more specifically the purpose of each appropriation in a particular area. If the Legislature did so, there would be no possible remedy for the failure to fund any program, no matter how essential.

supra, 488 U.S. 361: To what extent does the challenged act of one branch interfere with another branch's performance of its constitutionally assigned functions? If there is some potential disruption, the court must then determine whether the challenged act is "justified by an overriding need to promote objectives within the constitutional authority" of the branch whose action is challenged. (*Nixon* v. *Administrator of General Services*, *supra*, at p. 443 [53 L.Ed.2d at p. 891]; *Mistretta* v. *United States*, *supra*, at p. 383, fn. 13 [102 L.Ed.2d at p. 737].)

Applying the principles followed by the high court in *Nixon* v. *Administrator of General Services*, *supra*, 433 U.S. 425 and *Mistretta* v. *United States*, *supra*, 488 U.S. 361, and by this court in cases such as *Younger* v. *Superior Court*, *supra*, 21 Cal.3d 102 and *Davis* v. *Municipal Court*, *supra*, 46 Cal.3d 64, I conclude that the trial court's order authorizing the Controller to disburse funds from the GAIN and OUSD accounts as an emergency loan to the District to assure the District's schools remained open did pose a potential for disruption of a function of the legislative branch.

The degree of potential disruption, however, is not great. As the trial court concluded, the funds that were the source of the emergency loan were appropriated for purposes reasonably related to the educational purposes served by the District.

The OUSD loan funds were appropriated by the Legislature for the precise purpose for which they were employed here—to alleviate a fiscal crisis in a local school district and prevent disruption of an ongoing educational program. (See Stats. 1989, ch. 1438, § 1.) Moreover, the trial court had before it an application for leave to intervene from the OUSD itself, in which the OUSD stated that the threatened closure of the nearby District "would place substantial and difficult burdens on OUSD as displaced Richmond students seek admission to Oakland Schools," that would be "extremely costly and disruptive" to the operation of the Oakland schools. The emergency loan fund for the OUSD was intended by the Legislature to avoid disruption of the educational program at the Oakland schools, and the trial court's order furthered, rather than defeated, that valid legislative purpose.

The GAIN program was enacted to address the problem of teenage parenting, basic educational deficiencies, and long-term welfare dependency. Specifically, GAIN was intended to "[p]rovide the education and training services needed by teenage parents to help them earn a high school diploma or its equivalent," and to "[l]ink teenagers to other needed health and social services." (Welf. & Inst. Code, § 11330, subd. (c).) The purpose of the particular appropriation to the Department of Education at issue in this case

was solely to meet educational needs, and not to provide health and social services. (Stats. 1989, ch. 93, § 22.00.) This goal is served by keeping the District's schools open. The trial court had before it uncontradicted evidence that a large number of the students in the District came from low-income families, many of whom were welfare-dependent. The court could rationally conclude that the otherwise unused GAIN funds were reasonably available to meet the basic educational needs of the District's students, a significant portion of whom were in the welfare-dependent population the GAIN program was targeted to assist. Under the circumstances, the funds were ordered to be used for a purpose reasonably congruent with the statutory purpose.[2]

Thus, because the trial court authorized the OUSD and GAIN funds to be used for a purpose that was reasonably related to the purposes for which the funds were appropriated, any infringement on the legislative function is not substantial. By contrast, we are not faced with a situation in which a trial court has ordered that funds appropriated for one purpose be used for some entirely unrelated purpose; nor are we confronted with a trial court order that funds actually in use for one program be diverted to another. It is vital that

[2]The majority asserts that this opinion "urges abandonment" of the rule of *Mandel* v. *Myers*, *supra*, 29 Cal.3d 531 (*Mandel*). This is incorrect.

In *Mandel*, *supra*, 29 Cal.3d 531, this court held that the separation of powers doctrine does not prevent the courts from ordering appropriate expenditures from already existing funds when such funds are "reasonably available for the expenditures in question . . . ." (*Id.* at p. 542.) There, the court found that certain "catchall" funds were reasonably available for the expenditures in question, the payment of attorney fees in a case enforcing constitutional rights. But nothing in *Mandel* indicated that the only funds that might ever be reasonably available in any case were "catchall" funds. And, as later cases made clear, *Mandel*'s test of "reasonable availability" encompasses unused funds that have been appropriated for purposes closely related to the purposes for which they are sought to be expended. (*Long Beach Unified Sch. Dist.* v. *State of California*, *supra*, 225 Cal.App.3d at p. 181; *Carmel Valley Fire Protection Dist.* v. *State of California*, *supra*, 190 Cal.App.3d at p. 541.)

In this case, as my analysis has demonstrated, the OUSD and GAIN funds were appropriated for purposes reasonably and closely related to the purpose for which the trial court ordered them to be used. Thus, *Mandel* and its progeny were not violated. The analysis in this opinion is entirely consistent with both the *Mandel* line of cases, and the cases from the United States Supreme Court and this court that more fully and generally articulate the doctrine of separation of powers. *Mandel* and its progeny represent an area of specific application of general separation of powers principles; properly understood, there is no disjunction between the *Mandel* line of cases and cases such as *Nixon* v. *Administrator of General Services*, *supra*, 433 U.S. 425, and *Mistretta* v. *United States*, *supra*, 488 U.S. 361, that set forth a principled and coherent view of the separation of powers doctrine.

Thus, the majority's accusation that the approach to separation of powers questions set forth in this opinion, which is the same approach employed by our nation's highest court, would "stand the separation of powers clause on its head," is meritless.

trial courts take care to minimize any impingement on legislative prerogatives. But the trial court in this case did use the least intrusive means available to it to ensure the students' rights.[3]

As discussed earlier, if there is some cognizable interference with the functions of another branch, the reviewing court must then determine whether the act is "justified by an overriding need to promote objectives within the constitutional authority" of the branch whose action is challenged. (*Nixon* v. *Administrator of General Services*, *supra*, 433 U.S. at p. 443 [53 L.Ed.2d at p. 891]; *Mistretta* v. *United States*, *supra*, 488 U.S. at p. 383, fn. 13 [102 L.Ed.2d at p. 737].) In my view, here the trial court's order was so justified.

The objective that the trial court sought to achieve by its orders in this case—to assure the protection of the fundamental rights of the District's students—was unquestionably within its constitutional authority. As this court has made clear on previous occasions, and as the majority reaffirms today, education is a fundamental right under the California Constitution. (*Serrano* v. *Priest* (1971) 5 Cal.3d 584, 608-609 [96 Cal.Rptr. 601, 487 P.2d 1241, 41 A.L.R.3d 1187]; *Serrano* v. *Priest* (1976) 18 Cal.3d 728, 766 [135 Cal.Rptr. 345, 557 P.2d 929].)

Moreover, the court, in acting to protect the students' rights to education, had no practical alternative to the remedial order it issued. It was the court's

[3]At the hearing on the preliminary injunction, an official of the Department of Education testified without contradiction that there were two sources from which department funds were available that could be employed to assist the District—the OUSD fund and the GAIN fund. No other funds were identified as available.

The funds appropriated to the Department of Education for the general support of elementary and secondary schools are not placed in a "catchall" fund subject to the discretion of Department of Education officials. Instead, under the Education Code, virtually all sums transferred from the state's general fund to the Department of Education for the general support of elementary and secondary education are transferred subject to a strict formula under which each local district is entitled to an amount computed on the basis of average daily student attendance. (Ed. Code, § 14000 et seq., § 46000 et seq.) No state official appears to have any discretion to vary the legislatively mandated allocation of funds.

My research reveals that the only funds that might have been considered reasonably available to aid the District under the majority's criteria at the time of the trial court's decision in this case were certain emergency funds under control of the Director of Finance. (Stats. 1990, ch. 467, § 2.00.) But there is nothing in the record to show that these funds had not been used for some other emergency purpose. Even assuming that none of these funds had been committed to some other use, however, the funds would have been grossly inadequate to meet the District's needs in any event. The total amount of funds available to the Director of Finance to meet all the emergency needs of the State under the then-current budget was $7 million. (*Ibid.*) As we have seen, the District faced a $23 million budget shortfall.

duty to act. As the United States Supreme Court has held, "a denial of constitutionally protected rights demands judicial protection; our oath and our office require no less of us." (*Reynolds* v. *Sims* (1964) 377 U.S. 533, 566 [12 L.Ed.2d 506, 530, 84 S.Ct. 1362].)

When the other branches of government have failed to act, the courts have not flinched from their duty to fashion appropriate remedies when necessary to guarantee constitutional rights to the people of this state. Thus, in *Wilson* v. *Eu* (1991) 54 Cal.3d 471, 473 [286 Cal.Rptr. 280, 816 P.2d 1306], we held that, although reapportionment is primarily a matter for the legislative branch, when that branch has failed to act and electoral rights will be irretrievably lost if no action is taken, "we must proceed forthwith to draft such [reapportionment] plans." And in *Crawford* v. *Board of Education* (1976) 17 Cal.3d 280, 307 [130 Cal.Rptr. 724, 551 P.2d 28], we held that when a recalcitrant school board failed to act to cure the harmful consequences of school segregation, the trial court could exercise "broad equitable powers" to frame a remedy that would assure the students' basic rights. (Accord, e.g., *Swann* v. *Board of Education* (1971) 402 U.S. 1, 15 [28 L.Ed.2d 554, 566, 91 S.Ct. 1267]; see *Assembly* v. *Deukmejian* (1982) 30 Cal.3d 638, 659 [180 Cal.Rptr. 297, 639 P.2d 939]; *Midway Orchards* v. *County of Butte* (1990) 220 Cal.App.3d 765, 779 [269 Cal.Rptr. 796].)

No sound reason exists to hold that although some fundamental rights demand judicial protection when they are endangered because the other branches of government have failed to act, other rights, equally fundamental, do not. Yet that is the consequence of the majority's holding in this case that the trial court erred in ordering that an emergency loan be made to the District.

The practical consequences of the majority's holding should not be overlooked. In an era of fiscal constraint and uncertainty for local governments, including school districts, we cannot assume that the District's problems will prove to be unique. If another school district experiences financial difficulties and the other branches of government fail to act, parents may indeed bring a lawsuit to protect their children's right to education. Under today's decision, the trial court will declare that the children have a constitutional right to basic educational equality, and that the State bears responsibility for assuring this right is not denied. The court may then announce that no means

exist by which it can enforce that right. And the doors to the schoolhouse will close.

I would affirm the orders of the trial court in their entirety.

EXHIBIT 'F'

OPINION OF THE CALIFORNIA ATTORNEY GENERAL

OPINION 99-1214 - MAY 2, 2000

Opinion No. 99-1214—May 2, 2000

Requested by: THE BOARD OF CORRECTIONS

Opinion by: BILL LOCKYER, Attorney General
Gregory L. Gonot, Deputy

THE BOARD OF CORRECTIONS has requested an opinion on the following questions:

1. Is the Board of Corrections authorized to institute a legal action or impose sanctions against a local agency for a failure to bring a particular juvenile facility into compliance with the minimum standards established by the board?

2. When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, is the state required to reimburse the local agency for the costs incurred in meeting the standards?

CONCLUSIONS

1. The Board of Corrections is not authorized to institute a legal action or impose sanctions against a local agency for a failure to bring a particular juvenile facility into compliance with the minimum standards established by the board.

2. When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, the state is not required to reimburse the local agency for the costs incurred in meeting the standards.

ANALYSIS

The Board of Corrections ("Board") is established within the Youth and Adult Correctional Agency (Pen. Code, § 6024) and serves as "the means whereby the Department of Corrections and the Department of Youth Authority may correlate their individual programs for the adults and youths under the jurisdiction of each" (Pen. Code, § 6026). Among the Board's specific duties is the adoption of minimum standards for the operation and maintenance of juvenile facilities in which minors are confined. (Welf. & Inst. Code, § 210.)[1] We are asked to determine whether the Board has any enforcement powers with respect to the minimum standards which it sets for juvenile facilities and whether compliance with the standards by a local agency requires the state to reimburse the local agency for the costs incurred.

[1] All references hereafter to the Welfare and Institutions Code are by section number only.

(Matthew Bender & Co., Inc.)

We conclude that the Board has not been authorized to institute legal actions or impose sanctions to enforce its minimum standards and that the state is not required to reimburse local agencies for the costs associated with complying with the standards.

1. Authority to Enforce Minimum Standards

Section 210 states: "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors." Section 210.2 additionally requires the Board to establish standards for adult facilities used temporarily to house minors. The key statute requiring our interpretation is section 209, which provides:

> "(a) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually inspect any jail, juvenile hall, or special purpose juvenile hall that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.
>
> "The judge shall promptly notify the operator of the jail, juvenile hall, or special purpose juvenile hall of any observed noncompliance with minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210. Based on the facility's subsequent compliance with the provisions of subdivisions (d) and (e), the judge shall thereafter make a finding whether the facility is a suitable place for the confinement of minors and shall note the finding in the minutes of the court.
>
> "The Board of Corrections shall conduct a biennial inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state that, during the preceding calendar year, was used for confinement, for more than 24 hours, of any minor. The board shall promptly notify the operator of any jail, juvenile hall, lockup, or special purpose juvenile hall of any noncompliance found, upon inspection, with any of the minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210 or 210.2.
>
> "If either a judge of the juvenile court or the board, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the board shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and

commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the judge or board, as the case may be, finds, after reinspection of the facility that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

"The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup shall make any reports as may be requested by the board or the juvenile court to effectuate the purposes of this section.

"(b) The Board of Corrections may inspect any law enforcement facility that contains a lockup for adults and that it has reason to believe may not be in compliance with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility that contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor. If the law enforcement facility is observed, upon inspection, to be out of compliance with the requirements of subdivision (d) of Section 207.1, or with any standard adopted under Section 210.2, the board or the judge shall promptly notify the operator of the law enforcement facility of the specific points of noncompliance.

"If either the judge or the board finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the board shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the time the judge or the board, as the case may be, finds, after reinspection, that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

"The custodian of each law enforcement facility that contains a lockup for adults shall make any report as may be requested

by the board or by the juvenile court to effectuate the purposes of this subdivision.

"(c) The board shall collect biennial data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (i) of Section 207.1, and shall publish biennially this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

"(d) Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, law enforcement facility, or jail shall be unsuitable for the confinement of minors if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210 or 210.2, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.

"(e) Where a juvenile hall is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of Corrections under Section 210, and where the noncompliance arises from sustained occupancy levels that are above the population capacity permitted by applicable minimum standards, the juvenile hall shall be unsuitable for the confinement of minors if the board or the judge of the juvenile court determines that conditions in the facility pose a serious risk to the health, safety, or welfare of minors confined in the facility. In making its determination of suitability, the board or the judge of the juvenile court shall consider, in addition to the noncompliance with minimum standards, the totality of conditions in the juvenile

> hall, including the extent and duration of overpopulation as well as staffing, program, physical plant, and medical and mental health care conditions in the facility. The Board of Corrections may develop guidelines and procedures for its determination of suitability in accordance with this subdivision and to assist counties in bringing their juvenile halls into full compliance with applicable minimum standards. This subdivision shall not be interpreted to exempt a juvenile hall from having to correct, in accordance with the provisions of subdivision (d), any minimum standard violations that are not directly related to overpopulation of the facility."[2]

In analyzing the terms of section 209 and related provisions of the statutory scheme, we rely upon well established principles of statutory interpretation. "When construing a statute, we must 'ascertain the intent of the Legislature so as to effectuate the purpose of the law.' [Citation.]" (*Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 977.) "Our first step [in determining the Legislature's intent] is to scrutinize the actual words of the statute, giving them a plain and commonsense meaning. [Citations.]" (*People v. Valladoli* (1996) 13 Cal.4th 590, 597; accord, *California Teachers Assn. v. Governing Bd. of Rialto Unified School Dist.* (1997) 14 Cal.4th 627, 633.) It is a "cardinal rule that a statute '. . . is to be interpreted by the language in which it is written, and courts are no more at liberty to add provisions to what is therein declared in definite language than they are to disregard any of its express provisions.' [Citation.]" (*Wells Fargo Bank v. Superior Court* (1991) 53 Cal.3d 1082, 1097.)

Applying these principles to the Board's statutorily prescribed duties, we find that the Legislature has been highly specific in defining the responsibilities of the Board. It is to adopt minimum standards for facilities housing juveniles. (§§ 210, 210.2.) A judge is to inspect these facilities each year. (§ 209, subd. (a).) The judge is to notify the operator of any facility not in compliance with the Board's minimum standards. (*Ibid.*) In addition, the Board is to inspect each facility every two years and must also notify the operator of any facility not in compliance with its minimum standards. (*Ibid.*) If the facility is thereafter found not to be "a suitable place for the confinement of minors," the juvenile court or the Board is required to "give notice of its findings to all persons having authority to confine minors. . . ." (*Ibid.*) Sixty days after such notification, "the facility shall not

[2] Subdivision (d) of section 207.1 authorizes the temporary confinement of certain minors in an adult facility under specified conditions.

be used for confinement of minors" until "the facility is a suitable place. . . ." (*Ibid.*)

Accordingly, after the Board sets the minimum standards (§§ 210, 210.2), section 209 imposes upon the Board the duties of (1) inspecting the facilities every other year, (2) providing notification to the operator of any facility found not to be in compliance with the standards, and (3) providing notification to persons having authority to confine minors of any finding of unsuitability. No other enforcement duties are specified in section 209 or any other statute. We are not at liberty to add, in the guise of statutory interpretation, the additional enforcement remedies of filing a legal action or imposing sanctions against public officials responsible for operating a particular juvenile facility in violation of section 209.

Justifiably, the Legislature may anticipate that local public officials will obey the law by not housing minors in a particular juvenile facility found unsuitable by a judge or the Board. (See *City of Beaumont v. Beaumont Irr. Dist.* (1965) 63 Cal.2d 291, 297 ["There is a statutory presumption that officials will comply with the law"]; *Erven* v. *Board of Supervisors* (1975) 53 Cal.App.3d 1004, 1012 ["It may be presumed that the Board will comply with the law"]; *San Bernardino County Flood Etc. Dist. v. Superior Court* (1969) 269 Cal.App.2d 514, 521 ["It must be presumed that the board of supervisors of the Flood Control District will perform its official duties"].)

This is particularly true here since both the Legislature and public officials are aware that the failure to comply with the terms of section 209 may subject the public officials to criminal prosecution. Government Code section 1222 states:

> "Every willful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor."

We have examined the application of Government Code section 1222 in a number of situations (see, e.g., 82 Ops.Cal.Atty.Gen. 246, 248 (1999); 82 Ops.Cal.Atty.Gen. 6, 10, fn. 4 (1999); 80 Ops.Cal.Atty.Gen. 36, 39–40 (1997); 76 Ops.Cal.Atty.Gen. 289, 292–293 (1993), as have the courts (see, e.g., *Centinela Hospital Assn. v. City of Inglewood* (1990) 225 Cal.App.3d 1586, 1598; *Griffis v. County of Mono* (1985) 163 Cal.App.3d 414, 427, fn. 15; *Griswald v. Mt. Diablo Unified Sch. Dist.* (1976) 63 Cal.App.3d 648, 656–658; *Adler v. City Council* (1960) 184 Cal.App.2d 763, 774–774; see also *Boags v. Municipal Court* (1987) 197 Cal.App.3d 65). A willful omission to remove minors from a place found unsuitable by a judge or

the Board in violation of section 209 may give rise to an application of Government Code section 1222.

Public officials who refuse to comply with the terms of section 209 may also be subject to removal from office. (See Gov. Code, §§ 1770, subd. (h) [An office becomes vacant upon "[h]is or her conviction . . . of any offense involving a violation of his or her official duties"], 3060–3074 [conviction of "willful or corrupt misconduct in office" removes the person from office]; *Lubin v. Wilson* (1991) 232 Cal.App.3d 1422, 1427; *People v. Hawes* (1982) 129 Cal.App.3d 930, 938–939; *People v. Tice* (1956) 144 Cal.App.2d 750, 754; 82 Ops.Cal.Atty.Gen., *supra*, at p. 10, fn. 4; 80 Ops.Cal.Atty.Gen., *supra*, at pp. 40–41; 76 Ops.Cal.Atty.Gen., *supra*, at p. 291; 75 Ops.Cal.Atty.Gen. 64, 66–67 (1992).)

Under these circumstances, the Legislature may reasonably believe that giving the Board additional enforcement powers with respect to its minimum standards for juvenile facilities would be unnecessary. Of course, if the Legislature determines that the Board should institute legal proceedings and impose sanctions in appropriate circumstances, it may easily so authorize. (See, e.g., *State Farm Mut. Auto. Ins. Co. v. Department of Motor Vehicles* (1997) 53 Cal.App.4th 1076, 1082 ["Had the Legislature intended to limit the exception . . . it could have done so in express terms"].)

Finally, we note that in 63 Ops.Cal.Atty.Gen. 227 (1980), we were presented with a similar question regarding the Board's authority to enforce minimum standards for adult local detention facilities. We stated in part:

> ". . . There is nothing in the statutes that gives the board authority to sue to compel compliance with those standards, even if the failing in a particular facility is life-threatening. A public agency, such as the board, which has been created by the Legislature may exercise only such powers which have been expressly granted to it or which may be fairly implied from such granted powers. [Citations.] No such authority has been granted to the board herein, nor may such be implied from its powers. Instead, the Legislature has left compliance with the standards to persuasion through the filing of reports of inspection or through the coercion of withholding reimbursement for detention of alleged parole violators under section 4016.5. . . ." (*Id.*, at p. 231.)

Here, we believe that the public officials charged with housing minors in a juvenile facility will act to avoid violating the terms of section 209. The consequences of refusing to obey the law may be severe.

(Matthew Bender & Co., Inc.)

We conclude in answer to the first question that the Board is not authorized to institute a legal action or impose sanctions against a local agency for a failure to bring a particular juvenile facility into compliance with the minimum standards established by the Board.

2. State Mandated Local Costs

Section 6 of article XIII B of the Constitution provides:

> "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:
>
> "(a) Legislative mandates requested by the local agency affected;
>
> "(b) Legislation defining a new crime or changing an existing definition of a crime; or
>
> "(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

Government Code section 17561 implements this constitutional requirement by providing: "The state shall reimburse each local agency and school district for all 'costs mandated by the state,' as defined in section 17514." Government Code section 17514 defines reimbursable costs as "any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The constitutional subvention requirement applies to state mandated increases in services provided by local agencies in existing programs. (*Los Angeles v. California* (1987) 43 Cal.3d 46, 56.) Covered programs are those that "carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state." (*Ibid.*) As used in section 6 of Article XIII B of the Constitution, the term "mandate" applies to agency regulations as well as

statutory requirements. (*Long Beach Unified School Dist. v. California* (1990) 225 Cal.App.3d 155, 175.)

Here, we do not have a "new program" being imposed by the Legislature upon local governments. Counties have been required to maintain a "suitable" place for the detention of minors since at least 1915. (See § 850; Stats. 1961, ch. 1616, § 2; Stats. 1945, ch. 967, § 2; Stats. 1915, ch. 631, § 22.) Setting the minimum standards for what is "suitable" does not create a "higher" level of service—it has long been the level of service required of local agencies. (See also *Inmates of the Riverside County Jail v. Clark* (1983) 144 Cal.App.3d 850, 860–861 [minimum standards set by Board for local detention facilities reflect constitutional requirements].)

In *County of Los Angeles v. Department of Industrial Relations* (1989) 214 Cal.App.3d 1538, the court rejected an argument that the state was required to reimburse local governments for the costs incurred in meeting new elevator earthquake and fire safety regulations promulgated by the California Occupational Safety and Health Administration. The court noted in part: "The regulations at issue do not mandate elevator service; they simply establish safety measures." (*Id.*, at p. 1546.)

In 63 Ops.Cal.Atty.Gen. 700 (1980), we concluded that the state was not required to reimburse local agencies for the costs of adding municipal court judges as directed by the Legislature. In finding that the additional judges did not constitute a "new" program or a "higher" level of service, we stated:

> ". . . Providing for an adequate number of judges for the most important court in the state in terms of the numbers of citizens it serves, in order that it may continue effectively to function as a forum for the orderly settlement of civil disputes and the prosecution of the floodtide of petty crime (*cf. Board of Supervisors v. Krumm* (1976) 62 Cal. App. 3d 935, 946), in accordance with the standard of justice prescribed by the constitution and laws of this state and of the United States, is a preexisting constitutional imperative. It is that standard, as distinguished from the number of personnel, to which the 'level of service' relates. Thus, a 'standard' has been defined in part as 'a definite level or degree of quality that is proper and adequate for a specific purpose.' (Webster's Third New Internat. Dict. (1961) p. 2233.) Hence, in our view, an increase in the number of judges does not portend the imposition by the Legislature of any new or increased obligation, but the maintenance of preordained constitutional standards." (*Id.* at pp. 702–703, fn. omitted.)

The minimum standards set by the Board for juvenile facilities constitute objective criteria which are needed to ensure that the facilities remain suitable places for the confinement of minors. The standards do not create a new program or impose a higher level of service for local agencies. What has long been required of local agencies is the maintenance of "suitable" facilities to house detained minors.

In answer to the second question presented, we conclude that when a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board, the state is not required to reimburse the local agency for the costs incurred in meeting the standards.

(Matthew Bender & Co., Inc.)

EXHIBIT 'G'

People Ex.Rel. Foundation etc v. Duque

105 Cal.App.4th 259; 129 Cal.Rptr.2d 298

[No. A098863. First Dist., Div. Five. Jan. 10, 2003.]

THE PEOPLE ex rel. FOUNDATION FOR TAXPAYER AND CONSUMER RIGHTS, Plaintiff and Respondent, v. HENRY DUQUE, Defendant and Appellant.

SUMMARY

The trial court entered a judgment that a Public Utilities Commission (PUC) commissioner forfeited his office pursuant to Pub. Util. Code, § 303, subd. (a), for having owned stock in a corporation that was regulated by the PUC. (Superior Court of the City and County of San Francisco, No. 318146, Alfred G. Chiantelli, Judge.)

The Court of Appeal reversed. The court held that because the trial court correctly ruled that defendant held his interest in the stock voluntarily, and since the forfeiture language set forth in the statute applies only when a commissioner acquires an interest in a regulated company "other than voluntarily," the statute, by its terms, did not apply under the facts of the case. The court could not supply an implied remedy to fill the statutory gap. It is particularly appropriate to honor forfeiture limitations where the issue is whether a state constitutional officer has forfeited his or her office. A court must limit itself to interpreting the law as written and leave for the people and the Legislature the task of revising it as they deem wise. Moreover, a commissioner who voluntarily owns stock in a regulated company arguably has neglected his statutory duty under Pub. Util. Code, § 303, subd. (a), and thus would be subject to removal under Cal. Const., art. XII, § 1. (Opinion by Jones, P. J., with Stevens and Simons, JJ., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1a-1d) Public Officers and Employees § 29—Duration and Termination of Tenure—Forfeiture—Public Utilities Commissioner—Voluntary Ownership of Stock in Regulated Company.—The trial court erred in ruling that a Public Utilities Commission (PUC) commissioner forfeited his office pursuant to Pub. Util. Code, § 303, subd. (a), for

having owned stock in a corporation that was regulated by the PUC. Because the trial court correctly ruled that defendant held his interest in the stock voluntarily, and since the forfeiture language set forth in the statute applies only when a commissioner acquires an interest in a regulated company "other than voluntarily," the statute, by its terms, did not apply under the facts of the case. The court could not supply an implied remedy to fill the statutory gap. It is particularly appropriate to honor forfeiture limitations where the issue is whether a state constitutional officer has forfeited his or her office. A court must limit itself to interpreting the law as written and leave for the People and the Legislature the task of revising it as they deem wise. Moreover, a commissioner who voluntarily owns stock in a regulated company arguably has neglected his statutory duty under Pub. Util. Code, § 303, subd. (a), and thus would be subject to removal under Cal. Const., art. XII, § 1.

[See 8 Witkin, Summary of Cal. Law (9th ed. 1989) Constitutional Law, § 889; West's Key Number Digest, Public Utilities ⚖ 142.]

(2) **Statutes § 30—Construction—Language—Plain Meaning.**—In construing a statute a court ascertains the Legislature's intent in order to effectuate the law's purpose. The court must look to the statute's words and give them their usual and ordinary meaning. The statute's plain meaning controls the court's interpretation unless its words are ambiguous.

(3) **Public Officers and Employees § 29—Duration and Termination of Tenure—Forfeiture.**—Public office forfeiture provisions are disfavored because they encroach on the fundamental right to hold office. The right to hold public office, either by election or appointment, is one of the valuable rights of citizenship. The exercise of this right should not be declared prohibited or curtailed except by plain provisions of law. Furthermore, the law traditionally disfavors forfeitures, and statutes imposing them are to be strictly construed.

(4) **Statutes § 30—Construction—Language—Plain Meaning.**—Courts are obligated to interpret the language in a statute in accordance with its plain meaning, and may not, under the guise of construction, rewrite a law or give the words an effect different from the plain and direct import of the terms used.

(5) **Statutes § 39—Construction—Conformation of Parts.**—While a court must, if possible, avoid interpreting a statute in an absurd manner, when deciding what is absurd the court is required to read the statute

with reference to the entire scheme of law of which it is part so that the whole may be harmonized.

(6) **State of California § 10—Attorney General—Opinions—Weight.** —An opinion of the Attorney General authorizing a quo warranto action against a Public Utilities Commission commissioner was not controlling on the commissioner's appeal from an adverse judgment. Given that the Attorney General aligned himself with plaintiff, citing the Attorney General's opinion as controlling is analogous to one party arguing that an amicus curiae brief submitted in support of his or her position mandates how an appeal must be resolved. In any event, while opinions of the Attorney General are entitled to considerable weight, they are not binding.

COUNSEL

Remcho, Johansen & Purcell, Joseph Remcho and Thomas A. Willis for Defendant and Appellant.

Harvey Rosenfield, Pamela M. Pressley; Bill Lockyer, Attorney General, and Anthony Davigo, Deputy Attorney General, for Plaintiff and Respondent.

OPINION

JONES, P. J.—The People of the State of California, through relator the Foundation for Taxpayer and Consumer Rights (FTCR) filed a quo warranto action against Commissioner Henry Duque of the Public Utilities Commission (PUC), contending Duque must be removed from office pursuant to Public Utilities Code section 303,[1] subdivision (a), because he formerly held stock in a corporation that was regulated by the PUC. The trial court agreed and ruled Duque had forfeited his office. Duque now appeals claiming the judgment must be reversed because (1) section 303, subdivision (a), is unconstitutional, and (2) the statute, by its terms, did not apply to his conduct. We agree with the second of these arguments and reverse the judgment.

[1]Unless otherwise indicated, all further section references will be to the Public Utilities Code.

I. FACTUAL AND PROCEDURAL BACKGROUND

On April 3, 1995, former Governor Pete Wilson appointed Duque a commissioner on the PUC. The position is a constitutionally mandated office.[2] In December 1996, Governor Wilson reappointed Duque to a full six-year term. His appointment was confirmed by the state senate. Duque's term of office ended on January 1, 2003.

While Duque was a commissioner, his personal investment account was managed by his long-term stockbroker, Michael Golub. Golub made investment decisions for Duque pursuant to a power of attorney without seeking input from Duque. When Duque became a commissioner, he told Golub he could not own stock in companies that were regulated by the PUC.

On May 12, 1999, Golub purchased stock in Nextel Communications, Inc., a wireless communication carrier, and allocated 700 shares to Duque's account. At the time of the purchase, Duque believed that wireless carriers such as Nextel were regulated by the Federal Communications Commission (FCC), and not by the PUC. Golub had a similar understanding. Duque disclosed his ownership of the Nextel stock in his 1999 and 2000 statements of economic interests.

In fact, while states are precluded from regulating the rates charged by wireless carriers (see 47 U.S.C. § 332(c)(3)(A)), other aspects of Nextel's business were and are regulated by the PUC. Three months after Duque acquired his stock, Nextel and all other phone companies in California filed a joint petition seeking an allocation of phone numbers in the 310 area code. The PUC, with Duque voting in dissent, adopted an allocation plan. Duque voted against the interests of Nextel and the other petitioning parties.

In February 2000, the PUC noticed rulemaking proceedings to establish consumer protection rules applicable to telecommunication companies. The rules would apply to all communication companies, including Nextel.

In March 2000, the PUC approved an interconnection agreement between Pacific Bell and Nextel. The agreement was part of a larger consent item agenda that included several similar agreements. All the agreements were approved en masse.

[2]California Constitution, article XII, section 1, states: "The Public Utilities Commission consists of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for staggered 6-year terms. . . . The Legislature may remove a member for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring."

On August 16, 2000, Duque received a phone call from Todd Wallack, a reporter for the San Francisco Chronicle, who had reviewed Duque's statements of economic interests. Wallack questioned Duque's ownership of Nextel stock, asserting it was a regulated company whose stock Duque was not permitted to own. Duque contacted the general counsel of the PUC to ask him whether Nextel was regulated by the PUC. The general counsel did not call back.

Duque believed that Wallack sounded knowledgeable. He decided to sell his stock because there was, at a minimum, a perception of conflict. On August 18, 2000, Duque directed his stockbroker to sell his remaining Nextel stock. Duque earned almost $70,000 as the result of his ownership of the stock.

On October 4, 2000, respondent FTCR sought permission from the California Attorney General to file an action against Duque. The Attorney General granted permission in an opinion dated November 29, 2000. (See 83 Ops.Cal.Atty.Gen. 263 (2000).)

In January 2001, FTCR, acting in the name of the People of the State of California, filed a quo warranto action against Duque under Code of Civil Procedure section 803 et seq. FTCR contended that Duque had forfeited his office as a commissioner under section 303, subdivision (a), because he formerly owned a prohibited financial interest in Nextel.

In July 2001, FTCR filed a motion for summary judgment arguing it was entitled to prevail as a matter of law. The judge hearing the motion denied it, ruling that section 303, subdivision (a), "does not provide for the removal from office of a [c]ommissioner . . . for a voluntary acquisition of stock." However, the judge ruled Nextel was in fact subject to regulation by the PUC.

The case then proceeded to a one-day court trial. At the conclusion of the trial, the court issued a statement of decision ruling Duque had forfeited his office under section 303, subdivision (a), because he had voluntarily owned stock in a company that was regulated by the PUC. The court ruled specifically that Duque had *not* been dishonest and that he had *not* acted in bad faith. Instead, the court ruled that Duque had shown poor judgment because he had "not [done] everything, which can reasonably be expected of a public utility commissioner to do in order to avoid a conflict of interest." The court ordered Duque to pay a $5,000 fine, and ruled he must pay FTCR's attorney fees under Code of Civil Procedure section 1021.5.

This appeal followed. While the matter was being briefed, we granted Duque's petition for writ of supersedeas and stayed the court's judgment pending our resolution of the appeal.

II. DISCUSSION[3]

(1a) Duque contends the judgment must be reversed because (1) section 303, subdivision (a) is unconstitutional, and (2) the section, by its terms, did not apply under the facts of this case. Since we do not reach constitutional issues unless absolutely required to do so (*Santa Clara County Local Transportation Authority v. Guardino* (1995) 11 Cal.4th 220, 230 [45 Cal.Rptr.2d 207, 902 P.2d 225]), we turn to the second, and we believe, dispositive argument.

Section 303, subdivision (a), states: "A public utilities commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission. If any commissioner acquires a financial interest in a corporation or person subject to regulation by the commission other than voluntarily, his or her office shall become vacant unless within a reasonable time he or she divests himself or herself of the interest."

Our interpretation of this language is guided by well-settled rules of construction. **(2)** In construing a statute we ascertain the Legislature's intent in order to effectuate the law's purpose. (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386 [241 Cal.Rptr. 67, 743 P.2d 1323].) We must look to the statute's words and give them their usual and ordinary meaning. (*DaFonte v. Up-Right, Inc.* (1992) 2 Cal.4th 593, 601 [7 Cal.Rptr.2d 238, 828 P.2d 140].) "The statute's plain meaning controls the court's interpretation unless its words are ambiguous." (*Kobzoff v. Los Angeles County Harbor/UCLA Medical Center* (1998) 19 Cal.4th 851, 860-861 [80 Cal.Rptr.2d 803, 968 P.2d 514].)

(1b) The language used in section 303, subdivision (a), is reasonably clear. The first sentence states that commissioners are precluded from owning an interest in any company that is subject to regulation by the PUC. Here, the trial court ruled, and the evidence fully supports the conclusion, that Duque held an interest in a corporation that was regulated by the PUC.

[3]While this appeal was being briefed, FTCR filed a request asking this court to take judicial notice of the legislative history of the statutes and constitutional sections that are at issue in this case. We deferred ruling on the request until the merits of the appeal. (See *People v. Preslie* (1977) 70 Cal.App.3d 486, 493-494 [138 Cal.Rptr. 828].) Having now considered FTCR's request, we grant it.

It is undisputed that Duque held Nextel stock. Nextel, as a wireless carrier, was and is subject to regulation by the PUC. Indeed, Duque himself participated in a decision in which the PUC asserted its right to regulate certain aspects of the wireless communication business. (See *In re Mobile Telephone Service and Wireless Communications* (Cal.P.U.C., 1996) 174 Pub.Utl.Rep.4th (West) 543.)

The second sentence of section 303, subdivision (a), then states that if a commissioner comes to possess an interest in a regulated company "*other than voluntarily*" (or in other words involuntarily) he or she must divest himself or herself of that interest "within a reasonable time." If the commissioner fails to do so, his or her office "shall become vacant." Here the trial court held, and the parties both agree, that Duque held his interest in Nextel *voluntarily*. Since the forfeiture language set forth in section 303, subdivision (a), applies only when a commissioner acquires an interest in a regulated company "other than voluntarily," the statute, by its terms, did not apply under the facts of this case.

This application of section 303, subdivision (a), highlights a critical gap in the language of the statute. While section 303, subdivision (a), states that commissioners may not possess an interest in a regulated company, and provides a remedy for the *involuntary* acquisition of such an interest, the statute does not describe what occurs when a commissioner *voluntarily* acquires an interest in a regulated company.[4] The pivotal issue presented here is whether we must fill that gap with an implied remedy: i.e., that a commissioner who voluntarily acquires an interest in a regulated company must forfeit his or her office. We decline to do so.

(3) First, forfeiture provisions are disfavored because they encroach on the fundamental right to hold office. " '[T]he right to hold public office, either by election or appointment, is one of the valuable rights of citizenship . . . *The exercise of this right should not be declared prohibited or curtailed except by plain provisions of law. . . .*' " (*Helena Rubenstein Internat. v.*

[4]The statute's silence as to penalty for a voluntary acquisition is mirrored in a related constitutional provision. Article XII, section 7, of the California Constitution states: "A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission." This language provides a standard of conduct applicable to public utilities commissioners, but does not provide a remedy for a violation of that standard. Article XII, section 7, also states: "A transportation company may not grant free passes or discounts to anyone holding an office in this state; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office." This portion of the section mandates forfeiture of office for certain types of conduct, but states clearly that the remedy does not apply to public utilities commissioners.

Younger (1977) 71 Cal.App.3d 406, 418 [139 Cal.Rptr. 473], italics added in *Helena Rubenstein*, quoting *People v. Washington* (1869) 36 Cal. 658, 662; see also *Carter v. Com. on Qualifications, etc.* (1939) 14 Cal.2d 179, 182 [93 P.2d 140].) Furthermore, the "law traditionally disfavors forfeitures and statutes imposing them are to be strictly construed." (*People v. United Bonding Ins. Co.* (1971) 5 Cal.3d 898, 906 [98 Cal.Rptr. 57, 489 P.2d 1385]; see also 67 Ops.Cal.Atty.Gen. 459, 461 (1984).) **(1c)** We believe it is particularly appropriate to honor these limitations where, as here, the issue is whether a state constitutional officer has forfeited his office.

(4) Second, we are obligated to interpret the language in a statute in accordance with its plain meaning. (*Torres v. Parkhouse Tire Service, Inc.* (2001) 26 Cal.4th 995, 1003 [111 Cal.Rptr.2d 564, 30 P.3d 57].) "We may not, under the guise of construction, rewrite [a] law or give the words an effect different from the plain and direct import of the terms used." (*California Fed. Savings & Loan Assn. v. City of Los Angeles* (1995) 11 Cal.4th 342, 349 [45 Cal.Rptr.2d 279, 902 P.2d 297].) **(1d)** Here, section 303, subdivision (a), describes what occurs when a commissioner involuntarily owns stock in a regulated company. The statute, by its terms, does not describe what occurs when a commissioner voluntarily owns stock in a company that is regulated. "[W]e must limit ourselves to interpreting the law as written and leave for the People and the Legislature the task of revising it as they deem wise." (*People v. Garcia* (1999) 21 Cal.4th 1, 15 [87 Cal.Rptr.2d 114, 980 P.2d 829].)

Our holding does not mean that commissioners may violate section 303, subdivision (a), with impunity. Article XII, section 1, of the California Constitution states that the Legislature may remove a commissioner from office "for incompetence, neglect of duty, or corruption . . . ." A commissioner who voluntarily owns stock in a regulated company arguably has neglected his statutory duty under section 303, subdivision (a), and thus would be subject to removal under article XII, section 1. Furthermore, Duque concedes that commissioners who violate the public trust remain subject to civil and criminal penalties under the Political Reform Act of 1974. (See Gov. Code, § 81000 et seq.) We hold only that a commissioner who violates section 303, subdivision (a), by voluntarily owning stock, does not, under the terms of that statute, forfeit his office.[5]

FTCR contends the interpretation of section 303, subdivision (a), we have adopted is absurd because it would permit forfeiture of office for the

[5]Having reached this conclusion, we need not decide the potentially more troubling issue of whether section 303, subdivision (a), is constitutional in light of article XII, section 1, of the California Constitution, which states: "The Legislature may remove a member [of the Public Utilities Commission] for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring." Specifically, we need not decide whether the

involuntary acquisition of an interest in a regulated company, while providing no remedy for the more serious violation that occurs when a commissioner voluntarily acquires an interest in a regulated company. FTCR concedes this argument is premised on the assumption that a voluntary acquisition of an interest in a regulated company is, by its nature, a more serious offense. In our view, FTCR's premise is flawed. A commissioner can voluntarily but inadvertently acquire an interest in a regulated company by, for example, purchasing shares in an unregulated corporation which, unbeknownst to the commissioner, has recently acquired a regulated corporation. There is nothing particularly blameworthy about such an act and it should not necessarily trigger a more severe sanction.

(5) Furthermore, while we must, if possible, avoid interpreting a statute in an absurd manner (*Horwich v. Superior Court* (1999) 21 Cal.4th 272, 276 [87 Cal.Rptr.2d 222, 980 P.2d 927]), when deciding what is "absurd" we are required to read the statute " ' "with reference to the entire scheme of law of which it is part so that the whole may be harmonized . . . ." ' " (*Ibid.*, quoting *People v. Pieters* (1991) 52 Cal.3d 894, 898-899 [276 Cal.Rptr. 918, 802 P.2d 420].) Section 303, subdivision (a), certainly has a limited scope. It mandates forfeiture of office for an involuntary acquisition of an interest in a regulated company, while stating no remedy for the conflict of interest that arises when a commissioner voluntarily obtains an interest in a regulated company. However, the omissions inherent in section 303, subdivision (a), are largely filled by the power to remove found in article XII, section 1, of the California Constitution, and by the civil and criminal penalties contained in the Political Reform Act of 1974. (See Gov. Code, § 81000 et seq.) When all the related provisions of law are considered together, our interpretation of section 303, subdivision (a), is not absurd.

FTCR also contends the trial court's interpretation of section 303, subdivision (a), is supported by two opinions issued by the California Attorney General. However, the issue in the first opinion, 80 Ops.Cal.Atty.Gen. 27 (1997) was whether the PUC is obligated to discharge an employee who marries an employee of a regulated company. That Attorney General concluded that "on its face, section 303 would prohibit continued employment by an employee of the Commission who marries an employee of a regulated utility." (*Id.* at p. 29.) The opinion does not involve a constitutional officer, does not involve stock ownership, and does not discuss the forfeiture clause

section's grant of the power to remove to the Legislature, bars the judiciary from determining whether removal is necessary or appropriate. (Cf. *In re McGee* (1951) 36 Cal.2d 592 [226 P.2d 1]; *California War Veterans for Justice v. Hayden* (1986) 176 Cal.App.3d 982 [222 Cal.Rptr. 512].)

that is pivotal here. Given these significant differences, we conclude the opinion is not persuasive. (Cf. *Andres v. Young Men's Christian Assn.* (1998) 64 Cal.App.4th 85, 90 [74 Cal.Rptr.2d 788].)

(6) The second opinion, 83 Ops.Cal.Atty.Gen. 263 (2000), is the one in which the Attorney General authorized FTCR to file the present litigation. Given that the Attorney General has aligned himself with FTCR, citing the Attorney General's opinion as controlling is analogous to one party arguing that an amicus brief submitted in support of his position mandates how an appeal must be resolved. In any event, while opinions of the Attorney General are entitled to considerable weight, they are not binding. (*State of Cal. ex rel. State Lands Com. v. Superior Court* (1995) 11 Cal.4th 50, 71 [44 Cal.Rptr.2d 399, 900 P.2d 648].) Here, the Attorney General stated in his opinion that "[Duque's] office became vacant immediately upon his acquisition of the 700 shares of stock in Nextel on May 12, 1999." (83 Ops.Cal.Atty.Gen., *supra*, at p. 265.) In reaching that conclusion, the Attorney General did not discuss the language of the section 303, subdivision (a), in detail and he did not acknowledge that the statute only provides for a forfeiture when a commissioner obtains stock involuntarily. Again, we conclude the Attorney General's opinion is not persuasive.

FTCR next contends the trial court's ruling was correct under the rule that courts must, if possible, give meaning to all the language of a statute. (See, e.g., *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1118 [81 Cal.Rptr.2d 471, 969 P.2d 564].) According to FTCR, interpreting section 303, subdivision (a), to mean that a voluntary acquisition of an interest does not result in a forfeiture would render the second sentence of the subdivision meaningless. This is simply not true. Under our interpretation, the first sentence of section 303, subdivision (a), sets forth the general rule that commissioners may not possess an interest in a company that is regulated by the PUC. The second sentence then provides a limited remedy for a violation of the general rule. If a commissioner obtains an interest involuntarily, he must divest himself of that interest in a reasonable time. If he fails to do so, his office is vacated. Under our interpretation, all language in the statute is given meaning.

Next, FTCR contends the trial court's ruling is supported by the maxim of statutory construction, *expressio unius est exclusio alterius,* meaning the "expression of one thing is the exclusion of another." (See *People v. Anzalone* (1999) 19 Cal.4th 1074, 1078 [81 Cal.Rptr.2d 315, 969 P.2d 160].) As we understand it, FTCR's theory is that the first sentence of section 303, subdivision (a), states the general rule that a commissioner who owns an

interest in a company that is regulated by the PUC forfeits his office. The second sentence then provides for a single exception to the general rule: a commissioner who obtains his interest involuntarily, need not forfeit his office if he disposes of that interest within a reasonable time. According to FTCR, interpreting the statute to mean that a commissioner who voluntarily obtains an interest in a regulated company faces no risk of automatic forfeiture of office would improperly add an additional exception that is not specified in the statute. We reject this argument because it is based on a false premise. Contrary to FTCR's argument, the first sentence of section 303, subdivision (a), does not state that a commissioner who owns an interest in a regulated company forfeits his office. It merely states that a commissioner may not own an interest in a regulated company. No remedy is provided. FTCR's argument, based on a mistaken interpretation of the statute, must fail.

FTCR also argues that its interpretation of section 303, subdivision (a), is supported by a constitutional consideration. Specifically, FTCR notes that the first sentence of subdivision (a) stating: "A public utilities commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission" is identical to language contained in article XII, section 7, of the California Constitution. The language in article XII, section 7, in turn, is based on former article XII, section 22, which stated in part: "no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said Public Utilities Commission and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to *or hold* the office of Public Utilities Commissioner." (See Deering's Cal. Codes (1974 ed.) Const., art. XII, § 22, p. 199, italics added.) Since current article XII, section 7, was intended to restate former article XII, section 22, without "substantive change," (see art. XII, § 9) FTCR contends the language we have italicized in former article XII, section 22, must be interpreted to mean that a person cannot simultaneously hold the position of commissioner and possess stock in a regulated company. If a commissioner does so, his office becomes vacant. We reject this argument because it fails to distinguish between a duty and a remedy. Article XII, section 7, and former article XII, section 22, both describe a duty that is imposed on those who serve as commissioners on the PUC. A commissioner cannot hold an interest in a company that is regulated by the PUC. However, neither of those sections provides a remedy for a violation of that duty. It is simply beyond our purview, as an intermediate appellate court, to create or imply such a remedy where it is not statutorily or constitutionally compelled.

Finally, FTCR relies on language from *Lubin v. Wilson* (1991) 232 Cal.App.3d 1422, 1429-1430 [284 Cal.Rptr. 70], where the court said: "A person holds office subject to conditions imposed by the state and, where cause for removal is provided by law, the person is deemed to have accepted the office on condition he or she could be removed for that cause and in the manner provided. [Citation.]" FTCR contends that when Duque violated section 303, subdivision (a), by voluntarily owning stock, he failed to satisfy a "condition" of his position and thus forfeited his office.

We have no quarrel with the court's holding in *Lubin*; however, the case is distinguishable. The issue in *Lubin* was whether a member of the State Board of Equalization had forfeited his office when he was convicted of several felonies in federal court. The *Lubin* court ruled the member had forfeited his office, relying in part on Government Code section 1770, subdivision (h), which states that when person is "convict[ed] of a felony" his office becomes vacant. Since the statute at issue expressly mandated forfeiture under the circumstances presented, we agree the *Lubin* court reached the correct conclusion. Here, by contrast, the statute at issue contains a forfeiture provision, however, it clearly does not apply under the facts of this case. *Lubin* is not controlling.

III. DISPOSITION

The judgment is reversed.

Stevens, J., and Simons, J., concurred.

Respondent's petition for review by the Supreme Court was denied April 9, 2003.

SixTen and Associates
Mandate Reimbursement Services

Exhibit F

KEITH B. PETERSEN, MPA, JD, President
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

May 5, 2004

RECEIVED
MAY 07 2004
COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: Test Claim 02-TC-31
Santa Monica Community College District
Minimum Conditions for State Aid

Dear Ms. Higashi:

I have received the comments of the Chancellor's Office of the California Community Colleges ("CCC") dated March 11, 2004, to which I now respond on behalf of the test claimant.

The Comments of CCC are Incompetent and Should be Excluded

Test claimant objects to the comments of CCC, in total, as being legally incompetent and move that they be excluded from the record. Title 2, California Code of Regulations, Section 1183.02(d) requires that any:

> "...written response, opposition, or recommendations and supporting documentation shall be signed at the end of the document, under penalty of perjury by an authorized representative of the state agency, with the declaration that it is true and complete to the best of the representative's personal knowledge or information or belief."

Furthermore, the test claimant objects to any and all assertions or representations of fact made in the response since CCC has failed to comply with Title 2, California Code of Regulations, Section 1183.02(c)(1) which requires:

> "If assertions or representations of fact are made (in a response), they must be supported by documentary evidence which shall be submitted with the state agency's response, opposition, or recommendations. All documentary evidence shall be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge or information or belief."

In addition, CCC has cited numerous federal statutes and regulations without attaching a copy thereof, and without identifying specific chapters, articles, sections or page numbers, in violation of Title 2, California Code of Regulations Section 1183.02, subdivision (c)(2), which requires that written responses, opposition or recommendations on the test claim shall contain:

> "A copy of relevant portions of...federal statutes, and executive orders that may impact the alleged mandate...unless such authorities are also cited in the test claim. The specific chapters, articles, sections, or page numbers must be identified..."

The comments of CCC do not comply with these essential requirements. Since the Commission cannot use unsworn comments or comments unsupported by declarations, but must make conclusions based upon an analysis of the statutes and facts supported in the record, test claimant requests that the comments and assertions of CCC not be included in the Staff's analysis.

Part I
Replies Applicable to Repeated Arguments

CCC repeats several arguments to various issues throughout its response. Test Claimant will reply to these arguments in this Part I and will not repeat them in total each time the argument is made.

A. Limited Time to Respond is not a Valid Argument

CCC laments that, given the number of statutes and regulations, and severe cutbacks suffered, it was unable to provide a thorough response to this claim. CCC goes on to argue that it is regrettable that the lack of funding to support mandate claim reviews

could conceivably result in the payment of "unwarranted" claims.[1] It concludes that it must leave a comprehensive review of the issues to the Commission (i.e., the Commission staff).

The instant test claim was filed on June 19, 2003. The Commission's letter inviting comments was dated July 3, 2003. The CCC finally submitted its comments on March 16, 2004. Test claimant suggests that if CCC cannot find contradictory evidence to these issues in eight and one-half months, perhaps it does not exist.

B. CCC Misinterprets "*Kern*" Relative to "Legal Compulsion"

Citing *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727 (hereinafter "*Kern*"), CCC offers an interpretation that legal compulsion is required in order to find a mandate. This is an erroneous interpretation. Legal compulsion is not necessarily required for a finding of a mandate. The controlling case law on the subject of legal compulsion *vis-a-vis* non-legal compulsion is still *City of Sacramento v. State of California* (1990) 50 Cal.3rd 51 (hereinafter "*Sacramento II*").

(1) *Sacramento II* Facts:

The adoption of the Social Security Act of 1935 provided for a Federal Unemployment Tax ("FUTA"). FUTA assesses an annual tax on the gross wages paid by covered private employers nationwide. However, employers in a state with a federally "certified" unemployment insurance program receive a "credit" against the federal tax in an amount determined as 90 percent of contributions made to the state system. A "certified" state program also qualifies for federal administrative funds.

California enacted its unemployment insurance system in 1935 and has sought to maintain federal compliance ever since.

In 1976, Congress enacted Public Law number 94-566 which amended FUTA to require, for the first time, that a "certified" state plan include coverage of public employees. States that did not alter their unemployment compensation laws accordingly faced a loss of both the federal tax credit and the administrative subsidy.

In response, the California Legislature adopted Chapter 2, Statutes of 1978 (hereinafter

[1] There is perhaps something to be said about the mind-set of CCC when it can declare a claim to be "unwarranted" before it has the time or resources to analyze the claim.

chapter 2/78), to conform to Public Law 94-566, and required the state and all local governments to participate in the state unemployment insurance system on behalf of their employees.

(2) *Sacramento I* Litigation

The City of Sacramento and the County of Los Angeles filed claims with the State Board of Control seeking state subvention of the costs imposed on them by chapter 2/78. The State Board denied the claim. On mandamus, the Sacramento Superior Court overruled the Board and found the costs to be reimbursable. In *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182 (hereinafter *Sacramento I*) the Court of Appeal affirmed concluding, *inter alia*, that chapter 2/78 imposed state-mandated costs reimbursable under section 6 of article XIII B. It also held, however, that the potential loss of federal funds and tax credits did not render Public Law 94-566 so coercive as to constitute a "mandate of the federal government" under Section 9(b).[2]

In other words, *Sacramento I* concluded, *inter alia*, that the loss of federal funds and tax credits did not amount to "compulsion."

(3) *Sacramento II* Litigation

After remand, the case proceeded through the courts again. In *Sacramento II*, the Supreme Court held that the obligations imposed by chapter 2/78 failed to meet the "program" and "service" standards for mandatory subvention because it imposed no "unique" obligation on local governments, nor did it require them to provide new or increased governmental services to the public. The Court of Appeal decision, finding the expenses reimbursable, was overruled.

However, the court also overruled that portion of *Sacramento I* which held that the loss of federal funds and tax credits did not amount to "compulsion."

(4) *Sacramento II* "Compulsion" Reasoning

Plaintiffs argued that the test claim legislation required a clear legal compulsion not

[2] Section 1 of article XIII B limits annual "appropriations". Section 9(b) provides that "appropriations subject to limitation" do not include "appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly."

present in Public Law 94-566. Defendants responded that the consequences of California's failure to comply with the federal "carrot and stick" scheme were so substantial that the state had no realistic "discretion" to refuse.

In disapproving *Sacramento I*, the court explained:

> "If California failed to conform its plan to new federal requirements as they arose, its businesses faced a new and serious penalty - full, double unemployment taxation by both state and federal governments." (Opinion, at page 74)

Plaintiffs argued that California was not compelled to comply because it could have chosen to terminate its own unemployment insurance system, leaving the state's employers faced only with the federal tax. The court replied to this suggestion:

> "However, we cannot imagine the drafters and adopters of article XIII B intended to force the state to such draconian ends. (¶) ...The alternatives were so far beyond the realm of practical reality that they left the state 'without discretion' to depart from federal standards." (Opinion, at page 74, emphasis supplied)

In other words, terminating its own system was not an acceptable option because it was so far beyond the realm of practical reality so as to be a draconian response, leaving the state without discretion. The only reasonable alternative was to comply with the new legislation, since the state was practically "without discretion" to do otherwise.

The Supreme Court in *Sacramento II* concluded by stating that there is no final test for a determination of "mandatory" versus "optional":

> "Given the variety of cooperative federal-state-local programs, we here attempt no final test for 'mandatory' versus 'optional' compliance with federal law. A determination in each case must depend on such factors as the nature and purpose of the federal program; whether its design suggests an intent to coerce; when state and/or local participation began; the penalties, if any, assessed for withdrawal or refusal to participate or comply; and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal." (Opinion, at page 76)

(5) The "Kern" Case Did Not Change the Standard

In *Kern*, at page 736, the Supreme Court first made it clear that the decision did not

hold that legal compulsion was necessary in order to find a reimbursable mandate:

> "For the reasons explained below, although we shall analyze the legal compulsion issue, we find it unnecessary in this case to decide whether a finding of legal compulsion is *necessary* in order to establish a right to reimbursement under article XIII B, section 6,[3] because we conclude that even if there are some circumstances in which a state mandate may be found in the absence of legal compulsion, the circumstances presented in this case do not constitute such a mandate." (Emphasis in the original, underlining supplied)

After concluding that the facts in *Kern* did not rise to the standard of non-legal compulsion, the court reaffirmed that either double taxation or other draconian consequences could result in non-legal compulsion:

> "In sum, the circumstances presented *in the case before us* do not constitute the type of non-legal compulsion that reasonably could constitute, in claimants' phrasing, a 'de facto' reimbursable state mandate. Contrary to the situation that we described in (*Sacramento II*), a claimant that elects to discontinue participation in one of the programs *here at issue* does not face 'certain and severe...penalties' such as 'double...taxation' or other 'draconian' consequences (citation), but simply must adjust to the withdrawal of grant money along with the lifting of program obligations." (Opinion, at page 754, emphasis supplied to illustrate holding is limited to facts presented)

The test for determining the existence of a mandate is whether compliance with the test claim legislation is a matter of true choice, that is, whether participation is truly voluntary. *Hayes v. Commission on State Mandates*, (1992) 11 Cal.App.4th 1564, 1582 Under the "carrot and stick" analysis of both *Kern* and *Hayes*, community college districts' acceptance of state aid is not truly voluntary. The carrot is too large and the stick is too short.

The process for such a determination is found in *Sacramento II*, that is, the determination in each case must depend on such factors as the nature and purpose of

---

[3] This *Kern* disclaimer that "we find it unnecessary in this case to decide whether a finding of legal compulsion is *necessary* in order to establish a right to reimbursement" refutes CCC's interpretation that legal compulsion is always necessary for a finding of a mandate.

the program; whether its design suggests an intent to coerce; when district participation began; the penalties, if any, assessed for withdrawal or refusal to participate or comply; and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal. ("*Sacramento II*", at page 76)

CCC has not applied this crucial test to any of the test claim activities. Therefore, it cannot properly claim that the test claim activities are discretionary.

C. CCC Misinterprets "*Kern*" Relative to "Receipt of State Funding"

CCC argues that claimant can use funds it has already received from the state to satisfy any costs of complying with the test claim legislation and regulations, again citing "*Kern*". CCC has the facts of "*Kern*" badly mistaken:

> "Real parties in interest - - two public school districts and a county (hereafter claimants) - - participate in various education-related programs that are funded by the state and, in some instances, by the federal government. Each of these underlying funded programs in turn requires participating public school districts to establish and utilize specified school councils and advisory committees. Statutory provisions enacted in the mid-1990's require that such school councils and advisory committees provide notice of meetings, and post agendas for those meetings. (citations) We granted review to determine whether claimants have a right to reimbursement from the state for their costs in complying with these statutory notice and agenda requirements." (Opinion, at pages 730-731, underlining supplied to show that the funding referred to was provided for the underlying education-related programs.)

At page 731 of the opinion, the court summarized its later holding:

> "...we conclude that as to *eight* of the nine underlying funded programs here as issue, claimants have not been legally compelled to participate...,assuming (without deciding) that claimants have been legally compelled to participate in *one* of the nine programs, we conclude that claimants nonetheless have no entitlement to reimbursement from the state for such [notice and agenda] expenses,[4] because they have been

[4] The court found these costs to be "rather modest". (Opinion, at page 747)

> free at all relevant times to use funds provided by the state[5] for that [underlying education-related] program to pay required program expenses - - including the notice and agenda costs here at issue," (Emphasis in the original, underlining and bracketed clarification added.)

It is only in the context of those facts, that the court held:

> "We therefore conclude that because claimants are and have been free to use funds from the [underlying education-related] Chacon-Moscone Bilingual-Bicultural Education program to pay required program expenses (including the notice and agenda costs here at issue), claimants are not entitled under article XIII B, section 6, to reimbursement from the state for such expenses." (Opinion at page 748, parenthetical notation in the original, bracketed clarification added.)

Therefore, "*Kern*" is factually distinguishable. In the test claim now before the Commission there is no funding provided in any statute or regulations cited. Here, there are no "funds that have already been obtained from the state."

D. CCC Confuses Minimum Standards with Minimum Conditions

CCC uses the term "minimum standards" interchangeably with the term "minimum conditions". The two terms have different meanings and different applications.

Immediately prior to 1975, former Education Code Section 25510 (as amended by Chapter 989, Statutes of 1974, Section 23[6]) read:

> "The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges."

Former Education Code Section 25510 was recodified and renumbered as section

---

[5] The court found the underlying program funding to be "substantial". (Opinion, at page 732)

[6] A copy of Chapter 989, Statutes of 1974, Section 23 is attached hereto in Exhibit "A".

71025 by Chapter 1010, Statutes of 1976, section 2[7]. As recodified, section 71025 also read:

> "The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges."

Former Section 71025 was repealed by Chapter 973, Statutes of 1988, section 12.1. It was reenacted as Section 70901, by Chapter 973, Statutes of 1988, section 8[8, 9]. As

---

[7] A copy of Chapter 1010, Statutes of 1976, Section 2, which includes Education Code Section 71025 is attached hereto in Exhibit "A".

[8] A copy of Chapter 973, Statutes of 1988, Section 8, is attached hereto in Exhibit "A".

[9] Education Code Section 70901, added by Chapter 973, Statutes of 1988, Section 8:

"(a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by

governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to

determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community

enacted, the new section 70901 is greatly expanded and different from its pre-1975 predecessor[10]. CCC has overlooked this important change. Without discussing the entire statute, the following relevant observations are made:

The "minimum standards" language is now found in subdivision (b)(1):

> "(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:
>
> (1) Establish minimum standards as required by law, including, but not limited to, the following:..." (emphasis supplied)

and, these "minimum standards" are only applicable to:

> "(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.
> (B) Minimum standards for the employment of academic and administrative staff in community colleges.
> (C) Minimum standards for the formation of community colleges and districts.
> (D) Minimum standards for credit and noncredit classes.
> (E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards."

---

college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors."

[10] Section 70901 was amended again by Chapter 1023, Statutes of 1998, Section 1, to add a new subdivision (b)(15) which allows contracting for the procurement of goods and services, which is not relevant to this test claim. The chapter also renumbered former subdivision (b)(15) as (b)(16).

The language concerning "state aid" has now been shifted to subdivision (b)(6) and is subject to minimum conditions, not minimum standards.

> "(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors." (Emphasis supplied)

Therefore, when discussing "minimum standards," minimum standards are limited to those found in Education Code Section 70901, subdivisions (b)(1)(A) through (E). This test claim is about the "minimum conditions" for the receipt of state aid which were established in 1988.

E. CCC Misconstrues the Attorney General Opinion

CCC cites an Opinion of the California Attorney General (83 Opinions of the California Attorney General 111 (2000)) and makes a quantum leap to conclude that the "minimum standards" of the Board of Governors do not constitute either a new program or a higher level of service so long as the Board was obligated to set minimum standards in those areas prior to 1975. As will be shown, this misconstrues the Attorney General Opinion. (Please note also that the argument goes to "minimum standards" and not to "minimum conditions". Therefore, it has no relevance to this test claim.)

Before embarking on a discussion of the opinion of the Attorney General, test claimant must remind the Commission that such an opinion is subject to three rules of interpretation.

1. Although an opinion of the California Attorney General is entitled to considerable weight, if relevant, it is not binding.

2. The opinion will be found unpersuasive when the Attorney General has aligned himself with one of the parties.[11]

3. Dissimilar facts are another basis to conclude the opinion to be unpersuasive. *People ex rel. Foundation for Taxpayer & Consumer Rights v. Dugue* (2003) 105

[11] In this regard, test claimant requests the Commission to take notice of the fact that the Attorney General, at the time of its opinion, and now, often represents the Department of Finance in matters opposing the adoption of test claims.

Cal.App.4th 259, 267-268[12]

The facts presented to the Attorney General related to Welfare & Institutions Code Sections 210 and 210.2. Section 210 provided:

> "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors."

The Attorney General was asked for an opinion as to two questions, the second of which was:

> "When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, is the state required to reimburse the local agency for the costs incurred in meeting the standards?" (AG Opinion, at page 111)

At page 119 of the opinion, the Attorney General noted that:

> "Counties have been required to maintain a 'suitable' place for the detention of minors since at least 1915 (citations) Setting the minimum standards for what is 'suitable' does not create a 'higher' level of service – it has long been the level of service required of local agencies."

Stated more succinctly, prior to 1975, local agencies were required to provide a "suitable" place for the detention of juveniles. Therefore, any regulations establishing what constitutes "suitable" are not new.

Contrary to the interpretation of CCC, the opinion only went so far as to determine the effect of minimum standards for suitability, it did not render an opinion on minimum standards for every other conceivable activity of the juvenile court system. It certainly did not opine that regulations issued pursuant to a pre-1975 general authority of a state agency to set minimum standards could never constitute either a new program or a higher level of service.

F. Unidentified Regulations

[12] Pursuant to Title 2, California Code of Regulations, Section 1183.03(2), a copy of *People ex rel. Foundation for Taxpayer & Consumer Rights v. Duque* is attached hereto as Exhibit "B".

At section 4 of its comments, CCC by its unsworn and unverified statement asserts that many of the regulations that are the subject of this claim existed prior to January 1, 1975, under different section numbers. Therefore, the argument continues that to the extent any mandates predated January 1, 1975, they are not eligible for reimbursement.

CCC in this argument does not identify either the pre-1975 regulations or the test claim regulations to which it refers. As such, these comments must be disregarded.

G. Unidentified Federal Laws

At section 5 of its comments, CCC by its unsworn and unverified statement asserts that a number of the regulations address areas that are already required by federal laws that claimant must follow.

CCC in this argument does not identify either the regulations or the federal laws to which it refers. As such, these comments must be disregarded.

H. Unidentified Laws of General Application

CCC, in section 6, argues that claimant is a California business enterprise (!) and required to follow general laws that apply to all such employers and enterprises, concluding that actions required by general law cannot be the basis for reimbursement.

CCC in this argument does not identify the test claim statutes or regulations[13] which it contends are laws of general application. As such, these comments must also be disregarded.

Part II
Replies Applicable to Minimum Conditions for State Aid

Prologue

In a section entitled "Regulatory Background", CCC states that it is attaching copies of early regulation packages (Attachments 1, 2, 3 and 4) and encourages the Commission's (i.e., Commission staff's) thorough review of the early provisions in the

[13] Any argument that a claim is not reimbursable because it is based upon a law of general application must show that the test claim statute or regulations is a law of general application. Reference to some other "general law" is not relevant.

hope that the search will discover that many of the issues addressed in the test claim regulations preexisted January 1, 1975.

First of all, this reply cannot, obviously, respond to this "scavenger hunt" approach to legal analysis. Secondly, the copy of the comments (sent by e-mail) received by test claimant did not have attachments. Therefore, test claimant reserves the right to respond, if needed, when the attachments may be received in the future.

Condition 1 - Standards of Scholarship

CCC relies on the contents of Attachment 1 and Attachment 2 as the basis for its argument that all of the Standards of Scholarship existed prior to 1975.

Since test claimant did not receive a copy of Attachment 1 or Attachment 2, it will reserve its reply to those attachments to when they are received.

Government Code Section 17514 defines "costs mandated by the state" as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order implementing any statute which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

"Even if" CCC is correct in its assertions relative to the attachments, its descriptions fall far short of the new programs or higher levels of service required by the current regulations. For example, the summary by CCC of these purported pre-1975 regulations do not include:[14]

> (1) A requirement to file a copy of its own regulations with the Chancellor pursuant to Title 5, California Code of Regulations Section 51002(b);[15]
>
> (2) A requirement to determine and implement a uniform grading practice including grades given in accordance with an adopted grading scale, pursuant to section 55751;

---

[14] The following summary is a portion of the new duties alleged in the test claim in the section for Standards of Scholarship. The summary is not intended to be all-inclusive. For a more detailed listing, please refer to the test claim at pages 164-188.

[15] Unless otherwise noted, all citation of "regulations" shall be to Title 5, California Code of Regulations.

(3) A requirement to ensure that all units earned on a "credit-no credit" basis in other California institutions and equivalent out-of-state institutions are counted in satisfaction of community college curriculum, pursuant to section 55752(b);

(4) A requirement to ensure that units earned on a "credit-no credit" basis are not used to calculate grade point averages, pursuant to section 55752(c);

(5) A requirement to consider units attempted for which "NC" is recorded in probation and dismissal procedures, pursuant to section 55752(c);

(6) A requirement to allow independent study courses to be graded on a "credit-no credit" basis, pursuant to section 55752(d);

(7) A requirement to use the "CR/NC" grading system when offering courses in which there is a single standard of performance, pursuant to section 55752(e);

(8) A requirement to establish and implement policies and procedures for faculty to follow in determining an "articulated high school course", pursuant to 55753.5;

(9) A requirement to adopt policies regarding advanced placement examinations, pursuant to section 55753.7;

(10) A requirement to adopt, publish and implement procedures and conditions for probation and the appeal of probation, pursuant to section 55755;

(11) A requirement to adopt, publish and implement procedures and conditions for an appeal of dismissal and the request for reinstatement, pursuant to section 55756(c);

(12) A requirement to implement and comply with standards regarding remedial coursework, pursuant to section 55756.5;

(13) A requirement to utilize a statewide grading scale established on the basis of point equivalencies, pursuant to section 55758;

(14) A requirement to adopt and implement a withdrawal policy, pursuant to section 55758(e);

(15) A requirement to ensure that grades earned in nondegree credit courses are not included in calculating students' grade point averages, pursuant to section 55758.5;

(16) A requirement to make a reasonable effort to notify a student subject to academic probation or dismissal, pursuant to section 55759;

(17) A requirement to ensure that the instructor of any course determine the grade to be awarded to each student, pursuant to section 55760;

(18) A requirement to adopt, publish and implement procedures or regulations pertaining to the repetition of courses, pursuant to section 55761;

(19) A requirement to adopt procedures or regulations pertaining to the repetition of course for which substandard work has not been recorded, pursuant to section 55761; or

(20) A requirement to adopt, publish and implement procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance which is not reflective of a student's demonstrated ability, pursuant to sections 55764 and 55765.

Condition 2 - Degrees and Certificates

The response of CCC to this condition is based primarily on Attachments 1 and 3. Test claimant reserves the right to respond, if needed, when the attachment may be received in the future.

Condition 3 - Open Courses

(A) CCC's Statutory History is Incorrect

CCC contends that the Title 5, California Code of Regulations Section 51006 was preceded by former (pre-1975) Education Code Section 5754[16]. The correct citation is former Education Code Section 5753 which read, in part:

> "No class for adults shall be maintained by any district:...(2) if such classes are not open to the general public..." (Emphasis supplied)

Chapter 1010, Statutes of 1976, Section 2 recodified and renumbered former section 5753 as new Education Code Section 78450. Section 78450 was repealed by Chapter

[16] Section 5754 regulated classes for adults in dancing or recreational physical education.

36, Statutes of 1977, Section 610, operative April 30, 1977.

CCC then states that section 5754 was replaced by section 84500.1. It was not. Section 5754 was recodified and renumbered as new section 78451[17] and was repealed by Chapter 470, Statutes of 1981, Section 169.

Section 84500.1 was actually added by Chapter 909, Statutes of 1978, Section 24, and related to reports of average daily attendance for the purpose of apportionment. It was repealed by Chapter 1372, Statutes of 1990, Section 678.

(B) The response of CCC to the condition for Open Courses is also based Attachments 1 and 2. Test claimant reserves the right to respond, if needed, when the attachments may be received in the future.

(C) The Test Claim Requires Activities Which Constitute New Programs or Higher Levels of Service

Government Code Section 17514 defines "costs mandated by the state" as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order implementing any statute which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

Former pre-1975 Education Code Section 5753, required classes for adults to be open to the general public. The attachments as described by CCC are limited in scope. They did not include the following new programs or higher levels of service[18] now required by the minimum conditions for Open Courses:

(1) Adopting a statement which provides that every course reported for state aid shall be fully open to enrollment and participation by any person, and
   a) to publish the open enrollment policy statement in the official catalog, schedule of classes, and addenda to the schedule of classes; and

---

[17] Section 78451 still continued to regulate classes for adults in dancing or recreational physical education.

[18] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for open courses, see the test claim, at pages 193-200.

b) to file a copy of such policy with the Chancellor.

(2) Publishing a clear description of each course in the official catalog, and/or schedule of classes, and/or addenda.

(3) Establishing and implementing procedures to ensure, if a course description indicates a course is designed to meet certain specialized needs, that the district affirms the availability of the course to all qualified students.

(4) Describing all courses in the official general catalog and/or addenda and listing such courses in the schedules of classes, and
- a) ensuring that any courses which are established or conducted after publication of the general catalog or regular schedule of classes are reasonably well publicized, and
- b) ensuring that any announcements of course offerings are not limited to a specialized clientele, and
- c) ensuring that no one receives notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

(5) Ensuring that all community college courses are open to enrollment by any student unless the course qualifies for a limitation, such as,
- a) Permitting enrollment to be limited to students meeting prerequisites and corequisites that have been established, or
- b) Ensuring that any other limitation used by the district falls into one of acceptable reasons for enrollment limitations, or
- c) Adopting and implementing policies ensuring fair and equitable procedures for determining who may enroll in affected courses or programs, such as:
  - i) Limiting enrollment to a "first-come, first-served" basis or other nonevaluative selection techniques, or
  - ii) Limiting enrollment using an authorized method, or
  - iii) In the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students judged most qualified, or
  - iv) Limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, or
  - v) With respect to students on probation or subject to dismissal, limiting enrollment to a total number of units or to selected courses, or require students to follow a prescribed

educational plan.

(6) Establishing and implementing procedures for, and responding to, a student challenge to an enrollment limitation, including:
   (a) Permitting students to challenge an enrollment limitation on any of the following grounds:
      i) Unlawful discrimination,
      ii) Failure of the district to follow it's own enrollment limitation policy,
      iii) An argument that the basis upon which the district has established an enrollment limitation does not in fact exist, and
      iv) Any other criteria established by the district.
   (b) Handling such enrollment limitation challenges in a timely manner.
   (c) Waiving the enrollment limitation with respect to any student whose challenge is upheld.
   (d) Advising any student who has challenged an enrollment limitation based on the theory of unlawful discrimination that he or she may also file a formal complaint of unlawful discrimination once the challenge procedure has been completed.

(7) Ensuring that any public funds used in connection with community college athletic programs are used only for those programs which provide facilities and opportunities for participation by both sexes on an equitable basis.

(8) Ensuring that all procedures for registration and standards for enrollment in any course are consistent with all sections of Title 5 of the California Code of Regulations and
   a) Ensuring that such procedures and standards are uniformly administered by appropriately authorized employees of the district,
   b) Ensuring that, except as otherwise provided by state law, no student shall be required to do any of the following:
      i) To confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district;
      ii) To be required to participate in any preregistration activity not uniformly required;
      iii) To be subjected to non-academic requisites, imposed by anyone, as barriers to enrollment in or the successful completion of a class;
      iv) To be subjected to any registration procedures that result in

restricting enrollment to a specialized clientele; or

v) To be required to make any special effort not required of all students to register in any class or course section.

c) Ensuring that, once enrolled in a class, all students have equal access to the site.

The above summary clearly demonstrates that the test claim legislation and regulations relative to minimum conditions for Open Courses require new programs or higher levels of service.

Condition 4 - Comprehensive Plans

(A) CCC's Statutory History is Incomplete

CCC cites former Education Code Section 199 which provided:

> "The board of governors shall review and approve academic master plans and master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district...Each district shall annually submit changes in its approved academic master plan for approval by the board of governors."

CCC fails to note that section 199 was recodified and renumbered as new section 71028 by Chapter 1010, Statutes of 1976, Section 2. Section 71028 was repealed by Chapter 973, Statutes of 1988, Section 12.4.

CCC also cites former Education Code Section 25427 which provided:

> "The district governing board shall:
> (a) Establish policies for, and approve, current and long-range education plans and programs and promote orderly growth and development of the community colleges within the district.
> (b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval."

CCC fails to note that section 25427 was recodified and renumbered as new section 72231.5 by Chapter 1010, Statutes of 1976, Section 2. Section 72231.5 was repealed by Chapter 973, Statutes of 1988, Section 14.3.

CCC cites these two repealed sections in support of its conclusion that "[T]he foregoing confirmed (sic) the obligations of districts to establish academic and facility master plans well in advance of January 1, 1975." CCC fails to offer evidence that the new regulations published after the repeal dates of the statutes are not new programs.

(B) The response of CCC to this condition is also based on Attachment 4. Test claimant reserves the right to respond, if needed, when the attachment may be received in the future.

(C) The Test Claim Requires Activities Which Constitute New Programs or Higher Levels of Service

Government Code Section 17514 defines "costs mandated by the state" as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order implementing any statute which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The repealed Education Code Sections and Attachment 4 requirements as described by CCC are limited in scope. They did not include the following new programs or higher levels of service[19] now required by the minimum conditions for Comprehensive Plans:

Comprehensive Master Plan

(1) For the governing board to create, establish policies for, approve and implement comprehensive master plans for their facilities to meet the following requirements:

a) The plan must include both academic master plans and long range master plans for facilities;
b) The plan must address planning requirements which meet the specifications issued by the Board of Governors;
c) The plans, as well as any annual updates or changes to the plans, must be submitted to the Chancellor's Office for review and approval.

Capital Construction Master Plans:

[19] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for Comprehensive Plans, see the test claim, at pages 200-206.

(1) To annually prepare, update and submit to the Board of Governors a plan for capital construction covering a five-year time period.

(2) Ensuring that the five-year plan sets out the estimated capital construction needs of the district with reference to elements including at least all of the following information:

a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

b) The enrollment projections for each district formulated by the Department of Finance expressed in terms of weekly student contact hours, and enrollment projections for each individual college and educational center within a district made cooperatively by the Department of Finance and the community college district.

c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the Board of Governors.

d) District office, library, and supporting facility capacities as derived from standards adopted by the Board of Governors.

e) An annual inventory of all facilities and land of the district using definitions, forms, and instructions adopted by the Board of Governors.

f) An estimate of district funds which must be made available for capital outlay matching purposes pursuant to regulations adopted by the Board of Governors.

(3) For a community college district that submits an additional capital construction plan, to prepare and include documentation justifying that students will be better served by such a plan due to the existence of either of the following circumstances:

a) The isolation of students within a district in terms of either the distance of students from the location of an educational program or the inadequacy of transportation and student financial inability to meet costs of transportation; or

b) The inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

Educational Master Plans:

(1) To establish and implement policies for, and to approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

(2) Annually submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole.

(3) To submit each educational master plan to the Chancellor on a form provided by the Chancellor, and to contain all information that the Chancellor requires.

(4) Ensuring that each educational master plan contains all of the following information:
   a) The educational objectives of the Community College or district;
   b) The future plans for transfer programs; occupational programs; continuing education courses; and remedial and developmental programs; and
   c) Plans for the development and expansion of all of the following: library; counseling; placement; and financial aid.

The above summary and more detailed activities set forth in the test claim at pages 200-206 clearly demonstrate that the test claim legislation and regulations relative to minimum conditions for Comprehensive Plans require new programs or higher levels of service.

Condition 5 - Equal Employment Opportunity

CCC names a number of federal constitutional and statutory provisions, including the federal Equal Protection Clause, Title VII, the Americans with Disabilities Act and section 504 of the Rehabilitation Act of the Rehabilitation Act and claims that test claimant is subject to these provisions, which, arguably, precludes the finding of a reimbursable mandate.

Although naming all of these fine provisions of law, CCC not only fails to include copies of relevant portions of these federal laws, it also fails to cite specific chapters, articles, sections or page numbers. There are no citations whatsoever. Besides being a violation of Title 2, California Code of Regulations Section 1183.02, subdivision (c)(2), it also makes it impossible to respond to this chimera of a response.

CCC then cites Government Code section 12940, identifies it as part of the California Fair Employment and Housing Act, argues that it is applicable to claimant and, therefore, is a law of general application barring any basis for reimbursement.

CCC is sadly confused as to laws of general application. When making that determination, one must focus on the test claim legislation, not some other law. In other words, as to the statutes and regulations governing Condition 5, one must look at what is required by those provisions, not by Government Code section 12940. For example, the activities alleged in the test claim include:[20]

(1) A requirement that each community college district employer commit to a sustained action to devise recruiting, training and advancement opportunities that will result in equal employment opportunities for all qualified applicants and employees.

(2) A requirement to periodically submit to the board of governors an affirmation of compliance as a condition for the receipt of funds.

(3) A requirement to adopt and implement a district policy which describes its equal employment opportunity program.

(4) A requirement to incorporate the definitions for the following terms within the district's policies and procedures: "adverse impact"; "business necessity"; "equal employment opportunity"; "equal employment opportunity plan"; "equal employment opportunity programs", "ethnic minorities"; "ethnic group identification"; "goals for persons with disabilities"; "in-house or promotional only hiring"; "monitored group"; "person with a disability"; "projected representation"; "reasonable accommodation"; "screening or selection procedure"; "significantly underrepresented group"; "target date" and "timetable".

(5) A requirement to adopt and implement a policy statement setting forth the district's commitment to an equal employment opportunity program.

(6) A requirement to develop, adopt and implement a district-wide written equal employment opportunity plan to implement its equal employment opportunity program, and to:
   a) Submit such plans and any revisions to the Chancellor's Office for review and approval.
   b) Review, and if necessary, revise such plans at least every three

[20] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for equal employment opportunity, see the test claim, at pages 206-231.

years.

c) Notify the Chancellor at least 30 days prior to adopting any other amendments to the plan.

d) For the plan to include the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the plan; the procedure for filing complaints and the person with whom such complaints are to be filed; a process for notifying all district employees of the provisions of the plan and the policy statement; a process for ensuring that district employees who are to participate on screening or selection committees receive appropriate training on the requirements of state and federal nondiscrimination laws; a process for providing annual written notice to appropriate community-based and professional organizations concerning the district's plan and the need for assistance from the community and such organizations in identifying qualified applicants; an analysis of the number of persons from monitored groups who are employed in the district's work force and those who have applied for employment in each of listed job categories; an analysis of the degree to which monitored groups are underrepresented in comparison to the numbers of persons available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant; methods for addressing any identified underrepresentation; additional steps consistent to remedy any significant underrepresentation identified in the plan; any other measures necessary to further equal employment opportunity throughout the district; and any goals for hiring persons with disabilities.

(7) A requirement to make a continuous good faith effort to comply with the requirements of the plan.

(8) A requirement to survey its employees on an annual basis and to monitor applicants for employment on an ongoing basis in order to evaluate the implementation of its equal employment opportunity plan and to provide data needed for required analyses.

(9) A requirement that each community college district establish an Equal Employment Opportunity Advisory Committee that includes a diverse membership whenever possible, to assist the district in developing and implementing the plan.

(10) A requirement that a district take additional steps to ensure equal employment opportunity if it determines that a particular monitored group is significantly underrepresented with respect to one or more job categories.

(11) A requirement that the governing board implement policies and procedures to ensure that it is ultimately responsible for proper implementation of equal employment opportunity at all levels of district and college operation and for making measurable progress toward equal employment opportunity by the methods described in the district's equal employment opportunity plan.

(12) A requirement to implement policies and procedures to actively recruit from both within and outside the district work force to attract qualified applicants for all new openings.

(13) A requirement to ensure that job announcements clearly state job specifications and set forth the knowledge, skills, and abilities necessary to job performance.

(14) A requirement to implement policies and procedures to analyze the applicant pool for open positions.

(15) A requirement to implement policies and procedures pertaining to screening or selection procedures in the hiring process.

(16) A requirement to implement policies and procedures to afford persons with disabilities equal employment opportunity in community college districts.

(17) A requirement for each community college district to establish and implement a process permitting any person to file a complaint alleging that the requirements of equal employment opportunity have been violated.

(18) A requirement for districts to timely provide the data required or to request and receive an extension of the deadline from the Chancellor, as a condition for receipt of any funds under the Equal Employment Opportunity fund base.

(19) A requirement for districts to submit a report on the use of Equal Employment Opportunity funds to the Chancellor's Office.

Only if it can be said that each of the requirement listed in the 19 paragraphs above, and each of the more detailed requirements listed in the test claim at pages 206-231, also apply to all state residents and entities, can it be said that the test claim legislation and regulations are laws of general application. *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56-58

Condition 6 - Student Fees

CCC refers to former Education Code Section 1010.10 and argues that the obligation contained in Title 5, California Code of Regulations Section 51012 has continued to apply "without lapse to the present."

Former section 1010.10 was recodified and renumbered as section 72289 by Chapter 1010, Statutes of 1976, Section 2. Section 72289 was repealed by Chapter 973, Statutes of 1988, Section 14.11.

Condition 7 - Approval of New Colleges and Educational Centers

CCC argues that claimant does not allege that it has ever been affected by Title 5, California Code of Regulations Section 51014, that claimant does not allege costs arising from complying with section 51014, and, therefore, any claim under this section should be rejected.

A test claimant acts as a representative of all community college districts in the State. There is no requirement that the test claimant has incurred all or any of the costs alleged.

The regulations for test claims are found in Title 2, California Code of Regulations Section 1183. Subdivision (e) sets forth the requirements for the content of a test claim. Under subparagraph (3), a written narrative must contain what activities were required under prior law or executive order and what new program or higher level of service is required under the statute or executive alleged to contain or impact a mandate. There is no requirement that the test claim statute or executive order impose a new program or higher level of service solely on the test claimant, only that a narrative describes what new program or higher level of service is required of potential claimants.

Under subparagraph (5) of Title 2, California Code of Regulations Section 1183, subdivision (e), a test claim is required to contain a statement that actual and/or estimated costs which result from the alleged mandate exceed a minimum amount. There is no requirement that the test claimant has personally incurred any costs, only that the alleged mandate will result in the minimum cost.

This argument of CCC must fail.

Condition 8 - Accreditation

CCC argues that there was an "expectation" that colleges would be accredited prior to January 1, 1975 and cites former Education Code Section 25522 as its authority.

Former section 25522 read in relevant part:

> "The governing board of a district maintaining a community college may pay the costs of accreditation of the community colleges within the district by the regional accreditation association serving California..." (Emphasis supplied)

Whereas, prior to 1975 districts were permitted to pay the costs of accreditation, they were not required to be accredited. Now:

> "Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation." (Title 5, California Code of Regulations Section 51016) (Emphasis supplied)

Therefore, all of the activities set forth in the test claim at pages 236-256 are new programs and increased levels of service.

Condition 9 - Counseling

(A) The response of CCC to this condition is based, partially, on Attachment 1. Test claimant reserves the right to respond, if needed, when the attachment may be received in the future.

(B) The Test Claim Requires Activities Which Constitute New Programs or Higher Levels of Service

Government Code Section 17514 defines "costs mandated by the state" as any increased costs which a local agency or school district is required to incur as a result of any statute or executive order implementing any statute which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The Attachment 1 requirements, as described by CCC, are limited in scope. They did

not include the following new programs or higher levels of service[21] now required by the minimum conditions for Counseling:

(1) To establish and implement regulations and procedures to provide counseling programs for students in each college within the district.

(2) To file a copy of the community college district's regulations regarding counseling programs with the Chancellor's Office.

(3) To publicize the counseling program.

(4) To ensure the counseling program is organized and functioning and meets the needs of average students and those with special needs.

(5) To ensure the counseling program includes at least all of the following services:
   a) academic counseling;
   b) career counseling;
   c) personal counseling;
   d) skills testing programs;
   e) financial assistance programs; and
   f) job placement services.

(6) To ensure that academic, career and personal counseling services are provided to all of the following students:
   a) First-time students enrolled for more than six units,
   b) Students enrolled provisionally, and
   c) Students on academic or progress probation.

The above summary and the more detailed activities set forth in the test claim at pages 256-257 clearly demonstrate that the test claim legislation and regulations relative to minimum conditions for Counseling require new programs or higher levels of service.

Condition 10 - Objectives

The response of CCC to this condition is based on Attachment 1. Test claimant

[21] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for Counseling, see the test claim, at pages 256-257.

reserves the right to respond, if needed, when the attachment may be received in the future.

Condition 11 - Curriculum

CCC again cites subdivision (a) of former Education Code Section 25427 which provided:

> "The district governing board shall:
> (a) Establish policies for, and approve, current and long-range education plans and programs and promote orderly growth and development of the community colleges within the district..."

From this, CCC argues that "[I]t can fairly be assumed that such long-range education plans and programs addressed curriculum." CCC errs in believing that the determination of mandated activities can be based upon "assumptions."

CCC also cites pre-1975 Education Code Section 200.9 which relates to criteria and standards for graded and nongraded classes, which, of course, has nothing to do with curriculum.

Finally, CCC quotes from former (1969) Title 5, California Code of Regulations Section 51002(b) which required community colleges to establish programs of education and courses as will permit the realization of the objectives and functions of the community college.

None of these limited and non-relevant statutes and regulations are as extensive and all-inclusive as the test claim legislation, which:[22]

(1) Requires the establishment and implementation of educational programs and courses that will further the objectives of the community college and meet the approval of the Chancellor.

(2) Requires districts to incorporate in district documents and policies the definitions contained in Section 55000 and 55200 for described terms.

---

[22] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for curriculum, see the test claim, at pages 257-296.

(3) Requires districts to adopt and implement policies and procedures to comply with a Handbook issued by the Chancellor's Office.

(4) Requires districts to report the classification of all courses, classes and activities offered to the Chancellor's Office and for such information to include all described data.

(5) Requires districts to establish and implement detailed standards and criteria for associate degree credit courses and classes.

(6) Requires districts to establish and implement detailed standards and criteria for nondegree credit courses and classes.

(7) Requires districts to establish and implement detailed standards and criteria for noncredit courses and classes.

(8) Requires districts to establish and implement policies and procedures to ensure that all community services classes meet detailed minimum requirements.

(9) Requires implementation of policies and procedures to establish standards regarding credit hours.

(10) Requires districts to ensure that courses of instruction in social sciences include a study of the (1) role, (2) participation, and (3) contribution of all of detailed groups to the (a) economic, (b) political, and (c) social development of both California and the United States of America.

(11) Requires districts to ensure that, for each course offered, detailed facts are made available to students through college publications before the students enroll in the course.

(12) Requires the authorities of each community college maintaining credit and non-credit courses and community services classes and activities to keep and submit current records and reports concerning their total activities as may be required by the Chancellor.

(13) Requires districts to submit each course to be offered for approval on forms provided by the Chancellor's Office.

(14) Requires district governing boards to prepare and submit to the

Chancellor an application for approval, on forms provided by the Chancellor, before offering any course as part of an educational program at a college.

(15) Requires submission of all courses or programs offered for noncredit to the Chancellor for approval.

(16) Requires districts to implement policies for the approval and classification of any community services classes conducted by the district and to report the classification of all such classes to the Chancellor.

(17) Requires districts to ensure that approval of the class is obtained in the manner provided for classes of the same type if the district claims state support for a contract class.

(18) Requires the district governing board to apply specific criteria and procedures if reinstating any course which was deleted from the credit or noncredit curriculum during the 1982-83 fiscal year in response to the Budget Act of 1982.

(19) Requires the district's curriculum committee to assess each associate degree credit course to determine if prerequisite or corequisite courses are necessary.

(20) Requires districts to adopt and implement policies for any prerequisites, corequisites, and "advisories on recommended preparation" required by the district.

(21) Requires districts to apply specific additional rules to the establishment of prerequisites and corequisites.

(22) Requires districts to adopt and implement policies and procedures pertaining to distance education that ensure specific conditions.

(23) Requires districts to adopt and implement policies and procedures regarding independent study courses that ensure specific conditions.

(24) Requires districts to adopt and implement policies and procedures to comply with the curriculum standards and criteria for curriculum approval set forth by the Chancellor's Office in the "Program and Course Approval Handbook".

Therefore, the activities summarized in paragraphs (1) through (24), above, and the more detailed activities set forth in the test claim at pages 257-296 are new programs or higher levels of service.

Condition 12 - Instructional Programs[23]

CCC cites three pre-1975 statutes which required districts to have "academic master plans"[24], to have "current and long-range education programs"[25], and to have "educational programs and classes for adults"[26] and concludes that the existence of these statutes indicates "districts would necessarily have developed policies for the establishment, modification, and discontinuance of educational programs.

CCC errs in reading the title to the condition rather than reading the conditions. Had it done so, it would have realized that "Instructional Programs" actually provide the requirements for vocational and occupational training programs:

> "(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.
> (b)..." (Subdivision (b) will be discussed below in reply to Condition 13)
> (Title 5, California Code of Regulations Section 51022)

Section 78016 of the Education Code provides:

---

[23] Described in the Test Claim as "Vocational Education Programs".

[24] Former Education Code Section 199 was recodified and renumbered as section 71028 by Chapter 1010, Statutes of 1976, Section 2. Section 71028 was repealed by Chapter 973, Statutes of 1988, Section 12.4.

[25] Former Education Code Section 25427 was recodified and renumbered as section 72231.5 by Chapter 1010, Statutes of 1976, Section 2. Section 72231.5 was repealed by Chapter 973, Statutes of 1988, Section 14.3.

[26] Former Education Code Section 1010.4 was recodified and renumbered as section 72283 by Chapter 1010, Statutes of 1976, Section 2. Section 72283 was repealed by Chapter 1372, Statutes of 1990, Section 331.

"(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to ensure that each program, as demonstrated by the California Occupational Information System, including the State-Local Cooperative Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:

(1) Meets a documented labor market demand.

(2) Does not represent unnecessary duplication of other manpower training programs in the area.

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the local Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) This section shall apply to each program commenced subsequent to July 28, 1983.

(e) A written summary of the findings of each review shall be made available to the public."

It is with this distinction in mind, that the test claim alleges activities, summarized as follows:[27]

(1) A requirement to develop and implement policies for the establishment, modification, or discontinuance of courses or programs, which incorporate statutory responsibilities regarding vocational or occupational training program review.

(2)) A requirement to conduct a job market study of the labor market focusing on whether the anticipated employment demand for students in the

[27] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for Vocational Education Programs, see the test claim, at pages 296-306.

proposed program justifies the establishment of the proposed course of instruction prior to establishing a vocational educational program.

(3) A requirement for the governing board of the community college district to review every vocational or occupational training program offered by a district every two years to ensure the programs are effective, meet a documented labor market demand, and do not unnecessarily duplicate other manpower training programs in the area.

(4) A requirement to incorporate the definitions contained in Section 55600, for all of the following terms, into district policies, procedures and documents: "Vocational Educational Contract"; "The California State Plan for Vocational Education"; "Contractor"; and "Eligible Cost".

(5) A requirement for the governing board of each district to appoint and supervise a vocational education advisory committee.

(6) A requirement for any community college district that contracts with a private post secondary school, an activity center, work activity center, or sheltered work shop, to implement policies and procedures to ensure all of the following:

a) All contracts must be approved by the Chancellor.
b) All contracts must provide that the amount contracted for per student must not exceed the amount it costs to provide the same training in community colleges or the tuition charged in postsecondary schools;
c) Those students who are currently enrolled in community colleges and are receiving training in another institution, must not be charged additional tuition;
d) All programs, courses and classes of instruction must meet the standards set forth in the California State Plan for Vocational Education or a course of study for adult schools approved by the Department of Education.

(7) A requirement that the governing board of the community college district must approve of and supervise all instruction when the district enters into a contract with a private or public entity for the education of students whose capacity to function is impaired by physical deficiency or injury in vocational education classes

(8) A requirement to adopt and implement policies and procedures to ensure

that contractors provide (1) vocational, (2) technical, and (3) occupational instruction related to attainment of (a) skills, (b) knowledge, and (c) attitudes so that students may be prepared for gainful employment in the occupational area for which training has been provided; or occupational upgrading so students will have higher level skills required by new and changing technology and employment practices; or enrollment in more advanced training programs.

(9) A requirement that vocational education contracts entered into with contractors meet specific conditions.

(10) A requirement to ensure each contract expressly includes listed specific provisions.

The activities summarized in paragraphs (1) through (10), above, and the more detailed activities set forth in the test claim at pages 296-306 provide new programs or higher levels of service.

Condition 13 - Course Articulation - Local

CCC refers to former Education Code Section 200.13[28] which provided:

> "The board of governors shall facilitate articulation with other segments of higher education and with secondary education."

Condition 13, Course Articulation, is required by Subdivision (b), of Title 5, California Code of Regulations Section 51022 which provides:

> "(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools."

CCC argues "[T]herefore, the Board of Governors has been statutorily required to act in this specific area since before January 1, 1975." The error of its argument is that the

[28] CCC also mistakenly states that section 200.13 was renumbered as section 71071 by Chapter 1010, Statutes of 1976. Actually, it was recodified and renumbered as section 71070. It was then repealed by Chapter 973. Statutes of 1988, Section 12.11.

test claim regulation requires the governing board of each community college to act.

Condition 14 - Academic Freedom

CCC cites from former Education Code Sections 200.22 and 1010.13 to argue that the board of governors were required to establish minimum procedures to allow faculty and students the opportunity to "express their opinions" at the campus level and, in turn, require districts to establish procedures not inconsistent with the board of governors.

The test claim alleges[29] the following required activities:

> For community college districts to adopt and implement a policy statement on academic freedom, which includes:
>
> (1) A requirement to make such policy available to faculty;
>
> (2) A requirement to file the policy with the Chancellor; and
>
> (3) A requirement for the district to substantially comply with the adopted policies and procedures.

Therefore, the test claim mandates new programs or higher levels of service.

Condition 15 - Shared Governance

(A) Faculty Shared Governance (Academic Senate)

The response of CCC to this portion of the condition is based on Attachment 1. Test claimant reserves the right to respond, if needed, when the attachment may be received in the future.

(B) Staff Shared Governance

CCC admits that the activities relative to staff shared governance "appear to have developed recently", but stating, without citation of authority, that the Attorney General has determined that a reimbursable mandate has not been created.

Test claimant assumes that CCC is referring to 83 Opinions of the California Attorney

[29] Test claim, page 306

General 111 (2000), for which a reply has already been made commencing at page 13, above. It is repeated here by reference.

(C) Student Shared Governance

CCC again refers to former Education Code Section 1010.13 which permitted students the opportunity "to express their opinions at the campus level."

The test claim activities go far beyond the right to express an opinion at the campus level. The test claim activities can be summarized[30] as follows:

(1) A requirement to adopt and implement policies and procedures to provide students the opportunity to participate effectively in district and college governance, including:

a) Providing students with the opportunity to participate in the formulation and development of district and college policies and procedures that have or will have a significant effect on students, including the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

b) Providing students an opportunity to participate in the formulation and development of any matter significantly affecting students, prior to taking action on any such matter, unless an unforeseeable, emergency situation exists.

c) Ensuring that, at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

d) Ensuring that the selection of student representatives to serve on college or district committees, task forces, or other governance groups are made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

[30] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for Student Shared Governance, see the test claim,

e) Classifying the following as matters that have or will have a "significant effect on students", which thereby require providing students with prior notice and opportunity to participate in the development of any action to be taken on the matter:

1) grading policies;

2) codes of student conduct;

3) academic disciplinary policies;

4) curriculum development;

5) courses or programs which should be initiated or discontinued;

6) processes for institutional planning and budget development;

7) standards and policies regarding student preparation and success;

8) student services planning and development;

9) student fees within the authority of the district to adopt; and

10) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

f) Ensuring that reasonable consideration is given to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

Reviewing the summary presented above and the more detailed list of activities in the test claim at pages 315-317 leaves no doubt that the test claim regulations create new programs or higher levels of service.

Condition 16 - Matriculation Services

There are two sources which require community college districts to provide matriculation services. The Seymour-Campbell Matriculation Act of 1986 and the Title 5 regulations set forth in the test claim.

A. The Seymour-Campbell Matriculation Act of 1986

The Seymour-Campbell Matriculation Act of 1986 is found in the Education Code, at Sections 78210 through 78218.

Section 78218 provides that the Board of Governors of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for this purpose allow. Section 78212, subdivision (b) requires that these services shall include, but are not limited to, all of the following:

(1) Processing of the application for admission.

(2) Orientation and preorientation services designed to provide to students, on a timely basis, information concerning campus procedures, academic expectations, financial assistance, and any other matters the college or district finds appropriate.

(3) Assessment and counseling upon enrollment, which shall include, but not be limited to, all of the following:

a) Administration of assessment instruments to determine student competency in computational and language skills.

b) Assistance to students in the identification of aptitudes, interests and educational objectives, including, but not limited to, associate of arts degrees, transfer for baccalaureate degrees, and vocational certificates and licenses.

c) Evaluation of student study and learning skills.

d) Referral to specialized support services as needed, including, but not limited to, federal, state, and local financial assistance; health services; campus employment placement services; extended opportunity programs and services provided pursuant to Article 8 (commencing with Section 69640) of Chapter 2 of Part 42; campus child care services provided pursuant to Article 4 (commencing with Section 8225) of Chapter 2 of Part 6; programs that teach English as a second language; and disabled student services provided pursuant to Chapter 14 (commencing with Section 67300) of Part 40.

e) Advisement concerning course selection.

(4) Postenrollment evaluation of each student's progress, and required advisement or counseling for students who are enrolled in remedial courses, who have

not declared an educational objective as required, or who are on academic probation, as defined by standards adopted by the Board of Governors of the California Community Colleges and community college districts.

Section 78214, subdivision (a), requires that all participating districts shall, with the assistance of the Chancellor, establish and maintain institutional research to evaluate the effectiveness of the matriculation services described by this article and of programs and services designed to remedy students' skills deficiencies. Subdivision (b) provides that the data base for this research shall include, but not be limited to:

(1) Prior educational experience, including transcripts when appropriate, as determined by the chancellor.

(2) Educational objectives.

(3) Criteria for exemption from assessment or required counseling or advisement, if applicable.

(4) Need for financial assistance.

(5) Ethnicity, sex, and age.

(6) Academic performance.

Subdivision (c) of section 78214 requires that the evaluation provided for by this section shall include an assessment of the effectiveness of the programs and services in attaining at least the following objectives:

(1) Helping students to define their educational goals.

(2) Assisting institutions in the assessment of students' educational needs.

(3) Matching institutional resources with students' educational needs.

(4) Providing students with specialized support services as referred to in subdivision (b) of Section 78212.

Section 78216, subdivision (b), requires the board of governors to develop a formula for funding student matriculation services at community colleges. The formula shall include the requirement that the districts or colleges contribute matching funds in an amount to be established by the board of governors in each case, and shall reflect, but not be

limited to, all of the following considerations:

(1) The number of students to receive matriculation services at each college.

(2) The levels of support for matriculation services provided at each college prior to July 1, 1985, and the need for funding assistance in the implementation of the program set forth in this article.

(3) The relative needs for matriculation services, based on special student populations such as low-income students, students with language differences, students with physical and learning disabilities, and students in need of remedial instruction.

(4) The requirement that funds for matriculation services be expended only for services approved by the board of governors.

(5) The requirement that any district or college receiving funding pursuant to this section agree to implement this article during the period in which it receives that funding.

(6) The need for computer hardware and software to provide approved matriculation services, and for institutional research personnel for ongoing evaluation.

Subdivision (c) of section 78216 requires the board of governors to require participating colleges to develop a plan for student matriculation that reflects all of the following:

(1) A method for providing the services specified in Section 78212.

(2) The college budget for the matriculation services pursuant to Sections 78212 and 78214.

(3) The development and training of staff and faculty to implement the matriculation services.

(4) In multicampus districts, the coordination of the college matriculation plan with other college plans.

(5) Computerized information services and institutional research and evaluation necessary for implementation of this article.

Section 78218 provides that the article, including the instant section, shall only be operative in any given fiscal year, "if funds are specifically appropriated for the

purposes of this article."

Therefore, standing alone, community college districts are required to provide the services detailed in section 78218, establish and maintain research as provided in section 78214, and to develop a plan as required in subdivision (c) of section 78216. However, pursuant to section 78218, districts are only required to perform these mandated duties when funds are specifically appropriated for these purposes.

CCC contends that there are no reimbursable costs when funds are appropriated.

Government Code Section 17556 provides:

> "The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:...
> (e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate..."

CCC has not presented any competent evidence to show that the additional revenue, when and if received, is in an amount sufficient to fund the cost of the state mandate. In fact, section 78216 requires the Board of Governors to develop a "formula" for funding that varies from district to district based upon variable factors and is not intended to reimburse districts for their actual cost of implementation.

CCC also suggests that there is nothing that prohibits districts from spending matriculation funding or the matching money from other state resources to satisfy the requirements of Title 5 section 55530. CCC misses the point. Districts will spend matriculation funding and their own matching money to provide matriculation services. But their "own matching money" is a cost mandated by the test claim legislation and is reimbursable by the state. To the extent the cost of mandated matriculation services exceed the formula funding received and their "own matching money", it is also a cost mandated by the test claim legislation and is reimbursable by the state. And, as for administrative costs of compliance, only the board of governors may allocate a portion of the total funds appropriated for state administrative operations, not district operations. Education Code Section 78216, subdivision (d)

In summary, and limited to when the Seymour-Campbell Matriculation Act of 1986 is operative, community college districts are required to comply with the act and the

"formula funding", if and when received, would be an offset to the costs of compliance.

B. Title 5, California Code of Regulations Sections

Independently of the Seymour-Campbell Matriculation Act of 1986, community college districts are required to comply with the Title 5 regulations mandating matriculation services. These requirements are not contingent upon state apportionment.

The Title 5 Regulations are found in Article 3, Sections 55520 through 55526:

Section 55520 provides that each district shall provide matriculation services. Section 55521 provides that districts shall not do proscribed activities relative to assessments. Section 55522 provides that matriculation services for ethnic and language minority student and student with disabilities shall be appropriate to their needs. Section 55523 provides that districts (unless otherwise required) shall do activities relative to counseling and advisement. Section 55525 provides that each district shall establish a process for assisting students with educational goals. Section 55526 provides that each district shall establish a student follow-up process.

Therefore, any argument proffered by CCC to the effect that compliance with the test claim legislation and regulations is discretionary, is without merit because districts are required to comply with the Title 5 regulations requiring them to provide matriculation services, regardless of Seymour-Campbell Matriculation Act of 1986.

Condition 17 - Full-time/Part-Time Faculty

CCC argues that funding has already been provided by the Legislature's "intent" to provide funding by way of future appropriations found in AB 1725 (Chapter 973, Statutes of 1988).

AB 1725, Statutes of 1988, Chapter 973 Programs

At Section 70 (an uncodified section), subdivision (b) (2), states: "It is the intent of the Legislature that moneys appropriated during Phase II fully fund any state mandate created pursuant to this section." At subdivision (e): "Based on estimates provided... the Legislature finds and declares that its estimate of this funding amount is seventy million dollars ($70,000,000), in addition to the seventy million dollars ($70,000,000) estimated under subdivision (d) [for Phase I]."

The appropriations referenced in the Section 70 intent language are assigned to

specific priorities in Education Code section 84755[31] (added by Statutes of 1988,

---

[31] Education Code section 84755, as added by Chapter 973/88, Section 21.7

"(a) The Legislature finds and declares that program-based funding, once implemented, will more adequately and accountably fund the costs of providing quality community college education. Given that program-based funding will not be implemented until fiscal year 1991-92, given that community colleges will be entering a period of major reform and incurrence of new state mandates commencing in January 1989, and given that community colleges will be entering this period of reform having lost purchasing power since the 1977-78 fiscal year, the Legislature recognizes the need to create a transitional funding mechanism for program improvement and mandate funding that can operate until program-based funding is implemented.

(b) For the purpose of improving the quality of community college educational programs and services, for the purpose of reimbursing state-mandated local program costs imposed by this act, and for the purposes of initially implementing specified reforms, the board of governors shall, from amounts appropriated for purposes of this section, allocate program improvement revenues to each district on the basis of an amount per unit of average daily attendance funded in the prior fiscal year. However, this amount shall be increased or decreased to provide for equalization in a manner determined by the Board of Governors, consistent with Sections 84703 to 84705, inclusive.

Each community college district shall use its allocation to initially reimburse state-mandated local program costs, and then to implement specified reforms and make authorized program and service improvements as follows:

(1) Developing articulated programs provided for in Section 69 of Chapter 973 of the Statutes of 1988 with school districts and campuses of the University of California and California State University.

(2) Applying minimum qualifications to all newly hired faculty and administrators, including candidates for these positions as required by Section 87356.

(3) Developing and administering a process for waiver of minimum qualifications as required by Section 87359.

(4) Establishing and applying local hiring criteria as required by Section 87360.

(5) Establishing and applying faculty service areas and competency criteria as required by Sections 87743 to 87743.5, inclusive.

(6) Evaluating temporary employees, instituting peer review evaluation, and widely distributing evaluation procedures as required by Section 87663.

(7) Establishing and applying new processes for tenure evaluation

required by Section 87610.1.

(8) Establishing and applying the tenure denial grievance procedure required by Section 87610.1.

(9) Establishing and applying a process for moving administrators into faculty positions as required by Sections 87454 to 87458, inclusive.

(10) Publishing and distributing a report on the affirmative action success rate as required by Section 87102.

(11) Improving instruction by reducing the ratio of full-time equivalent students to full-time equivalent instructors.

(12) Improving instruction by increasing the hiring of full-time instructors and limiting the practice of hiring part-time instructors.

(13) Augmenting budgets for college libraries and learning resources.

(14) Augmenting budgets for plant maintenance and operations.

(15) Adding new courses or programs to serve community need.

(16) Making progress towards affirmative action goals and timetables established by the district.

(17) Developing and maintaining programs and services authorized by Section 78212.5.

(18) Augmenting budgets for student services in the areas of greatest need.

(19) Providing for release time for faculty and staff as deemed appropriate by the governing board of each community college district, to enable faculty and staff participation in implementing reforms.

(c) Except as provided by Section 87482.6, and except as necessary to reimburse the costs of new state mandates, district governing boards shall have full authority to expend program improvement allocations for any or all of the authorized purposes specified in subdivision (b).

(d) As required by the board of governors, the governing board of each community college district shall submit to the board of governors a plan for using the resources allocated pursuant to this section. The board of governors shall review each plan to ensure that proposed expenditures are consistent with the listing of authorized expenditures provided in this section, and the board of governors shall approve all plans to the full extent that expenditures are authorized by this section. To the extent that a community college district expends its program improvement allocation consistent with its plan, the board of governors shall include the district's allocation as part of the district's base budget for subsequent years.

(e) The board of governors, through the annual systemwide budget submitted pursuant to paragraph (5) of subdivision (b) of Section 70901, shall request necessary resources for the purposes of this section. It is the intent of the Legislature that the

Chapter 973, Section 21.7), including Section 87610.1 which is referenced at subdivision (b), items (7) and (8). However, in a preamble, subdivision (b) states that the new funds will be allocated to "each district on the basis of an amount per unit of average daily attendance funded in the prior fiscal year," but only after the amount is "increased or decreased to provide for equalization." This effectively negates any concept of cost reimbursement, which is the actual cost of the increased level of service, it is merely a general funding device disguised as a mandate reimbursement apportionment.

Notwithstanding, this funding scenario, to the extent actually implemented, does not meet the Government Code section 17556, subdivision (e) exception to a finding of "costs mandated by the state," since the statute (Chapter 973/88) did not provide for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or *include additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.* The funding, to the extent it actually was later provided, was provided by *subsequent* legislation, and *the sufficiency* of the funding remains a question of fact (note that Section 70 declares that it is an "estimate"). More to the point, at Section 67 of Chapter 973, Statutes of 1988, the Legislature leaves it to the Commission on State Mandates to determine if there are any reimbursable mandated costs.

To the extent that funding was made available, and continues to be made available each subsequent year, such funding might reduce the reimbursable costs, but does not preclude an initial determination of whether a reimbursable mandate exists. The test claimant is informed and believes that the Chancellor of the California Community Colleges on or about 1991 prepared an AB 1725 cost questionnaire to obtain from each community college the cost of implementing the provisions of AB 1725, that the cost data was specific to each new program enacted, that most of the community colleges provided this data to the Chancellor, and that the Chancellor is in possession of this information. This information can be utilized to establish base-period cost and revenue information.

Condition 18 - Student Equity

CCC again recites a litany of federal law and regulations without citing any specific

---

appropriation and allocation of program improvement money not otherwise provided pursuant to subdivision (b) shall be accomplished through the annual state budget process beginning with the 1989-90 fiscal year. After June 30, 1991, if Section 84750 is implemented, it is the intent of the Legislature to fund the ongoing operations of community college districts pursuant to Section 84750."

reference to any portion of these laws. Test claimant has already answered this shotgun type of response in reply to Condition 5 and in paragraph G commencing above at page 15.

This time, CCC does reference the general provisions of 34 Code of Federal Regulations, the implementing provisions for Title IX.

(1) The Requirements of the Test Claim Legislation and Regulations Exceed the Requirements of Title IX and 34 Code of Federal Regulations, Part 106

CCC claims that the requirements of Title IX, a federal law that prohibits sex discrimination and sexual harassment and its implementing regulations appearing at 34, Code of Federal Regulations, part 106, sections 106.1 through 106.71[32] prohibit a finding that the test claim legislation and regulations create a new program or higher level of service.

As authority for this claim, CCC cites subdivision (c) of Government Code section 17556, which provides:

> "The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:...
>
> (c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation." (Emphasis supplied)

CCC does not direct the Commission to any specific part of Part 106 which establishes a federal requirement or duplicates any of the activities of the test claim legislation or regulations. A possible relevant citation might be section 106.9 of part 106 of 34 CFR where:

(a) Paragraph (a)(1) requires each recipient to implement specific and continuing steps to notify applicants for admission and employment (and others) that it does not discriminate on the basis of sex in educational programs or activities.

---

[32] Since CCC has not complied with the Title 2 Regulations that require a copy of these federal regulations be provided, a copy is attached hereto as Exhibit "C".

(b) Paragraph (a)(1) also requires that the notification shall contain such information, and be made in such manner, as the Assistant Secretary finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and this part.

(c) Paragraph (a)(2) requires each recipient to make the initial notification required by paragraph (a)(1) within 90 days of the effective or applicable date in newspapers or other written communications distributed to every student and employee.

(d) Paragraph (b)(1) requires each recipient to prominently include a statement of the policy described in paragraph (a)[33] to be prominently included in each announcement, bulletin, catalog, or application form which it makes available to any person of a type described in paragraph (a)[34], or which is otherwise used in connection with the recruitment of students or employees. (Emphasis supplied)

(e) Paragraph (c) requires each recipient to distribute each publication described in paragraph (b) and to apprise each of its admission and employment recruitment representatives of the policy and require such representatives to adhere to such policy.

In addition to these federal requirements, the test claim alleges[35] the following additional state mandated activities:

---

[33] Paragraph (a) describes a policy of nondiscrimination on the basis of sex, but does not otherwise require it to be in writing or be adopted by the governing board.

[34] Paragraph (a) describes applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions and professional organizations holding collective bargaining or professional agreements with the recipient.

[35] For a more detailed statement of the new programs or higher levels of service required by the minimum conditions for Student Equity, see the test claim at pages 348-366.

(A) A requirement to establish and implement policies and procedures and to conduct staff training to ensure that a general prohibition against discrimination exists in community colleges. This includes requirements:, pursuant to Education Code Sections 72010-72014, 221.5, 221.7, 66016 and 66030.

(1) To provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

(2) To establish and implement policies and procedures to ensure that community colleges are in compliance with Education Code Sections 221.5 (policy of the state; prohibited discrimination), 221.7 (school-sponsored athletic programs; prohibited discrimination) and 66016 (equal opportunity; participation in athletics), relating to sex discrimination.

(3) To incorporate into district policies and procedures regarding matters within Division 6 of the Education Code, that with respect to access to community college district services, classes, and programs, and with respect to all references within this division, "handicap" and "disability" have the same meaning.

(4) To establish and implement policies and procedures to ensure that no funds under the control of the community college district are ever used for membership or for any participation involving a financial payment or contribution, on behalf of the district or any individual employed by or associated therewith, in any private organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin.

(5) To require all classes and courses to be conducted without regard to the sex of the student enrolled, in the following ways:

a) Districts must ensure that no student is prohibited from enrolling in any class course based upon the sex of the pupil.

b) Districts must ensure that if students of one sex are required to enroll in a particular course, the same course is also required of students of the opposite sex.

c) Districts must ensure that no school counselor, teacher, instructor, administrator, or aide offers any of the following types of guidance to students of one sex that is different from that offered to students

of the opposite sex, based on that student's sex:

(i) vocational;
(ii) school program;
(iii) career; or
(iv) higher education opportunity guidance.

d) Districts must require any school personnel acting in a career counseling or course selection capacity to any student, to affirmatively explore with the student the possibility of careers, or courses leading to careers, that are nontraditional for the student's sex.

e) Districts must notify the parents or legal guardian of a pupil at least once, in advance of career counseling and course selection, and allow such parents to participate in the counseling sessions and decisions (for minor students).

f) Districts must make participation in physical education activities or sports available to students of both sexes if it is required of students of one sex.

(6) To ensure that public funds for athletic programs are only used for those programs that provide equal opportunity to both sexes for participation and for use of facilities.

(7) For the governing boards of community college districts to apportion public funds available for athletics in a manner that ensures that equitable amounts are allocated for all students, insofar as practicable.

(8) To ensure that opportunities for participation in intercollegiate athletic programs be provided on as equal a basis as is practicable to both male and female students.

(9) For the governing boards of the community colleges to ensure and maintain multicultural learning environments free from all forms of discrimination and harassment.

(B) To create and implement a Comprehensive Mission Statement to identify common educational missions shared by educational institutions in California, which includes:

(1) For the Community Colleges to provide the following:

a) Access to education to all qualified Californians, particularly for those who have been underrepresented in both their graduation rates from secondary institutions and in their attendance at higher educational institutions;

b) Quality teaching and programs of excellence for their students; and

c) Educational equity through a diverse student body and faculty, and an environment in which each person, regardless of race, gender, age, disability, or economic circumstances, has a reasonable chance to fully develop his or her potential.

(2) For Community Colleges to establish and implement policies and procedures for intersegmental collaboration and coordination when it can do any of the following:

a) Enhance the achievement of the institutional missions shared by the segments;

b) Provide more effective planning of postsecondary education on a statewide basis;

c) Facilitate achievement of the goals of educational equity;

d) Enable public and independent higher education to meet more effectively the educational needs of a geographic region;

e) Facilitate student progress from one segment to another, particularly with regard to preparation of students for higher education as well as the transfer from the California Community Colleges to four-year institutions.

(3) For the leaders of community colleges and the Superintendent of Public Instruction to work together to promote and facilitate the development of intersegmental programs and other cooperative efforts aimed at improving the progress of students through the educational systems and at strengthening the teaching profession at all levels.

(4) For the community colleges to make available and for the California

Postsecondary Education Commission to review and evaluate the effectiveness of intersegmental activities in accomplishing the established goals, and report its findings to the Governor and Legislature biennially.

(C) To establish and implement policies and procedures to comply with the Sex Equity in Education Act of 1988, including requirements:

(1) To ensure that equal rights and opportunities in the community colleges are afforded to all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, color, ancestry, sexual orientation, or perception by others that a person has any of the above characteristics.

(2) To affirmatively combat racism, sexism, and other forms of bias.

(3) To incorporate specified terms and definitions into district policies and procedures relating to sex equity in education.

(4) To ensure that no person in the community colleges is subject to discrimination on the basis of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, color, ancestry, sexual orientation, or perception by others that a person has any of the above characteristics.

(5) To establish and implement a written policy on sexual harassment that includes information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(6) To display a copy of the community college's written policy on sexual harassment in all of the following places and manners:

(a) In a prominent location in the main administrative building or other area of the campus or schoolsite.

(b) The policy, as it pertains to students, must be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(c) The policy must be provided to each faculty member, all members

of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(d) The policy must appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

(7) To provide assurance to any agency administering state funds that the activity conducted by the community college will be in compliance with the Sex Equity in Education Act and any other applicable provisions of state law prohibiting discrimination on the basis of sex.

(8) To prepare and submit compliance reports to the Chancellor's office, as that entity may require.

(9) To make all reports submitted pursuant to section 66291(a) available for public inspection during regular business hours.

(10) For the governing board of a community college district to ensure that programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(11) To allow a party to a written complaint of prohibited discrimination to appeal any action taken by the governing board of a community college district.

(12) To advise any person who files a complaint of prohibited discrimination that civil law remedies may also be available to such complainants.

(13) To publish in appropriate informational materials the fact that civil law remedies may be available to complainants of prohibited discrimination.

(D) To establish and implement a Student Equity Plan and:

(1) For the governing board of community college districts to adopt and implement a student equity plan prior to receipt of state aid.

(2) For Community College districts to adopt and implement a student equity plan which includes the following for each college in the district:

(a) Campus-based research as to the extent of student equity in (1) access, (2) retention, (3) degree and certificate completion, (4) ESL and basic skills completion, and (5) transfer and the determination of what activities are most likely to be effective, and

(i) To periodically review the data compiled, and
(ii) To make efforts to address any problems that are identified, pursuant to Chancellor's Revised Guidelines and Information.

(b) Goals for (1) access, (2) retention, (3) degree and certificate completion, (4) ESL and basic skills completion, and (5) transfer; for the overall student population and for each population group of students, as appropriate, and

(i) For these goals to meet the following standards: (1) be written; (2) include specific measures for determining progress toward achieving the desired outcomes; (3) identify the baseline data findings that forms the basis for noting an equity issue; (4) identify the amount and direction of change expected to reflect the desired outcome or amount of progress to be achieved; (5) include target dates and/or timetables to establish a time frame for assessing the effectiveness in achieving expected outcomes.

(c) Race-neutral measures, or, when legally appropriate, race-conscious measures, implemented in accordance with standards adopted by the Board of Governors, to address any disparity in student population if significant underrepresentation of a particular group is found to exist, and

(i) To implement race/gender neutral measures when working to eliminate any noted underrepresentation.

(ii) To take active steps, beyond compliance with nondiscrimination laws, to promote student equity when significant underrepresentation exists.

(iii) To implement the following procedures when significant underrepresentation exists: (1) review its practices and procedures and identify and implement any additional

measures which might reasonably be expected to address the needs of significantly underrepresented groups in the success indicator areas in question; (2) consider various other means of reducing the underrepresentation, which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective; and (3) establish target dates for achieving expected outcomes,

(iv) To use race/gender neutral methods to rectify underrepresentation for at least 3 years before considering mechanisms that take race or gender into account.

(d) Implementation activities designed to attain the goals, including a means of coordinating existing student equity related programs;

(e) Sources of funds for the activities in the plan;

(f) A schedule and process for evaluation, and

(i) To conduct an annual survey of the college's student population and gather ethnicity, gender and disability data for use in evaluating the progress in implementing the goals set forth in its plan.

(ii) For the evaluation schedule to contain specific information about who is doing what and when and how often the plan itself will be evaluated.

(g) An executive summary that includes, at a minimum, (1) the groups for whom goals have been set; (2) the goals; (3) the initiatives that the college or district will undertake to achieve these goals; (4) the resources that have been budgeted for that purpose; and (5) the district official to contact for further information, and

(i) For the designated contact person to be responsible for the following: (1) monitoring, review, and evaluation of student success for all students; (2) guiding the planning and development process to promote student success; (3) compiling the results of the periodic review process to determine effective success strategies; (4) reporting these

findings to the success/equity advisory committee on an annual basis; (5) submitting a copy of this report along with any resulting committee board action to the Chancellor's Office.

(3) To develop the student equity plan with the active involvement of all groups on campus and with the involvement of appropriate people from the community. To implement this requirement, the governing board must determine who may qualify as "appropriate people from the community" and give notice to such people and also to all groups on campus of any meetings or activities regarding the development of the student equity plan.

(4) For the governing board to submit the Board-adopted plan to the Office of the Chancellor.

(E) Community Colleges must ensure that their student equity plans adhere to the Chancellor's criteria for reviewing and evaluating student equity plans.

The activities summarized above in paragraphs (A) through (E) and the more detailed activities of the test claim set forth at pages 348-366 far exceed those required in part 106 of title 34, Code of Federal Regulations and fall within the exception of subdivision (c) of Government Code Section 17556, that is, when "the statute or executive order mandates costs which exceed the mandate in that federal law or regulation."

(2) The Requirements of the Test Claim Legislation and Regulations Exceed the Few Requirements Found in the "Revised Guidance"

CCC also cites general provisions of "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," (hereinafter referred to as the "Revised Guidance") published in January 2001 by the Office for Civil Rights of the U.S. Department of Education.[36] Simply citing this additional publication does not resolve the issue of whether the activities alleged in the test claim exceed those required in the "Revised Guidance", if any.

The "Revised Guidance" reaffirms the compliance standards that OCR applies in

[36] Since CCC has not complied with the Title 2 Regulations that require a copy of this Revised Sexual Harassment Guidance be provided, a copy is attached hereto as Exhibit "D".

investigations and administrative enforcement of Title IX and provides the principles that a school should use to recognize and effectively respond to sexual harassment of students. ("Revised Guidance," Preamble, page i) The "Revised Guidance" provides many examples of "what to do," but provides very little directions on "how to do" them.

For example, at page 14:

> "Schools are required by the Title IX regulations to adopt and publish grievance procedures[37] providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination." (Emphasis supplied)

The specific test claim allegations summarized above at subparagraphs (A) through (E), above, go far beyond the generalized requirement to "disseminate a policy."

At page 19, the "Revised Guidance" continues to explain, with lack of specificity:

> "Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment." (Emphasis supplied)

Most importantly, the "Revised Guidance" states that the adoption of a policy prohibiting sexual harassment is not required. Again, lots of "what to's" (e.g., "provide effective means") but no "how to's" (such as, "how" to provide "effective means"). At pages 19-20, the "Revised Guidance" does indicate:

> "...if, because of a lack of policy...specifically addressing sexual harassment, students are unaware of what kind of conduct constitutes sexual harassment or that such conduct is prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination complaints will not be considered effective."

---

[37] The "Revised Guidance" and CCC use the terms "grievance procedures" and "complaint procedures" interchangeably. Test claimant assumes that their use of "grievance procedures" does not refer to any collective bargaining process.

In other words, if it doesn't work, it's not good enough, but no required "how to's" are included to make it work. The only specificity put forth by OCR are several elements in evaluating whether a school's grievance procedures will not be considered effective, including an unspecific notice to students, parents and employees where complaints may be filed. This, of course, is different from the more specific requirements, above, which requires the inclusion of information in the written policy on where to obtain the rules and procedures for reporting sexual harassment charges and the available remedies.

Then, at page 20, OCR again becomes non specific:

> "Procedures adopted by schools will vary considerably in detail, specificity, and components, reflecting differences in audiences, school sizes and administrative structures, State or local legal requirements, and past experience."

Finally, OCR concludes this discussion by commenting:

> "Many schools ensure adequate notice to students by having copies of the procedures available at various locations throughout the school or campus; publishing the procedures as a separate document; including a summary of the procedures in major publications issued by the school, such as handbooks and catalogs for students, ...faculty and staff; and identifying individuals who can explain how the procedures work."

This observation by OCR is no more than that, an observation, perhaps a suggestion. They are not executive orders. The activities of the test claim legislation and regulations mandate costs which exceed any suggestions found in the "Revised Guidance."

Finally, as its last argument against finding the minimum conditions of Student Equity to be a reimbursable mandate, CCC cites Civil Code Section 51 (Unruh Act) for the proposition that the test claim legislation is a law of general application. CCC cites *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56-57 as its authority.

CCC errs because the test must be applied to the test claim legislation and not to the Unruh Act. The summary of the test claim legislation above in paragraphs (A) through (E) and the more detailed requirements set forth at pages 348-366 of the test claim show why it is not a law which applies generally to all residents and entities in the state.

The decision in *County of Los Angeles v. State of California* was further relied upon and

explained in *Sacramento II*. (supra) There, the California Supreme Court explained its *County of Los Angeles* decision:

> "Most private employers in the state already were required to provide unemployment protection to their employees. Extension of this requirement to local governments, together with the state government and nonprofit corporations, merely makes the local agencies 'indistinguishable in this respect from private employers.'" (Opinion, at page 67)

The above summary of the test claim at paragraphs (A) through (E) and the more detailed requirements set forth at pages 348-366 of the test claim show that community colleges, when complying with the minimum conditions for state aid are, in fact, "distinguishable from private employers" when those private employers are complying with the Unruh Act. The situation is similar to that discussed by the court in *Long Beach Unified School District v. State of California* (1990) 225 Cal.App.3d 155, 172 where the court held that "although numerous private schools exist, education in our society is considered to be a peculiarly governmental function."

Condition 19 - Transfer Centers

No new argument is presented by CCC in opposition to a finding that the minimum conditions relating to Transfer Centers are not new programs or higher levels of service.

Condition 20 - Compliance Enforcement

No new argument is presented by CCC in opposition to a finding that the minimum conditions relating to Compliance Enforcement are not new programs or higher levels of service.

CERTIFICATION

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information or belief.

Sincerely,

Keith B. Petersen

C: Per Mailing List Attached

DECLARATION OF SERVICE

RE: Minimum Conditions for State Aid 02-TC-31
CLAIMANT: Santa Monica Community College District

I declare:

I am employed in the office of SixTen and Associates, which is the appointed representative of the above named claimant(s). I am 18 years of age or older and not a party to the within entitled matter.

On the date indicated below, I served the attached: letter of May 5, 2004 , addressed as follows:

Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

FAX: (916) 445-0278

AND per mailing list attached

☒ **U.S. MAIL:** I am familiar with the business practice at SixTen and Associates for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at SixTen and Associates is deposited with the United States Postal Service that same day in the ordinary course of business.

☐ **OTHER SERVICE:** I caused such envelope(s) to be delivered to the office of the addressee(s) listed above by:

(Describe)

☐ **FACSIMILE TRANSMISSION:** On the date below from facsimile machine number (858) 514-8645, I personally transmitted to the above-named person(s) to the facsimile number(s) shown above, pursuant to California Rules of Court 2003-2008. A true copy of the above-described document(s) was(were) transmitted by facsimile transmission and the transmission was reported as complete and without error.

☐ A copy of the transmission report issued by the transmitting machine is attached to this proof of service.

☐ **PERSONAL SERVICE:** By causing a true copy of the above-described document(s) to be hand delivered to the office(s) of the addressee(s).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on 5/5/04 , at San Diego, California.

D. Bramwell

Diane Bramwell

Commission on State Mandates

Original List Date: 6/26/2003
Last Updated:
List Print Date: 10/17/2003
Claim Number: 02-TC-31
Issue: Minimum Conditions for State Aid

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Thomas J. Nussbaum (G-01)
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 445-2738
Fax: (916) 323-8245

Mr. Keith B. Petersen
SixTen & Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Claimant Representative
Tel: (858) 514-8605
Fax: (858) 514-8645

Mr. Thomas J. Donner
Santa Monica Community College District
1900 Pico Blvd.
Santa Monica, CA 90405-1628

Claimant
Tel: (310) 434-4201
Fax: (310) 434-8200

Mr. Paul Minney
Spector, Middleton, Young & Minney, LLP
7 Park Center Drive
Sacramento, CA 95825

Tel: (916) 646-1400
Fax: (916) 646-1300

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Tel: (916) 727-1350
Fax: (916) 727-1734

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 987
Sun City, CA 92586

Tel: (909) 672-9964
Fax: (909) 672-9963

Mr. Steve Smith Mandated Cost Systems, Inc. 11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670	Tel: Fax:	(916) 669-0888 (916) 669-0889
Mr. Arthur Palkowitz San Diego Unified School District 4100 Normal Street, Room 3159 San Diego, CA 92103-8363	Tel: Fax:	(619) 725-7565 (619) 725-7569
Dr. Carol Berg Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: Fax:	(916) 446-7517 (916) 446-2011
Ms. Beth Hunter Centration, Inc. 8316 Red Oak Street, Suite 101 Rancho Cucamonga, CA 91730	Tel: Fax:	(866) 481-2642 (866) 481-5383
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: Fax:	(916) 454-7310 (916) 454-7312
Mr. Michael Havey State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 500 Sacramento, CA 95816	Tel: Fax:	(916) 445-8757 (916) 323-4807
Mr. Gerald Shelton California Department of Education (E-08) Fiscal and Administrative Services Division 1430 N Street, Suite 2213 Sacramento, CA 95814	Tel: Fax:	(916) 445-0554 (916) 327-8306
Mr. Keith Gmeinder Department of Finance (A-15) 915 L Street, 8th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-8913 (916) 327-0225
Ms. Jill Bowers Office of the Attorney General (D-08) 1300 I Street, Suite 125 Sacramento, CA 95814	Tel: Fax:	(916) 323-1948 (916) 324-5567

EXHIBIT "A"
ADDITIONAL STATUTES CITED

electors of the district to authorize the issuance of bonds for such purpose at an election held for such purpose and if the district is unable to obtain adequate facilities within the district with the funds available to the district for such purpose.

SEC. 21. Section 25509.5 of the Education Code is amended to read:

25509.5. The governing board of a community college district may establish and maintain community college classes outside of the state, comprising a part of an aircraft pilot training program conducted by the district under an agreement with the federal government or any agency thereof, during the time that it is unlawful by reason of any law or order of the federal government or any agency thereof for such classes to be maintained within the district.

The governing board may make such expenditures and do such things in connection with the establishment and maintenance of classes under this section as it could do were the classes established and maintained within the district.

SEC. 22. Section 25509.6 of the Education Code is amended to read:

25509.6. The governing board of a community college district may enter into a contract on a full-cost basis with the federal government or any agency of the federal government to provide community college courses and classes to persons in the military service of the United States at any military camp, post, installation, base, vessel, or location, whether within or outside the district or the state.

SEC. 23. Section 25510 of the Education Code is amended to read:

25510. The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges.

SEC. 24. Section 25510.5 of the Education Code is amended to read:

25510.5. The chancellor's office shall annually investigate each community college to determine whether it has met the standards. As part of such investigation, representatives of the chancellor's office may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the chancellor's office, who may be appointed by the chancellor, may serve as a member of the accrediting commission which accredits the public community colleges.

SEC. 25. Section 25511 of the Education Code is amended to read:

25511. The Board of Governors of the California Community Colleges shall establish criteria and standards for graded classes in grades 13 and 14.

SEC. 26. Section 25513 of the Education Code is amended to read:

25513. The president of any two-year community college may admit 11th and 12th grade students to vocational education classes

may exclude from any such meeting, whether public or closed to the public, during the examination of a witness, any or all other witnesses in the matter being investigated.

71023. It is the intent of the Legislature that the Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of community colleges as an integral and effective element in the structure of public higher education in the state. The work of the board shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local autonomy and control in the administration of the community colleges.

71024. The Board of Governors of the California Community Colleges has the duties, powers, purposes, responsibilities, and jurisdiction heretofore vested in the State Board of Education, Superintendent of Public Instruction, the Department of Education, and the Director of Education with respect to the management, administration, and control of the community colleges.

Whenever in any law other than a provision of the Education Code, enacted prior to January 1, 1977, relating to the management, administration and control of the community colleges reference is made to the State Board of Education, Superintendent of Public Instruction, the Department of Education, or the Director of Education, such reference shall be deemed to mean the Board of Governors of the California Community Colleges.

71025. The Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges.

71026. The chancellor's office shall annually investigate each community college to determine whether it has met the standards prescribed pursuant to Section 71025. As part of such investigation, representatives of the chancellor's office may participate in the accreditation visits conducted by the regional accrediting agency, and one representative of the chancellor's office, who may be appointed by the chancellor, may serve as a member of the accrediting commission which accredits the public community colleges.

71027. The Board of Governors of the California Community Colleges shall establish criteria and standards for graded classes in grades 13 and 14.

71028. The board of governors shall review and approve academic master plans and master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district. Master plans for facilities submitted pursuant to Chapter 4 (commencing with Section 81800) of Part 49 of Division 7 of this title shall satisfy the requirements of this section in relation to master plans for facilities. Each district shall annually submit changes in its approved academic master plan for approval by the

(b) Whether the program provides preventative, proactive, social, or educational services.

(c) Whether there is a need to expand the program to a statewide basis, and whether the services provided by the program are duplicative of other state or local services.

(d) The direct and indirect program benefits to the parents and children who are participants in the program.

(e) The effectiveness of the program in preventing family crises, child abuse, and neglect.

(f) The characteristics of the targeted service population.

8219. This article shall become inoperative on June 30, 1992, and, as of January 1, 1993, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of thirty-seven thousand five hundred dollars ($37,500) is hereby appropriated from the General Fund to the State Department of Education for the purposes of Article 2.5 (commencing with Section 8216) of Chapter 2 of Part 6 of the Education Code for the period of January 1, 1989, to June 30, 1989, inclusive. It is the intent of the Legislature that funds necessary in future years for the purpose of the Parent-Child Information Pilot Project as added to Article 2.5 (commencing with Section 8216) of Chapter 2 of Part 6 of the Education Code, be appropriated in the Budget Act of subsequent fiscal years.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to initiate the system provided for under Section 1 of this act in response to current critical needs related to child care and development, it is necessary that this act take effect immediately.

CHAPTER 973

An act to amend Sections 66701, 71000, 71001, 78205, 84381, 84713, 87102, 87104, 87454, 87457, 87602, 87663, and 87743 of, to add Sections 71020.5, 71090.5, 78212.5, 84750, 84755, 87001, 87107, 87482.6, 87608.5, 87610.1, 87615, 87743.1, 87743.2, 87743.3, 87743.4, and 87743.5 to, to add Article 5 (commencing with Section 87150) to Chapter 1 of Part 51 of, to add Chapter 9.2 (commencing with Section 66720) to Part 40 of, and Chapter 2.5 (commencing with Section 87350) to Part 51 of, to add Part 43.5 (commencing with Section 70900) to Division 7 of, to repeal and add Sections 71020, 72411.5, 87458, 87605, 87608, 87609, 87610, and 87611 of, to repeal Sections 71023, 71025, 71026, 71027, 71028, 71062, 71063, 71064, 71066, 71068, 71069, 71070, 71071, 71072, 71073, 71075, 71076, 71079, 71080, 71091, 72201, 72230, 72231.5, 72233, 72282, 72284, 72285, 72286, 72287, 72288, 72289, 72290, 72291, 72292,

Trustees of the California State University, with appropriate consultation with the Academic Senates of the respective segments, shall jointly develop, maintain, and disseminate a common core curriculum in general education courses for the purposes of transfer. Any person who has successfully completed the transfer core curriculum, shall be deemed to have thereby completed all lower division general education requirements for the University of California and the California State University.

66721. Upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University shall jointly cause the curriculum to be published and distributed to each public school in this state that provides instruction in any of the grades 7 to 12, inclusive, and to each community college in this state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities. In addition, the Board of Governors shall distribute that transfer core curriculum to the State Board of Education, which shall apply that information to ensure, through its curriculum development activities, that public school pupils enrolled in any of the grades 9 to 12, inclusive, are aware of the academic requirements for preparation for higher education and may receive any necessary academic remediation in a timely manner.

66723. No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, makes that provision applicable.

SEC. 8. Part 43.5 (commencing with Section 70900) is added to Division 7 of the Education Code, to read:

PART 43.5. THE CALIFORNIA COMMUNITY COLLEGES

70900. There is hereby created the California Community Colleges, a postsecondary education system consisting of community college districts heretofore and hereafter established pursuant to law and the Board of Governors of the California Community Colleges. The board of governors shall carry out the functions specified in Section 70901 and local districts shall carry out the functions specified in Section 70902.

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with

established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule

delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

70901.5. (a) The board of governors shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

(1) Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(3) The board of governors shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.

(4) Prior to the adoption of regulations, the board of governors shall consider and respond to all written and oral comments received during the comment period.

(5) The effective date for a regulation shall be suspended if, within 30 days after adoption by the board of governors, at least two-thirds of all governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the board of governors shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

(B) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly

adopted regulation, and shall go into effect in accordance with those procedures.

(C) Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed necessary to clarify the intent of the original regulation. If the board of governors decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any further appeal within the California Community Colleges.

(6) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the board of governors shall not adopt the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.

(7) Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the board of governors, the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the board of governors.

70902. (a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of the provisions of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the

board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right to participate effectively in district and college governance, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision

(b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate; provided, however, that the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

SEC. 9. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of all of the following:

(a) Thirteen members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate. Of the members appointed by the Governor, two shall be current or former elected members of local community college district governing boards. The Governor shall appoint the current or former members of the governing board of a community college district for staggered six-year terms. The voting members who are current or former members of the governing board of a community college district shall first be appointed no later than January 15, 1990, and January 15, 1992, respectively.

(b) One voting student who is enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of his or her term of appointment, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester prior to his or her appointment and shall meet and maintain the minimum standards of scholarship prescribed for community college students. The student member shall be appointed by the Governor for a one-year term commencing on June 1.

(c) Two voting tenured faculty members from a community college, who shall be appointed by the Governor for two-year terms. The Governor shall appoint each faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. The first voting tenured faculty member appointed to the board shall occupy the seat on the board that is made available by the next full-term vacancy of a four-year term that exists after January 1, 1984. The first voting tenured faculty member appointed to the additional voting tenured faculty member seat on the board provided by the amendments to this section enacted by the Statutes of 1987 shall occupy the second seat on the board that is made available by the next full-term vacancies that exist after January 1, 1988. Thereafter, each seat shall be designated as a

the Education Code, the adoption of regulations as required by Sections 70901.5, 87356, 87359, 87107, and 87482.6 of the Education Code and Section 69 of this act, the development of a list of disciplines, as required by Section 87357 of the Education Code, and the review required by Section 87359.5 of the Education Code $300,000

(d) For purposes of commencing implementation of Section 84750 of the Education Code, during the period of January 1, 1989, through June 30, 1990 ..... $300,000

(e) For purposes of subdivision (b) of Section 87104 of the Education Code $300,000

(f) For purposes of Section 71020.5 of the Education Code $150,000

(g) To the Community College Fund for instructional improvement pursuant to Section 84381 of the Education Code $200,000

CHAPTER 974

An act to amend and supplement Section 2.00 of the Budget Act of 1988 by augmenting Items 0540-001-001, 2200-001-001, 2240-001-001, 3360-001-465, 3720-001-001, 4170-101-001, 4200-101-001, 4260-101-001, 4260-111-001, 4260-121-001, 4440-101-001, 4440-111-001, 5240-001-001, 5450-001-001, 5460-001-001, 7980-111-001, 7980-121-001, 8260-001-001, 8300-001-001, 8570-001-001, 9800-001-001, 9800-001-494, and 9800-001-988 thereof, amending Items 6440-025-001 and 6610-025-001 thereof, and adding Items 0820-301-001, 2200-001-036, 2200-101-036, and 9210-102-001 thereto, relating to the support of the State of California, and making an appropriation therefor, to take effect immediately, usual current expenses.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 19, 1988.]

I am deleting the $3 million transfer to the General Fund contained in Section 17 of Assembly Bill No. 1903. This action is necessary due to the lack of funds in the Special Account for Capital Outlay.

With this deletion, I approve Assembly Bill No. 1903.

GEORGE DEUKMEJIAN

The people of the State of California do enact as follows:

SECTION 1. Item 0820-301-001 is added to Section 2.00 of the Budget Act of 1988, to read:

EXHIBIT "B"

PEOPLE EX.REL. ETC V. DUQUE (2003)

105 Cal.App.4th 259; 129 Cal.Rptr.2d 298

[No. A098863. First Dist., Div. Five. Jan. 10, 2003.]

THE PEOPLE ex rel. FOUNDATION FOR TAXPAYER AND CONSUMER RIGHTS, Plaintiff and Respondent, v. HENRY DUQUE, Defendant and Appellant.

SUMMARY

The trial court entered a judgment that a Public Utilities Commission (PUC) commissioner forfeited his office pursuant to Pub. Util. Code, § 303, subd. (a), for having owned stock in a corporation that was regulated by the PUC. (Superior Court of the City and County of San Francisco, No. 318146, Alfred G. Chiantelli, Judge.)

The Court of Appeal reversed. The court held that because the trial court correctly ruled that defendant held his interest in the stock voluntarily, and since the forfeiture language set forth in the statute applies only when a commissioner acquires an interest in a regulated company "other than voluntarily," the statute, by its terms, did not apply under the facts of the case. The court could not supply an implied remedy to fill the statutory gap. It is particularly appropriate to honor forfeiture limitations where the issue is whether a state constitutional officer has forfeited his or her office. A court must limit itself to interpreting the law as written and leave for the people and the Legislature the task of revising it as they deem wise. Moreover, a commissioner who voluntarily owns stock in a regulated company arguably has neglected his statutory duty under Pub. Util. Code, § 303, subd. (a), and thus would be subject to removal under Cal. Const., art. XII, § 1. (Opinion by Jones, P. J., with Stevens and Simons, JJ., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1a-1d) Public Officers and Employees § 29—Duration and Termination of Tenure—Forfeiture—Public Utilities Commissioner—Voluntary Ownership of Stock in Regulated Company.—The trial court erred in ruling that a Public Utilities Commission (PUC) commissioner forfeited his office pursuant to Pub. Util. Code, § 303, subd. (a), for

having owned stock in a corporation that was regulated by the PUC. Because the trial court correctly ruled that defendant held his interest in the stock voluntarily, and since the forfeiture language set forth in the statute applies only when a commissioner acquires an interest in a regulated company "other than voluntarily," the statute, by its terms, did not apply under the facts of the case. The court could not supply an implied remedy to fill the statutory gap. It is particularly appropriate to honor forfeiture limitations where the issue is whether a state constitutional officer has forfeited his or her office. A court must limit itself to interpreting the law as written and leave for the People and the Legislature the task of revising it as they deem wise. Moreover, a commissioner who voluntarily owns stock in a regulated company arguably has neglected his statutory duty under Pub. Util. Code, § 303, subd. (a), and thus would be subject to removal under Cal. Const., art. XII, § 1.

[See 8 Witkin, Summary of Cal. Law (9th ed. 1989) Constitutional Law, § 889; West's Key Number Digest, Public Utilities ⚖ 142.]

(2) **Statutes § 30—Construction—Language—Plain Meaning.**—In construing a statute a court ascertains the Legislature's intent in order to effectuate the law's purpose. The court must look to the statute's words and give them their usual and ordinary meaning. The statute's plain meaning controls the court's interpretation unless its words are ambiguous.

(3) **Public Officers and Employees § 29—Duration and Termination of Tenure—Forfeiture.**—Public office forfeiture provisions are disfavored because they encroach on the fundamental right to hold office. The right to hold public office, either by election or appointment, is one of the valuable rights of citizenship. The exercise of this right should not be declared prohibited or curtailed except by plain provisions of law. Furthermore, the law traditionally disfavors forfeitures, and statutes imposing them are to be strictly construed.

(4) **Statutes § 30—Construction—Language—Plain Meaning.**—Courts are obligated to interpret the language in a statute in accordance with its plain meaning, and may not, under the guise of construction, rewrite a law or give the words an effect different from the plain and direct import of the terms used.

(5) **Statutes § 39—Construction—Conformation of Parts.**—While a court must, if possible, avoid interpreting a statute in an absurd manner, when deciding what is absurd the court is required to read the statute

with reference to the entire scheme of law of which it is part so that the whole may be harmonized.

(6) **State of California § 10—Attorney General—Opinions—Weight.** —An opinion of the Attorney General authorizing a quo warranto action against a Public Utilities Commission commissioner was not controlling on the commissioner's appeal from an adverse judgment. Given that the Attorney General aligned himself with plaintiff, citing the Attorney General's opinion as controlling is analogous to one party arguing that an amicus curiae brief submitted in support of his or her position mandates how an appeal must be resolved. In any event, while opinions of the Attorney General are entitled to considerable weight, they are not binding.

COUNSEL

Remcho, Johansen & Purcell, Joseph Remcho and Thomas A. Willis for Defendant and Appellant.

Harvey Rosenfield, Pamela M. Pressley; Bill Lockyer, Attorney General, and Anthony Davigo, Deputy Attorney General, for Plaintiff and Respondent.

OPINION

JONES, P. J.—The People of the State of California, through relator the Foundation for Taxpayer and Consumer Rights (FTCR) filed a quo warranto action against Commissioner Henry Duque of the Public Utilities Commission (PUC), contending Duque must be removed from office pursuant to Public Utilities Code section 303,[1] subdivision (a), because he formerly held stock in a corporation that was regulated by the PUC. The trial court agreed and ruled Duque had forfeited his office. Duque now appeals claiming the judgment must be reversed because (1) section 303, subdivision (a), is unconstitutional, and (2) the statute, by its terms, did not apply to his conduct. We agree with the second of these arguments and reverse the judgment.

[1]Unless otherwise indicated, all further section references will be to the Public Utilities Code.

I. FACTUAL AND PROCEDURAL BACKGROUND

On April 3, 1995, former Governor Pete Wilson appointed Duque a commissioner on the PUC. The position is a constitutionally mandated office.[2] In December 1996, Governor Wilson reappointed Duque to a full six-year term. His appointment was confirmed by the state senate. Duque's term of office ended on January 1, 2003.

While Duque was a commissioner, his personal investment account was managed by his long-term stockbroker, Michael Golub. Golub made investment decisions for Duque pursuant to a power of attorney without seeking input from Duque. When Duque became a commissioner, he told Golub he could not own stock in companies that were regulated by the PUC.

On May 12, 1999, Golub purchased stock in Nextel Communications, Inc., a wireless communication carrier, and allocated 700 shares to Duque's account. At the time of the purchase, Duque believed that wireless carriers such as Nextel were regulated by the Federal Communications Commission (FCC), and not by the PUC. Golub had a similar understanding. Duque disclosed his ownership of the Nextel stock in his 1999 and 2000 statements of economic interests.

In fact, while states are precluded from regulating the rates charged by wireless carriers (see 47 U.S.C. § 332(c)(3)(A)), other aspects of Nextel's business were and are regulated by the PUC. Three months after Duque acquired his stock, Nextel and all other phone companies in California filed a joint petition seeking an allocation of phone numbers in the 310 area code. The PUC, with Duque voting in dissent, adopted an allocation plan. Duque voted against the interests of Nextel and the other petitioning parties.

In February 2000, the PUC noticed rulemaking proceedings to establish consumer protection rules applicable to telecommunication companies. The rules would apply to all communication companies, including Nextel.

In March 2000, the PUC approved an interconnection agreement between Pacific Bell and Nextel. The agreement was part of a larger consent item agenda that included several similar agreements. All the agreements were approved en masse.

[2]California Constitution, article XII, section 1, states: "The Public Utilities Commission consists of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for staggered 6-year terms. . . . The Legislature may remove a member for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring."

On August 16, 2000, Duque received a phone call from Todd Wallack, a reporter for the San Francisco Chronicle, who had reviewed Duque's statements of economic interests. Wallack questioned Duque's ownership of Nextel stock, asserting it was a regulated company whose stock Duque was not permitted to own. Duque contacted the general counsel of the PUC to ask him whether Nextel was regulated by the PUC. The general counsel did not call back.

Duque believed that Wallack sounded knowledgeable. He decided to sell his stock because there was, at a minimum, a perception of conflict. On August 18, 2000, Duque directed his stockbroker to sell his remaining Nextel stock. Duque earned almost $70,000 as the result of his ownership of the stock.

On October 4, 2000, respondent FTCR sought permission from the California Attorney General to file an action against Duque. The Attorney General granted permission in an opinion dated November 29, 2000. (See 83 Ops.Cal.Atty.Gen. 263 (2000).)

In January 2001, FTCR, acting in the name of the People of the State of California, filed a quo warranto action against Duque under Code of Civil Procedure section 803 et seq. FTCR contended that Duque had forfeited his office as a commissioner under section 303, subdivision (a), because he formerly owned a prohibited financial interest in Nextel.

In July 2001, FTCR filed a motion for summary judgment arguing it was entitled to prevail as a matter of law. The judge hearing the motion denied it, ruling that section 303, subdivision (a), "does not provide for the removal from office of a [c]ommissioner . . . for a voluntary acquisition of stock." However, the judge ruled Nextel was in fact subject to regulation by the PUC.

The case then proceeded to a one-day court trial. At the conclusion of the trial, the court issued a statement of decision ruling Duque had forfeited his office under section 303, subdivision (a), because he had voluntarily owned stock in a company that was regulated by the PUC. The court ruled specifically that Duque had *not* been dishonest and that he had *not* acted in bad faith. Instead, the court ruled that Duque had shown poor judgment because he had "not [done] everything, which can reasonably be expected of a public utility commissioner to do in order to avoid a conflict of interest." The court ordered Duque to pay a $5,000 fine, and ruled he must pay FTCR's attorney fees under Code of Civil Procedure section 1021.5.

This appeal followed. While the matter was being briefed, we granted Duque's petition for writ of supersedeas and stayed the court's judgment pending our resolution of the appeal.

II. DISCUSSION[3]

(1a) Duque contends the judgment must be reversed because (1) section 303, subdivision (a) is unconstitutional, and (2) the section, by its terms, did not apply under the facts of this case. Since we do not reach constitutional issues unless absolutely required to do so (*Santa Clara County Local Transportation Authority v. Guardino* (1995) 11 Cal.4th 220, 230 [45 Cal.Rptr.2d 207, 902 P.2d 225]), we turn to the second, and we believe, dispositive argument.

Section 303, subdivision (a), states: "A public utilities commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission. If any commissioner acquires a financial interest in a corporation or person subject to regulation by the commission other than voluntarily, his or her office shall become vacant unless within a reasonable time he or she divests himself or herself of the interest."

Our interpretation of this language is guided by well-settled rules of construction. **(2)** In construing a statute we ascertain the Legislature's intent in order to effectuate the law's purpose. (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386 [241 Cal.Rptr. 67, 743 P.2d 1323].) We must look to the statute's words and give them their usual and ordinary meaning. (*DaFonte v. Up-Right, Inc.* (1992) 2 Cal.4th 593, 601 [7 Cal.Rptr.2d 238, 828 P.2d 140].) "The statute's plain meaning controls the court's interpretation unless its words are ambiguous." (*Kobzoff v. Los Angeles County Harbor/UCLA Medical Center* (1998) 19 Cal.4th 851, 860-861 [80 Cal.Rptr.2d 803, 968 P.2d 514].)

(1b) The language used in section 303, subdivision (a), is reasonably clear. The first sentence states that commissioners are precluded from owning an interest in any company that is subject to regulation by the PUC. Here, the trial court ruled, and the evidence fully supports the conclusion, that Duque held an interest in a corporation that was regulated by the PUC.

[3]While this appeal was being briefed, FTCR filed a request asking this court to take judicial notice of the legislative history of the statutes and constitutional sections that are at issue in this case. We deferred ruling on the request until the merits of the appeal. (See *People v. Preslie* (1977) 70 Cal.App.3d 486, 493-494 [138 Cal.Rptr. 828].) Having now considered FTCR's request, we grant it.

It is undisputed that Duque held Nextel stock. Nextel, as a wireless carrier, was and is subject to regulation by the PUC. Indeed, Duque himself participated in a decision in which the PUC asserted its right to regulate certain aspects of the wireless communication business. (See *In re Mobile Telephone Service and Wireless Communications* (Cal.P.U.C., 1996) 174 Pub.Utl.Rep.4th (West) 543.)

The second sentence of section 303, subdivision (a), then states that if a commissioner comes to possess an interest in a regulated company "*other than voluntarily*" (or in other words involuntarily) he or she must divest himself or herself of that interest "within a reasonable time." If the commissioner fails to do so, his or her office "shall become vacant." Here the trial court held, and the parties both agree, that Duque held his interest in Nextel *voluntarily*. Since the forfeiture language set forth in section 303, subdivision (a), applies only when a commissioner acquires an interest in a regulated company "other than voluntarily," the statute, by its terms, did not apply under the facts of this case.

This application of section 303, subdivision (a), highlights a critical gap in the language of the statute. While section 303, subdivision (a), states that commissioners may not possess an interest in a regulated company, and provides a remedy for the *involuntary* acquisition of such an interest, the statute does not describe what occurs when a commissioner *voluntarily* acquires an interest in a regulated company.[4] The pivotal issue presented here is whether we must fill that gap with an implied remedy: i.e., that a commissioner who voluntarily acquires an interest in a regulated company must forfeit his or her office. We decline to do so.

(3) First, forfeiture provisions are disfavored because they encroach on the fundamental right to hold office. " '[T]he right to hold public office, either by election or appointment, is one of the valuable rights of citizenship . . . *The exercise of this right should not be declared prohibited or curtailed except by plain provisions of law.* . . .' " (*Helena Rubenstein Internat. v.*

[4]The statute's silence as to penalty for a voluntary acquisition is mirrored in a related constitutional provision. Article XII, section 7, of the California Constitution states: "A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission." This language provides a standard of conduct applicable to public utilities commissioners, but does not provide a remedy for a violation of that standard. Article XII, section 7, also states: "A transportation company may not grant free passes or discounts to anyone holding an office in this state; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office." This portion of the section mandates forfeiture of office for certain types of conduct, but states clearly that the remedy does not apply to public utilities commissioners.

Younger (1977) 71 Cal.App.3d 406, 418 [139 Cal.Rptr. 473], italics added in *Helena Rubenstein*, quoting *People v. Washington* (1869) 36 Cal. 658, 662; see also *Carter v. Com. on Qualifications, etc.* (1939) 14 Cal.2d 179, 182 [93 P.2d 140].) Furthermore, the "law traditionally disfavors forfeitures and statutes imposing them are to be strictly construed." (*People v. United Bonding Ins. Co.* (1971) 5 Cal.3d 898, 906 [98 Cal.Rptr. 57, 489 P.2d 1385]; see also 67 Ops.Cal.Atty.Gen. 459, 461 (1984).) **(1c)** We believe it is particularly appropriate to honor these limitations where, as here, the issue is whether a state constitutional officer has forfeited his office.

(4) Second, we are obligated to interpret the language in a statute in accordance with its plain meaning. (*Torres v. Parkhouse Tire Service, Inc.* (2001) 26 Cal.4th 995, 1003 [111 Cal.Rptr.2d 564, 30 P.3d 57].) "We may not, under the guise of construction, rewrite [a] law or give the words an effect different from the plain and direct import of the terms used." (*California Fed. Savings & Loan Assn. v. City of Los Angeles* (1995) 11 Cal.4th 342, 349 [45 Cal.Rptr.2d 279, 902 P.2d 297].) **(1d)** Here, section 303, subdivision (a), describes what occurs when a commissioner involuntarily owns stock in a regulated company. The statute, by its terms, does not describe what occurs when a commissioner voluntarily owns stock in a company that is regulated. "[W]e must limit ourselves to interpreting the law as written and leave for the People and the Legislature the task of revising it as they deem wise." (*People v. Garcia* (1999) 21 Cal.4th 1, 15 [87 Cal.Rptr.2d 114, 980 P.2d 829].)

Our holding does not mean that commissioners may violate section 303, subdivision (a), with impunity. Article XII, section 1, of the California Constitution states that the Legislature may remove a commissioner from office "for incompetence, neglect of duty, or corruption . . . ." A commissioner who voluntarily owns stock in a regulated company arguably has neglected his statutory duty under section 303, subdivision (a), and thus would be subject to removal under article XII, section 1. Furthermore, Duque concedes that commissioners who violate the public trust remain subject to civil and criminal penalties under the Political Reform Act of 1974. (See Gov. Code, § 81000 et seq.) We hold only that a commissioner who violates section 303, subdivision (a), by voluntarily owning stock, does not, under the terms of that statute, forfeit his office.[5]

FTCR contends the interpretation of section 303, subdivision (a), we have adopted is absurd because it would permit forfeiture of office for the

[5]Having reached this conclusion, we need not decide the potentially more troubling issue of whether section 303, subdivision (a), is constitutional in light of article XII, section 1, of the California Constitution, which states: "The Legislature may remove a member [of the Public Utilities Commission] for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring." Specifically, we need not decide whether the

involuntary acquisition of an interest in a regulated company, while providing no remedy for the more serious violation that occurs when a commissioner voluntarily acquires an interest in a regulated company. FTCR concedes this argument is premised on the assumption that a voluntary acquisition of an interest in a regulated company is, by its nature, a more serious offense. In our view, FTCR's premise is flawed. A commissioner can voluntarily but inadvertently acquire an interest in a regulated company by, for example, purchasing shares in an unregulated corporation which, unbeknownst to the commissioner, has recently acquired a regulated corporation. There is nothing particularly blameworthy about such an act and it should not necessarily trigger a more severe sanction.

(5) Furthermore, while we must, if possible, avoid interpreting a statute in an absurd manner (*Horwich v. Superior Court* (1999) 21 Cal.4th 272, 276 [87 Cal.Rptr.2d 222, 980 P.2d 927]), when deciding what is "absurd" we are required to read the statute " ' "with reference to the entire scheme of law of which it is part so that the whole may be harmonized . . . ." ' " (*Ibid.*, quoting *People v. Pieters* (1991) 52 Cal.3d 894, 898-899 [276 Cal.Rptr. 918, 802 P.2d 420].) Section 303, subdivision (a), certainly has a limited scope. It mandates forfeiture of office for an involuntary acquisition of an interest in a regulated company, while stating no remedy for the conflict of interest that arises when a commissioner voluntarily obtains an interest in a regulated company. However, the omissions inherent in section 303, subdivision (a), are largely filled by the power to remove found in article XII, section 1, of the California Constitution, and by the civil and criminal penalties contained in the Political Reform Act of 1974. (See Gov. Code, § 81000 et seq.) When all the related provisions of law are considered together, our interpretation of section 303, subdivision (a), is not absurd.

FTCR also contends the trial court's interpretation of section 303, subdivision (a), is supported by two opinions issued by the California Attorney General. However, the issue in the first opinion, 80 Ops.Cal.Atty.Gen. 27 (1997) was whether the PUC is obligated to discharge an employee who marries an employee of a regulated company. That Attorney General concluded that "on its face, section 303 would prohibit continued employment by an employee of the Commission who marries an employee of a regulated utility." (*Id.* at p. 29.) The opinion does not involve a constitutional officer, does not involve stock ownership, and does not discuss the forfeiture clause

section's grant of the power to remove to the Legislature, bars the judiciary from determining whether removal is necessary or appropriate. (Cf. *In re McGee* (1951) 36 Cal.2d 592 [226 P.2d 1]; *California War Veterans for Justice v. Hayden* (1986) 176 Cal.App.3d 982 [222 Cal.Rptr. 512].)

that is pivotal here. Given these significant differences, we conclude the opinion is not persuasive. (Cf. *Andres v. Young Men's Christian Assn.* (1998) 64 Cal.App.4th 85, 90 [74 Cal.Rptr.2d 788].)

(6) The second opinion, 83 Ops.Cal.Atty.Gen. 263 (2000), is the one in which the Attorney General authorized FTCR to file the present litigation. Given that the Attorney General has aligned himself with FTCR, citing the Attorney General's opinion as controlling is analogous to one party arguing that an amicus brief submitted in support of his position mandates how an appeal must be resolved. In any event, while opinions of the Attorney General are entitled to considerable weight, they are not binding. (*State of Cal. ex rel. State Lands Com. v. Superior Court* (1995) 11 Cal.4th 50, 71 [44 Cal.Rptr.2d 399, 900 P.2d 648].) Here, the Attorney General stated in his opinion that "[Duque's] office became vacant immediately upon his acquisition of the 700 shares of stock in Nextel on May 12, 1999." (83 Ops.Cal.Atty.Gen., *supra*, at p. 265.) In reaching that conclusion, the Attorney General did not discuss the language of the section 303, subdivision (a), in detail and he did not acknowledge that the statute only provides for a forfeiture when a commissioner obtains stock involuntarily. Again, we conclude the Attorney General's opinion is not persuasive.

FTCR next contends the trial court's ruling was correct under the rule that courts must, if possible, give meaning to all the language of a statute. (See, e.g., *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1118 [81 Cal.Rptr.2d 471, 969 P.2d 564].) According to FTCR, interpreting section 303, subdivision (a), to mean that a voluntary acquisition of an interest does not result in a forfeiture would render the second sentence of the subdivision meaningless. This is simply not true. Under our interpretation, the first sentence of section 303, subdivision (a), sets forth the general rule that commissioners may not possess an interest in a company that is regulated by the PUC. The second sentence then provides a limited remedy for a violation of the general rule. If a commissioner obtains an interest involuntarily, he must divest himself of that interest in a reasonable time. If he fails to do so, his office is vacated. Under our interpretation, all language in the statute is given meaning.

Next, FTCR contends the trial court's ruling is supported by the maxim of statutory construction, *expressio unius est exclusio alterius,* meaning the "expression of one thing is the exclusion of another." (See *People v. Anzalone* (1999) 19 Cal.4th 1074, 1078 [81 Cal.Rptr.2d 315, 969 P.2d 160].) As we understand it, FTCR's theory is that the first sentence of section 303, subdivision (a), states the general rule that a commissioner who owns an

interest in a company that is regulated by the PUC forfeits his office. The second sentence then provides for a single exception to the general rule: a commissioner who obtains his interest involuntarily, need not forfeit his office if he disposes of that interest within a reasonable time. According to FTCR, interpreting the statute to mean that a commissioner who voluntarily obtains an interest in a regulated company faces no risk of automatic forfeiture of office would improperly add an additional exception that is not specified in the statute. We reject this argument because it is based on a false premise. Contrary to FTCR's argument, the first sentence of section 303, subdivision (a), does not state that a commissioner who owns an interest in a regulated company forfeits his office. It merely states that a commissioner may not own an interest in a regulated company. No remedy is provided. FTCR's argument, based on a mistaken interpretation of the statute, must fail.

FTCR also argues that its interpretation of section 303, subdivision (a), is supported by a constitutional consideration. Specifically, FTCR notes that the first sentence of subdivision (a) stating: "A public utilities commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission" is identical to language contained in article XII, section 7, of the California Constitution. The language in article XII, section 7, in turn, is based on former article XII, section 22, which stated in part: "no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said Public Utilities Commission and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to *or hold* the office of Public Utilities Commissioner." (See Deering's Cal. Codes (1974 ed.) Const., art. XII, § 22, p. 199, italics added.) Since current article XII, section 7, was intended to restate former article XII, section 22, without "substantive change," (see art. XII, § 9) FTCR contends the language we have italicized in former article XII, section 22, must be interpreted to mean that a person cannot simultaneously hold the position of commissioner and possess stock in a regulated company. If a commissioner does so, his office becomes vacant. We reject this argument because it fails to distinguish between a duty and a remedy. Article XII, section 7, and former article XII, section 22, both describe a duty that is imposed on those who serve as commissioners on the PUC. A commissioner cannot hold an interest in a company that is regulated by the PUC. However, neither of those sections provides a remedy for a violation of that duty. It is simply beyond our purview, as an intermediate appellate court, to create or imply such a remedy where it is not statutorily or constitutionally compelled.

Finally, FTCR relies on language from *Lubin v. Wilson* (1991) 232 Cal.App.3d 1422, 1429-1430 [284 Cal.Rptr. 70], where the court said: "A person holds 'office subject to conditions imposed by the state and, where cause for removal is provided by law, the person is deemed to have accepted the office on condition he or she could be removed for that cause and in the manner provided. [Citation.]" FTCR contends that when Duque violated section 303, subdivision (a), by voluntarily owning stock, he failed to satisfy a "condition" of his position and thus forfeited his office.

We have no quarrel with the court's holding in *Lubin*; however, the case is distinguishable. The issue in *Lubin* was whether a member of the State Board of Equalization had forfeited his office when he was convicted of several felonies in federal court. The *Lubin* court ruled the member had forfeited his office, relying in part on Government Code section 1770, subdivision (h), which states that when person is "convict[ed] of a felony" his office becomes vacant. Since the statute at issue expressly mandated forfeiture under the circumstances presented, we agree the *Lubin* court reached the correct conclusion. Here, by contrast, the statute at issue contains a forfeiture provision, however, it clearly does not apply under the facts of this case. *Lubin* is not controlling.

III. DISPOSITION

The judgment is reversed.

Stevens, J., and Simons, J., concurred.

Respondent's petition for review by the Supreme Court was denied April 9, 2003.

EXHIBIT "C"
34 C.F.R., PART 106

and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion.

(4) If an action required to comply with this section would result in that alteration or those burdens, the Department shall take any other action that would not result in the alteration or burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

§ 105.41 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the Department.

(b) As provided in § 105.30, the Department shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Deputy Under Secretary for Management is responsible for coordinating implementation of this section. Complaints may be sent to the U.S. Department of Education, Office of Management, Federal Building No. 6, 400 Maryland Avenue SW., Washington, DC 20202.

(d) The Department shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The Department may extend this time period for good cause.

(e) If the Department receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Department shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157) is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Department shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the Department of the letter required by § 105.41(g). The Department may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Secretary.

(j) If the Secretary determines that additional information is needed for the complainant, he or she shall notify the complainant of the additional information needed to make his or her determination on the appeal.

(k) The Secretary shall notify the complainant of the results of the appeal.

(l) The time limit in paragraph (g) of this section may be extended by the Secretary.

(m) The Secretary may delegate the authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§ 105.42 Effective date.

The effective date of this part is October 9, 1990.

PART 106—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—Introduction

Sec.

106.1 Purpose and effective date.
106.2 Definitions.
106.3 Remedial and affirmative action and self-evaluation.
106.4 Assurance required.
106.5 Transfers of property.
106.6 Effect of other requirements.

106.7 Effect of employment opportunities.
106.8 Designation of responsible employee and adoption of grievance procedures.
106.9 Dissemination of policy.

Subpart B—Coverage

106.11 Application.
106.12 Educational institutions controlled by religious organizations.
106.13 Military and merchant marine educational institutions.
106.14 Membership practices of certain organizations.
106.15 Admissions.
106.16 Educational institutions eligible to submit transition plans.
106.17 Transition plans.

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

106.21 Admission.
106.22 Preference in admission.
106.23 Recruitment.

Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

106.31 Education programs or activities.
106.32 Housing.
106.33 Comparable facilities.
106.34 Access to course offerings.
106.35 Access to schools operated by LEAs.
106.36 Counseling and use of appraisal and counseling materials.
106.37 Financial assistance.
106.38 Employment assistance to students.
106.39 Health and insurance benefits and services.
106.40 Marital or parental status.
106.41 Athletics.
106.42 Textbooks and curricular material.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

106.51 Employment.
106.52 Employment criteria.
106.53 Recruitment.
106.54 Compensation.
106.55 Job classification and structure.
106.56 Fringe benefits.
106.57 Marital or parental status.
106.58 Effect of State or local law or other requirements.
106.59 Advertising.
106.60 Pre-employment inquiries.
106.61 Sex as a bona-fide occupational qualification.

Subpart F—Procedures [Interim]

106.71 Procedures.

SUBJECT INDEX TO TITLE IX PREAMBLE AND REGULATION

APPENDIX A—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS [NOTE]

AUTHORITY: 20 U.S.C. 1681 *et seq.*, unless otherwise noted.

SOURCE: 45 FR 30955, May 9, 1980, unless otherwise noted.

Subpart A—Introduction

§ 106.1 Purpose and effective date.

The purpose of this part is to effectuate title IX of the Education Amendments of 1972, as amended by Pub. L. 93–568, 88 Stat. 1855 (except sections 904 and 906 of those Amendments) which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in this part. This part is also intended to effectuate section 844 of the Education Amendments of 1974, Pub. L. 93–380, 88 Stat. 484. The effective date of this part shall be July 21, 1975.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682, as amended by Pub. L. 93–568, 88 Stat. 1855, and sec. 844, Education Amendments of 1974, 88 Stat. 484, Pub. L. 93–380)

§ 106.2 Definitions.

As used in this part, the term:

(a) *Title IX* means title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by section 3 of Pub. L. 93–568, 88 Stat. 1855, except sections 904 and 906 thereof; 20 U.S.C. 1681, 1682, 1683, 1685, 1686.

(b) *Department* means the Department of Education.

(c) *Secretary* means the Secretary of Education.

(d) *Assistant Secretary* means the Assistant Secretary for Civil Rights of the Department.

(e) *Reviewing Authority* means that component of the Department delegated authority by the Secretary to appoint, and to review the decisions of, administrative law judges in cases arising under this part.

(f) *Administrative law judge* means a person appointed by the reviewing authority to preside over a hearing held under this part.

(g) *Federal financial assistance* means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

(h) *Program or activity* and *program* means all of the operations of—

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or local government; or

(ii) The entity of a State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 8801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity that is established by two or more of the entities described in paragraph (h)(1), (2), or (3) of this section; any part of which is extended Federal financial assistance.

(Authority: 20 U.S.C. 1687)

(i) *Recipient* means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives such assistance, including any subunit, successor, assignee, or transferee thereof.

(j) *Applicant* means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

(k) *Educational institution* means a local educational agency (LEA) as defined by section 1001(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381), a preschool, a private elementary or secondary school, or an applicant or recipient of the type

defined by paragraph (l), (m), (n), or (o) of this section.

(l) *Institution of graduate higher education* means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(m) *Institution of undergraduate higher education* means:

(1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(n) *Institution of professional education* means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the Secretary.

(o) *Institution of vocational education* means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.

(p) *Administratively separate unit* means a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

(q) *Admission* means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

(r) *Student* means a person who has gained admission.

(s) *Transition plan* means a plan subject to the approval of the Secretary pursuant to section 901(a)(2) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980; 45 FR 37426, June 3, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.3 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the Assistant Secretary finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the Assistant Secretary deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) *Self-evaluation.* Each recipient education institution shall, within one year of the effective date of this part:

(1) Evaluate, in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students,

treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity;

(2) Modify any of these policies and practices which do not or may not meet the requirements of this part; and

(3) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) *Availability of self-evaluation and related materials.* Recipients shall maintain on file for at least three years following completion of the evaluation required under paragraph (c) of this section, and shall provide to the Assistant Secretary upon request, a description of any modifications made pursuant to paragraph (c)(ii) of this section and of any remedial steps taken pursuant to paragraph (c)(iii) of this section.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.4 Assurance required.

(a) *General.* Every application for Federal financial assistance shall as condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Assistant Secretary, that the education program or activity operated by the applicant or recipient and to which this part applies will be operated in compliance with this part. An assurance of compliance with this part shall not be satisfactory to the Assistant Secretary if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with § 106.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Assistant Secretary of such assurance.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Form.* The Director will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 45 FR 86298, Dec. 30, 1980; 65 FR 68056, Nov. 13, 2000]

§ 106.5 Transfers of property.

If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of subpart B of this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.6 Effect of other requirements.

(a) *Effect of other Federal provisions.* The obligations imposed by this part are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; sections 704 and 855 of the Public Health Service Act (42 U.S.C. 292d and 298b–2); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act

(29 U.S.C. 206 and 206(d)); and any other Act of Congress or Federal regulation.

(Authority: Secs. 901, 902, 905, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1685)

(b) *Effect of State or local law or other requirements.* The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with this part is not obviated or alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives Federal financial assistance.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.7 Effect of employment opportunities.

The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.8 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all its students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.9 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational program or activity which it operates, and that it is required by title IX and this part not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the Assistant Secretary finds necessary to apprise such persons of the protections against discrimination assured them by title IX and this part, but shall state at least that the requirement not to discriminate in the education program or activity extends to employment therein, and to admission thereto unless Subpart C does not apply to the recipient, and that inquiries concerning the application of title IX and this part to such recipient may be referred to the employee designated pursuant to § 106.8, or to the Assistant Secretary.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this part or of the date this part first applies to such recipient, whichever comes later, which notification shall include publication in:

(i) Local newspapers;

(ii) Newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and

(iii) Memoranda or other written communications distributed to every student and employee of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type, described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by this part.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

Subpart B—Coverage

§ 106.11 Application.

Except as provided in this subpart, this part 106 applies to every recipient and to the education program or activity operated by such recipient which receives Federal financial assistance.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 86298, Dec. 30, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.12 Educational institutions controlled by religious organizations.

(a) *Application.* This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section, shall do so by submitting in writing to the Assistant Secretary a statement by the highest ranking official of the institution, identifying the provisions of this part which conflict with a specific tenet of the religious organization.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.13 Military and merchant marine educational institutions.

This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.14 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* This part does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) *YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls.* This part does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts and Camp Fire Girls.

(c) *Voluntary youth service organizations.* This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under section 501(a) of the Internal Revenue Code of

1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; sec. 3(a) of P.L. 93-568, 88 Stat. 1862 amending Sec. 901)

§ 106.15 Admissions.

(a) Admissions to educational institutions prior to June 24, 1973, are not covered by this part.

(b) *Administratively separate units.* For the purposes only of this section, §§ 106.16 and 106.17, and subpart C, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of subpart C.* Except as provided in paragraphs (d) and (e) of this section, subpart C applies to each recipient. A recipient to which subpart C applies shall not discriminate on the basis of sex in admission or recruitment in violation of that subpart.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Subpart C does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 45 FR 86298, Dec. 30, 1980]

§ 106.16 Educational institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which subpart C applies which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but thereafter admitted as regular students, students of the sex not admitted prior to June 23, 1965.

(b) *Provision for transition plans.* An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of subpart C unless it is carrying out a transition plan approved by the Secretary as described in § 106.17, which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than June 23, 1979.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.17 Transition plans.

(a) *Submission of plans.* An institution to which § 106.16 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the Secretary a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so, when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which §106.16 applies shall result in treatment of applicants to or students of such recipient in violation of subpart C unless such treatment is necessitated by an obstacle identified in paragraph (b) (3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b) (4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which §106.16 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment which emphasizes the institution's commitment to enrolling students of the sex previously excluded.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

§ 106.21 Admission.

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which this subpart applies, except as provided in §§ 106.16 and 106.17.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes;

(3) Shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admision, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.22 Preference in admission.

A recipient to which this subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.23 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 106.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 106.3(b).

(b) *Recruitment at certain institutions.* A recipient to which this subpart applies shall not recruit primarily or exclusively at educational institutions, schools or entities which admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

§ 106.31 Education programs or activities.

(a) *General.* Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance. This subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which subpart C does not apply, or (2) an entity, not a recipient, to which subpart C would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided,* a recipient educational institution which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to

members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Aid, benefits or services not provided by recipient.* (1) This paragraph applies to any recipient which requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in educational consortia and cooperative employment and student-teaching assignments.

(2) Such recipient:

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student, or employee of such recipient which this part would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 47 FR 32527, July 28, 1982; 65 FR 68056, Nov. 13, 2000]

§ 106.32 Housing.

(a) *Generally.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by such recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole:

(i) Proportionate in quantity and

(ii) Comparable in quality and cost to the student.

A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

(Authority: Secs. 901, 902, 907, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1686)

§ 106.33 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374)

§ 106.34 Access to course offerings.

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. With respect to physical education classes and

activities at the secondary and postsecondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.35 Access to schools operated by LEAs.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.36 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.37 Financial assistance.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, in providing financial assistance to any of its students, a recipient shall not:

(1) On the basis of sex, provide different amount or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities or other

services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such recipient's students in a manner which discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified therein; *Provided,* That the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and

(iii) No student is denied the award for which he or she was selected under paragraph (b)(2)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 106.41.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; and Sec. 844, Education Amendments of 1974, Pub. L. 93–380, 88 Stat. 484)

§ 106.38 Employment assistance to students.

(a) *Assistance by recipient in making available outside employment.* A recipient which assists any agency, organization or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient which employs any of its students shall not do so in a manner which violates subpart E of this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.39 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate Subpart E of this part if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.40 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental,

family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section shall ensure that the separate portion is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.41 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment and supplies;

(3) Scheduling of games and practice time;

(4) Travel and per diem allowance;

(5) Opportunity to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Provision of locker rooms, practice and competitive facilities;

(8) Provision of medical and training facilities and services;

(9) Provision of housing and dining facilities and services;

(10) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Assistant Secretary may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; and Sec. 844, Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 484)

§ 106.42 Textbooks and curricular material.

Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

§ 106.51 Employment.

(a) *General.* (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part.

(b) *Application.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including those that are social or recreational; and

(10) Any other term, condition, or privilege of employment.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

[45 FR 30955, May 9, 1980, as amended at 65 FR 68056, Nov. 13, 2000]

§ 106.52 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.53 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.54 Compensation.

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.55 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in § 106.61.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.56 Fringe benefits.

(a) *Fringe benefits defined.* For purposes of this part, *fringe benefits* means: Any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment not subject to the provision of § 106.54.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, or for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.57 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.58 Effect of State or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.59 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex

is a *bona-fide* occupational qualification for the particular job in question.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.60 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 106.61 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682

Subpart F—Procedures [Interim]

§ 106.71 Procedures.

The procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 34 CFR 100.6–100.11 and 34 CFR, part 101.

(Authority: Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

SUBJECT INDEX TO TITLE IX PREAMBLE AND REGULATION[1]

A

Access to Course Offerings [43, 55, 56, 57, 58]; 106.34
Access to Schools Operated by LEA's, [44]; 106.35
Admissions, [5, 6, 30]; 106.15, 106.21
  Affirmative and remedial action, [16, 17, 24]; 106.3(a); (b)
  Administratively separate units, [30]; 106.15(b) 106.2(o)
  Educational Institutions, [30], 106.15(d), 106.2(n)
  General, 106.21(a), 106.2(p),
  Prohibitions relating to marital and parental status, [32, 36]; 106.21(c)
  Professional schools, [30], 106.2(m)
  Public institutions of undergraduate higher education, 106.15(e)
  Recruitment, [34, 35]; 106.23
  Specific prohibitions, 106.21(b)
  Tests, [31]; 106.21(b) (2)
  Preference in admission, [35]; 106.22
Advertising, 106.59
Affirmative Action, see "Remedial and Affirmative Actions"
Assistance to "outside" discriminatory organizations, [40, 53]; 106.31(b) (7), (c)
Assurances, [18]; 106.4
  Duration of obligation, 106.4(b)
  Form, 106.4(c)
Athletics, [69 to 78]; 106.41
  Adjustment period, [78]; 106.41(d)
  Contact sport defined, 106.41(d)
  Equal opportunity, [76, 77]; 106.41(d)
  Determining factors, 106.41(c) (i) to (x)
  Equipment, 106.41(c)
  Expenditures, 106.41(c)
  Facilities, 106.41(c)
  Travel, 106.41(c)
  Scholarships, [64, 65]; 106.37(d)
  General, [69, 70, 71, 72, 73, 74, 75]; 106.41(a)
  Separate teams, [75]; 106.41(b)

B

BFOQ, [96]; 106.61

C

Comparable facilities
  Housing, [42, 54]; 106.32
  Other, 106.33, 106.35(b)
Compensation, [84, 87, 92]; 106.54
Counseling

[1] Preamble paragraph numbers are in brackets [].

EXHIBIT "D"
REVISED SEXUAL HARASSMENT GUIDANCE

REVISED SEXUAL HARASSMENT GUIDANCE: HARASSMENT OF STUDENTS BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES

TITLE IX

January 2001

U.S. Department of Education
Office for Civil Rights

PREAMBLE

Summary

The Assistant Secretary for Civil Rights, U.S. Department of Education (Department), issues a new document (revised guidance) that replaces the 1997 document entitled "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties," issued by the Office for Civil Rights (OCR) on March 13, 1997 (1997 guidance). We revised the guidance in limited respects in light of subsequent Supreme Court cases relating to sexual harassment in schools.

The revised guidance reaffirms the compliance standards that OCR applies in investigations and administrative enforcement of Title IX of the Education Amendments of 1972 (Title IX) regarding sexual harassment. The revised guidance re-grounds these standards in the Title IX regulations, distinguishing them from the standards applicable to private litigation for money damages and clarifying their regulatory basis as distinct from Title VII of the Civil Rights Act of 1964 (Title VII) agency law. In most other respects the revised guidance is identical to the 1997 guidance. Thus, we intend the revised guidance to serve the same purpose as the 1997 guidance. It continues to provide the principles that a school[1] should use to recognize and effectively respond to sexual harassment of students in its program as a condition of receiving Federal financial assistance.

Purpose and Scope of the Revised Guidance

In March 1997, we published in the Federal Register "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." 62 FR 12034. We issued the guidance pursuant to our authority under Title IX, and our Title IX implementing regulations, to eliminate discrimination based on sex in education programs and activities receiving Federal financial assistance. It was grounded in longstanding legal authority establishing that sexual harassment of students can be a form of sex discrimination covered by Title IX. The guidance was the product of extensive consultation with interested parties, including students, teachers, school administrators, and researchers. We also made the document available for public comment.

Since the issuance of the 1997 guidance, the Supreme Court (Court) has issued several important decisions in sexual harassment cases, including two decisions specifically addressing sexual harassment of students under Title IX: Gebser v. Lago Vista Independent School District (Gebser), 524 U.S. 274 (1998), and Davis v. Monroe County Board of Education (Davis), 526 U.S. 629 (1999). The Court held in Gebser that a school can be liable for monetary damages if a teacher sexually harasses a student, an

[1] As in the 1997 guidance, the revised guidance uses the term "school" to refer to all schools, colleges, universities, and other educational institutions that receive Federal funds from the Department.

official who has authority to address the harassment has actual knowledge of the harassment, and that official is deliberately indifferent in responding to the harassment. In Davis, the Court announced that a school also may be liable for monetary damages if one student sexually harasses another student in the school's program and the conditions of Gebser are met.

The Court was explicit in Gebser and Davis that the liability standards established in those cases are limited to private actions for monetary damages. See, e.g., Gebser, 524 U.S. 283, and Davis, 526 U.S. at 639. The Court acknowledged, by contrast, the power of Federal agencies, such as the Department, to "promulgate and enforce requirements that effectuate [Title IX's] nondiscrimination mandate," even in circumstances that would not give rise to a claim for money damages. See, Gebser, 524 U.S. at 292.

In an August 1998 letter to school superintendents and a January 1999 letter to college and university presidents, the Secretary of Education informed school officials that the Gebser decision did not change a school's obligations to take reasonable steps under Title IX and the regulations to prevent and eliminate sexual harassment as a condition of its receipt of Federal funding. The Department also determined that, although in most important respects the substance of the 1997 guidance was reaffirmed in Gebser and Davis, certain areas of the 1997 guidance could be strengthened by further clarification and explanation of the Title IX regulatory basis for the guidance.

On November 2, 2000, we published in the Federal Register a notice requesting comments on the proposed revised guidance (62 FR 66092). A detailed explanation of the Gebser and Davis decisions, and an explanation of the proposed changes in the guidance, can be found in the preamble to the proposed revised guidance. In those decisions and a third opinion, Oncale v. Sundowner Offshore Services, Inc. (Oncale), 523 U.S. 75 (1998) (a sexual harassment case decided under Title VII), the Supreme Court confirmed several fundamental principles we articulated in the 1997 guidance. In these areas, no changes in the guidance were necessary. A notice regarding the availability of this final document appeared in the Federal Register on January 19, 2001.

Enduring Principles from the 1997 Guidance

It continues to be the case that a significant number of students, both male and female, have experienced sexual harassment, which can interfere with a student's academic performance and emotional and physical well-being. Preventing and remedying sexual harassment in schools is essential to ensuring a safe environment in which students can learn. As with the 1997 guidance, the revised guidance applies to students at every level of education. School personnel who understand their obligations under Title IX, e.g., understand that sexual harassment can be sex discrimination in violation of Title IX, are in the best position to prevent harassment and to lessen the harm to students if, despite their best efforts, harassment occurs.

One of the fundamental aims of both the 1997 guidance and the revised guidance has been to emphasize that, in addressing allegations of sexual harassment, the good judgment and common sense of teachers and school administrators are important elements of a response that meets the requirements of Title IX.

A critical issue under Title IX is whether the school recognized that sexual harassment has occurred and took prompt and effective action calculated to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects. If harassment has occurred, doing nothing is always the wrong response. However, depending on the circumstances, there may be more than one right way to respond. The important thing is for school employees or officials to pay attention to the school environment and not to hesitate to respond to sexual harassment in the same reasonable, commonsense manner as they would to other types of serious misconduct.

It is also important that schools not overreact to behavior that does not rise to the level of sexual harassment. As the Department stated in the 1997 guidance, a kiss on the cheek by a first grader does not constitute sexual harassment. School personnel should consider the age and maturity of students in responding to allegations of sexual harassment.

Finally, we reiterate the importance of having well- publicized and effective grievance procedures in place to handle comp laints of sex discrimination, including sexual harassment complaints. Nondiscrimination policies and procedures are required by the Title IX regulations. In fact, the Supreme Court in Gebser specifically affirmed the Department's authority to enforce this requirement administratively in order to carry out Title IX's nondiscrimination mandate. 524 U.S. at 292. Strong policies and effective grievance procedures are essential to let students and employees know that sexual harassment will not be tolerated and to ensure that they know how to report it.

Analysis of Comments Received Concerning the Proposed Revised Guidance and the Resulting Changes

In response to the Assistant Secretary's invitation to comment, OCR received approximately 11 comments representing approximately 15 organizations and individuals. Commenters provided specific suggestions regarding how the revised guidance could be clarified. Many of these suggested changes have been incorporated. Significant and recurring issues are grouped by subject and discussed in the following sections:

Distinction Between Administrative Enforcement and Private Litigation for Monetary Damages

In Gebser and Davis, the Supreme Court addressed for the first time the appropriate standards for determining when a school district is liable under Title IX for money damages in a private lawsuit brought by or on behalf of a student who has been sexually harassed. As explained in the preamble to the proposed revised guidance, the Court was explicit in Gebser and Davis that the liability standards established in these cases are limited to private actions for monetary damages. See, e.g., Gebser, 524 U.S. at 283, and Davis, 526 U.S. at 639. The Gebser Court recognized and contrasted lawsuits for money damages with the incremental nature of administrative enforcement of Title IX. In Gebser, the Court was concerned with the possibility of a money damages award against a school for harassment about which it had not known. In contrast, the process of administrative enforcement requires enforcement agencies such as OCR to make schools

aware of potential Title IX violations and to seek voluntary corrective action before pursuing fund termination or other enforcement mechanisms.

Commenters uniformly agreed with OCR that the Court limited the liability standards established in Gebser and Davis to private actions for monetary damages. See, e.g., Gebser, 524 U.S. 283, and Davis, 526 U.S. at 639. Commenters also agreed that the administrative enforcement standards reflected in the 1997 guidance remain valid in OCR enforcement actions.[2] Finally, commenters agreed that the proposed revisions provided important clarification to schools regarding the standards that OCR will use and that schools should use to determine compliance with Title IX as a condition of the receipt of Federal financial assistance in light of Gebser and Davis.

Harassment by Teachers and Other School Personnel

Most commenters agreed with OCR's interpretation of its regulations regarding a school's responsibility for harassment of students by teachers and other school employees. These commenters agreed that Title IX's prohibitions against discrimination are not limited to official policies and practices governing school programs and activities. A school also engages in sex-based discrimination if its employees, in the context of carrying out their day-to-day job responsibilities for providing aid, benefits, or services to students (such as teaching, counseling, supervising, and advising students) deny or limit a student's ability to participate in or benefit from the schools program on the basis of sex. Under the Title IX regulations, the school is responsible for discrimination in these cases, whether or not it knew or should have known about it, because the discrimination occurred as part of the school's undertaking to provide nondiscriminatory aid, benefits, and services to students. The revised guidance distinguishes these cases from employee harassment that, although taking place in a school's program, occurs outside of the context of the employee's provision of aid, benefits, and services to students. In these latter cases, the school's responsibilities are not triggered until the school knew or should have known about the harassment.

One commenter expressed concern that it was inappropriate ever to find a school out of compliance for harassment about which it knew nothing. We reiterate that, although a school may in some cases be responsible for harassment caused by an employee that occurred before other responsible employees of the school knew or should have known about it, OCR always provides the school with actual notice and the opportunity to take appropriate corrective action before issuing a finding of violation. This is consistent with the Court's underlying concern in Gebser and Davis.

Most commenters acknowledged that OCR has provided useful factors to determine whether harassing conduct took place "in the context of providing aid, benefits, or services." However, some commenters stated that additional clarity and examples regarding the issue were needed. Commenters also suggested clarifying

[2] It is the position of the United States that the standards set out in OCR's guidance for finding a violation and seeking voluntary corrective action also would apply to private actions for injunctive and other equitable relief. See brief of the United States as Amicus Curiae in Davis v. Monroe County.

references to quid pro quo and hostile environment harassment as these two concepts, though useful, do not determine the issue of whether the school itself is considered responsible for the harassment. We agree with these concerns and have made significant revisions to the sections "Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program" and "Harassment by Teachers and Other Employees" to clarify the guidance in these respects.

Gender-based Harassment, Including Harassment Predicated on Sex-stereotyping

Several commenters requested that we expand the discussion and include examples of gender-based harassment predicated on sex stereotyping. Some commenters also argued that gender-based harassment should be considered sexual harassment, and that we have "artificially" restricted the guidance only to harassment in the form of conduct of a sexual nature, thus, implying that gender-based harassment is of less concern and should be evaluated differently.

We have not further expanded this section because, while we are also concerned with the important issue of gender-based harassment, we believe that harassment of a sexual nature raises unique and sufficiently important issues that distinguish it from other types of gender-based harassment and warrants its own guidance.

Nevertheless, we have clarified this section of the guidance in several ways. The guidance clarifies that gender-based harassment, including that predicated on sex-stereotyping, is covered by Title IX if it is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program. Thus, it can be discrimination on the basis of sex to harass a student on the basis of the victim's failure to conform to stereotyped notions of masculinity and femininity. Although this type of harassment is not covered by the guidance, if it is sufficiently serious, gender-based harassment is a school's responsibility, and the same standards generally will apply. We have also added an endnote regarding Supreme Court precedent for the proposition that sex stereotyping can constitute sex discrimination.

Several commenters also suggested that we state that sexual and non-sexual (but gender-based) harassment should not be evaluated separately in determining whether a hostile environment exists. We note that both the proposed revised guidance and the final revised guidance indicate in several places that incidents of sexual harassment and non-sexual, gender-based harassment can be combined to determine whether a hostile environment has been created. We also note that sufficiently serious harassment of a sexual nature remains covered by Title IX, as explained in the guidance, even though the hostile environment may also include taunts based on sexual orientation.

Definition of Harassment

One commenter urged OCR to provide distinct definitions of sexual harassment to be used in administrative enforcement as distinguished from criteria used to maintain private actions for monetary damages. We disagree. First, as discussed in the preamble to the proposed revised guidance, the definition of hostile environment sexual harassment used by the Court in Davis is consistent with the definition found in the proposed guidance. Although the terms used by the Court in Davis are in some ways different from

the words used to define hostile environment harassment in the 1997 guidance (see, e.g., 62 FR 12041, "conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program, or to create a hostile or abusive educational environment"), the definitions are consistent. Both the Court's and the Department's definitions are contextual descriptions intended to capture the same concept -- that under Title IX, the conduct must be sufficiently serious that it adversely affects a student's ability to participate in or benefit from the school's program. In determining whether harassment is actionable, both Davis and the Department tell schools to look at the "constellation of surrounding circumstances, expectations, and relationships" (526 U.S. at 651 (citing Oncale)), and the Davis Court cited approvingly to the underlying core factors described in the 1997 guidance for evaluating the context of the harassment. Second, schools benefit from consistency and simplicity in understanding what is sexual harassment for which the school must take responsive action. A multiplicity of definitions would not serve this purpose.

Several commenters suggested that we develop a unique Title IX definition of harassment that does not rely on Title VII and that takes into account the special relationship of schools to students. Other commenters, by contrast, commended OCR for recognizing that Gebser and Davis did not alter the definition of hostile environment sexual harassment found in OCR's 1997 guidance, which derives from Title VII caselaw, and asked us to strengthen the point. While Gebser and Davis made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the Davis Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX. We also believe that the factors described in both the 1997 guidance and the revised guidance to determine whether sexual harassment has occurred provide the necessary flexibility for taking into consideration the age and maturity of the students involved and the nature of the school environment.

Effective Response

One commenter suggested that the change in the guidance from "appropriate response" to "effective response" implies a change in OCR policy that requires omniscience of schools. We disagree. Effectiveness has always been the measure of an adequate response under Title IX. This does not mean a school must overreact out of fear of being judged inadequate. Effectiveness is measured based on a reasonableness standard. Schools do not have to know beforehand that their response will be effective. However, if their initial steps are ineffective in stopping the harassment, reasonableness may require a series of escalating steps.

The Relationship Between FERPA and Title IX

In the development of both the 1997 guidance and the current revisions to the guidance, commenters raised concerns about the interrelation of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and Title IX. The concerns relate to two issues: (1) the harassed student's right to information about the outcome of a sexual harassment complaint against another student, including information about sanctions imposed on a student found guilty of harassment; and (2) the due process rights of

individuals, including teachers, accused of sexual harassment by a student, to obtain information about the identity of the complainant and the nature of the allegations.

FERPA generally forbids disclosure of information from a student's "education record" without the consent of the student (or the student's parent). Thus, FERPA may be relevant when the person found to have engaged in harassment is another student, because written information about the complaint, investigation, and outcome is part of the harassing student's education record. Title IX is also relevant because it is an important part of taking effective responsive action for the school to inform the harassed student of the results of its investigation and whether it counseled, disciplined, or otherwise sanctioned the harasser. This information can assure the harassed student that the school has taken the student's complaint seriously and has taken steps to eliminate the hostile environment and prevent the harassment from recurring.

The Department currently interprets FERPA as not conflicting with the Title IX requirement that the school notify the harassed student of the outcome of its investigation, i.e., whether or not harassment was found to have occurred, because this information directly relates to the victim. It has been the Department's position that there is a potential conflict between FERPA and Title IX regarding disclosure of sanctions, and that FERPA generally prevents a school from disclosing to a student who complained of harassment information about the sanction or discipline imposed upon a student who was found to have engaged in that harassment.[3]

There is, however, an additional statutory provision that may apply to this situation. In 1994, as part of the Improving America's Schools Act, Congress amended the General Education Provisions Act (GEPA) -- of which FERPA is a part -- to state that nothing in GEPA "shall be construed to affect the applicability of ... title IX of the Education Amendments of 1972...."[4] The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between requirements of FERPA and requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. The Department is in the process of developing a consistent approach and specific factors for implementing this provision. OCR and the Department's Family Policy Compliance Office (FPCO) intend to issue joint guidance, discussing specific areas of potential conflict between FERPA and Title IX.

---

[3] Exceptions include the case of a sanction that directly relates to the person who was harassed (e.g., an order that the harasser stay away from the harassed student), or sanctions related to offenses for which there is a statutory exception, such as crimes of violence or certain sex offenses in postsecondary institutions.

[4] 20 U.S.C. 1221(d). A similar amendment was originally passed in 1974 but applied only to Title VI of the Civil Rights Act of 1964 (prohibiting race discrimination by recipients). The 1994 amendments also extended 20 U.S.C. 1221(d) to Section 504 of the Rehabilitation Act of 1973 (prohibiting disability-based discrimination by recipients) and to the Age Discrimination Act.

FERPA is also relevant when a student accuses a teacher or other employee of sexual harassment, because written information about the allegations is contained in the student's education record. The potential conflict arises because, while FERPA protects the privacy of the student accuser, the accused individual may need the name of the accuser and information regarding the nature of the allegations in order to defend against the charges. The 1997 guidance made clear that neither FERPA nor Title IX override any federally protected due process rights of a school employee accused of sexual harassment.

Several commenters urged the Department to expand and strengthen this discussion. They argue that in many instances a school's failure to provide information about the name of the student accuser and the nature of the allegations seriously undermines the fairness of the investigative and adjudicative process. They also urge the Department to include a discussion of the need for confidentiality as to the identity of the individual accused of harassment because of the significant harm that can be caused by false accusations. We have made several changes to the guidance, including an additional discussion regarding the confidentiality of a person accused of harassment and a new heading entitled "Due Process Rights of the Accused," to address these concerns.

REVISED SEXUAL HARASSMENT GUIDANCE: HARASSMENT OF STUDENTS[1] BY SCHOOL EMPLOYEES, OTHER STUDENTS, OR THIRD PARTIES

Outline of Contents

I. Introduction

II. Sexual Harassment

III. Applicability of Title IX

IV. Title IX Regulatory Compliance Responsibilities

V. Determining a School's Responsibilities

- A. Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program
  - 1. Factors Used to Evaluate Hostile Environment Sexual Harassment
  - 2. Welcomeness
- B. Nature of a School's Responsibility to Address Sexual Harassment
  - 1. Harassment by Teachers and Other Employees
  - 2. Harassment by Other Students or Third Parties
- C. Notice of Employee, Peer, or Third Party Harassment
- D. The Role of Grievance Procedures

VI. OCR Case Resolution

VII. Recipient's Response

- A. Response to Student or Parent Reports of Harassment; Response to Direct Observation of Harassment by a Responsible Employee
- B. Confidentiality
- C. Response to Other Types of Notice

VIII. Prevention

IX. Prompt and Equitable Grievance Procedures

X. Due Process Rights of the Accused

XI. First Amendment

I. Introduction

Title IX of the Education Amendments of 1972 (Title IX) and the Department of Education's (Department) implementing regulations prohibit discrimination on the basis of sex in federally assisted education programs and activities.[2] The Supreme Court, Congress, and Federal executive departments and agencies, including the Department, have recognized that sexual harassment of students can constitute discrimination prohibited by Title IX.[3] This guidance focuses on a school's[4] fundamental compliance responsibilities under Title IX and the Title IX regulations to address sexual harassment of students as a condition of continued receipt of Federal funding. It describes the regulatory basis for a school's compliance responsibilities under Title IX, outlines the circumstances under which sexual harassment may constitute discrimination prohibited by the statute and regulations, and provides information about actions that schools should take to prevent sexual harassment or to address it effectively if it does occur.[5]

II. Sexual Harassment

Sexual harassment is unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.[6] Sexual harassment of a student can deny or limit, on the basis of sex, the student's ability to participate in or to receive benefits, services, or opportunities in the school's program. Sexual harassment of students is, therefore, a form of sex discrimination prohibited by Title IX under the circumstances described in this guidance.

It is important to recognize that Title IX's prohibition against sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct. For example, a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee will not be considered sexual harassment.[7] Similarly, one student's demonstration of a sports maneuver or technique requiring contact with another student will not be considered sexual harassment. However, in some circumstances, nonsexual conduct may take on sexual connotations and rise to the level of sexual harassment. For example, a teacher's repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment.

III. Applicability of Title IX

Title IX applies to all public and private educational institutions that receive Federal funds, i.e., recipients, including, but not limited to, elementary and secondary schools, school districts, proprietary schools, colleges, and universities. The guidance uses the terms "recipients" and "schools" interchangeably to refer to all of those institutions. The "education program or activity" of a school includes all of the school's operations.[8] This means that Title IX protects students in connection with all of the academic, educational, extra-curricular, athletic, and other programs of the school,

whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

A student may be sexually harassed by a school employee,[9] another student, or a non-employee third party (e.g., a visiting speaker or visiting athletes). Title IX protects any "person" from sex discrimination. Accordingly, both male and female students are protected from sexual harassment[10] engaged in by a school's employees, other students, or third parties. Moreover, Title IX prohibits sexual harassment regardless of the sex of the harasser, i.e., even if the harasser and the person being harassed are members of the same sex.[11] An example would be a campaign of sexually explicit graffiti directed at a particular girl by other girls.[12]

Although Title IX does not prohibit discrimination on the basis of sexual orientation,[13] sexual harassment directed at gay or lesbian students that is sufficiently serious to limit or deny a student's ability to participate in or benefit from the school's program constitutes sexual harassment prohibited by Title IX under the circumstances described in this guidance.[14] For example, if a male student or a group of male students target a gay student for physical sexual advances, serious enough to deny or limit the victim's ability to participate in or benefit from the school's program, the school would need to respond promptly and effectively, as described in this guidance, just as it would if the victim were heterosexual. On the other hand, if students heckle another student with comments based on the student's sexual orientation (e.g., "gay students are not welcome at this table in the cafeteria"), but their actions do not involve conduct of a sexual nature, their actions would not be sexual harassment covered by Title IX.[15]

Though beyond the scope of this guidance, gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping,[16] but not involving conduct of a sexual nature, is also a form of sex discrimination to which a school must respond, if it rises to a level that denies or limits a student's ability to participate in or benefit from the educational program.[17] For example, the repeated sabotaging of female graduate students' laboratory experiments by male students in the class could be the basis of a violation of Title IX. A school must respond to such harassment in accordance with the standards and procedures described in this guidance.[18] In assessing all related circumstances to determine whether a hostile environment exists, incidents of gender-based harassment combined with incidents of sexual harassment could create a hostile environment, even if neither the gender-based harassment alone nor the sexual harassment alone would be sufficient to do so.[19]

IV. Title IX Regulatory Compliance Responsibilities

As a condition of receiving funds from the Department, a school is required to comply with Title IX and the Department's Title IX regulations, which spell out prohibitions against sex discrimination. The law is clear that sexual harassment may constitute sex discrimination under Title IX.[20]

Recipients specifically agree, as a condition for receiving Federal financial assistance from the Department, to comply with Title IX and the Department's Title IX regulations. The regulatory provision requiring this agreement, known as an assurance of

compliance, specifies that recipients must agree that education programs or activities operated by the recipient will be operated in compliance with the Title IX regulations, including taking any action necessary to remedy its discrimination or the effects of its discrimination in its programs.[21]

The regulations set out the basic Title IX responsibilities a recipient undertakes when it accepts Federal financial assistance, including the following specific obligations.[22] A recipient agrees that, in providing any aid, benefit, or service to students, it will not, on the basis of sex—

- Treat one student differently from another in determining whether the student satisfies any requirement or condition for the provision of any aid, benefit, or service;[23]
- Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;[24]
- Deny any student any such aid, benefit, or service;[25]
- Subject students to separate or different rules of behavior, sanctions, or other treatment;[26]
- Aid or perpetuate discrimination against a student by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to students;[27] and
- Otherwise limit any student in the enjoyment of any right, privilege, advantage, or opportunity.[28]

For the purposes of brevity and clarity, this guidance generally summarizes this comprehensive list by referring to a school's obligation to ensure that a student is not denied or limited in the ability to participate in or benefit from the school's program on the basis of sex.

The regulations also specify that, if a recipient discriminates on the basis of sex, the school must take remedial action to overcome the effects of the discrimination.[29]

In addition, the regulations establish procedural requirements that are important for the prevention or correction of sex discrimination, including sexual harassment. These requirements include issuance of a policy against sex discrimination[30] and adoption and publication of grievance procedures providing for prompt and equitable resolution of complaints of sex discrimination.[31] The regulations also require that recipients designate at least one employee to coordinate compliance with the regulations, including coordination of investigations of complaints alleging noncompliance.[32]

To comply with these regulatory requirements, schools need to recognize and respond to sexual harassment of students by teachers and other employees, by other students, and by third parties. This guidance explains how the requirements of the Title IX regulations apply to situations involving sexual harassment of a student and outlines measures that schools should take to ensure compliance.

V. Determining a School's Responsibilities

In assessing sexually harassing conduct, it is important for schools to recognize that two distinct issues are considered. The first issue is whether, considering the types of harassment discussed in the following section, the conduct denies or limits a student's ability to participate in or benefit from the program based on sex. If it does, the second issue is the nature of the school's responsibility to address that conduct. As discussed in a following section, this issue depends in part on the identity of the harasser and the context in which the harassment occurred.

A. Harassment that Denies or Limits a Student's Ability to Participate in or Benefit from the Education Program

This guidance moves away from specific labels for types of sexual harassment.[33] In each case, the issue is whether the harassment rises to a level that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. However, an understanding of the different types of sexual harassment can help schools determine whether or not harassment has occurred that triggers a school's responsibilities under, or violates, Title IX or its regulations.

The type of harassment traditionally referred to as quid pro quo harassment occurs if a teacher or other employee conditions an educational decision or benefit on the student's submission to unwelcome sexual conduct.[34] Whether the student resists and suffers the threatened harm or submits and avoids the threatened harm, the student has been treated differently, or the student's ability to participate in or benefit from the school's program has been denied or limited, on the basis of sex in violation of the Title IX regulations.[35]

By contrast, sexual harassment can occur that does not explicitly or implicitly condition a decision or benefit on submission to sexual conduct. Harassment of this type is generally referred to as hostile environment harassment.[36] This type of harassing conduct requires a further assessment of whether or not the conduct is sufficiently serious to deny or limit a student's ability to participate in or benefit from the school's program based on sex.[37]

Teachers and other employees can engage in either type of harassment. Students and third parties are not generally given responsibility over other students and, thus, generally can only engage in hostile environment harassment.

1. Factors Used to Evaluate Hostile Environment Sexual Harassment

As outlined in the following paragraphs, OCR considers a variety of related factors to determine if a hostile environment has been created, i.e., if sexually harassing conduct by an employee, another student, or a third party is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the school's program based on sex. OCR considers the conduct from both a subjective[38] and objective[39] perspective. In evaluating the severity and pervasiveness of the conduct, OCR considers all relevant circumstances, i.e., "the constellation of surrounding circumstances, expectations, and relationships."[40] Schools should also use these factors to evaluate conduct in order to draw commonsense distinctions between conduct that constitutes

sexual harassment and conduct that does not rise to that level. Relevant factors include the following:

- The degree to which the conduct affected one or more students' education. OCR assesses the effect of the harassment on the student to determine whether it has denied or limited the student's ability to participate in or benefit from the school's program. For example, a student's grades may go down or the student may be forced to withdraw from school because of the harassing behavior.[41] A student may also suffer physical injuries or mental or emotional distress.[42] In another situation, a student may have been able to keep up his or her grades and continue to attend school even though it was very difficult for him or her to do so because of the teacher's repeated sexual advances. Similarly, a student may be able to remain on a sports team, despite experiencing great difficulty performing at practices and games from the humiliation and anger caused by repeated sexual advances and intimidation by several team members that create a hostile environment. Harassing conduct in these examples would alter a reasonable student's educational environment and adversely affect the student's ability to participate in or benefit from the school's program on the basis of sex.

  A hostile environment can occur even if the harassment is not targeted specifically at the individual complainant.[43] For example, if a student, group of students, or a teacher regularly directs sexual comments toward a particular student, a hostile environment may be created not only for the targeted student, but also for others who witness the conduct.

- The type, frequency, and duration of the conduct. In most cases, a hostile environment will exist if there is a pattern or practice of harassment, or if the harassment is sustained and nontrivial.[44] For instance, if a young woman is taunted by one or more young men about her breasts or genital area or both, OCR may find that a hostile environment has been created, particularly if the conduct has gone on for some time, or takes place throughout the school, or if the taunts are made by a number of students. The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. For instance, if the conduct is more severe, e.g., attempts to grab a female student's breasts or attempts to grab any student's genital area or buttocks, it need not be as persistent to create a hostile environment. Indeed, a single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment.[45] On the other hand, conduct that is not severe will not create a hostile environment, e.g., a comment by one student to another student that she has a nice figure. Indeed, depending on the circumstances, this may not even be conduct of a sexual nature.[46] Similarly, because students date one another, a request for a date or a gift of flowers, even if unwelcome, would not create a hostile environment. However, there may be circumstances in which repeated, unwelcome requests for dates or similar conduct could create a hostile environment. For example, a person, who has been refused previously, may request dates in an intimidating or threatening manner.

- The identity of and relationship between the alleged harasser and the subject or subjects of the harassment. A factor to be considered, especially in cases involving allegations of sexual harassment of a student by a school employee, is the identity of

and relationship between the alleged harasser and the subject or subjects of the harassment. For example, due to the power a professor or teacher has over a student, sexually based conduct by that person toward a student is more likely to create a hostile environment than similar conduct by another student.[47]

- The number of individuals involved. Sexual harassment may be committed by an individual or a group. In some cases, verbal comments or other conduct from one person might not be sufficient to create a hostile environment, but could be if done by a group. Similarly, while harassment can be directed toward an individual or a group,[48] the effect of the conduct toward a group may vary, depending on the type of conduct and the context. For certain types of conduct, there may be "safety in numbers." For example, following an individual student and making sexual taunts to him or her may be very intimidating to that student, but, in certain circumstances, less so to a group of students. On the other hand, persistent unwelcome sexual conduct still may create a hostile environment if directed toward a group.

- The age and sex of the alleged harasser and the subject or subjects of the harassment. For example, in the case of younger students, sexually harassing conduct is more likely to be intimidating if coming from an older student.[49]

- The size of the school, location of the incidents, and context in which they occurred. Depending on the circumstances of a particular case, fewer incidents may have a greater effect at a small college than at a large university campus. Harassing conduct occurring on a school bus may be more intimidating than similar conduct on a school playground because the restricted area makes it impossible for students to avoid their harassers.[50] Harassing conduct in a personal or secluded area, such as a dormitory room or residence hall, can have a greater effect (e.g., be seen as more threatening) than would similar conduct in a more public area. On the other hand, harassing conduct in a public place may be more humiliating. Each incident must be judged individually.

- Other incidents at the school. A series of incidents at the school, not involving the same students, could — taken together — create a hostile environment, even if each by itself would not be sufficient.[51]

- Incidents of gender-based, but nonsexual harassment. Acts of verbal, nonverbal or physical aggression, intimidation or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently serious to create a sexually hostile environment.[52]

It is the totality of the circumstances in which the behavior occurs that is critical in determining whether a hostile environment exists. Consequently, in using the factors discussed previously to evaluate incidents of alleged harassment, it is always important to use common sense and reasonable judgement in determining whether a sexually hostile environment has been created.

2. Welcomeness

The section entitled "Sexual Harassment" explains that in order for conduct of a sexual nature to be sexual harassment, it must be unwelcome. Conduct is unwelcome if

the student did not request or invite it and "regarded the conduct as undesirable or offensive."[53] Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.[54] For example, a student may decide not to resist sexual advances of another student or may not file a complaint out of fear. In addition, a student may not object to a pattern of demeaning comments directed at him or her by a group of students out of a concern that objections might cause the harassers to make more comments. The fact that a student may have accepted the conduct does not mean that he or she welcomed it.[55] Also, the fact that a student willingly participated in conduct on one occasion does not prevent him or her from indicating that the same conduct has become unwelcome on a subsequent occasion. On the other hand, if a student actively participates in sexual banter and discussions and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome.[56]

If younger children are involved, it may be necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. Accordingly, OCR will consider the age of the student, the nature of the conduct involved, and other relevant factors in determining whether a student had the capacity to welcome sexual conduct.

Schools should be particularly concerned about the issue of welcomeness if the harasser is in a position of authority. For instance, because students may be encouraged to believe that a teacher has absolute authority over the operation of his or her classroom, a student may not object to a teacher's sexually harassing comments during class; however, this does not necessarily mean that the conduct was welcome. Instead, the student may believe that any objections would be ineffective in stopping the harassment or may fear that by making objections he or she will be singled out for harassing comments or other retaliation.

In addition, OCR must consider particular issues of welcomeness if the alleged harassment relates to alleged "consensual" sexual relationships between a school's adult employees and its students. If elementary students are involved, welcomeness will not be an issue: OCR will never view sexual conduct between an adult school employee and an elementary school student as consensual. In cases involving secondary students, there will be a strong presumption that sexual conduct between an adult school employee and a student is not consensual. In cases involving older secondary students, subject to the presumption,[57] OCR will consider a number of factors in determining whether a school employee's sexual advances or other sexual conduct could be considered welcome.[58] In addition, OCR will consider these factors in all cases involving postsecondary students in making those determinations.[59] The factors include the following:

- The nature of the conduct and the relationship of the school employee to the student, including the degree of influence (which could, at least in part, be affected by the student's age), authority, or control the employee has over the student.
- Whether the student was legally or practically unable to consent to the sexual conduct in question. For example, a student's age could affect his or her ability to do so. Similarly, certain types of disabilities could affect a student's ability to do so.

If there is a dispute about whether harassment occurred or whether it was welcome — in a case in which it is appropriate to consider whether the conduct would be welcome — determinations should be made based on the totality of the circumstances. The following types of information may be helpful in resolving the dispute:

- Statements by any witnesses to the alleged incident.
- Evidence about the relative credibility of the allegedly harassed student and the alleged harasser. For example, the level of detail and consistency of each person's account should be compared in an attempt to determine who is telling the truth. Another way to assess credibility is to see if corroborative evidence is lacking where it should logically exist. However, the absence of witnesses may indicate only the unwillingness of others to step forward, perhaps due to fear of the harasser or a desire not to get involved.
- Evidence that the alleged harasser has been found to have harassed others may support the credibility of the student claiming the harassment; conversely, the student's claim will be weakened if he or she has been found to have made false allegations against other individuals.
- Evidence of the allegedly harassed student's reaction or behavior after the alleged harassment. For example, were there witnesses who saw the student immediately after the alleged incident who say that the student appeared to be upset? However, it is important to note that some students may respond to harassment in ways that do not manifest themselves right away, but may surface several days or weeks after the harassment. For example, a student may initially show no signs of having been harassed, but several weeks after the harassment, there may be significant changes in the student's behavior, including difficulty concentrating on academic work, symptoms of depression, and a desire to avoid certain individuals and places at school.
- Evidence about whether the student claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred. However, failure to immediately complain may merely reflect a fear of retaliation or a fear that the complainant may not be believed rather than that the alleged harassment did not occur.
- Other contemporaneous evidence. For example, did the student claiming harassment write about the conduct and his or her reaction to it soon after it occurred (e.g., in a diary or letter)? Did the student tell others (friends, parents) about the conduct (and his or her reaction to it) soon after it occurred?

B. Nature of the School's Responsibility to Address Sexual Harassment

A school has a responsibility to respond promptly and effectively to sexual harassment. In the case of harassment by teachers or other employees, the nature of this responsibility depends in part on whether the harassment occurred in the context of the employee's provision of aid, benefits, or services to students.

1. Harassment by Teachers and Other Employees

Sexual harassment of a student by a teacher or other school employee can be discrimination in violation of Title IX.[60] Schools are responsible for taking prompt and effective action to stop the harassment and prevent its recurrence. A school also may be responsible for remedying the effects of the harassment on the student who was harassed. The extent of a recipient's responsibilities if an employee sexually harasses a student is determined by whether or not the harassment occurred in the context of the employee's provision of aid, benefits, or services to students.

A recipient is responsible under the Title IX regulations for the nondiscriminatory provision of aid, benefits, and services to students. Recipients generally provide aid, benefits, and services to students through the responsibilities they give to employees. If an employee who is acting (or who reasonably appears to be acting) in the context of carrying out these responsibilities over students engages in sexual harassment – generally this means harassment that is carried out during an employee's performance of his or her responsibilities in relation to students, including teaching, counseling, supervising, advising, and transporting students – and the harassment denies or limits a student's ability to participate in or benefit from a school program on the basis of sex,[61] the recipient is responsible for the discriminatory conduct.[62] The recipient is, therefore, also responsible for remedying any effects of the harassment on the victim, as well as for ending the harassment and preventing its recurrence. This is true whether or not the recipient has "notice" of the harassment. (As explained in the section on "Notice of Employee, Peer, or Third Party Harassment," for purposes of this guidance, a school has notice of harassment if a responsible school employee actually knew or, in the exercise of reasonable care, should have known about the harassment.) Of course, under OCR's administrative enforcement, recipients always receive actual notice and the opportunity to take appropriate corrective action before any finding of violation or possible loss of federal funds.

Whether or not sexual harassment of a student occurred within the context of an employee's responsibilities for providing aid, benefits, or services is determined on a case-by-case basis, taking into account a variety of factors. If an employee conditions the provision of an aid, benefit, or service that the employee is responsible for providing on a student's submission to sexual conduct, i.e., conduct traditionally referred to as quid pro quo harassment, the harassment is clearly taking place in the context of the employee's responsibilities to provide aid, benefits, or services. In other situations, i.e., when an employee has created a hostile environment, OCR will consider the following factors in determining whether or not the harassment has taken place in this context, including:

- The type and degree of responsibility given to the employee, including both formal and informal authority, to provide aids, benefits, or services to students, to direct and control student conduct, or to discipline students generally;
- the degree of influence the employee has over the particular student involved, including in the circumstances in which the harassment took place;
- where and when the harassment occurred;
- the age and educational level of the student involved; and

- as applicable, whether, in light of the student's age and educational level and the way the school is run, it would be reasonable for the student to believe that the employee was in a position of responsibility over the student, even if the employee was not.

These factors are applicable to all recipient educational institutions, including elementary and secondary schools, colleges, and universities. Elementary and secondary schools, however, are typically run in a way that gives teachers, school officials, and other school employees a substantial degree of supervision, control, and disciplinary authority over the conduct of students.[63] Therefore, in cases involving allegations of harassment of elementary and secondary school-age students by a teacher or school administrator during any school activity,[64] consideration of these factors will generally lead to a conclusion that the harassment occurred in the context of the employee's provision of aid, benefits, or services.

For example, a teacher sexually harasses an eighth- grade student in a school hallway. Even if the student is not in any of the teacher's classes and even if the teacher is not designated as a hall monitor, given the age and educational level of the student and the status and degree of influence of teachers in elementary and secondary schools, it would be reasonable for the student to believe that the teacher had at least informal disciplinary authority over students in the hallways. Thus, OCR would consider this an example of conduct that is occurring in the context of the employee's responsibilities to provide aid, benefits, or services.

Other examples of sexual harassment of a student occurring in the context of an employee's responsibilities for providing aid, benefits, or services include, but are not limited to -- a faculty member at a university's medical school conditions an intern's evaluation on submission to his sexual advances and then gives her a poor evaluation for rejecting the advances; a high school drama instructor does not give a student a part in a play because she has not responded to sexual overtures from the instructor; a faculty member withdraws approval of research funds for her assistant because he has rebuffed her advances; a journalism professor who supervises a college newspaper continually and inappropriately touches a student editor in a sexual manner, causing the student to resign from the newspaper staff; and a teacher repeatedly asks a ninth grade student to stay after class and attempts to engage her in discussions about sex and her personal experiences while they are alone in the classroom, causing the student to stop coming to class. In each of these cases, the school is responsible for the discriminatory conduct, including taking prompt and effective action to end the harassment, prevent it from recurring, and remedy the effects of the harassment on the victim.

Sometimes harassment of a student by an employee in the school's program does not take place in the context of the employee's provision of aid, benefits, or services, but nevertheless is sufficiently serious to create a hostile educational environment. An example of this conduct might occur if a faculty member in the history department at a university, over the course of several weeks, repeatedly touches and makes sexually suggestive remarks to a graduate engineering student while waiting at a stop for the university shuttle bus, riding on the bus, and upon exiting the bus. As a result, the student stops using the campus shuttle and walks the very long distances between her classes. In this case, the school is not directly responsible for the harassing conduct because it did not occur in the context of the employee's responsibilities for the provision

of aid, benefits, or services to students. However, the conduct is sufficiently serious to deny or limit the student in her ability to participate in or benefit from the recipient's program. Thus, the school has a duty, upon notice of the harassment,[65] to take prompt and effective action to stop the harassment and prevent its recurrence.

If the school takes these steps, it has avoided violating Title IX. If the school fails to take the necessary steps, however, its failure to act has allowed the student to continue to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program. The school, therefore, has engaged in its own discrimination. It then becomes responsible, not just for stopping the conduct and preventing it from happening again, but for remedying the effects of the harassment on the student that could reasonably have been prevented if the school had responded promptly and effectively. (For related issues, see the sections on "OCR Case Resolution" and "Recipient's Response.")

2. Harassment by Other Students or Third Parties

If a student sexually harasses another student and the harassing conduct is sufficiently serious to deny or limit the student's ability to participate in or benefit from the program, and if the school knows or reasonably should know[66] about the harassment, the school is responsible for taking immediate effective action to eliminate the hostile environment and prevent its recurrence.[67] As long as the school, upon notice of the harassment, responds by taking prompt and effective action to end the harassment and prevent its recurrence, the school has carried out its responsibility under the Title IX regulations. On the other hand, if, upon notice, the school fails to take prompt, effective action, the school's own inaction has permitted the student to be subjected to a hostile environment that denies or limits the student's ability to participate in or benefit from the school's program on the basis of sex.[68] In this case, the school is responsible for taking effective corrective actions to stop the harassment, prevent its recurrence, and remedy the effects on the victim that could reasonably have been prevented had it responded promptly and effectively.

Similarly, sexually harassing conduct by third parties, who are not themselves employees or students at the school (e.g., a visiting speaker or members of a visiting athletic team), may also be of a sufficiently serious nature to deny or limit a student's ability to participate in or benefit from the education program. As previously outlined in connection with peer harassment, if the school knows or should know[69] of the harassment, the school is responsible for taking prompt and effective action to eliminate the hostile environment and prevent its recurrence.

The type of appropriate steps that the school should take will differ depending on the level of control that the school has over the third party harasser.[70] For example, if athletes from a visiting team harass the home school's students, the home school may not be able to discipline the athletes. However, it could encourage the other school to take appropriate action to prevent further incidents; if necessary, the home school may choose not to invite the other school back. (This issue is discussed more fully in the section on "Recipient's Response.")

If, upon notice, the school fails to take prompt and effective corrective action, its own failure has permitted the student to be subjected to a hostile environment that limits

the student's ability to participate in or benefit from the education program.[71] In this case, the school is responsible for taking corrective actions to stop the harassment, prevent its recurrence, and remedy the effects on the victim that could reasonably have been prevented had the school responded promptly and effectively.

C. Notice of Employee, Peer, or Third Party Harassment

As described in the section on "Harassment by Teachers and Other Employees," schools may be responsible for certain types of employee harassment that occurred before the school otherwise had notice of the harassment. On the other hand, as described in that section and the section on "Harassment by Other Students or Third Parties," in situations involving certain other types of employee harassment, or harassment by peers or third parties, a school will be in violation of the Title IX regulations if the school "has notice" of a sexually hostile environment and fails to take immediate and effective corrective action.[72]

A school has notice if a responsible employee "knew, or in the exercise of reasonable care should have known," about the harassment.[73] A responsible employee would include any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility.[74] Accordingly, schools need to ensure that employees are trained so that those with authority to address harassment know how to respond appropriately, and other responsible employees know that they are obligated to report harassment to appropriate school officials. Training for employees should include practical information about how to identify harassment and, as applicable, the person to whom it should be reported.

A school can receive notice of harassment in many different ways. A student may have filed a grievance with the Title IX coordinator[75] or complained to a teacher or other responsible employee about fellow students harassing him or her. A student, parent, or other individual may have contacted other appropriate personnel, such as a principal, campus security, bus driver, teacher, affirmative action officer, or staff in the office of student affairs. A teacher or other responsible employee of the school may have witnessed the harassment. The school may receive notice about harassment in an indirect manner, from sources such as a member of the school staff, a member of the educational or local community, or the media. The school also may have learned about the harassment from flyers about the incident distributed at the school or posted around the school. For the purposes of compliance with the Title IX regulations, a school has a duty to respond to harassment about which it reasonably should have known, i.e., if it would have learned of the harassment if it had exercised reasonable care or made a "reasonably diligent inquiry."[76]

For example, in some situations if the school knows of incidents of harassment, the exercise of reasonable care should trigger an investigation that would lead to a discovery of additional incidents.[77] In other cases, the pervasiveness of the harassment may be enough to conclude that the school should have known of the hostile environment — if the harassment is widespread, openly practiced, or well-known to students and staff

(such as sexual harassment occurring in the hallways, graffiti in public areas, or harassment occurring during recess under a teacher's supervision.)[78]

If a school otherwise knows or reasonably should know of a hostile environment and fails to take prompt and effective corrective action, a school has violated Title IX even if the student has failed to use the school's existing grievance procedures or otherwise inform the school of the harassment.

D. The Role of Grievance Procedures

Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination.[79] (These issues are discussed in the section on "Prompt and Equitable Grievance Procedures.") These procedures provide a school with a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems, as required by the Title IX regulations. By having a strong policy against sex discrimination and accessible, effective, and fairly applied grievance procedures, a school is telling its students that it does not tolerate sexual harassment and that students can report it without fear of adverse consequences.

Without a disseminated policy and procedure, a student does not know either of the school's policy against and obligation to address this form of discrimination, or how to report harassment so that it can be remedied. If the alleged harassment is sufficiently serious to create a hostile environment and it is the school's failure to comply with the procedural requirements of the Title IX regulations that hampers early notification and intervention and permits sexual harassment to deny or limit a student's ability to participate in or benefit from the school's program on the basis of sex,[80] the school will be responsible under the Title IX regulations, once informed of the harassment, to take corrective action, including stopping the harassment, preventing its recurrence, and remedying the effects of the harassment on the victim that could reasonably have been prevented if the school's failure to comply with the procedural requirements had not hampered early notification.

VI. OCR Case Resolution

If OCR is asked to investigate or otherwise resolve incidents of sexual harassment of students, including incidents caused by employees, other students, or third parties, OCR will consider whether — (1) the school has a disseminated policy prohibiting sex discrimination under Title IX[81] and effective grievance procedures;[82] (2) the school appropriately investigated or otherwise responded to allegations of sexual harassment;[83] and (3) the school has taken immediate and effective corrective action responsive to the harassment, including effective actions to end the harassment, prevent its recurrence, and, as appropriate, remedy its effects.[84] (Issues related to appropriate investigative and corrective actions are discussed in detail in the section on "Recipient's Response.")

If the school has taken, or agrees to take, each of these steps, OCR will consider the case against the school resolved and will take no further action, other than monitoring compliance with an agreement, if any, between the school and OCR. This is true in cases

in which the school was in violation of the Title IX regulations (e.g., a teacher sexually harassed a student in the context of providing aid, benefits, or services to students), as well as those in which there has been no violation of the regulations (e.g., in a peer sexual harassment situation in which the school took immediate, reasonable steps to end the harassment and prevent its recurrence). This is because, even if OCR identifies a violation, Title IX requires OCR to attempt to secure voluntary compliance.[85] Thus, because a school will have the opportunity to take reasonable corrective action before OCR issues a formal finding of violation, a school does not risk losing its Federal funding solely because discrimination occurred.

VII. Recipient's Response

Once a school has notice of possible sexual harassment of students — whether carried out by employees, other students, or third parties — it should take immediate and appropriate steps to investigate or otherwise determine what occurred and take prompt and effective steps

reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. These steps are the school's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action.[86] As described in the next section, in appropriate circumstances the school will also be responsible for taking steps to remedy the effects of the harassment on the individual student or students who were harassed. What constitutes a reasonable response to information about possible sexual harassment will differ depending upon the circumstances.

A. Response to Student or Parent Reports of Harassment; Response to Direct Observation of Harassment by a Responsible Employee

If a student or the parent of an elementary or secondary student provides information or complains about sexual harassment of the student, the school should initially discuss what actions the student or parent is seeking in response to the harassment. The school should explain the avenues for informal and formal action, including a description of the grievance procedure that is available for sexual harassment complaints and an explanation of how the procedure works. If a responsible school employee has directly observed sexual harassment of a student, the school should contact the student who was harassed (or the parent, depending upon the age of the student),[87] explain that the school is responsible for taking steps to correct the harassment, and provide the same information described in the previous sentence.

Regardless of whether the student who was harassed, or his or her parent, decides to file a formal complaint or otherwise request action on the student's behalf (including in cases involving direct observation by a responsible employee), the school must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. The specific steps in an investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. However, in all cases the inquiry must be prompt, thorough, and impartial. (Requests by the student who

was harassed for confidentiality or for no action to be taken, responding to notice of harassment from other sources, and the components of a prompt and equitable grievance procedure are discussed in subsequent sections of this guidance.)

It may be appropriate for a school to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to place the students immediately in separate classes or in different housing arrangements on a campus, pending the results of the school's investigation. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate. In cases involving potential criminal conduct, school personnel should determine whether appropriate law enforcement authorities should be notified. In all cases, schools should make every effort to prevent disclosure of the names of all parties involved -- the complainant, the witnesses, and the accused -- except to the extent necessary to carry out an investigation.

If a school determines that sexual harassment has occurred, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation.[88] Appropriate steps should be taken to end the harassment. For example, school personnel may need to counsel, warn, or take disciplinary action against the harasser, based on the severity of the harassment or any record of prior incidents or both.[89] A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.[90] In some cases, it may be appropriate to further separate the harassed student and the harasser, e.g., by changing housing arrangements[91] or directing the harasser to have no further contact with the harassed student. Responsive measures of this type should be designed to minimize, as much as possible, the burden on the student who was harassed. If the alleged harasser is not a student or employee of the recipient, OCR will consider the level of control the school has over the harasser in determining what response would be appropriate.[92]

Steps should also be taken to eliminate any hostile environment that has been created. For example, if a female student has been subjected to harassment by a group of other students in a class, the school may need to deliver special training or other interventions for that class to repair the educational environment. If the school offers the student the option of withdrawing from a class in which a hostile environment occurred, the school should assist the student in making program or schedule changes and ensure that none of the changes adversely affect the student's academic record. Other measures may include, if appropriate, directing a harasser to apologize to the harassed student. If a hostile environment has affected an entire school or campus, an effective response may need to include dissemination of information, the issuance of new policy statements, or other steps that are designed to clearly communicate the message that the school does not tolerate harassment and will be responsive to any student who reports that conduct.

In some situations, a school may be required to provide other services to the student who was harassed if necessary to address the effects of the harassment on that student.[93] For example, if an instructor gives a student a low grade because the student failed to respond to his sexual advances, the school may be required to make arrangements for an independent reassessment of the student's work, if feasible, and change the grade accordingly; make arrangements for the student to take the course again

with a different instructor; provide tutoring; make tuition adjustments; offer reimbursement for professional counseling; or take other measures that are appropriate to the circumstances. As another example, if a school delays responding or responds inappropriately to information about harassment, such as a case in which the school ignores complaints by a student that he or she is being sexually harassed by a classmate, the school will be required to remedy the effects of the harassment that could have been prevented had the school responded promptly and effectively.

Finally, a school should take steps to prevent any further harassment[94] and to prevent any retaliation against the student who made the complaint (or was the subject of the harassment), against the person who filed a complaint on behalf of a student, or against those who provided information as witnesses.[95] At a minimum, this includes making sure that the harassed students and their parents know how to report any subsequent problems and making follow-up inquiries to see if there have been any new incidents or any retaliation. To prevent recurrences, counseling for the harasser may be appropriate to ensure that he or she understands what constitutes harassment and the effects it can have. In addition, depending on how widespread the harassment was and whether there have been any prior incidents, the school may need to provide training for the larger school community to ensure that students, parents, and teachers can recognize harassment if it recurs and know how to respond.[96]

B. Confidentiality

The scope of a reasonable response also may depend upon whether a student, or parent of a minor student, reporting harassment asks that the student's name not be disclosed to the harasser or that nothing be done about the alleged harassment. In all cases, a school should discuss confidentiality standards and concerns with the complainant initially. The school should inform the student that a confidentiality request may limit the school's ability to respond. The school also should tell the student that Title IX prohibits retaliation and that, if he or she is afraid of reprisals from the alleged harasser, the school will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs. If the student continues to ask that his or her name not be revealed, the school should take all reasonable steps to investigate and respond to the complaint consistent with the student's request as long as doing so does not prevent the school from responding effectively to the harassment and preventing harassment of other students.

OCR enforces Title IX consistent with the federally protected due process rights of public school students and employees. Thus, for example, if a student, who was the only student harassed, insists that his or her name not be revealed, and the alleged harasser could not respond to the charges of sexual harassment without that information, in evaluating the school's response, OCR would not expect disciplinary action against an alleged harasser.

At the same time, a school should evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The factors that a school may consider in this regard include the seriousness of the alleged harassment, the age of the student harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the

accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result.[97]

Similarly, a school should be aware of the confidentiality concerns of an accused employee or student. Publicized accusations of sexual harassment, if ultimately found to be false, may nevertheless irreparably damage the reputation of the accused. The accused individual's need for confidentiality must, of course, also be evaluated based on the factors discussed in the preceding paragraph in the context of the school's responsibility to ensure a safe environment for students.

Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual complaint of harassment, other means may be available to address the harassment. There are steps a recipient can take to limit the effects of the alleged harassment and prevent its recurrence without initiating formal action against the alleged harasser or revealing the identity of the complainant. Examples include conducting sexual harassment training for the school site or academic department where the problem occurred, taking a student survey concerning any problems with harassment, or implementing other systemic measures at the site or department where the alleged harassment has occurred.

In addition, by investigating the complaint to the extent possible — including by reporting it to the Title IX coordinator or other responsible school employee designated pursuant to Title IX — the school may learn about or be able to confirm a pattern of harassment based on claims by different students that they were harassed by the same individual. In some situations there may be prior reports by former students who now might be willing to come forward and be identified, thus providing a basis for further corrective action. In instances affecting a number of students (for example, a report from a student that an instructor has repeatedly made sexually explicit remarks about his or her personal life in front of an entire class), an individual can be put on notice of allegations of harassing behavior and counseled appropriately without revealing, even indirectly, the identity of the student who notified the school. Those steps can be very effective in preventing further harassment.

C. Response to Other Types of Notice

The previous two sections deal with situations in which a student or parent of a student who was harassed reports or complains of harassment or in which a responsible school employee directly observes sexual harassment of a student. If a school learns of harassment through other means, for example, if information about harassment is received from a third party (such as from a witness to an incident or an anonymous letter or telephone call), different factors will affect the school's response. These factors include the source and nature of the information; the seriousness of the alleged incident; the specificity of the information; the objectivity and credibility of the source of the report; whether any individuals can be identified who were subjected to the alleged harassment; and whether those individuals want to pursue the matter. If, based on these factors, it is reasonable for the school to investigate and it can confirm the allegations, the considerations described in the previous sections concerning interim measures and appropriate responsive action will apply.

For example, if a parent visiting a school observes a student repeatedly harassing a group of female students and reports this to school officials, school personnel can speak with the female students to confirm whether that conduct has occurred and whether they view it as unwelcome. If the school determines that the conduct created a hostile environment, it can take reasonable, age-appropriate steps to address the situation. If on the other hand, the students in this example were to ask that their names not be disclosed or indicate that they do not want to pursue the matter, the considerations described in the previous section related to requests for confidentiality will shape the school's response.

In a contrasting example, a student newspaper at a large university may print an anonymous letter claiming that a professor is sexually harassing students in class on a daily basis, but the letter provides no clue as to the identity of the professor or the department in which the conduct is allegedly taking place. Due to the anonymous source and lack of specificity of the information, a school would not reasonably be able to investigate and confirm these allegations. However, in response to the anonymous letter, the school could submit a letter or article to the newspaper reiterating its policy against sexual harassment, encouraging persons who believe that they have been sexually harassed to come forward, and explaining how its grievance procedures work.

VIII. Prevention

A policy specifically prohibiting sexual harassment and separate grievance procedures for violations of that policy can help ensure that all students and employees understand the nature of sexual harassment and that the school will not tolerate it. Indeed, they might even bring conduct of a sexual nature to the school's attention so that the school can address it before it becomes sufficiently serious as to create a hostile environment. Further, training for administrators, teachers, and staff and age-appropriate classroom information for students can help to ensure that they understand what types of conduct can cause sexual harassment and that they know how to respond.

IX. Prompt and Equitable Grievance Procedures

Schools are required by the Title IX regulations to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex.[98] Accordingly, regardless of whether harassment occurred, a school violates this requirement of the Title IX regulations if it does not have those procedures and policy in place.[99]

A school's sex discrimination grievance procedures must apply to complaints of sex discrimination in the school's education programs and activities filed by students against school employees, other students, or third parties.[100] Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment. Thus, if, because of the lack of a policy or procedure specifically addressing sexual harassment, students are unaware of what kind of conduct constitutes sexual harassment or that such conduct is

prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination complaints will not be considered effective.[101]

OCR has identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable, including whether the procedures provide for —

- Notice to students, parents of elementary and secondary students, and employees of the procedure, including where complaints may be filed;
- Application of the procedure to comp laints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;
- Designated and reasonably prompt timeframes for the major stages of the complaint process;
- Notice to the parties of the outcome of the complaint;[102] and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.[103]

Many schools also provide an opportunity to appeal the findings or remedy, or both. In addition, because retaliation is prohibited by Title IX, schools may want to include a provision in their procedures prohibiting retaliation against any individual who files a complaint or participates in a harassment inquiry.

Procedures adopted by schools will vary considerably in detail, specificity, and components, reflecting differences in audiences, school sizes and administrative structures, State or local legal requirements, and past experience. In addition, whether complaint resolutions are timely will vary depending on the complexity of the investigation and the severity and extent of the harassment. During the investigation it is a good practice for schools to inform students who have alleged harassment about the status of the investigation on a periodic basis.

A grievance procedure applicable to sexual harassment complaints cannot be prompt or equitable unless students know it exists, how it works, and how to file a complaint. Thus, the procedures should be written in language appropriate to the age of the school's students, easily understood, and widely disseminated. Distributing the procedures to administrators, or including them in the school's administrative or policy manual, may not by itself be an effective way of providing notice, as these publications are usually not widely circulated to and understood by all members of the school community. Many schools ensure adequate notice to students by having copies of the procedures available at various locations throughout the school or campus; publishing the procedures as a separate document; including a summary of the procedures in major publications issued by the school, such as handbooks and catalogs for students, parents of elementary and secondary students, faculty, and staff; and identifying individuals who can explain how the procedures work.

A school must designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities.[104] The school must notify all of its students and employees of the name, office address, and telephone number of the employee or employees designated.[105] Because it is possible that an employee designated to handle Title IX complaints may himself or herself engage in harassment, a school may want to designate more than one employee to be responsible for handling complaints in order to ensure that students have an effective means of reporting harassment.[106] While a school may choose to have a number of employees responsible for Title IX matters, it is also advisable to give one official responsibility for overall coordination and oversight of all sexual harassment complaints to ensure consistent practices and standards in handling complaints. Coordination of recordkeeping (for instance, in a confidential log maintained by the Title IX coordinator) will also ensure that the school can and will resolve recurring problems and identify students or employees who have multiple complaints filed against them.[107] Finally, the school must make sure that all designated employees have adequate training as to what conduct constitutes sexual harassment and are able to explain how the grievance procedure operates.[108]

Grievance procedures may include informal mechanisms for resolving sexual harassment complaints to be used if the parties agree to do so.[109] OCR has frequently advised schools, however, that it is not appropriate for a student who is complaining of harassment to be required to work out the problem directly with the individual alleged to be harassing him or her, and certainly not without appropriate involvement by the school (e.g., participation by a counselor, trained mediator, or, if appropriate, a teacher or administrator). In addition, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In some cases, such as alleged sexual assaults, mediation will not be appropriate even on a voluntary basis. Title IX also permits the use of a student disciplinary procedure not designed specifically for Title IX grievances to resolve sex discrimination complaints, as long as the procedure meets the requirement of affording a complainant a "prompt and equitable" resolution of the complaint.

In some instances, a complainant may allege harassing conduct that constitutes both sex discrimination and possible criminal conduct. Police investigations or reports may be useful in terms of fact gathering. However, because legal standards for criminal investigations are different, police investigations or reports may not be determinative of whether harassment occurred under Title IX and do not relieve the school of its duty to respond promptly and effectively.[110] Similarly, schools are cautioned about using the results of insurance company investigations of sexual harassment allegations. The purpose of an insurance investigation is to assess liability under the insurance policy, and the applicable standards may well be different from those under Title IX. In addition, a school is not relieved of its responsibility to respond to a sexual harassment complaint filed under its grievance procedure by the fact that a complaint has been filed with OCR.[111]

X. Due Process Rights of the Accused

A public school's employees have certain due process rights under the United States Constitution. The Constitution also guarantees due process to students in public and State-supported schools who are accused of certain types of infractions. The rights established under Title IX must be interpreted consistent with any federally guaranteed due process rights involved in a complaint proceeding. Furthermore, the Family Educational Rights and Privacy Act (FERPA) does not override federally protected due process rights of persons accused of sexual harassment. Procedures that ensure the Title IX rights of the complainant, while at the same time according due process to both parties involved, will lead to sound and supportable decisions. Of course, schools should ensure that steps to accord due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant. In both public and private schools, additional or separate rights may be created for employees or students by State law, institutional regulations and policies, such as faculty or student handbooks, and collective bargaining agreements. Schools should be aware of these rights and their legal responsibilities to individuals accused of harassment.

XI. First Amendment

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved.[112] Free speech rights apply in the classroom (e.g., classroom lectures and discussions)[113] and in all other education programs and activities of public schools (e.g., public meetings and speakers on campus; campus debates, school plays and other cultural events[114]; and student newspapers, journals, and other publications[115]). In addition, First Amendment rights apply to the speech of students and teachers.[116]

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. OCR recognizes that the offensiveness of a particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX.[117] In order to establish a violation of Title IX, the harassment must be sufficiently serious to deny or limit a student's ability to participate in or benefit from the education program.[118]

Moreover, in regulating the conduct of its students and its faculty to prevent or redress discrimination prohibited by Title IX (e.g., in responding to harassment that is sufficiently serious as to create a hostile environment), a school must formulate, interpret, and apply its rules so as to protect academic freedom and free speech rights. For instance, while the First Amendment may prohibit a school from restricting the right of students to express opinions about one sex that may be considered derogatory, the school can take steps to denounce those opinions and ensure that competing views are heard. The age of the students involved and the location or forum may affect how the school can respond consistently with the First Amendment.[119] As an example of the application of free speech rights to allegations of sexual harassment, consider the following:

Example 1: In a college level creative writing class, a professor's required reading list includes excerpts from literary classics that contain descriptions of explicit

sexual conduct, including scenes that depict women in submissive and demeaning roles. The professor also assigns students to write their own materials, which are read in class. Some of the student essays contain sexually derogatory themes about women. Several female students complain to the Dean of Students that the materials and related classroom discussion have created a sexually hostile environment for women in the class. What must the school do in response?

Answer: Academic discourse in this example is protected by the First Amendment even if it is offensive to individuals. Thus, Title IX would not require the school to discipline the professor or to censor the reading list or related class discussion.

Example 2: A group of male students repeatedly targets a female student for harassment during the bus ride home from school, including making explicit sexual comments about her body, passing around drawings that depict her engaging in sexual conduct, and, on several occasions, attempting to follow her home off the bus. The female student and her parents complain to the principal that the male students' conduct has created a hostile environment for girls on the bus and that they fear for their daughter's safety. What must a school do in response?

Answer: Threatening and intimidating actions targeted at a particular student or group of students, even though they contain elements of speech, are not protected by the First Amendment. The school must take prompt and effective actions, including disciplinary action if necessary, to stop the harassment and prevent future harassment.

Endnotes

[1] This guidance does not address sexual harassment of employees, although that conduct may be prohibited by Title IX. 20 U.S.C. 1681 et seq.; 34 CFR part 106, subpart E. If employees file Title IX sexual harassment complaints with OCR, the complaints will be processed pursuant to the Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance. 28 CFR 42.604. Employees are also protected from discrimination on the basis of sex, including sexual harassment, by Title VII of the Civil Rights Act of 1964. For information about Title VII and sexual harassment, see the Equal Employment Opportunity Commission's (EEOC's) Guidelines on Sexual Harassment, 29 CFR 1604.11, for information about filing a Title VII charge with the EEOC, see 29 CFR 1601.7–1607.13, or see the EEOC's website at www.eeoc.gov.

[2] 20 U.S.C. 1681; 34 CFR part 106.

[3] See, e.g., Davis v. Monroe County Bd. of Educ., 526 U.S. 629, 649-50 (1999); Gebser v. Lago Vista Ind. Sch. Dist., 524 U.S. 274, 281 (1998); Franklin v. Gwinnett County Pub. Sch., 503 U.S. 60, 75 (1992); S. REP. NO. 100-64, 100th Cong., 1st Sess. 14 (1987); Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties (1997 guidance), 62 FR 12034 (1997).

[4] As described in the section on "Applicability," this guidance applies to all levels of education.

[5] For practical information about steps that schools can take to prevent and remedy all types of harassment, including sexual harassment, see "Protecting Students from Harassment and Hate Crime, A Guide for Schools," which we issued jointly with the National Association of Attorneys General. This Guide is available at our web site at: www.ed.gov/pubs/Harassment.

[6] See, e.g., Davis, 526 U.S. at 653 (alleged conduct of a sexual nature that would support a sexual harassment claim included verbal harassment and "numerous acts of objectively offensive touching;" Franklin, 503 U.S. at 63 (conduct of a sexual nature found to support a sexual harassment claim under Title IX included kissing, sexual intercourse); Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 60-61 (1986) (demands for sexual favors, sexual advances, fondling, indecent exposure, sexual intercourse, rape, sufficient to raise hostile environment claim under Title VII); Ellison v. Brady, 924 F.2d 872, 873-74, 880 (9th Cir. 1991) (allegations sufficient to state sexual harassment claim under Title VII included repeated requests for dates, letters making explicit references to sex and describing the harasser's feelings for plaintiff); Lipsett v. University of Puerto Rico, 864 F.2d 881, 904-5 (1st Cir. 1988) (sexually derogatory comments, posting of sexually explicit drawing of plaintiff, sexual advances may support sexual harassment claim); Kadiki v. Virginia Commonwealth University, 892 F.Supp. 746, 751 (E.D. Va. 1995)

(professor's spanking of university student may constitute sexual conduct under Title IX); Doe v. Petaluma, 830 F.Supp. 1560, 1564-65 (N.D. Cal. 1996) (sexually derogatory taunts and innuendo can be the basis of a harassment claim); Denver School Dist. #2, OCR Case No. 08-92-1007 (same to allegations of vulgar language and obscenities, pictures of nude women on office walls and desks, unwelcome touching, sexually offensive jokes, bribery to perform sexual acts, indecent exposure); Nashoba Regional High School, OCR Case No. 01-92-1377 (same as to year-long campaign of derogatory, sexually explicit graffiti and remarks directed at one student.

[7] See also Shoreline School Dist., OCR Case No. 10-92-1002 (a teacher's patting a student on the arm, shoulder, and back, and restraining the student when he was out of control, not conduct of a sexual nature); Dartmouth Public Schools, OCR Case No. 01-90-1058 (same as to contact between high school coach and students); San Francisco State University, OCR Case No. 09-94-2038 (same as to faculty advisor placing her arm around a graduate student's shoulder in posing for a picture); Analy Union High School Dist., OCR Case No. 09-92-1249 (same as to drama instructor who put his arms around both male and female students who confided in him).

[8] 20 U.S.C. 1687 (codification of the amendment to Title IX regarding scope of jurisdiction, enacted by the Civil Rights Restoration Act of 1987). See 65 FR 68049 (November 13, 2000) (Department's amendment of the Title IX regulations to incorporate the statutory definition of "program or activity").

[9] If a school contracts with persons or organizations to provide benefits, services, or opportunities to students as part of the school's program, and those persons or employees of those organizations sexually harass students, OCR will consider the harassing individual in the same manner that it considers the school's employees, as described in this guidance. (See section on "Harassment by Teachers and Other Employees.") See Brown v. Hot, Sexy, and Safer Products, Inc., 68 F.3d 525, 529 (1st Cir. 1995) (Title IX sexual harassment claim brought for school's role in permitting contract consultant hired by it to create allegedly hostile environment).

In addition, if a student engages in sexual harassment as an employee of the school, OCR will consider the harassment under the standards described for employees. (See section on "Harassment by Teachers and Other Employees.") For example, OCR would consider it harassment by an employee if a student teaching assistant who is responsible for assigning grades in a course, i.e., for providing aid, benefits, or services to students under the recipient's program, required a student in his or her class to submit to sexual advances in order to obtain a certain grade in the class.

[10] Cf. John Does 1 v. Covington County Sch. Bd., 884 F.Supp. 462, 464-65 (M.D. Ala. 1995) (male students alleging that a teacher sexually harassed and abused them stated cause of action under Title IX).

[11] Title IX and the regulations implementing it prohibit discrimination "on the basis of sex;" they do not restrict protection from sexual harassment to those circumstances in

which the harasser only harasses members of the opposite sex. See 34 CFR 106.31. In Oncale v. Sundowner Offshore Services, Inc. the Supreme Court held unanimously that sex discrimination consisting of same-sex sexual harassment can violate Title VII's prohibition against discrimination because of sex. 523 U.S. 75, 82 (1998). The Supreme Court's holding in Oncale is consistent with OCR policy, originally stated in its 1997 guidance, that Title IX prohibits sexual harassment regardless of whether the harasser and the person being harassed are members of the same sex. 62 FR 12039. See also Kinman v. Omaha Public School Dist., 94 F.3d 463, 468 (8th Cir. 1996), rev'd on other grounds, 171 F.3d 607 (1999) (female student's allegation of sexual harassment by female teacher sufficient to raise a claim under Title IX); Doe v. Petaluma, 830 F.Supp. 1560, 1564-65, 1575 (N.D. Cal. 1996) (female junior high student alleging sexual harassment by other students, including both boys and girls, sufficient to raise a claim under Title IX); John Does 1, 884 F.Supp. at 465 (same as to male students' allegations of sexual harassment and abuse by a male teacher.) It can also occur in certain situations if the harassment is directed at students of both sexes. Chiapuzo v. BLT Operating Corp., 826 F.Supp. 1334, 1337 (D.Wyo. 1993) (court found that if males and females were subject to harassment, but harassment was based on sex, it could violate Title VII); but see Holman v. Indiana, 211 F.3d 399, 405 (7th Cir. 2000) (if male and female both subjected to requests for sex, court found it could not violate Title VII).

In many circumstances, harassing conduct will be on the basis of sex because the student would not have been subjected to it at all had he or she been a member of the opposite sex; e.g., if a female student is repeatedly propositioned by a male student or employee (or, for that matter, if a male student is repeatedly propositioned by a male student or employee.) In other circumstances, harassing conduct will be on the basis of sex if the student would not have been affected by it in the same way or to the same extent had he or she been a member of the opposite sex; e.g, pornography and sexually explicit jokes in a mostly male shop class are likely to affect the few girls in the class more than it will most of the boys.

In yet other circumstances, the conduct will be on the basis of sex in that the student's sex was a factor in or affected the nature of the harasser's conduct or both. Thus, in Chiapuzo, a supervisor made demeaning remarks to both partners of a married couple working for him, e.g., as to sexual acts he wanted to engage in with the wife and how he would be a better lover than the husband. In both cases, according to the court, the remarks were based on sex in that they were made with an intent to demean each member of the couple because of his or her respective sex. 826 F.Supp. at 1337. See also Steiner v. Showboat Operating Co., 25 F.3d 1459, 1463-64 (9th Cir. 1994), cert. denied, 115 S.Ct. 733 (1995); but see Holman, 211 F.3d at 405 (finding that if male and female both subjected to requests for sex, Title VII could not be violated).

[12] Nashoba Regional High School, OCR Case No. 01-92-1397. In Conejo Valley School Dist., OCR Case No. 09-93-1305, female students allegedly taunted another female student about engaging in sexual activity; OCR found that the alleged comments were sexually explicit and, if true, would be sufficiently severe, persistent, and pervasive to create a hostile environment.

[13] See Williamson v. A.G. Edwards & Sons, Inc., 876 F2d 69, 70 (8th Cir. 1989, cert. denied 493 U.S. 1089 (1990); DeSantis v. Pacific Tel. & Tel. Co., Inc., 608 F.2d 327, 329-30 (9th Cir. 1979)(same); Blum v. Gulf Oil Corp., 597 F.2d 936, 938 (5th Cir. 1979)(same).

[14] It should be noted that some State and local laws may prohibit discrimination on the basis of sexual orientation. Also, under certain circumstances, courts may permit redress for harassment on the basis of sexual orientation under other Federal legal authority. See Nabozny v. Podlesny, 92 F.3d 446, 460 (7th Cir. 1996) (holding that a gay student could maintain claims alleging discrimination based on both gender and sexual orientation under the Equal Protection Clause of the United States Constitution in a case in which a school district failed to protect the student to the same extent that other students were protected from harassment and harm by other students due to the student's gender and sexual orientation).

[15] However, sufficiently serious sexual harassment is covered by Title IX even if the hostile environment also includes taunts based on sexual orientation.

[16] See also, Price Waterhouse v. Hopkins, 490 U.S. 228, 251 (1989) (plurality opinion) (where an accounting firm denied partnership to a female candidate, the Supreme Court found Title VII prohibits an employer from evaluating employees by assuming or insisting that they match the stereotype associated with their sex).

[17] See generally Gebser; Davis; See also Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 65-66 (1986); Harris v. Forklift Systems Inc., 510 U.S. 14, 22 (1993); see also Hicks v. Gates Rubber Co., 833 F.2d 1406, 1415 (10th Cir. 1987) (concluding that harassment based on sex may be discrimination whether or not it is sexual in nature); McKinney v. Dole, 765 F.2d 1129, 1138 (D.C. Cir. 1985) (physical, but nonsexual, assault could be sex-based harassment if shown to be unequal treatment that would not have taken place but for the employee's sex); Cline v. General Electric Capital Auto Lease, Inc., 757 F.Supp. 923, 932-33 (N.D. Ill. 1991).

[18] See, e.g., sections on "Harassment by Teachers and Other Employees," "Harassment by Other Students or Third Parties," "Notice of Employee, Peer, or Third Party Harassment," "Factors Used to Evaluate a Hostile Environment," "Recipient's Response," and "Prompt and Equitable Grievance Procedures."

[19] See Lipsett, 864 F.2d at 903-905 (general antagonism toward women, including stated goal of eliminating women from surgical program, statements that women shouldn't be in the program, and assignment of menial tasks, combined with overt sexual harassment); Harris, 510 U.S. at 23; Andrews v. City of Philadelphia, 895 F.2d 1469, 1485-86 (3rd Cir. 1990) (court directed trial court to consider sexual conduct as well as theft of female employees' files and work, destruction of property, and anonymous phone calls in determining if there had been sex discrimination); see also Hall v. Gus Construction Co., 842 F.2d 1010, 1014 (8th Cir. 1988) (affirming that harassment due to the employee's sex

may be actionable even if the harassment is not sexual in nature); Hicks, 833 F.2d at 1415; Eden Prairie Schools, Dist. #272, OCR Case No. 05-92-1174 (the boys made lewd comments about male anatomy and tormented the girls by pretending to stab them with rubber knives; while the stabbing was not sexual conduct, it was directed at them because of their sex, i.e., because they were girls).

[20] Davis, 526 U.S. at 650 ("Having previously determined that 'sexual harassment' is 'discrimination' in the school context under Title IX, we are constrained to conclude that student-on-student sexual harassment, if sufficiently severe, can likewise rise to the level of discrimination actionable under the statute."); Franklin, 503 U.S. at 75 ("Unquestionably, Title IX placed on the [school] the duty not to discriminate on the basis of sex, and 'when a supervisor sexually harasses a subordinate because of the subordinate's sex, that supervisor "discriminate[s]" on the basis of sex.' ... We believe the same rule should apply when a teacher sexually harasses and abuses a student." (citation omitted)).

OCR's longstanding interpretation of its regulations is that sexual harassment may constitute a violation. 34 CFR 106.31; See Sexual Harassment Guidance, 62 FR 12034 (1997). When Congress enacted the Civil Rights Restoration Act of 1987 to amend Title IX to restore institution-wide coverage over federally assisted education programs and activities, the legislative history indicated not only that Congress was aware that OCR interpreted its Title IX regulations to prohibit sexual harassment, but also that one of the reasons for passing the Restoration Act was to enable OCR to investigate and resolve cases involving allegations of sexual harassment. S. REP. NO. 64, 100th Cong., 1st Sess. at 12 (1987). The examples of discrimination that Congress intended to be remedied by its statutory change included sexual harassment of students by professors, id. at 14, and these examples demonstrate congressional recognition that discrimination in violation of Title IX can be carried out by school employees who are providing aid, benefits, or services to students. Congress also intended that if discrimination occurred, recipients needed to implement effective remedies. S. REP. NO. 64 at 5.

[21] 34 CFR 106.4.

[22] These are the basic regulatory requirements. 34 CFR 106.31(a)(b). Depending upon the facts, sexual harassment may also be prohibited by more specific regulatory prohibitions. For example, if a college financial aid director told a student that she would not get the student financial assistance for which she qualified unless she slept with him, that also would be covered by the regulatory provision prohibiting discrimination on the basis of sex in financial assistance, 34 CFR 106.37(a).

[23] 34 CFR 106.31(b)(1).

[24] 34 CFR 106.31(b)(2).

[25] 34 CFR 106.31(b)(3).

[26] 34 CFR 106.31(b)(4).

[27] 34 CFR 106.31(b)(6).

[28] 34 CFR 106.31(b)(7).

[29] 34 CFR 106.3(a).

[30] 34 CFR 106.9.

[31] 34 CFR 106.8(b).

[32] 34 CFR 106.8(a).

[33] The 1997 guidance referred to quid pro quo harassment and hostile environment harassment. 62 FR 12038–40.

[34] See Alexander v. Yale University, 459 F.Supp. 1, 4 (D.Conn. 1977), aff'd, 631 F.2d 178 (2nd Cir. 1980)(stating that a claim "that academic advancement was conditioned upon submission to sexual demands constitutes [a claim of] sex discrimination in education..."); Crandell v. New York College, Osteopathic Medicine, 87 F.Supp.2d 304, 318 (S.D.N.Y. 2000) (finding that allegations that a supervisory physician demanded that a student physician spend time with him and have lunch with him or receive a poor evaluation, in light of the totality of his alleged sexual comments and other inappropriate behavior, constituted a claim of quid pro quo harassment); Kadiki, 892 F.Supp. at 752 (reexamination in a course conditioned on college student's agreeing to be spanked should she not attain a certain grade may constitute quid pro quo harassment).

[35] 34 CFR 106.31(b).

[36] Davis, 526 U.S. at 651 (confirming, by citing approvingly both to Title VII cases (Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57,67 (1986) (finding that hostile environment claims are cognizable under Title VII), and Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 82 (1998)) and OCR's 1997 guidance, 62 FR at 12041-42, that determinations under Title IX as to what conduct constitutes hostile environment sexual harassment may continue to rely on Title VII caselaw).

[37] 34 CFR 106.31(b). See Davis, 526 U.S. at 650 (concluding that allegations of student-on-student sexual harassment that is "so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits" supports a claim for money damages in an implied right of action).

[38] In Harris, the Supreme Court explained the requirement for considering the "subjective perspective" when determining the existence of a hostile environment. The Court stated– – "... if the victim does not subjectively perceive the environment to be abusive, the

conduct has not actually altered the conditions of the victim's employment, and there is no Title VII violation." 510 U.S. at 21-22.

[39] See Davis, 526 U.S. at 650 (conduct must be "objectively offensive" to trigger liability for money damages); Elgamil v. Syracuse University, 2000 U.S. Dist. LEXIS 12598 at 17 (N.D.N.Y. 2000) (citing Harris); Booher v. Board of Regents, 1998 U.S. Dist. LEXIS 11404 at 25 (E.D. Ky. 1998) (same). See Oncale, 523 U.S. at 81, in which the Court "emphasized ... that the objective severity of harassment should be judged from the perspective of a reasonable person in the [victim's] position, considering 'all the circumstances,'" and citing Harris, 510 U.S. at 20, in which the Court indicated that a "reasonable person" standard should be used to determine whether sexual conduct constituted harassment. This standard has been applied under Title VII to take into account the sex of the subject of the harassment, see, e.g., Ellison, 924 F.2d at 878-79 (applying a "reasonable woman" standard to sexual harassment), and has been adapted to sexual harassment in education under Title IX, Patricia H. v. Berkeley Unified School Dist., 830 F.Supp. 1288, 1296 (N.D. Cal. 1993) (adopting a "reasonable victim" standard and referring to OCR's use of it).

[40] See Davis, 526 U.S. at 651, citing both Oncale, 523 U.S. at 82, and OCR's 1997 guidance (62 FR 12041-12042).

[41] See, e.g., Davis, 526 U.S. at 634 (as a result of the harassment, student's grades dropped and she wrote a suicide note); Doe v. Petaluma, 830 F. Supp. at 1566 (student so upset about harassment by other students that she was forced to transfer several times, including finally to a private school); Modesto City Schools, OCR Case No. 09-93-1391 (evidence showed that one girl's grades dropped while the harassment was occurring); Weaverville Elementary School, OCR Case No. 09-91-1116 (students left school due to the harassment). Compare with College of Alameda, OCR Case No. 09-90-2104 (student not in instructor's class and no evidence of any effect on student's educational benefits or service, so no hostile environment).

[42] Doe v. Petaluma, 830 F.Supp. at 1566.

[43] See Waltman v. Int'l Paper Co., 875 F.2d 468, 477 (5th Cir. 1989) (holding that although not specifically directed at the plaintiff, sexually explicit graffiti on the walls was "relevant to her claim"); Monteiro v. Tempe Union High School, 158 F.3d 1022, 1033-34 (9th Cir. 1998) (Title VI racial harassment case, citing Waltman; see also Hall, 842 F. 2d at 1015 (evidence of sexual harassment directed at others is relevant to show hostile environment under Title VII).

[44] See, e.g., Elgmil 2000 U.S. Dist. LEXIS at 19 ("in order to be actionable, the incidents of harassment must occur in concert or with a regularity that can reasonably be termed pervasive"); Andrews, 895 F.2d at 1484 ("Harassment is pervasive when 'incidents of harassment occur either in concert or with regularity'"); Moylan v. Maries County, 792 F.2d 746, 749 (8th Cir. 1986).

[45] 34 CFR 106.31(b). See Vance v. Spencer County Public School District, 231 F.3d 253 (6th Cir. 2000); Doe v. School Admin. Dist. No. 19, 66 F.Supp.2d 57, 62 (D. Me. 1999). See also statement of the U.S. Equal Employment Opportunity Commission (EEOC): "The Commission will presume that the unwelcome, intentional touching of [an employee's] intimate body areas is sufficiently offensive to alter the conditions of her working environment and constitute a violation of Title VII. More so than in the case of verbal advances or remarks, a single unwelcome physical advance can seriously poison the victim's working environment." EEOC Policy Guidance on Current Issues of Sexual Harassment, 17. Barrett v. Omaha National Bank, 584 F. Supp. 22, 30 (D. Neb. 1983), aff'd, 726 F. 2d 424 (8th Cir. 1984) (finding that hostile environment was created under Title VII by isolated events, i.e., occurring while traveling to and during a two-day conference, including the co-worker's talking to plaintiff about sexual activities and touching her in an offensive manner while they were inside a vehicle from which she could not escape).

[46] See also Ursuline College, OCR Case No. 05-91-2068 (a single incident of comments on a male student's muscles arguably not sexual; however, assuming they were, not severe enough to create a hostile environment).

[47] Davis, 526 U.S. at 653 ("The relationship between the harasser and the victim necessarily affects the extent to which the misconduct can be said to breach Title IX's guarantee of equal access to educational benefits and to have a systemic effect on a program or activity. Peer harassment, in particular, is less likely to satisfy these requirements than is teacher student harassment."); Patricia H., 830 F. Supp. at 1297 (stating that the "grave disparity in age and power" between teacher and student contributed to the creation of a hostile environment); Summerfield Schools, OCR Case No. 15-92-1929 ("impact of the ... remarks was heightened by the fact that the coach is an adult in a position of authority"); cf. Doe v. Taylor I.S.D., 15 F.3d 443, 460 (5th Cir. 1994) (Sec. 1983 case; taking into consideration the influence that the teacher had over the student by virtue of his position of authority to find that a sexual relationship between a high school teacher and a student was unlawful).

[48] See, e.g., McKinney, 765 F.2d at 1138-49; Robinson v. Jacksonville Shipyards, 760 F. Supp. 1486, 1522 (M.D. Fla. 1991).

[49] Cf. Patricia H., 830 F. Supp. at 1297.

[50] See, e.g., Barrett, 584 F. Supp. at 30 (finding harassment occurring in a car from which the victim could not escape particularly severe).

[51] See Hall, 842 F. 2d at 1015 (stating that "evidence of sexual harassment directed at employees other than the plaintiff is relevant to show a hostile environment") (citing Hicks, 833 F. 2d, 1415-16). Cf. Midwest City-Del City Public Schools, OCR Case No. 06-92-1012 (finding of racially hostile environment based in part on several racial incidents at school shortly before incidents in complaint, a number of which involved the same student involved in the complaint).

[52] In addition, incidents of racial or national origin harassment directed at a particular individual may also be aggregated with incidents of sexual or gender harassment directed at that individual in determining the existence of a hostile environment. Hicks, 833 F.2d at 1416; Jefferies v. Harris County Community Action Ass'n, 615 F.2d 1025, 1032 (5th Cir. 1980).

[53] Does v. Covington Sch. Bd. of Educ., 930 F.Supp. 554, 569 (M.D. Ala. 1996); Henson v. City of Dundee, 682 F.2d 897, 903 (11th Cir. 1982).

[54] See Meritor Savings Bank, 477 U.S. at 68. "[T]he fact that sex-related conduct was 'voluntary,' in the sense that the complainant was not forced to participate against her will, is not a defense to a sexual harassment suit brought under Title VII.... The correct inquiry is whether [the subject of the harassment] by her conduct indicated that the alleged sexual advances were unwelcome, not whether her actual participation in sexual intercourse was voluntary."

[55] Lipsett, 864 F.2d at 898 (while, in some instances, a person may have the responsibility for telling the harasser "directly" that the conduct is unwelcome, in other cases a "consistent failure to respond to suggestive comments or gestures may be sufficient...."); Danna v. New York Tel. Co., 752 F.Supp. 594, 612 (despite a female employee's own foul language and participation in graffiti writing, her complaints to management indicated that the harassment was not welcome); see also Carr v. Allison Gas Turbine Div. GMC., 32 F.3d 1007, 1011 (7th Cir. 1994) (finding that cursing and dirty jokes by a female employee did not show that she welcomed the sexual harassment, given her frequent complaints about it: "Even if ... [the employee's] testimony that she talked and acted as she did [only] in an effort to be one of the boys is ... discounted, her words and conduct cannot be compared to those of the men and used to justify their conduct.... The asymmetry of positions must be considered. She was one woman; they were many men. Her use of [vulgar] terms ... could not be deeply threatening....").

[56] See Reed v. Shepard, 939 F.2d 484, 486-87, 491-92 (7th Cir. 1991) (no harassment found under Title VII in a case in which a female employee not only tolerated, but also instigated the suggestive joking activities about which she was now complaining); Weinsheimer v. Rockwell Int'l Corp., 754 F.Supp. 1559, 1563-64 (M.D. Fla. 1990) (same, in case in which general shop banter was full of vulgarity and sexual innuendo by men and women alike, and plaintiff contributed her share to this atmosphere.) However, even if a student participates in the sexual banter, OCR may in certain circumstances find that the conduct was nevertheless unwelcome if, for example, a teacher took an active role in the sexual banter and a student reasonably perceived that the teacher expected him or her to participate.

[57] The school bears the burden of rebutting the presumption.

[58] Of course, nothing in Title IX would prohibit a school from implementing policies prohibiting sexual conduct or sexual relationships between students and adult employees.

[59] See note 58.

[60] Gebser, 524 U.S. at 281 ("Franklin ... establishes that a school district can be held liable in damages [in an implied action under Title IX] in cases involving a teacher's sexual harassment of a student...."; 34 CFR 106.31; See 1997 Sexual Harassment Guidance, 62 FR 12034.

[61] See Davis, 526 U.S. at 653 (stating that harassment of a student by a teacher is more likely than harassment by a fellow student to constitute the type of effective denial of equal access to educational benefits that can breach the requirements of Title IX).

[62] 34 CFR 106.31(b). Cf. Gebser, 524 U.S. at 283-84 (Court recognized in an implied right of action for money damages for teacher sexual harassment of a student that the question of whether a violation of Title IX occurred is a separate question from the scope of appropriate remedies for a violation).

[63] Davis, 526 U.S. at 646.

[64] See section on "Applicability of Title IX" for scope of coverage.

[65] See section on "Notice of Employee, Peer, or Third Party Harassment."

[66] See section on "Notice of Employee, Peer, or Third Party Harassment."

[67] 34 CFR 106.31(b).

[68] 34 CFR 106.31(b).

[69] See section on "Notice of Employee, Peer, or Third Party Harassment."

[70] Cf. Davis, 526 U.S. at 646.

[71] 34 CFR 106.31(b).

[72] 34 CFR 106.31(b).

[73] Consistent with its obligation under Title IX to protect students, cf. Gebser, 524 U.S. at 287, OCR interprets its regulations to ensure that recipients take reasonable action to address, rather than neglect, reasonably obvious discrimination. Cf. Gebser, 524 U.S. at 287-88; Davis, 526 U.S. at 650 (actual notice standard for obtaining money damages in private lawsuit).

[74] Whether an employee is a responsible employee or whether it would be reasonable for a student to believe the employee is, even if the employee is not, will vary depending on

factors such as the age and education level of the student, the type of position held by the employee, and school practices and procedures, both formal and informal.
The Supreme Court held that a school will only be liable for money damages in a private lawsuit where there is actual notice to a school official with the authority to address the alleged discrimination and take corrective action. Gebser, 524 U.S. at 290, and Davis, 526 U.S. at 642. The concept of a "responsible employee" under our guidance is broader. That is, even if a responsible employee does not have the authority to address the discrimination and take corrective action, he or she does have the obligation to report it to appropriate school officials.

[75] The Title IX regulations require that recipients designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the regulations, including complaint investigations. 34 CFR 106.8(a).

[76] 34 CFR 106.31. See Yates v. Avco Corp., 819 F.2d 630, 636 (6th Cir. 1987); Katz v. Dole, 709 F.2d 251, 256 (4th Cir. 1983).

[77] For example, a substantiated report indicating that a high school coach has engaged in inappropriate physical conduct of a sexual nature in several instances with different students may suggest a pattern of conduct that should trigger an inquiry as to whether other students have been sexually harassed by that coach. See also Doe v. School Administrative Dist. No. 19, 66 F.Supp.2d 57, 63-64 and n.6 (D.Me. 1999) (in a private lawsuit for money damages under Title IX in which a high school principal had notice that a teacher may be engaging in a sexual relationship with one underage student and did not investigate, and then the same teacher allegedly engaged in sexual intercourse with another student, who did not report the incident, the court indicated that the school's knowledge of the first relationship may be sufficient to serve as actual notice of the second incident).

[78] Cf. Katz, 709 F.2d at 256 (finding that the employer "should have been aware of the problem both because of its pervasive character and because of [the employee's] specific complaints ..."); Smolsky v. Consolidated Rail Corp., 780 F.Supp. 283, 293 (E.D. Pa. 1991), reconsideration denied, 785 F.Supp. 71 (E.D. Pa. 1992) "where the harassment is apparent to all others in the work place, supervisors and coworkers, this may be sufficient to put the employer on notice of the sexual harassment" under Title VII); Jensen v. Eveleth Taconite Co., 824 F.Supp. 847, 887 (D.Minn. 1993); "[s]exual harassment ... was so pervasive that an inference of knowledge arises .... The acts of sexual harassment detailed herein were too common and continuous to have escaped Eveleth Mines had its management been reasonably alert."); Cummings v. Walsh Construction Co., 561 F.Supp. 872, 878 (S.D. Ga. 1983) ("... allegations not only of the [employee] registering her complaints with her foreman ... but also that sexual harassment was so widespread that defendant had constructive notice of it" under Title VII); but see Murray v. New York Univ. College of Dentistry, 57 F.3d 243, 250-51 (2nd Cir. 1995) (concluding that other students' knowledge of the conduct was not enough to charge the school with notice, particularly because these students may not have been aware that the conduct was offensive or abusive).

[79] 34 CFR 106.9 and 106.8(b).

[80] 34 CFR 106.8(b) and 106.31(b).

[81] 34 CFR 106.9.

[82] 34 CFR 106.8(b).

[83] 34 CFR 106.31.

[84] 34 CFR 106.31 and 106.3. Gebser, 524 U.S. at 288 ("In the event of a violation, [under OCR's administrative enforcement scheme] a funding recipient may be required to take 'such remedial action as [is] deem[ed] necessary to overcome the effects of [the] discrimination.' §106.3.").

[85] 20 U.S.C. 1682. In the event that OCR determines that voluntary compliance cannot be secured, OCR may take steps that may result in termination of Federal funding through administrative enforcement, or, alternatively, OCR may refer the case to the Department of Justice for judicial enforcement.

[86] Schools have an obligation to ensure that the educational environment is free of discrimination and cannot fulfill this obligation without determining if sexual harassment complaints have merit.

[87] In some situations, for example, if a playground supervisor observes a young student repeatedly engaging in conduct toward other students that is clearly unacceptable under the school's policies, it may be appropriate for the school to intervene without contacting the other students. It still may be necessary for the school to talk with the students (and parents of elementary and secondary students) afterwards, e.g., to determine the extent of the harassment and how it affected them.

[88] Gebser, 524 U.S. at 288; Bundy v. Jackson, 641 F.2d 934, 947 (D.C. Cir. 1981) (employers should take corrective and preventive measures under Title VII); accord, Jones v. Flagship Int'l, 793 F.2d 714, 719-720 (5th Cir. 1986) (employer should take prompt remedial action under Title VII).

[89] See Doe ex rel. Doe v. Dallas Indep. Sch. Dist., 220 F.3d 380 (5th Cir. 2000) (citing Waltman); Waltman, 875 F.2d at 479 (appropriateness of employer's remedial action under Title VII will depend on the "severity and persistence of the harassment and the effectiveness of any initial remedial steps"); Dornhecker v. Malibu Grand Prix Corp., 828 F.2d 307, 309-10 (5th Cir. 1987); holding that a company's quick decision to remove the harasser from the victim was adequate remedial action).

[90] See Intlekofer v. Turnage, 973 F.2d 773, 779-780 (9th Cir. 1992)(holding that the employer's response was insufficient and that more severe disciplinary action was

necessary in situations in which counseling, separating the parties, and warnings of possible discipline were ineffective in ending the harassing behavior).

[91] Offering assistance in changing living arrangements is one of the actions required of colleges and universities by the Campus Security Act in cases of rape and sexual assault. See 20 U.S.C. 1092(f).

[92] See section on "Harassment by Other Students or Third Parties."

[93] University of California at Santa Cruz, OCR Case No. 09-93-2141 (extensive individual and group counseling); Eden Prairie Schools, Dist. #272, OCR Case No. 05-92-1174 (counseling).

[94] Even if the harassment stops without the school's involvement, the school may still need to take steps to prevent or deter any future harassment — to inform the school community that harassment will not be tolerated. Wills v. Brown University, 184 F.3d 20, 28 (1st Cir. 1999) (difficult problems are posed in balancing a student's request for anonymity or limited disclosure against the need to prevent future harassment); Fuller v. City of Oakland, 47 F.3d 1522, 1528-29 (9th Cir. 1995) (Title VII case).

[95] 34 CFR 106.8(b) and 106.71, incorporating by reference 34 CFR 100.7(e). The Title IX regulations prohibit intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX.

[96] Tacoma School Dist. No. 10, OCR Case No. 10-94-1079 (due to the large number of students harassed by an employee, the extended period of time over which the harassment occurred, and the failure of several of the students to report the harassment, the school committed as part of corrective action plan to providing training for students); Los Medanos College, OCR Case No. 09-84-2092 (as part of corrective action plan, school committed to providing sexual harassment seminar for campus employees); Sacramento City Unified School Dist., OCR Case No. 09-83-1063 (same as to workshops for management and administrative personnel and in-service training for non-management personnel).

[97] In addition, if information about the incident is contained in an "education record" of the student alleging the harassment, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, the school should consider whether FERPA would prohibit the school from disclosing information without the student's consent. Id. In evaluating whether FERPA would limit disclosure, the Department does not interpret FERPA to override any federally protected due process rights of a school employee accused of harassment.

[98] 34 CFR 106.8(b). This requirement has been part of the Title IX regulations since their inception in 1975. Thus, schools have been required to have these procedures in place since that time. At the elementary and secondary level, this responsibility generally lies

with the school district. At the postsecondary level, there may be a procedure for a particular campus or college or for an entire university system.

[99] Fenton Community High School Dist. #100, OCR Case 05-92-1104.

[100] While a school is required to have a grievance procedure under which complaints of sex discrimination (including sexual harassment) can be filed, the same procedure may also be used to address other forms of discrimination.

[101] See generally Meritor, 477 U.S. at 72-73 (holding that "mere existence of a grievance procedure" for discrimination does not shield an employer from a sexual harassment claim).

[102] The Family Educational Rights and Privacy Act (FERPA) does not prohibit a student from learning the outcome of her complaint, i.e., whether the complaint was found to be credible and whether harassment was found to have occurred. It is the Department's current position under FERPA that a school cannot release information to a complainant regarding disciplinary action imposed on a student found guilty of harassment if that information is contained in a student's education record unless — (1) the information directly relates to the complainant (e.g., an order requiring the student harasser not to have contact with the complainant); or (2) the harassment involves a crime of violence or a sex offense in a postsecondary institution. See note 97. If the alleged harasser is a teacher, administrator, or other non-student employee, FERPA would not limit the school's ability to inform the complainant of any disciplinary action taken.

[103] The section in the guidance on "Recipient's Response" provides examples of reasonable and appropriate corrective action.

[104] 34 CFR 106.8(a).

[105] Id.

[106] See Meritor, 477 U.S. at 72-73.

[107] University of California, Santa Cruz, OCR Case No. 09-93-2131. This is true for formal as well as informal complaints. See University of Maine at Machias, OCR Case No. 01-94-6001 (school's new procedures not found in violation of Title IX in part because they require written records for informal as well as formal resolutions). These records need not be kept in a student's or employee's individual file, but instead may be kept in a central confidential location.

[108] For example, in Cape Cod Community College, OCR Case No. 01-93-2047, the College was found to have violated Title IX in part because the person identified by the school as the Title IX coordinator was unfamiliar with Title IX, had no training, and did not even realize he was the coordinator.

[109] Indeed, in University of Maine at Machias, OCR Case No. 01-94-6001, OCR found the school's procedures to be inadequate because only formal complaints were investigated. While a school isn't required to have an established procedure for resolving informal complaints, they nevertheless must be addressed in some way. However, if there are indications that the same individual may be harassing others, then it may not be appropriate to resolve an informal complaint without taking steps to address the entire situation.

[110] Academy School Dist. No 20, OCR Case No. 08-93-1023 (school's response determined to be insufficient in a case in which it stopped its investigation after complaint filed with police); Mills Public School Dist., OCR Case No. 01-93-1123, (not sufficient for school to wait until end of police investigation).

[111] Cf. EEOC v. Board of Governors of State Colleges and Universities, 957 F.2d 424 (7th Cir. 1992), cert. denied, 506 U.S. 906 (1992).

[112] The First Amendment applies to entities and individuals that are State actors. The receipt of Federal funds by private schools does not directly subject those schools to the U.S. Constitution. See Rendell-Baker v. Kohn, 457 U.S. 830, 840 (1982). However, all actions taken by OCR must comport with First Amendment principles, even in cases involving private schools that are not directly subject to the First Amendment.

[113] See, e.g., George Mason University, OCR Case No. 03-94-2086 (law professor's use of a racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment); Portland School Dist. 1J, OCR Case No. 10-94-1117 (reading teacher's choice to substitute a less offensive term for a racial slur when reading an historical novel aloud in class constituted an academic decision on presentation of curriculum, not racial harassment).

[114] See Iota Xi Chapter of Sigma Chi Fraternity v. George Mason University, 993 F.2d 386 (4th Cir. 1993) (fraternity skit in which white male student dressed as an offensive caricature of a black female constituted student expression).

[115] See Florida Agricultural and Mechanical University, OCR Case No. 04-92-2054 (no discrimination in case in which campus newspaper, which welcomed individual opinions of all sorts, printed article expressing one student's viewpoint on white students on campus.)

[116] Tinker v. Des Moines Indep. Community Sch. Dist., 393 U.S. 503, 506 (1969) (neither students nor teachers shed their constitutional rights to freedom of expression at the schoolhouse gates); Cf. Cohen v. San Bernardino Valley College, 92 F.3d 968, 972 (9th Cir. 1996) (holding that a college professor could not be punished for his longstanding teaching methods, which included discussion of controversial subjects such as obscenity and consensual sex with children, under an unconstitutionally vague sexual harassment policy); George Mason University, OCR Case No. 03-94-2086 (law professor's use of a

racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment.)

[117] See, e.g., University of Illinois, OCR Case No. 05-94-2104 (fact that university's use of Native American symbols was offensive to some Native American students and employees was not dispositive, in and of itself, in assessing a racially hostile environment claim under Title VI.)

[118] See Meritor, 477 U.S. at 67 (the "mere utterance of an ethnic or racial epithet which engenders offensive feelings in an employee" would not affect the conditions of employment to a sufficient degree to violate Title VII), quoting Henson, 682 F.2d at 904; cf. R.A.V. v. City of St. Paul, 505 U.S. 377, 389 (1992) (citing with approval EEOC's sexual harassment guidelines); Monteiro, 158 F.3d at 1032-34 (9th Cir. 1998) (citing with approval OCR's racial harassment investigative guidance).

[119] Compare Bethel School Dist. No. 403 v. Fraser, 478 U.S. 675, 685 (1986) (Court upheld discipline of high school student for making lewd speech to student assembly, noting that "[t]he undoubted freedom to advocate unpopular and controversial issues in schools must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate behavior."), with Iota Xi, 993 F.2d 386 (holding that, notwithstanding a university's mission to create a culturally diverse learning environment and its substantial interest in maintaining a campus free of discrimination, it could not punish students who engaged in an offensive skit with racist and sexist overtones).

SixTen and Associates
Mandate Reimbursement Services

Exhibit G

EITH B. PETERSEN, MPA, JD, President
252 Balboa Avenue, Suite 807
San Diego, CA 92117

Telephone: (858) 514-8605
Fax: (858) 514-8645
E-Mail: Kbpsixten@aol.com

September 21, 2004

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: Test Claim 02-TC-31
Santa Monica Community College District
Minimum Conditions for State Aid

Dear Ms. Higashi:

By letter dated May 5, 2004, I responded to the comments of the Chancellor's Office of the California Community Colleges ("CCC") dated March 11, 2004. At pages 15-16 of my response, I pointed out that CCC had represented that it was attaching copies of historic regulation packages as Attachments 1, 2, 3 and 4. I also called your attention to the fact that the comments provided to me did not have any attachments and, therefore, test claimant reserved the right to respond, if needed, when the attachments may be received in the future.

On July 29, 2004, copies of those attachments were supplied to me by your office.[1] Therefore, I am now augmenting my prior response of May 5, 2004 to further respond to the comments of CCC to address the issues raised by the Attachments and to address facts discovered through additional research facilitated by the Attachments.

[1] Page 11 of Attachment 1 was not received.

Condition 1 - Standards of Scholarship

CCC refers to Attachment 1[2] and Attachment 2[3]. These references, however, are incomplete. The complete Title 5 regulations pertaining to Standards of Scholarship, as they existed on December 31, 1974, are found in former Division 2, Chapter 4, sections 51300 through 51308. A copy of those regulations is attached hereto as Exhibit "A" and is incorporated herein by reference.

Former Chapter 4 (Standards of Scholarship) was amended thereafter as follows:

Sections 51301 (Grading Practices), 51302 (Grade Options), 51302.5 (Credit by Examination), 51303 (Standards for Probation), 51304 (Standards for Dismissal), 51305 (Units Attempted), 51306 (Grade Point Average), 51307 (Notification of Probation and Dismissal), and 51308 (Grades Offered) were amended to make technical changes. (See: Register 77, No. 45)

Section 51315 (District Policy for Course Repetition) was added on April 29, 1977. (See: Register 77, No. 18) Therefore, for the first time, community college districts were required to adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work had been recorded. Community college districts were also required, for the first time, when course repetition occurred to annotate the permanent academic record in such a manner that all work remains legible, ensuring a true and complete academic history.

Section 51316 (Course Repetition: Implementation) was added on April 29, 1977 and amended on November 4, 1977. (See: Register 77, No. 18 and Register 77, No.45) Therefore, for the first time, community college districts were (a) required to refrain from adopting any regulation or procedure which conflicted with other specified Education Code sections, (b) allowed to permit repetition of any course taken in any accredited college or university and for which substandard academic performance was recorded, (c) required to indicate which courses or categories of courses were exempt from

---

[2] Attachment 1 is a document approved for filing on August 26, 1969. My subsequent research reveals that it was published in Register 69, No. 35, as an emergency measure on that date.

[3] Attachment 2 is a document approved for filing on July 1, 1971. My subsequent research reveals that it was published in Register 71, No. 27, on that date.

consideration under these regulations, (d) required to deem any course repetition permitted to constitute "unusual circumstances" and, therefore, require prior written permission from the district superintendent, (e) required to clearly indicate any courses repeated on the student's permanent academic record, using an appropriate symbol, (f) required to publish adopted procedures or regulations, (g) allowed to honor similar prior course repetition actions by other accredited colleges and universities, and (h) required to maintain a careful record of actions taken under course repetition procedures or regulations to include in periodic reports which may be required by the Chancellor.

Section 51318 (District Policy for Academic Renewal Without Course Repetition) was added on April 29, 1977. (See: Register 77, No. 18) Therefore, for the first time, the governing boards of community college districts were required to adopt and publish procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance which was not reflective of a student's demonstrated ability. And, when previously recorded, substandard course work was to be disregarded in the computation of grade point averages, and districts were required to annotate the student's permanent academic record in such a manner that all work remained legible, insuring a true and complete academic history.

Section 51319 (Academic Renewal Without Course Repetition: Implementation) was added on April 29, 1977. (See: Register 77, No. 18) Therefore, for the first time, governing boards of community college districts, in adopting procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance which was not reflective of a student's demonstrated ability, were (a) restrained from adopting any regulation or procedure which conflicted with specified Education Code sections, (b) required to state specified data, and (c) required to publish adopted procedures to be followed in implementing the procedures or regulations adopted stating at a minimum the procedure to be followed by students and naming district officers and personnel responsible for implementing the procedures.

Section 51302.5 was amended to make a technical correction on November 15, 1979. (See: Register 79, No. 46)

Section 51301 was amended on March 14, 1980 to delete the provision allowing governing boards to establish a deadline and make provisions for a student to withdraw from a class without penalty, and to make technical corrections. (See: Register 80, No. 11)

Section 51302 was amended on March 14, 1980. (See: Register 80, No. 11) Subdivision (a) was amended to require, for the first time, that the governing board of a

district shall specify in its catalog the category into which each course falls. Subdivision (e) was added to provide, for the first time, that independent study courses may be graded on a "credit/no credit" basis. Subdivision (f) was added to provide, for the first time, that when a district offers courses in which there is a single satisfactory standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades.

Section 51302.5 (Credit by Examination) was amended on March 14, 1980. (See: Register 80, No. 11) Subdivision (a) was added to require, for the first time, that governing boards adopt and publish procedures and regulations pertaining to credit by examination. The provisions of the section prior to 1980 were placed in subparagraph (b). Subdivision (c) was added to require, for the first time, that the student's academic record be clearly annotated to reflect that credit was earned by examination. Subdivision (d) was added to provide that units for which credit was given by examination shall not be counted in determining the required 12 semester hours in residence.

Section 51303 (Standards for Probation) was amended on March 14, 1980 and again on May 8, 1980. (See: Register 80, No. 11, and Register 80, No. 19) The provisions of the section prior to 1980 were placed in subparagraph (a). Subparagraph (b) was added to provide, for the first time, that certain students be placed on progress probation. Subparagraph (c) was added to provide that governing boards of community college districts may adopt standards of probation that do not exceed those standards specified in subdivisions (a) and (b).

Section 51303.5 (Removal from Probation) was added on March 14, 1980 and amended on May 8, 1980. (See: Register 80, No. 19) New subdivision (a) required, for the first time, that a student shall be removed from academic probation when the student's accumulated grade point average was 2.0 or higher. New subdivision (b) required, for the first time, that a student on progress probation shall be removed from probation when the entries of "W," "I," and "NC" dropped below 50 percent. New subdivision (c) required, for the first time, that the governing board of a district adopt and publish procedures and conditions for probation, appeals from probation and requests for removal from probation.

Section 51304 (Standards for Dismissal) was amended on March 14, 1980 and again on May 8, 1980. (See: Register 80, No. 11, and Register 80, No. 19) An introductory paragraph was added to require community college districts to consider certain semesters and quarters as being consecutive. The provisions of the section prior to 1980 (when students on academic probation shall be subject to dismissal) were placed

in subparagraph (a). Subdivision (b) was added to provide, for the first time, when a student who has been placed on progress probation shall be subject to dismissal. Subdivision (c) was added to require, for the first time, that the governing board of a district adopt and publish procedures and conditions for dismissal, appeal of dismissal and requests for reinstatement. The former provisions requiring district boards to adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal were placed in new subdivision (d).

Section 51306 (former heading: Grade Point Average - amended now to "Academic Record Symbols and Grade Point Average") was amended on March 14, 1980 and again on May 8, 1980. (See: Register 80, No. 11, and Register 80, No. 19). Subdivision (a) was amended to require, for the first time, that only specified evaluative symbols be used for grading. Subdivision (b) was amended to require, for the first time, that the governing board of a district publish the point equivalencies for grades. Subdivision (c) was added and amended to provide that the governing board may authorize the use of certain non-evaluative symbols.

Section 51307 (Notification of Probation and Dismissal) was amended on March 14, 1980. (See: Register 80, No. 11) In addition to technical changes, the section was amended to provide, for the first time, that each community college also make every reasonable effort to provide counseling and support services to a student on probation. The amendment also required districts, for the first time, to make every reasonable effort to notify a student of the student's removal from probation or reinstatement after dismissal within established timelines. The amendment also required districts, for the first time, to publish their probation and dismissal policies and procedures in the college catalog.

Former Section 51308 (Grades Offered) was repealed on March 14, 1980 and a new Section 51308 (Grade Changes) was added on that date. (See: Register 80, No. 11) New subdivision (a) required the instructor of any course to determine the grade to be awarded. New subdivision (b) authorized the governing board to authorize a student who has received credit for a course taken on a "credit-no credit" basis within the district to convert that grade to a grade based on a grading scale by taking an appropriate examination. New subdivision (c) required, for the first time, that the governing board of a district adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded and to make appropriate annotations of any courses repeated on the student's permanent academic record.

Section 51315 (District Policy for Course Repetition) was amended on March 14, 1980. (See: Register 80, No. 11) For purposes of course repetition, academic renewal and all

other related provisions, the term "substandard" was defined. In addition, in such cases, the procedures in specified regulation sections were to be followed.

Section 51316 (Course Repetition: Implementation), Section 51318 (District Policy for Academic Renewal Without Course Repetition), and Section 51319 (Academic Renewal Without Course Repetition: Implementation) were amended on March 14, 1980 to make technical changes. (See: Register 80, No. 11)

Section 51325 was added on March 14, 1980 to provide, for the first time, that the governing board of a district may request a reasonable phase-in period from the Chancellor when adopting regulations or otherwise implementing the provisions of the Chapter.

Section 51302 (Credit - No Credit Options) was amended on May 14, 1982 to delete former subdivision (c) which provided that a governing board could authorize a student to convert his or her grade by taking an appropriate examination. (See: Register 82, No. 20)

Section 51302.5 (Credit by Examination) was amended on May 14, 1982 to delete the reference to subdivision (f) of Section 55002. (See: Register 82, No. 20)

Section 51305 (Units Attempted) was amended on May 14, 1982 to delete units of credit earned when the student was enrolled in any college, university, or grades 13 and 14 from required calculations and limit the calculations only to those when enrolled in the current community college of attendance. (See: Register 82, No. 20)

Section 51306 (Academic Record Symbols and Grade Point Average) was amended on May 14, 1982. (See: Register 82, No. 20) Subdivision (c) was amended to limit the use of designated non-evaluative symbols only under specified controls and conditions. The definition of the "IP" symbol was amended to require the appropriate faculty to assign an evaluative symbol (grade) when a student was enrolled in an "open-entry, open-exit" course, was assigned an "IP" at the end of an attendance period, and did not enroll in that course in the subsequent attendance period. The definition of the "W" symbol was amended to provide for authorization to withdraw, upon petition, in extenuating circumstances, and to define "appropriate faculty." Other technical corrections were also made.

Section 51307 (Notification of Probation and Dismissal) was amended on May 14, 1982 to delete three requirements to make "every reasonable effort" to require only "reasonable efforts" (See: Register 82, No. 20)

Section 51308 (Grade Changes) was amended on May 14, 1982 to delete former subdivision (b) allowing the governing board to authorize a student to convert a "credit-no credit" basis to a grade based on a grading scale. A new subdivision (b) was added to require the governing board of a district, for the first time, to adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work had been recorded and to require appropriate notations of any courses repeated. (See: Register 82, No. 20)

Section 51315 (District Policy for Course Repetition) was amended on May 14, 1982 to delete references to certain regulation sections. (See: Register 82, No. 20)

Section 51317 (Course Repetition: Special Circumstances) was added on May 14, 1982 to add, for the first time, procedures or regulations pertaining to courses for which substandard work had not been recorded. Subdivision (b) required annotation of the student's permanent record when course repetition under the section occurred. (See: Register 82, No. 20)

Section 51325 (Request for Phase-In) was repealed on May 14, 1982. (See: Register 82, No. 20)

Chapter 4 (Sections 51300 through 51319, not consecutive) was repealed on July 13, 1983. (See: Register 83, No. 29)

The test claim regulations (Title 5, sections 51002 and 55750 through 55765 mostly[4] added on July 13, 1983) are attached to the test claim in Exhibit 4.

A comparison of the requirements of the pre-1975 regulations (Exhibit "A"), the regulations added since 1975, and the test claim regulations (Exhibit 4), clearly shows that the test claim requirements are much more extensive than those required before 1975. For example, but not by way of limitation:

1. Pre-1975 regulations did not require that adopted regulations be filed with the Chancellor's office. [Title 5, Section 55750]

---

[4] Section 55765.5 (Remedial Coursework Limit) was added on June 5, 1990. (See: Register 90, No. 37) Section 55758.5 (Grade Point Averaging) was added on October 25, 1991. (See: Register 92, No. 7) Sections 55753.5 (Articulation of High School Courses) and 55753.7 (Advanced Placement Examinations) were added on January 4, 2002. (See: Register 2002, No. 8)

2. Pre-1975 regulations did not provide for "credit-no credit" grading for independent study courses. [Title 5, Section 55752(d)]

3. Pre-1975 regulations did not require adoption and publication of procedures and regulations pertaining to credit by examination, the nature and content of which is to be determined solely by faculty, separate examinations for each course, annotations on students' records and offering students a credit-no credit option. [Title 5, Section 55753(a)(c)(d)(e)(f)]

4. Pre-1975 regulations did not address articulation of high school courses. [Title 5, Section 55753.5]

5. Pre-1975 regulations did not address advanced placement examinations. [Title 5, Section 55753.7]

6. Pre-1975 regulations did not consider progress probations or limit adoption of standards for probation. [Title 5, 55754(b)(c)]

7. Pre-1975 regulations did not detail specific requirements for a student's removal from probation. [Title 5, Section 55755]

8. Pre-1975 regulations did not govern standards for dismissal of students placed on progress probation and did not require publication of procedures and conditions for dismissal and appeal of dismissal and requests for reinstatement. [Title 5, Section 55756(b)(c)]

9. Pre-1975 regulations did not place limits on the amount of remedial coursework that students may take. [Title 5, Section 55756.5]

10. Pre-1975 regulations did not govern academic record symbols and grade point averages. [Title 5, Section 55758]

11. Pre-1975 regulations did not require districts to make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties; or to make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district; or publish probation and dismissal policies and procedures in the college catalog. [Title 5, Section 55759]

12. Pre-1975 regulations did not govern grade changes. [Title 5, Section 55760]

13. Pre-1975 regulations did not require adoption and publication of procedures pertaining to the repetition of courses for which substandard work has been recorded. [Title 5, Section 55761]

14. Pre-1975 regulations did not govern the implementation of procedures or regulations for course repetitions. [Title 5, Section 55762]

15. Pre-1975 regulations did not govern special circumstances when courses may be repeated. [Title 5, Section 55763]

16. Pre-1975 regulations did not require adoption and publication of procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance which is not reflective of a student's demonstrated ability. [Title 5, Section 55764]

17. Pre-1975 regulations did not govern implementation of procedures or regulations pertaining to academic renewal without course repetition. [Title 5, Section 55765]

Condition 2 - Degrees and Certificates

CCC refers to Attachment 1 (for former Section 51005) and Attachment 3[5]. Attachment 3, as published, added former Chapter 8 (Sections 51620 through 51626) pertaining to Degrees and Certificates granted after September 1, 1973. Degrees granted prior to that date were governed by Chapter 7 (Sections 51600 through 51606) which is not relevant to this test claim. The Title 5 regulations pertaining to Degrees and Certificates, as they existed on December 31, 1974, are attached hereto as Exhibit "B" and are incorporated herein by reference.

Sections 51625 (Certificate of Achievement) and 51626 (Duty to Grant Degree or Diploma) were repealed and replaced by new sections 51628 and 51629 on June 9, 1982. The new section headings and text were substantially similar to the repealed sections. (See: Register 82, No. 24)

A new Section 51626 governing the minimum requirements for the Associate Degree was added on June 9, 1982. (See: Register 82, No. 24)

[5] Attachment 3 is a document approved for filing on October 1, 1971. My subsequent research reveals that it was published in Register 71, No. 40, on that date.

Former Chapter 8 (Degrees and Certificates), Sections 51620 through 51629, was repealed on July 13, 1983. (See: Register 83, No. 29)

The test claim regulations (Title 5, sections 51004 and 55800 through 55810 mostly[6] added on July 18, 1983) are attached to the test claim in Exhibit 4.

A comparison of the requirements of the pre-1975 regulations (Exhibit "B"), the new regulations since 1975, and the test claim regulations (Exhibit 4), show that the test claim requirements are more extensive than required before 1975. For example, but not by way of limitation:

1. Pre-1975 regulations did not require that the policy adopted by the board regarding degrees and certificates be published in the college catalog and filed with the Chancellor's Office. [Section 55800]

2. Pre-1975 regulations did not require the district to receive and process student petitions seeking that noncredit courses be counted toward associate degrees. [Section 55807]

Condition 3 - Open Courses

CCC again refers to Attachments 1 and 2 in order to cite former Section 51003, subdivision (c) and former Section 51102. Copies of those sections, as they existed on December 31, 1974, are attached hereto as Exhibit "C." As can be seen, these two sections really have nothing to do with "Open Courses."

A new Division 9[7], chapters[8] 1 through 4 (Sections 58000-58253), was added on December 29, 1971. (See: Register 71, No. 1) This included sections 58100 through 58110 which regulated Open Courses. This Division 9 was repealed on December 21,

---

[6] Section 55805.5 (Types of Courses Appropriate to the Associate Degree) was added on October 7, 1988. (See: Register 88, No. 42) Section 55800.5 (Minimum Credit Hours for Graduation from Two-Year Course) was added on March 4, 1991. (See: Register 91, No. 23)

[7] Effective April 1, 1990 the hierarchical headings used within the California Code of Regulations were renamed. Division 9 is now Chapter 9.

[8] See footnote 7. Chapters are now subchapters.

1981, effective January 20, 1982. (See: Register 81, No. 52) A replacement Division 9 was not added until July 29, 1982, effective August 28, 1982. (See: Register 82, No. 31) Therefore, all of the provisions of Division 9 (now Chapter 9), including Subchapter 2 (Limitations on State Aid), Article 1 - (Open Courses), Sections 58102, 58104, 58106, 58107, and 58108 (the test claim regulations) are all new programs.

The test claim regulations (Title 5, sections 51006 and 58102 through 58108, not consecutive) are attached to the test claim in Exhibit 4.

Condition 4 - Comprehensive Plans

CCC refers to Attachment 4[9]. The Title 5 regulations pertaining to Educational Master Plans, as they existed on December 31, 1974, are found in former Division 6[10], Chapter 5, sections 55400 et seq. A copy of those regulations is attached hereto as Exhibit "D" and is incorporated herein by reference.

The test claim regulations (Title 5, Sections 51008 and 55401 through 55404) are attached to the test claim in Exhibit 4.

A comparison of the Exhibit "D" regulations to the test claim regulations show that the regulations as they existed on December 31, 1974 did not include comprehensive or long range master plans for facilities.

Condition 7 - New Colleges and Education Centers

All of the test claim regulations (Sections 51014, 55825, 55827, 55828, 55829, 55830, and 55831) were added on July 13, 1983. (See: Register 1983, No. 29).

My additional research has discovered that former Chapter 10 (Sections 51800 through 51808, not consecutive) also regulated the approval of new colleges and educational

[9] Attachment 4 is a document approved for filing on June 28, 1971. My subsequent research reveals that it was published in Register 71, No. 27, on July 1, 1971.

[10] As of December 31, 1974, the only regulations affirming and fixing the minimum standards for entitlement to state aid were found in Division 2. (former Title 5, Section 51000) This fact is not relevant to the determination of what test claim duties, if any, existed prior to 1975.

centers. This chapter, however, was not added until June 27, 1975. (See: Register 1975, No. 26) This chapter was repealed on July 13, 1983. (See: Register 83, No. 29)

Therefore, all of the regulations governing new colleges and educational centers were enacted after 1974.

Condition 9 - Counseling

CCC refers to Attachment 1. The Title 5 regulations pertaining to Counseling, as they existed on December 31, 1974, are found in former Division 2, Chapter 6, sections 51500 et seq. A copy of those regulations is attached hereto as Exhibit "E" and is incorporated herein by reference.

The test claim regulation (Title 5, section 51018) is attached to the test claim in Exhibit 4.

A comparison of the requirements of the pre-1975 regulations (Exhibit "E") and the test claim regulation (Exhibit 4) clearly shows that the test claim requirements are much more extensive than required before 1975. For example, but not by way of limitation:

1. Pre-1975 regulations did not require governing boards to adopt regulations and file those regulations, as well as any amendments, with the Chancellor's Office. [Title 5, Section 51018(a)]

2. Pre-1975 regulations did not require governing boards to publicize organized and functioning counseling programs in each college within the district. [Title 5, Section 51018(b)]

3. Pre-1975 regulations did not require career counseling. [Title 5, Section 51018(b)(2)]

4. Pre-1975 regulations did not require personal counseling. [Title 5, Section 51018(b)(3)]

5. Pre-1975 regulations did not require coordination with the counseling aspects of other services to students. [Title 5, Section 51018(b)(4)]

Condition 15 - Shared Governance

CCC refers to former section 51004 in Attachment 1. The Title 5 regulation pertaining to Shared Governance, as it existed on December 31, 1974, is found in former Division 2, Chapter 1, section 51004. A copy of that regulation is attached hereto as Exhibit "F" and is incorporated herein by reference.

It would appear from the best available evidence that former Section 51004 was repealed sometime after its enactment on August 26, 1969 (See: Register 69, No. 35) and prior to April 18, 1970. (See: Declaration of Leo Shaw, submitted herewith) If this best evidence is correct, all of the requirements relative to shared governance are new programs since current Section 51023 was not enacted until July 13, 1983. (See: Register 83, No. 29)

Current Sections 51023.5 (Staff) and 51023.7 (Students) were not enacted until March 12, 1991. (See: Register 91, No. 23) Therefore, the current regulations found in these two latter sections are all new programs.

The test claim regulations (Title 5, sections 51023, 51023.5 and 51023.7) are attached to the test claim in Exhibit 4.

Even if the Commission should find that former Section 51004 was not repealed when suggested by the best evidence available, or was replaced by some other yet unidentified pre-1975 regulation, a comparison of the requirements of the pre-1975 regulation (Exhibit "F") and the test claim regulations (Exhibit 4) clearly show that the test claim requirements are much more extensive than required before 1975. For example, but not by way of limitation:

1. Pre-1975 regulations did not require governing boards to adopt policy statements on academic freedom, make them available to faculty and file them with the Chancellor. [Title 5, Section 51023(a)]

2. Pre-1975 regulations did not require governing boards to adopt detailed policies and procedures pertaining to staff. [Title 5, Section 51023.5(a)(1)(2)]

3. Pre-1975 regulations did not require consultations between the governing board and representatives of existing staff councils, committees, employee organizations, and other such bodies; and, where no groups or structures for participation exist that provide group staff representation, to broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views. [Title 5, Section 51023.5(a)(3)]

4. Pre-1975 regulations did not require that all staff be provided with opportunities to participate in the formulation and development of district and college policies and procedures. [Title 5, Section 51023.5(a)(4)(5)(6)]

5. Pre-1975 regulations did not require districts to adopt or implement policies and procedures that provide students the opportunity to participate effectively in district and college governance. [Title 5, Section 51023.7]

CERTIFICATION

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information or belief.

Sincerely,

Keith B. Petersen

C: Per Mailing List Attached

DECLARATION OF LEO SHAW

I, Leo Shaw, the undersigned declare:

1. I am now, and have been for the past four years, an employee of SixTen and Associates where I have been designated an Associate. My primary duties are to assist management with the preparation and written presentation of test claims and incorrect reduction claims.

2. All of the statements contained in this declaration are made and based on my own personal knowledge and, if called as a witness, I could testify competently thereto.

3. I hold a Juris Doctorate degree awarded in 1971 by the University of San Diego School of Law. I have been doing law library research, or directing others in law library research, now for thirty-seven (37) years.

4. Researching the California Code of Regulations, especially historical derivations, is difficult. The reason for the difficulty is that current regulations, as published, do not usually provide annotations to prior or similar regulations or identify repealed sections.

5. New regulations and amended regulations are published in registers. The number of the register indicates the year of publication. The new regulations and amendments are then numbered. For example, a citation of Register 80, No. 4, would indicate that it was the fourth publication in 1980. This method of citation is not always accurate and there are some gaps in the process.

6. I researched, or caused to be researched, the original Title 5 Regulations

which comprised the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitled Community Colleges to receive state aid.

7. The section pertaining to Academic Senates or Faculty Councils was originally found in Title 5, Part VI, Chapter 1, Article 5, Section 51004. Article 5, Sections 51000 through 51005, was published on August 26, 1969, as an emergency measure. (See: Register 69, No. 35)

8. Sections 51001 through 51005 no longer appeared thereafter. For example, Chapter 1 was published again on April 18, 1970 in Register 70, No. 16. Sections 51001 through 51005 no longer appeared in the Table of Contents or in the text of Chapter 1. A copy of that portion of Register 70, No. 16 is attached hereto as Exhibit "A" and is incorporated herein by reference.

9. I have researched, and have caused others to research, the "disappearance" of Sections 51001 through 51005 after August 26, 1969 and have been unable to determine why those sections no longer appear.

10. The absence of Sections 51001 through 51005 does not appear to be an error in Register 70, No. 16. Those sections also do not appear in the Table of Contents or the text of Chapter 1 as printed on July 3, 1971 in Register 71, No. 27, a copy of which is attached hereto as Exhibit "B" and is incorporated herein by reference.

11. A new Chapter 1, captioned "Minimum Standards," was added on July 13, 1983. (See: Register 83, No. 29) The history of new Section 51000, as published in Register 83, No. 29, notes the repeal of former Chapter 1 (consisting only of Section

51000) on the same date.

12. Although, I have not been able to find the repealer of former Section 51004, the best evidence found indicates that it was repealed prior to 1975.

13. I have read Attachments 1, 2, 3 and 4 as they were supplied to SixTen and Associates by staff of the Commission on State Mandates. Have those attachments allowed me to locate regulations published on August 26, 1969 in Register 69, No. 35, on April 18, 1970 in Register 70, No. 16, on July 1, 1971 in Register 71, No. 27 and on October 1, 1971 in Register 71, No. 40.

14 I have prepared Exhibits "A" through "F", inclusive, attached to the augmented response of SixTen and Associates dated September 15, 2004. I am informed and believe that the text of those exhibits accurately summarize the additions, renumbering and amendments of the Title 5 Regulations set forth therein. I am informed and believe that those exhibits accurately represent the text of those Title 5 Regulations as of December 31, 1974.

I declare, under penalty of perjury under the laws of the State of California, that the foregoing statements are true and correct, except as to those matters which are stated upon my information and belief, and, as to those matters I believe them to be true.

Executed on September 21, 2004 at San Diego, California

Leo Shaw

EXHIBIT "A"

DIVISION 2. COMMUNITY COLLEGE STANDARDS

Detailed Analysis

CHAPTER 1. GENERAL PROVISIONS

Section
51000. State Aid

CHAPTER 2. INSTRUCTIONAL PROGRAM

Section
51100. Objectives
51101. Curriculum
51102. Grades Offered

CHAPTER 3. FACULTY

Section
51200. Faculty Personnel
51201. Conditions of Instruction

CHAPTER 4. STANDARDS OF SCHOLARSHIP

Section
51300. Regulations
51301. Standards for Probation and Dismissal
51302. Reinstatement

CHAPTER 5. FACILITIES

Section
51400. Library
51403. Facilities for Certain Courses

CHAPTER 6. COUNSELING SERVICES

Section
51500. Counseling Services
51501. Services for Students
51502. Services for First-time Freshman
51503. Services for Students on Probation

CHAPTER 7. DEGREES AND CERTIFICATES

Section
51600. Regulations
51601. Definitions
51602. Associate in Arts Degree
51603. Associate in Science Degree
51604. Certificate of Achievement
51605. Credit by Examination
51606. Duty to Grant Degree or Diploma

CHAPTER 1. GENERAL PROVISIONS

51000. State Aid. The provisions of this division are adopted under the authority of Education Code Section 25510 and comprise the rules and regulations affirming and fixing the minimum standards the satisfaction of which entitles a district maintaining Community Colleges to receive state aid for the support of their Community Colleges.

Note: Authority cited for Division 2: Sections 193, 197 and 25510, Education Code.

CHAPTER 2. INSTRUCTIONAL PROGRAM.

51100. Objectives. Each Community College shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

51101. Curriculum. Each Community College shall establish such programs of education and courses as will permit the realization of the objectives and functions of the Community College. All courses shall be approved by the Chancellor in the manner provided in Chapter 2 (commencing with Section 55100) of Division 6 of this part.

51102. Grades Offered. (a) The governing board of a district maintaining a Community College may by regulation offer courses in either or both of the following categories and shall specify in its catalog the category or categories in which the course falls:

(1) Courses wherein all students are evaluated on a "credit—no credit" basis.

(2) Courses wherein each student may elect on registration, or within a reasonable time thereafter, whether the basis of his evaluation is to be a "credit—no credit" or a letter grade.

(b) All units earned on a "credit—no credit" basis in California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of Community College curriculum requirements. Such units shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.

(c) The governing board of a district maintaining a Community College may authorize a student who has received credit for a course taken on a "credit—no credit" basis within the district to convert this grade to a letter grade by taking an appropriate examination.

(d) In the absence of a regulation of the type authorized in subdivision (a) of this section a course will be presumed to be offered on a letter-grade basis.

EXHIBIT "B"

DIVISION 2. COMMUNITY COLLEGE STANDARDS

Detailed Analysis

CHAPTER 1. GENERAL PROVISIONS

Section
51000. State Aid

CHAPTER 2. INSTRUCTIONAL PROGRAM

Section
51100. Objectives
51101. Curriculum
51102. Identification of Courses
51103. College Credit Course

CHAPTER 3. FACULTY

Section
51200. Faculty Personnel
51201. Conditions of Instruction

CHAPTER 4. STANDARDS OF SCHOLARSHIP

Section
51300. Regulations
51301. Grading Practices
51302. Credit Courses
51303. Standards for Probation
51304. Standards for Dismissal
51305. Units Attempted
51306. Probation and Dismissal—Grade Point Average
51307. Determination of Probation and Dismissal
51308. Reinstatement

CHAPTER 5. FACILITIES

Section
51400. Library
51401. Facilities for Certain Courses

CHAPTER 6. COUNSELING SERVICES

Section
51500. Counseling Services
51501. Services for Students
51502. Services for First-time Freshman
51503. Services for Students on Probation

CHAPTER 7. DEGREES AND CERTIFICATES

Section
51600. Regulations
51601. Definitions
51602. Associate in Arts Degree
51603. Associate in Science Degree
51604. Certificate of Achievement
51605. Credit by Examination
51606. Duty to Grant Degree or Diploma

CHAPTER 1. GENERAL PROVISIONS

51000. State Aid. The provisions of this division are adopted under the authority of Education Code Section 25510 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining Community Colleges to receive state aid for the support of their Community Colleges.

NOTE: Authority cited for Division 2: Sections 198, 197 and 25510, Education Code.

CHAPTER 2. INSTRUCTIONAL PROGRAM

51100. Objectives. Each Community College shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

51101. Curriculum. Each Community College shall establish such programs of education and courses as will permit the realization of the objectives and functions of the Community College. All courses shall be approved by the Chancellor in the manner provided in Chapter 2 (commencing with Section 55100) of Division 6 of this part.

***51102. Identification of Courses.** For each course offered, a Community College shall make available to students through college publications at least all of the following facts before he enrolls in the course:

(a) Whether the course is offered on the basis of credit—no credit and, if so, which provision of Section 51302, subdivision (a) is applicable.

(b) Whether the course is other than a graded course.

(c) Whether the course is a college credit course under the provisions of Section 51103.

NOTE: Authority cited: Sections 193, 197 and 25510, Education Code.

History: 1. New section filed 7-1-71; effective thirtieth day thereafter (Register 71, No. 27). Former section 51102 renumbered to 51302.

***51103. College Credit Course.** A "college credit course" is a course given in a Community College which meets one or more of the following requirements:

(a) The course is part of an approved educational program.

(b) The credit awarded by the Community College for completion of the course is accepted as completion of a portion of an appropriate educational sequence leading to an associate degree or baccalaureate degree by one or more of the following:

(1) The University of California
(2) A California State College
(3) An accredited independent college or university.

NOTE: Authority cited: Sections 193, 197 and 25510, Education Code.

History: 1. New section filed 7-1-71; effective thirtieth day thereafter (Register 71, No. 27).

---

* The community colleges may identify their courses and maintain their grading practices in accordance with these regulations on and after July 31, 1971. The community colleges shall identify courses to be offered during and after the fall semester or quarter, 1972, in accordance with these regulations and shall maintain their grading practices beginning on the first day of the fall semester or quarter, 1972, in accordance with these regulations.

Exhibit "A"

TITLE 5, CALIFORNIA CODE OF REGULATIONS
Part VI. California Community Colleges
(As of December 31,.1974)

Chapter 4. Standards of Scholarship

Section 51300 Regulations

The governing board of a district maintaining a Community College shall adopt regulations consistent with the provisions of this chapter. The regulations shall be published in the college catalog under appropriate headings.

(New Section filed 4-18-70. Register 70, No. 16) (Amendment filed 7-1-71; effective thirtieth day thereafter. Register 71, No.27)

Section 51301 Grading Practices

The governing board of the district maintaining a Community College shall determine the grading practice to be used in that Community College. The grading practice shall be based on sound academic principles and shall conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma, or license shall be graded.

(b) Work shall be graded in accordance with the provisions of Section 51302 or Section 51605 or in accordance with a grading scale.

The grading practice adopted by the governing board shall be published as a part of the catalog or class schedule of the Community College to which it applies. The governing board of a district may provide for withdrawal without penalty for students who withdraw from a class before the deadline established by the governing board.

(Repealer and new section filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 51302 Credit Courses

(a) The governing board of a district maintaining a Community College may offer courses in either or both of the following categories:

(1) Courses wherein all students are evaluated on a "credit – no credit" basis.

(2) Courses wherein each student may elect on registration, or within such time thereafter as the district governing board may determine by rules and regulations, whether the basis of his evaluation is to be "credit – no credit" or a grading scale.

(b) All units earned on a "credit – no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of Community College curriculum requirements. Such units shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.

(c) The governing board of a district maintaining a Community College may authorize a student who has received credit for a course taken on a "credit – no credit" basis within the district to convert this to a grade based on a grading scale by taking an appropriate examination.

(d) In the absence of a regulation of the type authorized in subdivision (a) of this section, the work in a course will be presumed to be evaluated on the basis of a grading scale.

(e) The governing board shall establish a policy describing the standards for the award of a "credit" grade for a course.

(Former section 51102 amendment and renumbering filed 7-1-71; effective thirtieth day thereafter. Register 71, No.27) (Former section 51302 renumbered to 51308)

Section 51302.5 Credit by Examination

The governing board of a district maintaining a Community College may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing for a course listed in the catalog of a public Community College.

Units for which credit is given pursuant to the provisions of this section shall not

be counted in determining the 12 semester hours of credit in residence required by Section 51602.

(Amendment filed 7-1-71; effective thirtieth day thereafter. Register 71, No.27) (Renumbered from Section 51605 filed 10-1-71; effective thirtieth day thereafter. Register 71, No. 40)

Section 51303 Standards for Probation

A student shall be placed on probation if he has earned a grade point average below 2.0 in all units attempted which were graded on the basis of a grading scale. The district board shall adopt "credit – no credit" probation rules.

The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for probation herein set forth and shall file a copy of such rules with the Chancellor of the California Community Colleges.

(New sections 51303 through 51307 filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 51304 Standards for Dismissal

A student shall be dismissed if he earned a grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of a grading scale. The district board shall adopt "credit – no credit" dismissal rules.

The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor of the California Community Colleges.

(New sections 51303 through 51307 filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 51305 Units Attempted

For the purposes of Sections 51303 and 51304, "all units attempted" means all units of credit for which the student was enrolled in any college, university, or grades 13 and 14, regardless of whether he completed the course or received any credit or grade. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion from "all units attempted" of units in which a student did not receive a grade or "credit – no credit" or from which the student withdrew in accordance

with rules adopted by the district governing board.

(New sections 51303 through 51307 filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 51306 Probation and Dismissal - Grade Point Average

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points.

(b) The governing board for each Community College shall establish the point equivalencies for the grades used from the grading scale at that Community College in accordance with subsection (a) of this section. These equivalencies shall be published in the catalog of that Community College as a part of the grading practices for that Community College.

(New sections 51303 through 51307 filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 51307 Determination of Probation and Dismissal.

Each Community College shall make every reasonable effort to notify a student of his academic probation or dismissal no later than the fifth day of classes of the semester or quarter in which it will be in effect.

(New sections 51303 through 51307 filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 51308 Grades Offered

(a) The governing board of a district maintaining a Community College may by regulation offer courses in either or both of the following categories and shall specify in its catalog the category or categories in which the course falls:

(1) Courses wherein all students are evaluated on a "credit – no credit" basis.

(2) Courses wherein each student may elect on registration, or within a reasonable time thereafter, whether the basis of his evaluation is to be a "credit – no credit" or a letter grade.

(b) All units earned on a "credit – no credit" basis in California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of Community College curriculum requirements. Such units shall be disregarded in determining a student's grade point average for all purposes for which a grade point average is required.

(c) The governing board of a district maintaining a Community College may authorize a student who has received credit for a course taken on a "credit – no credit" basis within the district to convert this grade to a letter grade by taking an appropriate examination.

(d) In the absence of a regulation of the type authorized in subdivision (a) of this section, a course will be presumed to be offered on a letter-grade basis.

(Renumbering from former Section 51102 filed 7-1-71; effective thirtieth day thereafter. Register 71, No.27)

Exhibit "B"

TITLE 5, CALIFORNIA CODE OF REGULATIONS
Part VI. California Community Colleges
(As of December 31, 1974)

DIVISION 2. COMMUNITY COLLEGE STANDARDS

Section 51005. Requirement for Degrees and Certificates

(a) The governing board of a district maintaining a community college shall confer the degree of associate in arts upon the satisfactory completion in grades 13 and 14 of from 60 to 64 semester hours of work in curriculum which the district accepts toward the degree (as shown by its catalog) and which includes the requirements listed in (1) through (5), provided that 12 of the required hours were secured in residence at that community college. (The governing board may make exceptions to the residence requirement in any instance in which the governing board determines that an injustice or hardship would otherwise be placed upon an individual student.) "Satisfactory completion" means either credit earned on a "credit-no credit" basis or a grade point average of 2.0 (grade C on a five point scale with zero for an F grade) or better in 13th and 14th year graded courses in the curriculum upon which the degree is based.

(1) A major consisting of at least 20 semester hours in a specified field of study;

(2) Three semester hours in the Constitution of the United States, and in American history, including the study of American institutions and ideals, and of the principles of state and local government established under the Constitution of this State, and the satisfactory passing of an examination on said courses.

(3) Two semester hours of community and personal hygiene; except that a community college student, who is a minor whose parents or guardian state in writing that the course in community and personal hygiene is contrary to the religious beliefs of the student, or if the student is not a minor if he so states in writing, may be excused from such course and permitted to substitute a two-hour course in a field or fields specifically designated by the governing board of the district in lieu of the required two-hour course in community and personal hygiene.

(4) Two semester hours in physical education earned at the rate of one-

half credit per semester for a minimum of 120 minutes per week in directed physical education activities, except as a student may be exempted in accordance with Section 8162, Education Code; and

(5) Such requirements in oral and written English as the governing board of the school district may establish.

(b) The governing board of a district maintaining a community college may confer the degree of associate in science upon the satisfactory completion in grades 13 and 14 of a minimum of 60 semester hours of work which shall satisfy all the requirements for an associate in arts degree, and which work shall include a major of at least 20 semester hours in any of the following fields: engineering, physical and biological science, vocational-technical curriculums.

(c) The governing board of a district maintaining a community college shall award the appropriate diploma or degree whenever a student shall have completed all requirements of a full curriculum of the community college without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student who satisfactorily completes the requirements of any course of study in less than the prescribed time the full number of semester hours scheduled for such course.

(d) The governing board of a district maintaining a community college shall issue a certificate of achievement (as determined by the governing board and specified in the catalog) to any student who successfully completes any course of study or curriculum in length less than the full number of years and grades maintained by the community college.

(e) The governing board of a district maintaining a community college may grant credit (but it shall not count toward the 12 semester hours of credit in residence required in (a)) to any student who satisfactorily passes an examination approved and conducted by proper authorities of the college. Such credit may be granted only:

(1) To a student who is registered at the college and in good standing.

(2) For a course listed in the catalog of a California public community college.

(f) The examination shall be made at the expense of the person being examined.

(g) Information contained in the physician's report is confidential, and the contents of the report shall not be divulged by an official or employee who has access to the report except to the Board of Governors of the California Community Colleges, the Teachers Retirement Board, any county superintendent of schools, the representative of any of them, or to the governing board of a district which has requested such information.

(h) The person shall file with the governing board of any district employing him as a substitute instructor the notice, or a photostatic copy or certified copy of the notice, from the county superintendent, stating that the person has passed the physical examination prescribed by the Board of Governors.

(New Article 5 (§§51000 through 51005) filed 8-26-69, as an emergency measure; effective upon filing. Register 69, No. 35)

Chapter 8. Degrees and Certificates (Post September 1, 1973)

Section 51620 Effective Date

The provisions of this chapter shall apply to all degrees and certificates granted by a Community College district on and after September 1, 1973. The provisions of this chapter may be made applicable to all degrees and certificates granted on and after July 1, 1972, if the governing board of a community college district adopts regulations consistent with the provisions of this chapter which are effective on July, 1, 1972.

A student who enrolls in a community college prior to September 1, 1973, shall have the option of earning his degree under the provisions of Chapter 7 or Chapter 8 of this division if the community college in which he is enrolled has changed its degree requirements in accordance with this chapter before the degree is awarded. No degree or diploma shall be awarded under the provisions of Chapter 7 after September 1, 1975.

(New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter. Register 71, No. 40)

Section 51621 Regulations

The governing board of a community college district shall adopt regulations consistent with the provisions of this chapter.

(New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day

thereafter. Register 71, No. 40)

Section 51622 Definitions

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit-no credit" basis or a grade point average of 2.0 or better in 13th and 14th year graded courses in the curriculum upon which the degree is based.

(New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter. Register 71, No. 40)

Section 51623 Associate in Arts Degree

The governing board of a Community College District shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that Community College:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas:

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to man as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate

acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

Students taking these courses may elect to use them to satisfy partially the general education requirements for a baccalaureate degree at the California State Colleges in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter. Register 71, No. 40)

Section 51624 Associate in Science Degree

The governing board of a Community College district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences or occupational curriculums.

(New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter. Register 71, No. 40)

Section 51625 Certificate of Achievement

The governing board of a Community College district shall issue a certificate of achievement, when so determined by the governing board to any student who has completed successfully any course of study or curriculum as specified in the college catalog.

(New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day

thereafter. Register 71, No. 40)

Section 51626 Duty to Grant Degree or Diploma

The governing board of a Community College district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

(New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter. Register 71, No. 40)

Exhibit "C"

TITLE 5, CALIFORNIA CODE OF REGULATIONS
Part VI. California Community Colleges
(As of December 31, 1974)

DIVISION 2. COMMUNITY COLLEGE STANDARDS

Section 51003 Criteria and Standards for Graded Community College Courses in Grades 13 and 14.

(a) **Definition**. For the purposes of this subsection, a course of study is defined as an organized sequence of courses of a college within a given subject area.

(b) **Criteria**. A graded course (class) in grade 13 or grade 14 shall possess one or more of the following characteristics:

(1) The course provides credit toward an associate degree; is normally considered of collegiate level; and is approved by the Board of Governors as a component of, a prerequisite to, or eligible as a required or elective course within, a course of study which leads toward an associate degree.

(2) The course is approved by the Board of Governors and is part of an occupational course of study of beyond high school level within the scope of the term "vocational and technical fields leading to employment" as the term is used in Education Code Section 22651 which leads toward an associate degree, an occupational certificate, or both.

(3) The course is approved by the Board of Governors and is recognized upon transfer by the University of California, a California state college, or an accredited independent college or university in California, as part of:

(A) The required preparation toward a major;
(B) The general, or general education, requirement; or
(C) The permissible or recommended elective credits.

(c) **Standards**. Any course meeting one or more of the above criteria shall meet all of the following standards:

(1) It is a course, approved by the Board of Governors the content of which is organized to meet the requirements for the associate degree as

specified in Section 51005 or the requirements for an occupational certificate and is a part of a course of study not exceeding 70 units in length.

(2) It must be offered as described in the college catalog or a supplement thereto which provides an appropriate title, number, and accurate description of course content. A course outline is available at the college. Course requirements and credit awarded are consistent with Education Code Section 22651.

(3) It is a course in which are enrolled only those students who have met the prerequisites for the course.

(4) It is subject to the published standards of matriculation, attendance and achievement of the college, and the enrollees are awarded marks or grades on the basis of methods of evaluation set forth by the college and are subject to the standards of retention set forth in Section 51002 or to such additional standards as may be established by the governing board of the district.

(5) It is a course in which enrollment shall not be repeated except in unusual circumstances and with the prior written permission from the district superintendent or his authorized representative or representatives.

(New Article 5 (§§51000 through 51005) filed 8-26-69, as an emergency measure; effective upon filing. Register 69, No. 35)

Section 51102 Identification of Courses

For each course offered, a Community College shall make available to students through college publications at least all of the following facts before he enrolls in the course:

(a) Whether the course is offered on the basis of credit – no credit and, if so, which provision of Section 51302, subdivision (a) is applicable.

(b) Whether the course is other than a graded course.

(c) Whether the course is a college credit course under the provisions of Section 51103.

(New section filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27.)
(Former section 51102 renumbered to 51302)

Exhibit "C"
Open Courses
As of December 31, 1974

Exhibit "D"

TITLE 5, CALIFORNIA CODE OF REGULATIONS
Part VI. California Community Colleges
(As of December 31, 1974)

DIVISION 6. CURRICULUM AND INSTRUCTION

Chapter 5. Educational Master Plans

Section 55400 Definitions

The definitions provided in the *Handbook of Definitions* issued by the Chancellor shall apply to the provisions of this chapter.

(New Chapter 5 (sections 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 55401 Current and Long Range Plans

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

(New Chapter 5 (sections 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 55402 Educational Master Plans

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

(New Chapter 5 (sections 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 55403 Form

such information as the Chancellor shall require.

(New Chapter 5 (sections 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 55404 Contents

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement and financial aids.

(New Chapter 5 (sections 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Section 55405 Review and Approval

The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, he shall send a copy of his approval of it to the superintendent of each district.

(New Chapter 5 (sections 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter. Register 71, No. 27)

Exhibit "E"

TITLE 5, CALIFORNIA CODE OF REGULATIONS
Part VI. California Community Colleges
(As of December 31, 1974)

DIVISION 2. COMMUNITY COLLEGE STANDARDS

Chapter 6. Counseling Services

Section 51500 Counseling Services

Each Community College shall have an adequate counseling staff, both in training and experience, and shall establish procedures to provide, and shall provide, the counseling services listed in Sections 51501 through 51503.

(New Section filed 4-18-70. Register 70, No. 16)

Section 51501 Services for Students

The counseling services shall assist each student in the college in the following ways:

(a) To determine his educational goals.

(b) To make a self-appraisal toward progress toward his goals.

(New Section filed 4-18-70. Register 70, No. 16)

Section 51502 Services for First-time Freshman

The counseling services shall provide to each first-time freshman described in subdivisions (a) and (b) below, who is enrolled in more than six units, special individual or group counseling and guidance, shall arrange a study load suitable to the needs of each such student, and shall keep an appropriate record of each such student.

(a) He is a high school graduate, his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance, and his grade point average in the last three years in high school was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science; or

(b) He is not a high school graduate, and his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance and his grade point average in the years of high school attendance was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science.

(New Section filed 4-18-70. Register 70, No. 16)

Section 51503 Services for Students on Probation

The counseling service shall provide to each student who is on probation individual counseling and guidance service, including the regulation of his program according to his aptitude and achievements.

(New Section filed 4-18-70. Register 70, No. 16)

Exhibit "F"

TITLE 5, CALIFORNIA CODE OF REGULATIONS
Part VI. California Community Colleges
(As of December 31, 1974)

DIVISION 2. COMMUNITY COLLEGE STANDARDS

Section 51004. Academic Senates or Faculty Councils.

(a) For the purposes of this section:

(1) "Faculty" means those certificated persons who teach full time in a community college or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(2) "Academic senate" or "faculty council" means an organization formed in accordance with this section whose primary function is, as the representative of the faculty, to make recommendations to the administration and the governing board of a district with respect to academic and professional matters.

(b) In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and professional matters described in (a)(2), the faculty first must decide by secret ballot to have an "academic senate" or "faculty council," in which case the governing board of each district shall establish such an "academic senate" or "faculty council" in each community college by authorizing the faculty to:

(1) Fix, and amend, by vote of the faculty, the composition, structure, and procedures of the academic senate or faculty council.

(2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(c) After consultation with the administration, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

(d) Upon the request of the academic senate or faculty council and subject to Government Code Section 54950 ff. (The Brown Act), when applicable, the governing board, or such board members or administrative officers as it may designate, shall meet

and confer with representatives of the academic senate of faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

(e) The academic senates or faculty councils may assume such responsibilities and perform such functions as may be requested of it by the administration or board of trustees.

(New Article 5 (§§51000 through 51005) filed 8-26-69, as an emergency measure; effective upon filing. Register 69, No. 35)

DECLARATION OF SERVICE

RE: Minimum Conditions for State Aid 02-TC-31
CLAIMANT: Santa Monica Community College District

I declare:

I am employed in the office of SixTen and Associates, which is the appointed representative of the above named claimant(s). I am 18 years of age or older and not a party to the within entitled matter.

On the date indicated below, I served the attached: letter of September 21, 2004 and Declaration of Leo Shaw dated September 21, 2004 , addressed as follows:

Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

AND per mailing list attached

FAX: (916) 445-0278

☒ **U.S. MAIL:** I am familiar with the business practice at SixTen and Associates for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at SixTen and Associates is deposited with the United States Postal Service that same day in the ordinary course of business.

☐ **OTHER SERVICE:** I caused such envelope(s) to be delivered to the office of the addressee(s) listed above by:

(Describe)

☐ **FACSIMILE TRANSMISSION:** On the date below from facsimile machine number (858) 514-8645, I personally transmitted to the above-named person(s) to the facsimile number(s) shown above, pursuant to California Rules of Court 2003-2008. A true copy of the above-described document(s) was(were) transmitted by facsimile transmission and the transmission was reported as complete and without error.

☐ A copy of the transmission report issued by the transmitting machine is attached to this proof of service.

☐ **PERSONAL SERVICE:** By causing a true copy of the above-described document(s) to be hand delivered to the office(s) of the addressee(s).

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on 9/21/04 , at San Diego, California.

Diane Bramwell

Commission on State Mandates

Original List Date: 6/26/2003
Last Updated:
List Print Date: 10/17/2003
Claim Number: 02-TC-31
Issue: Minimum Conditions for State Aid

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Thomas J. Nussbaum (G-01)
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 445-2738
Fax: (916) 323-8245

Mr. Keith B. Petersen
SixTen & Associates
5252 Balboa Avenue, Suite 807
San Diego, CA 92117

Claimant Representative
Tel: (858) 514-8605
Fax: (858) 514-8645

Mr. Thomas J. Donner
Santa Monica Community College District
1900 Pico Blvd.
Santa Monica, CA 90405-1628

Claimant
Tel: (310) 434-4201
Fax: (310) 434-8200

Mr. Paul Minney
Spector, Middleton, Young & Minney, LLP
7 Park Center Drive
Sacramento, CA 95825

Tel: (916) 646-1400
Fax: (916) 646-1300

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Tel: (916) 727-1350
Fax: (916) 727-1734

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 987
Sun City, CA 92586

Tel: (909) 672-9964
Fax: (909) 672-9963

Mr. Steve Smith
Mandated Cost Systems, Inc.
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670
Tel: (916) 669-0888
Fax: (916) 669-0889

Mr. Arthur Palkowitz
San Diego Unified School District
4100 Normal Street, Room 3159
San Diego, CA 92103-8363
Tel: (619) 725-7565
Fax: (619) 725-7569

Dr. Carol Berg
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814
Tel: (916) 446-7517
Fax: (916) 446-2011

Ms. Beth Hunter
Centration, Inc.
8316 Red Oak Street, Suite 101
Rancho Cucamonga, CA 91730
Tel: (866) 481-2642
Fax: (866) 481-5383

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816
Tel: (916) 454-7310
Fax: (916) 454-7312

Michael Havey
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816
Tel: (916) 445-8757
Fax: (916) 323-4807

Mr. Gerald Shelton
California Department of Education (E-08)
Fiscal and Administrative Services Division
1430 N Street, Suite 2213
Sacramento, CA 95814
Tel: (916) 445-0554
Fax: (916) 327-8306

Mr. Keith Gmeinder
Department of Finance (A-15)
915 L Street, 8th Floor
Sacramento, CA 95814
Tel: (916) 445-8913
Fax: (916) 327-0225

Ms. Jill Bowers
Office of the Attorney General (D-08)
1300 I Street, Suite 125
Sacramento, CA 95814
Tel: (916) 323-1948
Fax: (916) 324-5567

SixTen and Associates
Mandate Reimbursement Services

Exhibit H

KEITH B. PETERSEN, MPA, JD, President
E-Mail: Kbpsixten@aol.com

San Diego
5252 Balboa Avenue, Suite 900
San Diego, CA 92117
Telephone: (858) 514-8605
Fax: (858) 514-8645

Sacramento
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834
Telephone: (916) 565-6104
Fax: (916) 564-6103

RECEIVED
OCT 23 2007
COMMISSION ON
STATE MANDATES

October 22, 2007

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: Chapter 187, Statutes of 2000
Test Claim 02-TC-25
State Center Community College District
Notice to Students

Dear Ms. Higashi:

Please find enclosed the response to your request for supplemental information on the above referenced test claim. Specifically, a history of the Title 5, CCR, sections included in the test claim.

Sincerely,

Keith B. Petersen

C: Distribution List Attached

Keith B. Petersen
SixTen and Associates
3841 North Freeway Blvd, Suite 170
Sacramento, CA 95834
Voice: (916) 565-6104
Fax: (916) 564-6103
kbpsixten@aol.com

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

Supplement to the:	No. CSM. 02-TC -25
Test Claim Filed June 05, 2003	Notice to Students
	History Index for Title 5, California Code of Regulations
by Los Rios Community College District	Section 51006 Section 54626 Section 54805 Section 55005 Section 55202 Section 55530 Section 55534 Section 55750 Section 55752 Section 55753 Section 55758 Section 55759 Section 55760 Section 55761 Section 55762 Section 55764 Section 55765 Section 55800 Section 58102 Section 58104 Section 59404 Section 59410

REQUEST FOR SUPPLEMENTAL INFORMATION

In a letter October 2, 2007, the Commission on State Mandates requested that the claimant "specify the effective dates and register numbers of the regulations alleged to contain mandates," and that the claimant "provide a copy of each regulation from the register number specified for each regulation."

In response, this supplement to the test claim provides an index and copy of each change to the Title 5, CCR, sections included in the test claim. The Registers cited are attached as Exhibit A. Amended language is underlined (new language) or stricken out (deleted language).

HISTORY OF TITLE 5, CCR, SECTIONS INCLUDED IN THE TEST CLAIM

Register 71-09	§ 55005: Previously part of § 55002.
Register 72-01	§ 58102: Prior History of the section (Repealed in 77-45).
Register 76-10	§ 54626: Added.
Register 77-12	§ 54626: Amended section (see attachment).
Register 77-45	§ 54626: Amendment of subsection (d).
	§ 58102: Repealed.
Register 78-31	§ 54626: Amendment of subsection (b) and (d).
Register 79-46	§ 58102: Reprint for Repealer in 77-45.
Register 80-11	§ 55005: Prior History, previously part of § 55002.
Register 81-52	§ 55005: Added.
Register 82-31	§ 58102: Added.
	§ 58104: Added.

Register 83-18 § 54626: Amendment of section.

Register 83-29 § 51006: Added.

§ 55750: Added.

§ 55758: Added.

§ 55759: Added.

§ 55760: Added.

§ 55761: Added.

§ 55762: Added.

§ 55763: Added.

§ 55764: Added.

§ 55765: Added.

§ 55800: Added.

Register 85-20 § 59404: Added.

Register 88-20 § 54805: Added.

Register 90-37 § 55530: Amended

§ 55534: Added.

Register 91-23 § 51006: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 54805: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55005: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55750: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55752.5: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55753: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55758: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55759: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55760: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55761: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55762: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55763: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55764: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

§ 55765: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.

	§ 55800: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.
	§ 59404: Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8.
	§ 59410: Added.
Register 91-31	§ 55758: Amended subsection (c).
Register 91-43	§ 55758: Editorial correction of printing error in NOTE.
	§ 55765: Editorial correction of printing error in NOTE.
Register 92-05	§ 55758: Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE.
Register 92-15	§ 55530: Amended subsection (b).
Register 93-25	§ 58102: Amendment of NOTE.
	§ 58104: Amendment of NOTE.
Register 93-42	§ 51006: Amendment of subsections (a) and (b) for reprinting.
	§ 55202: Added.
	§ 55530: Amendment of subsections (a), (b), and (d).
	§ 55534: Amendments of subsections (a) and (b) for reprinting.
Register 94-38	§ 51006: Amendment of subsection (b).
	§ 55534: Amendment of subsection (b).
	§ 59404: Amendment of NOTE.
	§ 59410: New subchapter heading.
Register 95-15	§ 51006: Editorial correction of HISTORY 1.

Register 95-20 § 54805: Editorial correction of HISTORY 2.

§ 55005: Editorial correction of HISTORY 1.

Register 95-22 § 55750: Editorial correction of HISTORY 2.

§ 55752: Editorial correction of HISTORY 1.

§ 55753: Editorial correction of HISTORY 1.

§ 55758: Editorial correction of HISTORY 1.

§ 55759: Editorial correction of HISTORY 1.

§ 55760: Editorial correction of HISTORY 1.

§ 55761: Editorial correction of HISTORY 1.

§ 55762: Editorial correction of HISTORY 1.

§ 55763: Editorial correction of HISTORY 1.

§ 55764: Editorial correction of HISTORY 1.

§ 55765: Editorial correction of HISTORY 1.

Register 95-29 § 59404: Editorial correction of HISTORY 1.

§ 59410: Editorial correction of HISTORY 1.

Register 98-03 § 55758: Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE.

Register 00-50 § 55758: Amendment of subsection (a), new subsection (c), subsection relettering, and amendment of newly designated subsections (d) and (e).

Register 02-08 § 55753: Amendment to section.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

CERTIFICATION

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this document is true and complete to the best of my own knowledge or information or belief, and that the attached regulations are true and correct copies of documents from archives of a recognized law library.

EXECUTED this 22 day of October 2007, at Sacramento, California

FOR THE TEST CLAIMANT

Keith Petersen, President

SixTen and Associates

ATTACHMENT

Exhibit A Title 5, CCR Registers

Distributed to COSM mailing list dated 10/02/2007.

DECLARATION OF SERVICE

Re: Test Claim 02-TC-25
Notice to Students
Los Rios Community College District

I declare:

I am employed in the office of SixTen and Associates, which is the appointed representative of the above named claimants. I am 18 years of age or older and not a party to the entitled matter. My business address is 3841 North Freeway Blvd, Suite 170, Sacramento, CA 95834.

On the date indicated below, I served the attached letter dated October 22, 2007, with attachments, to Paula Higashi, Executive Director, Commission on State Mandates, to the Commission mailing list dated 10/02/07 for this test claim, and to:

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

☒ **U.S. MAIL:** I am familiar with the business practice at SixTen and Associates for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at SixTen and Associates is deposited with the United States Postal Service that same day in the ordinary course of business.

☐ **OTHER SERVICE:** I caused such envelope(s) to be delivered to the office of the addressee(s) listed above by:

(Describe)

☐ **FACSIMILE TRANSMISSION:** On the date below from facsimile machine number (858) 514-8645, I personally transmitted to the above-named person(s) to the facsimile number(s) shown above, pursuant to California Rules of Court 2003-2008. A true copy of the above-described document(s) was(were) transmitted by facsimile transmission and the transmission was reported as complete and without error.

☐ A copy of the transmission report issued by the transmitting machine is attached to this proof of service.

☐ **PERSONAL SERVICE:** By causing a true copy of the above-described document(s) to be hand delivered to the office(s) of the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 22, 2007, at Sacramento, California.

Michael B. Indrajana

CHAPTER 4. COORDINATED INSTRUCTION SYSTEMS PROGRAMS

Article 1. General Provisions

Section		Section	
55300.	Implementation	55308.	"Coordinated Instruction System Program"
55301.	Coordinated Instruction System	55309.	"Direct Expenses"
55302.	Definitions	55310.	"Evaluation"
55303.	"Automated Audio-visual System"	55311.	"Other Similar Teaching Techniques"
55304.	"College"	55312.	"Programmed Learning Materials"
55305.	"Course"	55313.	"System"
55306.	"Computer-assisted Instruction"	55314.	"Teach"
55307.	"Coordinate"	55315.	"Television"

Article 2. Approval of Programs

Section		Section	
55320.	Eligibility for State Apportionments	55323.	Approval
55321.	Action by the Governing Board	55324.	Approval Date
55322.	Request for Approval	55325.	Duration of Approval

Article 3. Operation of a Coordinated Instruction Systems Program

Section		Section	
55331.	Supervision of Program	55335.	Support Services
55332.	Instructor	55336.	Attendance
55333.	Supervision of Activities	55337.	Credit
55333.5.	Availability of Instructor	55338.	Records
55334.	Enrollment	55339.	Academic Standards

Article 4. State Support

Section		Section	
55340.	Requirements for State Support	55342.	Current Costs
55341.	Extent of Support	55343.	Operation Reports
		55344.	Evaluation Reports

CHAPTER 1. COURSE OF STUDY

SUBCHAPTER 1. COURSE STANDARDS

55000. Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specific subject offered by a Community College for grades 13 and 14.

(b) "Course of study" means an organized sequence of courses offered by a Community College for grades 13 and 14 within a general subject area.

NOTE: Authority cited for Chapters 1 and 2: Sections 198, 197, 25515.5 and 25516.5, Education Code.

55001. Criteria. A graded course shall possess one or more of the following characteristics:

(a) It provides credit toward an associate degree, is normally considered of collegiate level, and is approved by the board as a component of, a prerequisite to, or eligible as a required or elective course within a course of study which leads toward an associate degree.

(b) It is approved by the board and is part of an occupational course of study beyond high school level within the scope of the term "vocational and technical fields leading to employment," as the term is used in Education Code Section 22651, which leads toward an associate degree, an occupational certificate, or both.

(c) It is approved by the board and is recognized upon transfer by the University of California, a California state college, or an accredited independent college or university in California, as a part of:

(1) The required preparation toward a major;
(2) The general, or general education, requirement; or
(3) The permissible or recommended elective credits.

55002. Standards. A graded course shall meet all of the following standards:

(a) The content is organized to meet the requirements for the associate degree as specified in Chapter 7 (commencing with Section 51600) of Division 2 of this part or the requirements for an occupational certificate and is a part of a course of study not exceeding 70 units in length.

(b) It is offered as described in the college catalog, or a supplement thereto, which provides an appropriate title, number, and accurate description of course content. A course outline is available at the college. Course requirements and credit awarded are consistent with Education Code Section 22651.

(c) Only those students who have met the prerequisites for the course are enrolled.

(d) It is subject to the published standards of matriculation, attendance, and achievement of the college.

(e) The enrollees are awarded marks or grades on the basis of methods of evaluation set forth by the college and are subject to the standards of retention set forth in Chapter 4 (commencing with Section 51300) of Division 2 of this part or to such additional standards as may be established by the governing board of the district.

(f) Enrollment cannot be repeated except in unusual circumstances and with the prior written permission from the district superintendent or his authorized representative or representatives.

SUBCHAPTER 2. APPROVAL OF COURSES

55100. Approval. Each course to be offered by a Community College shall be approved by the Chancellor before the course is offered by the college.

The course shall be submitted to the Chancellor on forms provided by his office.

55101. Chancellor's Report. The Chancellor shall report to the board at a fall and a spring meeting the actions which he has taken in approving courses submitted to him pursuant to the provisions of this chapter.

CHAPTER 1. GENERAL PROVISIONS

58000. Continuing Education. Continuing education in Community Colleges is comprised of the following kinds of classes:

(a) Adult classes.

(b) Graded classes.

(c) Community service classes offered under the provisions of Article 12 (commencing with Section 6321) of Chapter 6, Division 6, of the Education Code.

(d) Contract classes.

NOTE: Authority cited for Division 9: Sections 197, 5708, 22650, Education Code.

History: 1. New Division 9, Chapters 1 through 4 (§§ 58000–58253, not consecutive) filed 12-29-71; effective thirtieth day thereafter (Register 72, No. 1).

58001. Function of Community Colleges. Continuing education is one of the major functions of the Community Colleges and should be fully supported, organized, and supervised.

CHAPTER 2. ADULT CLASSES

SUBCHAPTER 1. GENERAL PROVISIONS

58100. Credit. District boards of trustees may grant credit toward an associate of arts or sciences degree for an adult class provided that the class also meets the criteria and standards for graded classes as set forth in Sections 55001 and 55002 of this title.

58101. Definitions. For purposes of this chapter the following definitions are adopted:

(a) "District" means a Community College district.

(b) "Adult class" means an ungraded course which has been designed primarily to meet the special needs of adult students and determined to be an adult class by the governing board of the district.

58102. Payment for Attendance. For the purposes of Section 5753 of the Education Code, state support may not be claimed for students attending an adult class (except classes in hospitals for military personnel) who are paid by their employers while in attendance when all the following conditions exist:

(a) Class membership consists of persons regularly employed by one company, concern, or agency public or private.

(b) The class is conducted on other than school premises.

(c) The class is conducted during the hours of paid employment of class members.

SUBCHAPTER 2. STANDARDS FOR CONTINUING EDUCATION CENTERS

58110. Standards Defined. In addition to the requirements established elsewhere in the law for the conduct of adult classes, continuing education centers must meet the requirements set forth in this article.

Article 1. General

54600. Purpose. This chapter is adopted pursuant to and for implementation of Chapter 1.5 (commencing with Section 25430) of Division 18.5 of the Education Code regarding Student Records.

NOTE: Authority cited: Sections 25430.2, 25430.7 and 25430.18, Education Code. Reference: Chapter 1.5 (commencing with Section 25430), Division 18.5 Education Code.

History: 1. New Chapter 6 Articles 1–7, (Sections 54600–54662, not consecutive) filed 3-5-76; effective thirtieth day thereafter (Register 76, No. 10).

54602. Construction. The provisions of this Chapter shall be construed consistent with the rights of students as students as provided under Chapter 816, Statutes of 1975 and the needs of the institution to meet their responsibilities, and in a manner to achieve conformity with the Federal Family Educational Rights and Privacy Act.

54604. Policy. Community College districts may establish and maintain only such information on students relevant to admission, registration, academic history, career, student benefits or services, extracurricular activities, counseling and guidance, discipline or matters relating to student conduct, and shall establish and maintain such information required by law.

54606. Definitions.

(a) **Student.** "Student" as used in this Chapter means a currently enrolled or formerly enrolled student.

(b) **Access.** "Access" means a personal inspection and review of a record, an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, or a request to release a copy of any record.

(c) **Student Record.** "Student Record" means any item of information directly related to an identifiable student maintained by a Community College or required to be maintained by an employee in the performance of his duties, whether recorded by handwriting, print, tapes, film, microfilm or other means, except:

(1) Information provided by a student's parents relating to applications for financial aid or scholarships,

(2) Information related to a student compiled by a Community College officer or employee:

(A) appropriate for such officer or employee's performance of his or her responsibility; and

(B) which remains in the sole possession of the maker thereof; and

(C) is not accessible or revealed to any other person, provided that information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in that capacity, and which are created, maintained, or used only in connection with treatment to the student may be available to other officers or employees providing such treatment; and provided further, that such records may be reviewed personally by a physician or other appropriate professional of the student's choice.

54622. Discretionary Access. Access may be permitted to the following:

(a) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

(b) Officials and employees of other public or private schools or school systems, including local, county, or state correctional facilities where educational programs are provided, where the student has been enrolled, intends to enroll, or is directed to enroll, subject to the rights of students as provided in Section 25430.7 of the Education Code, and set forth in Article 5 of this chapter.

(c) Agencies or organizations in connection with a student's application for, or receipt of, financial aid.

(d) Accrediting associations carrying out accrediting functions.

(e) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, provided;

(1) such studies are conducted in such a manner as will not permit personal identification of students or their parents by persons other than representatives of such organizations, and

(2) such information will be destroyed when no longer needed for the purpose for which it is conducted.

No person, persons, agency or organization permitted access to student records pursuant to this subsection (e) shall permit access to any information obtained from such records by any other person, persons, agency or organization without the written consent of the student. Prior student consent is not required when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, provided such persons have an equal legitimate interest in the information.

54624. Access to Statistical Data. Districts may provide statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interest of students.

54626. Directory Information.

(a) Community College districts shall adopt a policy identifying any of the following categories of directory information which may be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

'b) Directory information, as established by the local governing rd, may be released as to any student currently attending the Community College, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. No directory information shall be released regarding any student when the student has notified the school in writing pursuant to procedures established by the district that such information shall not be released.

(c) Other information may be added to the categories set forth in (a) of this subsection, provided that release of such information shall be authorized in writing by the student.

(d) Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students.

(1) The district shall determine which officials or organizations may receive directory information, provided, however, that no information may be released to a private profitmaking entity other than prospective employers and representatives of the news media, including, but not limited to, newspapers, magazines, and radio and television stations.

(2) The names and addresses of students may be provided to a private school or college operating under the provisions of Division 21 of the Education Code, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution.

268. Record of Access. The district shall maintain a log or record to each student's record which lists all persons or organizations (excepting school personnel as authorized in Section 54618(a)) requesting or receiving information from the record, and the reasons therefor. The log shall be open to inspection only by the student and the official or his designee responsible for the maintenance of student records.

Article 4. Challenge

54630. Request. (a) Any student may file a written request with the chief administrative officer of a district to remove information recorded in his student records which he alleges to be: (1) inaccurate, (2) an unsubstantiated personal conclusion of inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the chief administrative officer or his designee shall meet with the student and the employee who recorded the information in question, if any, and if such employee is presently employed by the district. The chief administrative officer shall then sustain or deny the allegations.

No person, persons, agency or organization permitted access to student records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency or organization without the written consent of the student; provided, however, that this paragraph shall not be construed as to require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate educational interest in the information.

History: 1. Repealer and new section filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).

54624. Access to Statistical Data. Districts may provide statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interest of students.

54626. Directory Information. (a) Community College districts shall adopt a policy identifying any of the following categories of directory information which may be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

(b) Directory information, as established by the local governing board, may be released as to any student currently attending the Community College, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. Such notice shall also specify the period of time within which the student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student. No directory information shall be released regarding any student when the student has notified the school in writing pursuant to procedures established by the district that such information shall not be released.

(c) Other information may be added to the categories set forth in (a) of this subsection, provided that release of such information shall be authorized in writing by the student.

(d) Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students. The names and addresses of students may be provided to a private school or college operating under the provisions of Division 21 of the Education Code, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution.

History: 1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).

Register 77-45

§ 51006
§ 54626
§ 58102

CHAPTER 1. GENERAL PROVISIONS

51000. State Aid. The provisions of this division are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining Community Colleges to receive state aid for the support of their Community Colleges. Other regulations fixing minimum standards are contained in this part.

NOTE: Authority cited for Division 2: Sections 71020, 71024 and 71025, Education Code.

History: 1. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

CHAPTER 2. INSTRUCTIONAL PROGRAM

51100. Objectives. Each Community College shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 71028 and 72231.5, Education Code.

History: 1. New NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

51101. Curriculum. Each Community College shall establish such programs of education and courses as will permit the realization of the objectives and functions of the Community College. All courses shall be approved by the Chancellor in the manner provided in Chapter 2 (commencing with Section 55100) of Division 6 of this part.

51102. Identification of Courses. For each course offered, a Community College shall make available to students through college publications at least all of the following facts before he enrolls in the course:

(a) Whether the course is offered on the basis of credit—no credit and, if so, which provision of Section 51302, subdivision (a) is applicable.

(b) Whether the course is other than a graded course.

(c) Whether the course is a college credit course under the provisions of Section 51103.

History: 1. New section filed 7-1-71; effective thirtieth day thereafter (Register 71, No. 27). Former section 51102 renumbered to 51302.
2. Repealer of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

51103. College Credit Course. A "college credit course" is a course given in a Community College which meets one or more of the following requirements:

(a) The course is part of an approved educational program.

(b) The credit awarded by the Community College for completion of the course is accepted as completion of a portion of an appropriate educational sequence leading to an associate degree or baccalaureate degree by one or more of the following:

(1) The University of California
(2) A California State College
(3) An accredited independent college or university.

History: 1. New section filed 7-1-71; effective thirtieth day thereafter (Register 71, No. 27).
2. Repealer of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

No person, persons, agency or organization permitted access to student records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency or organization without the written consent of the student; provided, however, that this paragraph shall not be construed as to require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate educational interest in the information.

History 1. Repealer and new section filed 3-15-77, effective thirtieth day thereafter (Register 77, No 12).

54624. Access to Statistical Data. Districts may provide statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interest of students.

54626. Directory Information. (a) Community College districts shall adopt a policy identifying any of the following categories of directory information which may be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

(b) Directory information, as established by the local governing board, may be released as to any student currently attending the Community College, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. Such notice shall also specify the period of time within which the student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student. No directory information shall be released regarding any student when the student has notified the school in writing pursuant to procedures established by the district that such information shall not be released.

(c) Other information may be added to the categories set forth in (a) of this subsection, provided that release of such information shall be authorized in writing by the student.

(d) Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students. The names and addresses of students may be provided to a private school or college operating under the provisions of Division 10 of the Education Code, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution.

History 1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).

2. Amendment of subsection (d) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

CHAPTER 1. COURSE OF STUDY

SUBCHAPTER 1. COURSE STANDARDS

55000. Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specific subject offered by a Community College for grades 13 and 14.

(b) "Course of study" means an organized sequence of courses offered by a Community College for grades 13 and 14 within a general subject area.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024, 71027, 78200 and 78203, Education Code.

History: 1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55001. Criteria. A graded course shall possess one or more of the following characteristics:

(a) It provides credit toward an associate degree, is normally considered of collegiate level, and is approved by the board as a component of, a prerequisite to, or eligible as required or elective course within a course of study which leads toward an associate degree.

(b) It is approved by the board and is part of an occupational course of study beyond high school level within the scope of the term "vocational and technical fields leading to employment," as the term is used in Education Code Section 66701, which leads toward an associate degree, an occupational certificate, or both.

(c) It is approved by the board and is recognized upon transfer by the University of California, a California state college, or an accredited independent college or university in California, as a part of:

(1) The required preparation toward a major;
(2) The general, or general education, requirement; or
(3) The permissible or recommended elective credits.

History: 1. Amendment of subsection (b) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55002. Standards. A graded course shall meet all of the following standards:

(a) The content is organized to meet the requirements for the associate degree as specified in Chapter 7 (commencing with Section 51600) of Division 2 of this part or the requirements for an occupational certificate and is a part of a course of study not exceeding 70 units in length.

(b) It is offered as described in the college catalog, or a supplement thereto, which provides an appropriate title, number, and accurate description of course content. A course outline is available at the college. Course requirements and credit awarded are consistent with Education Code Section 66701.

(c) Only those students who have met the prerequisites for the course are enrolled.

(d) It is subject to the published standards of matriculation, attendance, and achievement of the college.

(e) The enrollees are awarded marks or grades on the basis of methods of evaluation set forth by the college and are subject to the standards of retention set forth in Chapter 4 (commencing with Section 51300) of Division 2 of this part or to such additional standards as may be established by the governing board of the district.

(f) Enrollment cannot be repeated except in unusual circumstances and with the prior written permission from the district superintendent or authorized representative or representatives.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 2. APPROVAL OF COURSES

55100. Approval. Each course to be offered by a Community College shall be approved by the Chancellor before the course is offered by the college.

The course shall be submitted to the Chancellor on forms provided by the Chancellor's office.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55101. Chancellor's Report. The Chancellor shall report to the board at a fall and a spring meeting the actions which the Chancellor has taken in approving courses submitted to the Chancellor pursuant to the provisions of this chapter.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 3. APPROVAL OF EDUCATIONAL PROGRAMS

Article 1. General Provisions

55130. Definitions. For the purposes of this subchapter, the following definitions will apply:

(a) "Course of instruction" means an instructional unit of an area or field of organized knowledge, usually provided on a quarter, semester, year, or prescribed length-of-time basis.

(b) "Educational program" is an organized sequence of courses of instruction leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

NOTE: Authority cited for Subchapter 3: Sections 71025, 71026, 71027 and 78200, Education Code.

History: 1. New Subchapter 3 (Sections 55130–55132, 55135–55138, 55140–55144) filed 2-26-71; effective thirtieth day thereafter (Register 71, No. 9).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

CHAPTER 1. GENERAL PROVISIONS

58000. Continuing Education. Continuing education in Community Colleges is comprised of the following kinds of classes:
(a) Adult classes.
(b) Graded classes.
(c) Community service classes offered under the provisions of Article 7 (commencing with Section 78300) of Chapter 2, Division 7, of the Education Code.
(d) Contract classes.

NOTE: Authority cited for Division 9: Sections 71020, 78405 and 66700, Education Code.

History: 1. New Division 9, Chapters 1 through 4 (§§ 58000–58253, not consecutive) filed 12-29-71; effective thirtieth day thereafter (Register 72, No. 1).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

58001. Function of Community Colleges. Continuing education is one of the major functions of the Community Colleges and should be fully supported, organized, and supervised.

CHAPTER 2. ADULT CLASSES

SUBCHAPTER 1. GENERAL PROVISIONS

58100. Credit. District boards of trustees may grant credit toward an associate of arts or sciences degree for an adult class provided that the class also meets the criteria and standards for graded classes as set forth in Sections 55001 and 55002 of this title.

58101. Definitions. For purposes of this chapter the following definitions are adopted:
(a) "District" means a Community College District.
(b) "Adult class" means an ungraded course which has been designed primarily to meet the special needs of adult students and determined to be an adult class by the governing board of the district.

58102. Payment for Attendance.

History: 1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 2. STANDARDS FOR CONTINUING EDUCATION CENTERS

58110. Standards Defined. In addition to the requirements established elsewhere in the law for the conduct of adult classes, continuing education centers must meet the requirements set forth in this article.

58111. Standards for Continuing Education Centers. Continuing education centers may be defined as adult schools under the provisions of Education Code Sections 78400 and 78410.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

(h) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons, or subject to such regulations as may be issued by the Secretary of Health, Education, and Welfare.

No person, persons, agency or organization permitted access to student records pursuant to this section shall permit access to any information obtained from such records by any other person, persons, agency or organization without the written consent of the student; provided, however, that this paragraph shall not be construed as to require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as such persons have a legitimate educational interest in the information.

History: 1. Repealer and new section filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).

54624. Access to Statistical Data. Districts may provide statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interest of students.

54626. Directory Information. (a) Community College districts shall adopt a policy identifying any of the following categories of directory information which may be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

(b) Directory information, as established by the local governing board, may be released as to any student or former student currently attending the Community College, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. Such notice shall also specify the period of time within which the student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student. No directory information shall be released regarding any student or former student when the student or former student has notified the school in writing pursuant to procedures established by the district that such information shall not be released.

(c) Other information may be added to the categories set forth in (a) of this subsection, provided that release of such information shall be authorized in writing by the student.

(d) Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students. The names and addresses of students may be provided to a private school or college operating under the provisions of Division 10 of the Education Code, or its authorized representative, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution.

History: 1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment of subsection (d) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of subsections (b) and (d) filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).

54628. Record of Access. A log or record shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. Such listing need not include:

(a) Students to whom access is granted pursuant to Section 54610 of this Chapter.

(b) Parties to whom directory information is released pursuant to Section 54626 of this Chapter.

(c) Parties for whom written consent has been executed by the student pursuant to Section 54616 of this Chapter.

(d) Officials or employees having a legitimate educational interest pursuant to subdivision (a) of Section 54622 of this Chapter.

The log or record shall be open to inspection only by the student and the community college official or his designee responsible for the maintenance of student records, and to the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, and administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

History: 1. Repealer and new section filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment of subsection (d) filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).

Article 4. Challenge

54630. Request. (a) Any student may file a written request with the chief administrative officer of a district to correct or remove information recorded in the student's own records which the student alleges to be: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

CHAPTER 1. GENERAL PROVISIONS

58000. Continuing Education.

Continuing education in Community Colleges is comprised of the following kinds of classes:

(a) Adult classes.

(b) Graded classes.

(c) Community service classes offered under the provisions of Article 7 (commencing with Section 78300) of Chapter 2, Division 7, of the Education Code.

(d) Contract classes.

NOTE: Authority cited for Division 9: Sections 71020, 78405 and 66700, Education Code.

HISTORY:

1. New Division 9, Chapters 1 through 4 (§§ 58000–58253, not consecutive) filed 12-29-71; effective thirtieth day thereafter (Register 72, No. 1).

2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

58001. Function of Community Colleges.

Continuing education is one of the major functions of the Community Colleges and should be fully supported, organized, and supervised.

CHAPTER 2. ADULT CLASSES

SUBCHAPTER 1. GENERAL PROVISIONS

58100. Credit.

District boards of trustees may grant credit toward an associate of arts or sciences degree for an adult class provided that the class also meets the criteria and standards for graded classes as set forth in Sections 55001 and 55002 of this title.

58101. Definitions.

For purposes of this chapter the following definitions are adopted:

(a) "District" means a Community College District.

(b) "Adult class" means an ungraded course which has been designed primarily to meet the special needs of adult students and determined to be an adult class by the governing board of the district.

58102. Payment for Attendance.

HISTORY:

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 2. STANDARDS FOR CONTINUING EDUCATION CENTERS

58110. Standards Defined.

In addition to the requirements established elsewhere in the law for the conduct of adult classes, continuing education centers must meet the requirements set forth in this article.

58111. Standards for Continuing Education Centers.

Continuing education centers may be defined as adult schools under the provisions of Education Code Sections 78400 and 78410.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

CHAPTER 1. COURSE OF STUDY

SUBCHAPTER 1. COURSE STANDARDS

55000. Definitions.

For the purposes of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specific subject offered by a Community College for grades 13 and 14.

(b) "Course of study" means an organized sequence of courses offered by a Community College for grades 13 and 14 within a general subject area.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024, 71027, 78200 and 78208, Education Code.

HISTORY:

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55001. Criteria.

A graded course shall possess one or more of the following characteristics:

(a) It provides credit toward an associate degree, is normally considered of collegiate level, and is approved by the board as a component of, a prerequisite to, or eligible as required or elective course within a course of study which leads toward an associate degree.

(b) It is approved by the board and is part of an occupational course of study beyond high school level within the scope of the term "vocational and technical fields leading to employment," as the term is used in Education Code Section 66701, which leads toward an associate degree, an occupational certificate, or both.

(c) It is approved by the board and is recognized upon transfer by the University of California, a California state college, or an accredited independent college or university in California, as a part of:

(1) The required preparation toward a major;

(2) The general, or general education, requirement; or

(3) The permissible or recommended elective credits.

HISTORY:

1. Amendment of subsection (b) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55002. Standards.

A graded course shall meet all of the following standards:

(a) The content is organized to meet the requirements for the associate degree as specified in Chapter 7 (commencing with Section 51600) of Division 2 of this part or the requirements for an occupational certificate and is a part of a course of study not exceeding 70 units in length.

(b) It is offered as described in the college catalog, or a supplement thereto, which provides an appropriate title, number, and accurate description of course content. A course outline is available at the college. Course requirements and credit awarded are consistent with Education Code Section 66701.

(c) Only those students who have met the prerequisites for the course are enrolled.

(d) It is subject to the published standards of matriculation, attendance, and achievement of the college.

(e) The students are awarded marks or grades on the basis of methods of evaluation set forth in Chapter 4 (commencing with Section 51300) of Division 2 of this part or to such additional standards as may be established by the governing board of the district.

(f) Enrollment cannot be repeated except: to alleviate substandard work which has been recorded on the student's record; or as permitted in Section 51315 of this part; or in unusual circumstances and with the prior written permission from the district superintendent or authorized representative or representatives.

NOTE: Authority cited: Sections 66700, 71020, 71025, and 71027, Education Code. Reference: Section 71027, Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 3-14-80; effective thirtieth day thereafter (Register 80, No. 11).

SUBCHAPTER 2. APPROVAL OF COURSES

55100. Approval.

Each course to be offered by a Community College shall be approved by the Chancellor before the course is offered by the college.

The course shall be submitted to the Chancellor on forms provided by the Chancellor's office.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55101. Chancellor's Report.

The Chancellor shall report to the board at a fall and a spring meeting the actions which the Chancellor has taken in approving courses submitted to the Chancellor pursuant to the provisions of this chapter.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 3. APPROVAL OF EDUCATIONAL PROGRAMS

Article 1. General Provisions

55130. Definitions.

For the purposes of this subchapter, the following definitions will apply:

(a) "Course of instruction" means an instructional unit of an area or field of organized knowledge, usually provided on a quarter, semester, year, or prescribed length-of-time basis.

(b) "Educational program" is an organized sequence of courses of instruction leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

NOTE: Authority cited for Subchapter 3: Sections 71025, 71026, 71027 and 78200, Education Code.

HISTORY:

1. New Subchapter 3 (Sections 55130–55132, 55135–55138, 55140–55144) filed 2-26-71; effective thirtieth day thereafter (Register 71, No. 9).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

CHAPTER 1. PROGRAMS, COURSES AND CLASSES

Article 1. Program, Course and Class Classification and Standards

55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 71020 and 71062, Education Code. Reference: Sections 78200 and 78201, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Subchapters 1–3, Sections 55000–55144, not consecutive) and new Chapter 1 (Articles 1–2, Sections 55000–55180, not consecutive) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.

55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) Liberal Arts and Sciences Education

(A) Baccalaureate Oriented/Transfer Programs and Courses

(B) Associate Degree Programs and Courses

(C) Developmental Programs and Courses

1. Compensatory Programs and Courses

2. Adult Elementary and Secondary Basic Skills Programs and Courses

(D) Community Education Programs and Courses

1. Personal Development and Survival Courses

2. Parenting and Family Support Courses

3. Community and Civic Development Courses

4. General and Cultural Courses

(2) Occupational Education

(A) Vocational/Technical Transfer Programs and Courses

(B) Vocational/Technical Associate Degree and Certificate Programs and Courses

(C) Continuing Education Vocational/Technical Certificates, Programs and Courses

(b) The community services (Non ADA generating) of community colleges include:

(1) Community Services Classes

(A) Avocational Classes

(B) Recreational Classes

(C) Seminars, Lecture Series, Forum Series, Workshops, and Conferences

(D) Professional and Occupational Inservice Classes

(2) Community Services Activities

(A) Civic Center Act Activities

(B) Cultural Activities

(C) Community Development Activities

(D) Recreational Activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in subsections (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:

(1) The unique static course identifier and the course title for all credit and noncredit courses.

(2) The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor.

(3) Whether the course is offered as credit or noncredit.

(4) Whether the course transfers to CSUC or UC or both.

(5) The number of community services classes in each category, and the number of participants.

(6) The number of community services activities in each category and the number of participants.

(d) Not later than January 21, 1982, the chief executive officer of each community college district, in consultation with the academic senate or other appropriate faculty body and other appropriate persons or groups, shall report in the manner required by subsection (c) on the initial classification of all existing courses, classes and activities. The Chancellor shall review and comment upon, as necessary, this initial classification of courses, classes, and activities by districts. Not later than June 30, 1982, the governing board of each district, after a public hearing, shall adopt and report to the Chancellor on the classification of all existing courses, classes and activities.

(e) For courses, classes and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes and activities.

NOTE: Authority cited: Sections 66700, 71020, 71027, 71062, and 78405, Education Code. Reference: Sections 66701, 71027, 78200, 78201, 78300, 78401, 78405, 84603, and 84621, Education Code.

55002. Standards and Criteria for Courses and Classes.

(a) A credit course is a course which, at a minimum:

(1) Is recommended by the responsible college officials and the academic senate or other appropriate faculty body as being of appropriate rigor and has been approved by the local district governing board as a collegiate course meeting the needs of the students eligible for admission.

(2) Is taught by a credentialed instructor.

(3) Is offered as described in an outline and/or curriculum guide in official college files. That outline and/or curriculum guide shall specify the unit value, scope, objectives, content instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Is taught in accordance with a set of instructional objectives common to all students.

(5) Provides for measurement of student performance in terms of the stated course objectives and culminates in a formal recorded grade based upon uniform standards which is permanently recorded and is available as an official student evaluation.

(6) Grants units of credit based upon a specified relationship between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

(7) Only those students who have met the prerequisites for the course are enrolled.

(8) Allows repeated enrollment only as permitted by provisions of Division 2 (commencing with Section 51000 of this part).

(b) A noncredit course is a course which, at a minimum:

(1) Is approved by the local district governing board as a course meeting the educational needs of the enrolled students.

(2) Is taught by a credentialed instructor. A supplementary lecturer need not hold a credential if he or she lectures fewer than four times in a semester or quarter.

(3) Treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement appropriate for the enrolled students.

(4) Is conducted in accordance with a course outline and/or curriculum guide in official college files. That outline and/or curriculum guide shall specify the scope, objectives, content, instructional methodology, and methods of evaluation for determining whether the course objectives have been met.

(c) A community services class at a minimum:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) Attendance in community services classes may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700, 71020, 71027, and 78405, Education Code. Reference: Sections 71027, 78200, and 78405, Education Code.

55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of Section 51302 is applicable.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 66700 and 71020, Education Code.

55006. Records and Reports.

Authorities of each community college maintaining credit and non-credit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 78200, 78401, 78405, and 84603, Education Code.

Register 82-31

§ 58102
§ 58104

CHAPTER 2. LIMITATIONS ON STATE AID

Article 1. Open Courses

58100. Open Enrollment.

Unless specifically exempted by statute, every course, course section or class for which average daily attendance is to be reported for state aid shall be open for enrollment and participation by any person who has been admitted to the college and who meets the prerequisites of such course as defined in Section 58104 of this chapter.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58106. Prerequisites.

Prerequisites shall not state or imply that enrollment in a course is limited to a specialized clientele, unless such limitation is specifically authorized by law.

(a) Academic prerequisites for a course shall be clearly related to course content and academic foundation of such course.

(b) In activity or laboratory type courses, prerequisites may require demonstrated ability or technical performance to a level of proficiency to be determined by equitable district procedures. Experience requirements may not be established solely on the basis of "hours of exposure."

(c) That a course is one in a related sequence of courses in which understanding or technical performance of the one is dependent upon successful completion of the preceding is an acceptable prerequisite.

(d) "Permission of the instructor" as an alternative to a prerequisite shall be limited in application to the determination of equivalence to stated academic prerequisites or performance standards in activity or laboratory type courses.

(e) Concurrent enrollment in a course may be a prerequisite only when the objectives of the courses are clearly complementary and the interrelation of the units of instruction is evident.

54612. Waiver.

A student may waive his or her right to access to student records as provided in Education Code Section 76231. Such waivers shall be in writing and signed by the student.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76231, Education Code; 20 USC 1232(g); and 45 CFR 99.6.

HISTORY:

1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).
3. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54614. Confidential Maintenance of Records.

HISTORY:

1. Repealer of Article 3 heading and Section 54614 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54616. Consent.

A community college district may, when the student has provided consent, permit access to the student's records pursuant to Education Code Section 76242. Such consent must be signed and dated by the student.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Sections 76230 and 76242, Education Code; 20 USC 1232(g); and 45 CFR 99.30–99.40.

HISTORY:

1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54618. Mandatory Access.

HISTORY:

1. Repealer filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).

54620. Court Orders.

HISTORY:

1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54622. Access.

HISTORY:

1. Repealer and new section filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54624. Access to Statistical Data.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54626. Directory Information.

(a) Community college districts shall adopt a policy identifying any of the following categories of directory information which may be released: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student.

(b) Directory information, as established by the local governing board, may be released as to any student or former student currently attending the community college, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. Such notice shall also specify the period of time within which the student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student. No directory information shall be released regarding any student or former student when the student or former student has notified the school in writing pursuant to procedures established by the district that such information shall not be released.

(c) Other information may be added to the categories set forth in subsection (a) of this section, provided that release of such information shall be authorized in writing by the student.

(d) Any district may, in its discretion, limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of students. The names and addresses of students may be provided to a private school or college operating under the provisions of Division 10 of the Education Code, or its authorized representative, provided, however, that no such private school or college shall use such information for other than purposes directly related to the academic or professional goals of the institution.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Sections 76240 and 76242, Education Code; 20 USC 1232(g); and 45 CFR 99.40.

HISTORY:

1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment of subsection (d) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of subsections (b) and (d) filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).
4. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54628. Record of Access.

HISTORY:

1. Repealer and new section filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment of subsection (d) filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

54630. Challenging Content of Records.

Any student may challenge the content of his or her student records pursuant to Education Code Section 76232. The decision of the chief administrative officer and governing board must be in writing.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76232, Education Code; 20 USC 1232(g); and 45 CFR 99.20–99.22.

HISTORY:

1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of subsections (a) and (b) filed 8-4-78; effective thirtieth day thereafter (Register 78, No. 31).
4. Repealer of Article 4 heading and Section 54630 and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Register 83-29

§ 51006
§ 55750
§§ 55758 - 55765
§ 55800

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

CHAPTER 9. STANDARDS OF SCHOLARSHIP

55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with the provisions of this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by Section 51002 of this part.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY:

1. New Chapter 9 (Sections 55750–55765) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with Section 55758.

(b) Such work shall also be graded in accordance with the provisions of Section 55752 or Section 55753.

NOTE: Authority cited: Sections 66700, 71020, 71024, 71025, 71027 and 71066, Education Code. Reference: Sections 71066 and 72285, Education Code.

55752. Credit—No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specifiy in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit—no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit—no credit" or a letter grade.

(b) All units earned on a "credit—no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit—no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in Section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with Sections 55300–55352 of this part may be graded on a "credit—no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single satisfactory standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71027, 71066 and 78207, Education Code.

55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	Definition	Grade Point
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	Definition
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the

Symbol	Definition
	student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawl from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W."

For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer.

The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in Sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures.

Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs.

A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with Section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with Sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066 and 76224, Education Code.

55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in Section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066 and 72285, Education Code.

55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code Section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with Section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of Section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in Section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under Section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives;"

(e) Shall clearly indicate any courses repeated under the provisions of this section and Section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and Section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066, 72285, 76224, 78205 and 78207, Education Code.

55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the district superintendent or authorized representative based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in Section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066, 72285, 76224, 78205 and 78207, Education Code.

55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in Section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code Section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with Section 59020) of Division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of Section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and Section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066, 72285, 76224, 78205 and 78207, Education Code.

CHAPTER 10. DEGREES AND CERTIFICATES

55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by Section 51004 of this part.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY:

1. New Chapter 10 (Sections 55800–55810, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit—no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas:

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

CHAPTER 7. INSTRUCTIONAL AND OTHER MATERIALS

59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this chapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71028, Education Code; and Section 2, Chapter 1252, Statutes of 1984. Reference: Sections 71025, 72223 and 78260, Education Code; and Section 2, Chapter 1252, Statutes of 1984.

HISTORY:

1. New Chapter 7 (Sections 59400–59406, not consecutive) filed 5-16-85; effective thirtieth day thereafter (Register 85, No. 20).

59402. Definitions.

For the purposes of this chapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost; and:

(1) The material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) The material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71028, Education Code; and Section 2, Chapter 1252, Statutes of 1984. Reference: Sections 71025, 72223 and 78260, Education Code; and Section 2, Chapter 1252, Statutes of 1984.

59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course shall adopt policies or regulations, consistent with the provisions of this chapter, which specify the conditions under which such materials will be required.

(b) The policies or regulations specified in subsection (a) shall be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and thereafter published in each college catalog developed after the date of adoption.

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71028, Education Code; and Section 2, Chapter 1252, Statutes of 1984. Reference: Sections 71025, 72263 and 78020, Education Code; and Section 2, Chapter 1252, Statutes of 1984.

59406. Report to Chancellor.

The governing board of a community college district which prescribes required instructional and other materials for its courses shall respond to periodic surveys or inquiries of the Chancellor on the subject.

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71028, Education Code; and Section 2, Chapter 1252, Statutes of 1984. Reference: Sections 71025, 72263 and 78020, Education Code; and Section 2, Chapter 1252, Statutes of 1984.

59408. Operative Date and Violations of Chapter.

(a) The regulations in this chapter shall become operative on August 15, 1985, provided that a district governing board which wishes to implement these regulations earlier may do so.

(b) The governing board of a district which prescribes required instructional and other materials in violation of this chapter shall be deemed to have established a student fee not expressly established by law.

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71028, Education Code; and Section 2, Chapter 1252, Statutes of 1984. Reference: Sections 71025, 72263 and 78020, Education Code; and Section 2, Chapter 1252, Statutes of 1984.

CHAPTER 8. STUDENT ORGANIZATION

Article 1. Student Representation Fee

54801. Calling of Election.

The governing body of each student body association authorized by Education Code Section 76060 shall establish procedures for elections conducted for the purpose of collecting a student representation fee, and call an election for such purpose. The election shall, at a minimum, meet the following criteria:

(a) The student body association on each campus shall maintain in its office written information regarding election procedures. Such information shall be made available to the public upon request.

(b) Adequate notice of the election shall be given by the student body association. Adequate notice is deemed to be at least ten school days prior to the election date.

(c) Each election shall be held on a day which counts toward the 175 day requirement (Education Code Section 84370) as defined in Section 58120 of this part. In instances where an election is conducted for more than one day, those days shall be consecutive and shall be limited to a maximum of five days.

NOTE: Authority cited: Section 76060.5, Education Code. Reference: Sections 76060 and 76060.5, Education Code.

HISTORY:

1. New section filed 5-12-88; operative 5-12-88 (Register 88, No. 20).

54803. Termination of Fee.

(a) Any student representation fee that has been instituted pursuant to the procedures enumerated in Section 54801 may be terminated by a majority of the students voting in an election called in one of the following two manners:

(1) By placing the issue on the ballot for the next regular associated student body election. The issue shall be placed on the ballot upon receipt of a petition indicating an interest in the termination of the representation fee signed by a majority of the number of students who voted in the election establishing the fee.

(2) Pursuant to procedures pre-established by the student body association for calling such an election. Such procedures shall be available for public inspection during regular business hours.

(b) The elections shall be conducted in accordance with the procedures established pursuant to Section 54801.

NOTE: Authority cited: Section 76060.5, Education Code. Reference: Sections 76060 and 76060.5, Education Code.

HISTORY:

1. New section filed 5-12-88; operative 5-12-88 (Register 88, No. 20).

54805. Collection of the Fee.

District governing boards shall include in the materials given to each student at registration, information pertaining to the representation fee. The form used by a college for the purpose of collecting the fee shall contain, at a minimum, the following:

(a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;

(b) the amount of the fee;

(c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

NOTE: Authority cited: Section 76060.5, Education Code. References: Sections 76060 and 76060.5, Education Code.

HISTORY:

1. New section filed 5-12-88; operative 5-12-88 (Register 88, No. 20).

Register 90-37

§ 55530
§ 55534

printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 4. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to subsection (b) shall be recorded in written or electronic form. The plan, and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this section, a student may file a complaint pursuant to section 55534 (c).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55526. Student Follow-up.

Each community college district shall establish a student follow-up process to assist the student in achieving his/her educational goal. The follow-up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre–collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. Section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this chapter shall be construed to interfere with the right of a student, if admitted to a community college in accord with district admission policies adopted pursuant to Education Code section 76000 et seq., from enrolling in any course for which he or she can meet necessary and valid prerequisites, if any, which have been established pursuant to the requirements of section 58106 of division 9 of this part.

(b) Community college districts shall take steps to ensure that information, in written form, is available to all students, in class schedules, catalogues, or other appropriate publications, describing their rights and responsibilities under this chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests which correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission, declare a specific educational objective within a reasonable period after admission, participate in counseling or advisement pursuant to section 55523(a)(1),(2), and (3), diligently attend class and complete assigned coursework, and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of chapter 9 (commencing with section 55750) of division 6 of this part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree applicable credit coursework, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to section 55525. If a student fails to fulfill the responsibilities listed in this subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his/her specific educational goal, or fails to abide by the terms of his/her student educational plan, the district may, subject to the requirements of this chapter, suspended or terminate the provision of services authorized in section 55520; provided however, the nothing in this section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of chapter 6 (commencing with section 54600) of Division 5 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such

policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Where students are required by a community college district to meet prerequisites under section 58106(b)(2) or (b)(3), a student may object to such requirement on the grounds that the necessary course is not available. The district shall promptly (within 5 working days) determine whether, the required course was available and if not, the district shall waive the prerequisite for that term.

(b) An allegation that a community college district has violated the provisions of subsection (f) of section 55521 or has established a discriminatory prerequisite subject to challenge under subsection (d)(3) of section 58106 shall be considered a complaint of unlawful discrimination and shall be filed, investigated and resolved pursuant to chapter 5 (commencing with section 59300) of Division 10 of this part.

(c) Each community college district shall establish written procedures by which students may challenge any other alleged violation of the provisions of this chapter or of section 58106. Districts shall investigate and attempt to resolve any such complaints. Such complaint procedures may, by action of the governing board, be consolidated with existing student grievance procedures. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the state wide evaluation required under section 55512(c).

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211, and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) Vocational education contract means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of Article 5 (commencing with Section 8090) of Chapter 1, Part 6 of the Education Code.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), Part A, Vocational Education, or any subsequent federal legislation.

(c) Contractor as used in Education Code Section 8092 means any private postsecondary school authorized or approved pursuant to the provisions of Chapter 3 (commencing with Section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) Eligible costs means all direct and indirect related instructional costs but does not include expenditures for capital outlay (600 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New Chapter 7 (Sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading, amendment of Article 1 heading, and repealer and new Section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55601. Definitions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (g) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55602. Occupational Purposes.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1, Education Code.

HISTORY

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

Register 91-23

§ 51006
§ 54805
§ 55005
§§ 55750 - 55753
§§ 55758 - 55765
§ 55800
§ 59404
§ 59410

4. Designated employees in Category 4 must report any business entity n v hey have an investment or business position, and income if the)usi. ntity or source of income provides education, training, or expe- ience to persons toward attaining a valid credential for employment as n instructor, supervisor, chief administrative officer, librarian, counsel- r, supervisor of health, student personnel worker, or other similar posi- lon within a Community College district.

Subchapter 3. Committees

History

Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

ubchapter 1. Minimum Conditions

51000. Scope.

The provisions of this chapter are adopted under the authority of Edu- ation Code section 70901(b)(6) and comprise the rules and regulations firming and fixing the minimum conditions, satisfaction of which en- les a district maintaining community colleges to receive state aid for e support of their community colleges.

OTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: ections 66700 and 70901, Education Code.

History

Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000-51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.

Amendment of section submitted to OAL for printing only pursuant to Govern- ment Code section 11343.8 (Register 91, No. 23).

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship lo y the Board of Governors, as contained in chapter 9 (commenc- ig ection 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the hancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(i) Sabbatical expenses for health service personnel.

Nothing within these provisions should deny a student participating in athletic programs a service which is properly supported by student health services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 72246, Education Code.

HISTORY

1. New section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18). For prior history, see Register 79, No. 28.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54708. Fundable Expenses.

Student health fees may be expended for the following.

(a) Cost of instructional materials for health education;

(b) Consultants directly involved in student health service programs;

(c) Rental and lease of space for the conduct of student health programs and services;

(d) Cost of equipment and medical supplies;

(e) Salaries of student health personnel (including fringe benefits);

(f) Student health and/or hospitalization insurance.

(g) Travel with student health services funds is limited to student health personnel and only for student health related activities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 72246, Education Code.

HISTORY

1. New section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18). For prior history, see Register 79, No. 28.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54710. Emergency Information.

For the protection of a student's health and welfare the governing board of a community college district may require the parent or legal guardian of a minor to keep current at the minor's school of attendance, emergency information including the home address and telephone number, business address, and telephone number of the parents or guardian, and the name, address, and telephone number of a relative or friend who is authorized to care for the student in any emergency situation if the parent or legal guardian cannot be reached.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 8. Student Organization

Article 1. Student Representation Fee

§ 54801. Calling of Election.

The governing body of each student body association authorized by Education Code section 76060 shall establish procedures for elections conducted for the purpose of collecting a student representation fee, and call an election for such purpose. The election shall, at a minimum, meet the following criteria:

(a) The student body association on each campus shall maintain in its office written information regarding election procedures. Such information shall be made available to the public upon request.

(b) Adequate notice of the election shall be given by the student body association. Adequate notice is deemed to be at least ten school days prior to the election date.

(c) Each election shall be held on a day which counts toward the 175 day requirement as defined in section 58120 of this part. In instances where an election is conducted for more than one day, those days shall be consecutive and shall be limited to a maximum of five days.

NOTE: Authority cited: Section 66700, 70901, and 76060.5, Education Code. Reference: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54803. Termination of Fee.

(a) Any student representation fee that has been instituted pursuant to the procedures enumerated in section 54801 may be terminated by a majority of the students voting in an election called in one of the following two manners:

(1) By placing the issue on the ballot for the next regular associated student body election. The issue shall be placed on the ballot upon receipt of a petition indicating an interest in the termination of the representation fee signed by a majority of the number of students who voted in the election establishing the fee.

(2) Pursuant to procedures pre–established by the student body association for calling such an election. Such procedures shall be available for public inspection during regular business hours.

(b) The elections shall be conducted in accordance with the procedures established pursuant to section 54801.

NOTE: Authority cited: Section 66700, 70901 and 76060.5, Education Code. Reference: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54805. Collection of the Fee.

District governing boards shall include in the materials given to each student at registration, information pertaining to the representation fee. The form used by a college for the purpose of collecting the fee shall contain, at a minimum, the following:

(a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;

(b) the amount of the fee;

(c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

NOTE: Authority cited: Sections 66700, 70901 and 76060.5, Education Code. References: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54912. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit–no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representatives of the general public knowledgeable about the disadvantage, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55101. Chancellor's Report.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

ommendations on staff, student, and instructional improvement activities.

(f) Provide, upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Section 84894, Education Code.

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of Sections 84895 and 84895.5 of the Education Code. For fiscal year 1982–83, the Chancellor shall also adjust the ADA of any district which has been newly approved to operate a flexible calendar operation during that fiscal year. The adjustment shall be made in order that those districts do not experience an arbitrary gain or loss in average daily attendance as a result of shifting to a flexible calendar operation.

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of Sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond.

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) Failed to conduct its flexible calendar operation in a manner consistent with its approved request.

(2) Failed to carry out the responsibilities specified in Section 55726.

(3) Failed to meet its ongoing responsibilities as specified in Section 55730.

(d) Withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

(e) Report to the Legislature as required by Section 84896 of the Education Code.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Sections 84890, 84893, 84894, 84895, 84895.5 and 84896, Education Code.

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 72285 and 76000, Education Code.

History

1. ...dment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timeliness established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55760. Grade Changes.

(a) ...n any course of instruction in a community college district for wh... ...ades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 ar... ...762. When grade changes are made in accordance with these secti... ...propriate annotations of any courses repeated shall be entered on the ...dent's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

... governing board of a district maintaining a community college sha... ...dopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of co...s for which substandard academic performance has been previous... ...ded, the governing board of a district maintaining a community co... ...ge:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 including, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902, and 76624, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall

Subchapter 7. Instructional and Other Materials

§ 59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this chapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. New chapter 7 (sections 59400–59408, not consecutive) filed 5–16–85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59402. Definitions.

For the purposes of this chapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost; and:

(1) The material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) The material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course shall adopt policies or regulations, consistent with the provisions of this chapter, which specify the conditions under which such materials will be required.

(b) The policies or regulations specified in subsection (a) shall be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and thereafter published in each college catalog developed after the date of adoption.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59406. Report to Chancellor.

The governing board of a community college district which prescribes required instructional and other materials for its courses shall respond to periodic surveys or inquiries of the Chancellor on the subject.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59406.5. Reports Re Instructional Materials Used.

Each district board shall make reports, whenever required, directly to the Board of Governors or Chancellor's Office, concerning the instructional materials used in its colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59408. Operative Date and Violations of Chapter.

(a) The regulations in this chapter shall become operative on August 15, 1985, provided that a district governing board which wishes to implement these regulations earlier may do so.

(b) The governing board of a district which prescribes required instructional and other materials in violation of this chapter shall be deemed to have established a student fee not expressly established by law.

NOTE: Authority cited: Sections 66700, 70901 and 72249, Education Code. Reference: Sections 70901, 70902 and 72249, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59410. Withholding Grades, Transcripts, etc., for Nonrepayment of Financial Obligations.

The governing board of a community college district may provide by appropriate rules and regulations that grades, transcripts, diplomas and registration privileges, or any combination thereof, shall be withheld from any student or former student who has been provided with written notice that he or she has failed to pay a proper financial obligation due to the district or a college. Any item or items withheld shall be released when the student satisfactorily meets the financial obligation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Chapter 11. Regulations of the Chancellor

Subchapter 1. Standards for the Determination of Proportional Level of Service for Adult Noncredit Programs for Substantially Handicapped Persons

§ 59500. Purpose.

NOTE: Authority cited: Section 84730, Education Code. Reference: Section 84730, Education Code.

HISTORY

1. New Chapter 1 (Sections 59500–59503) filed 10–3–80; effective thirtieth day thereafter (Register 80, No. 40).
2. Repealer filed 3–29–88; operative 4–28–88 (Register 88, No. 16).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

Symbol	*Definition*
	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following:
	"Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990, and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 72285 and 76000, Education Code.

HISTORY

1. ndment of sections submitted to OAL for printing only pursuant to Gov- ent Code section 11343.8 (Register 91, No. 23).
2. Amendment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 for printing only pursuant to Education Code section 10901.5; operative 6-19-91 (Register 91, No. 31).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timeliness established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

Register 91-43

§ 55758
§ 55765

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the following point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning

of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certificated employment records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculum.

The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy. Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal

symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 for printing only pursuant to Education Code section 10901.5; operative 6-19-91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).

§ 55759. Notification of Probation and Dismissal.

F ...ommunity college shall make reasonable efforts to notify a student ...oject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismi... policies and procedures shall be published in the college catalog.

N... ...thority cited: Sections 66700 and 70901, Education Code. Reference: Sec... 70901 and 70902, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the gra... be awarded each student in accordance with section 55758 of this ch... The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repeti... courses for which substandard work has been recorded. For pur... course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

(3) make reasonable efforts to ensure that all nonexempt students who [illegible]rolled in pre-collegiate basic skills courses participate in counseling/advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational plan as required by section 55525.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of ap[illegible]ed assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, y[illegible]valid and reliable information, identify the learning needs of stu[illegible]make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to subsection (b) shall be recorded in written or electronic form. The plan, and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this sec[illegible]he student may file a complaint pursuant to section 55534 (c).

Authority cited: Sections 66700 and 70901, Education Code. Reference: Se[illegible]n 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55526. Student Follow-up.

Each community college district shall establish a student follow-up process to assist the student in achieving his/her educational goal. The follow-up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre-collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this chapter shall be construed to interfere with the right of a student, if admitted to a community college in accord with district admission policies adopted pursuant to Education Code Sections 76000, et seq., from enrolling in any course for which he or she can meet necessary and valid prerequisites, if any, which have been established pursuant to the requirements of Section 58106 of Division 9 of this Part.

(b) Community college districts shall take steps to ensure that information, in written form, is available to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under this chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests which correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission, declare a specific educational goal within a reasonable period after admission, participate in counseling or advisement pursuant to Section 55523(a)(1), (2) and (3), diligently attend class and complete assigned coursework, and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit coursework, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring

his/her specific educational goal, or fails to abide by the terms of his/her student educational plan, the district may, subject to the requirements of ...apter, suspend or terminate the provision of services authorized in ...on 55520; provided however, that nothing in this section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under sec... 5510 and the number of students so exempted shall be reported, by ca... ry, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criteri... exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

N... Authority cited: Sections 66700, 70901, and 78215, Education Code. Ref... Section 78215, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Where students are required by a community college district to meet prerequisites under section 58106(b)(2) or (b)(3), a student may object to such requirement on the grounds that the necessary course is not available. The district shall promptly (within 5 working days) determine whether, the required course was available and if not, the district shall waive the prerequisite for that term.

(b) An allegation that a community college district has violated the provisions of subsection (f) of section 55521 or has established a discriminatory prerequisite subject to challenge under subsection (d)(3) of section 58106 shall be considered a complaint of unlawful discrimination and shall be filed, investigated and resolved pursuant to chapter 5 (commencing with section 59300) of Division 10 of this part.

(c) Each community college district shall establish written procedures by which students may challenge any other alleged violation of the provisions of this chapter or of section 58106. Districts shall investigate and attempt to resolve any such complaints. Such complaint procedures may, by action of the governing board, be consolidated with existing student grievance procedures. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under section 55512(c).

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135-11139.5, Government Code; Sections 78211, and 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) Vocational education contract means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled

[The next page is 357.]

Register 93-25

§ 58102
§ 58104

work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87801), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 87801, Education Code.

HISTORY

1. Amendment of subsections (a) and (a)(3) and NOTE filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58060. Valid Employment Qualifications.

For the purposes of Sections 58051 and 58056, the employee is deemed authorized to perform the services because he or she is employed pursuant to a valid, unrevoked credential issued by the Board of Governors or pursuant to minimum qualifications adopted by the Board of Governors or equivalencies pursuant to Section 53430.

(a) If the person serves pursuant to a credential,

(1) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(2) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

(b) If the person serves pursuant to minimum qualifications adopted by the Board of Governors or equivalencies, the qualifications or equivalencies must be related to the asignment and effective during the period of instruction for which attendance is being claimed.

(c) For purposes of this section, an employee is deemed authorized to perform the services if he or she is employed as a faculty intern.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 84500 and 87487, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Section 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58106. Prerequisites and Other Limitations On Enrollment.

(a) In order to be claimed for purposes of State apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, except that students may be required to meet prerequisites established pursuant to this section. In addition, a community college district may also limit enrollment in a course based on health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning, or legal requirements imposed by statute, regulations or contracts. The district governing board shall adopt policies identifying any such requirements and establishing fair and equitable procedures for determining who may enroll in affected courses. Such procedures may:

(1) limit enrollment on a "first come first served" basis or utilize other nonevaluative selection techniques to determine who may enroll; or

(2) limit enrollment to those students capable of safely performing required tasks as measured by relevant skill prerequisites established pursuant to subsection (b)(3) of this section.

(b) After review pursuant to Sections 53200–53203, and 55002 of this Part, a district may, subject to the conditions set forth in subdivision (c), require a student to meet any of the following types of prerequisites as a condition for enrollment in a course:

(1) It is permissible to require, as a prerequisite, the completion of any course where understanding or technical performance taught in that course is necessary for success in later courses.

(2) As used in this section, the term "prerequisite" also includes "corequisites" which require a student to concurrently enroll in one course as a condition of enrollment in another course. A student may be required to concurrently enroll in a corequisite only when the college has conducted a comprehensive assessment of the student using multiple measures and the objectives of the courses are clearly complementary, the interrelation of the units of instruction is evident, and completion of the corequisite is necessary for success in the related course. In addition, community college districts shall ensure that corequisite courses are available at the college in sufficient numbers to accommodate all students who are required to take them. If this is not the case, the corequisite shall be waived pursuant to Section 55534(a) of this Division.

(3) Prerequisites may be defined in terms of skills necessary to success in a particular course or program. This includes, but is not limited to, skill competencies in reading, written expression, and mathematics established pursuant to Section 55806 of this Division. The determination of whether a student possesses the required skills shall be based on a comprehensive assessment using multiple measures and any assessment instruments relied upon shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division. Community college districts shall ensure that pre–collegiate basic skills courses designed to teach required skills are available to accommodate students required to meet the associated skill prerequisites. Any student obtaining a satisfactory grade in such a pre–collegiate basic skills course shall be deemed to meet the associated skill prerequisite.

Register 93-42

§ 51006
§ 55202
§ 55530
§ 55534

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division."

(b) The statement of policy adopted by the board pursuant to Subsection (a) of this Section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance* is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

* The reference to average daily attendance (ADA) rather than full-time equivalent student (FTES) is being retained in this Section to accommodate prior year recalculations. Title 5, Section 58782, provides the transition from ADA to FTES.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002 of this Division;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003 of this Division;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004 of this Division;

(d) ensure that a program of recruitment is carried out as required by Section 53021 of this Division; and

(e) ensure that screening and selection procedures are developed and utilized in accordance with Section 53024 of this Division;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) of this Division.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

History
1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

be resolved in a timely manner and, if the challenge is upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

55202. Additional Rules.

The following additional rules apply to the establishment of prerequisites and corequisites:

(a) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established.

(b) Prerequisites establishing communication or computational skill requirements may not be established across the entire curriculum unless established on a course–by–course basis.

(c) The determination of whether a student meets a prerequisite shall be based on successful completion of an appropriate course or on an assessment using multiple measures. Any assessment instrument used shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

(d) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district shall ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course.

(e) Whenever a corequisite course is established, sufficient sections shall be offered to reasonably accommodate all students who are required to take the corequisite. A Corequisite shall be waived as to any student for whom space in the corequisite course is not available.

(f) No exit test may be required to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring the prerequisite, provided, however, that enrollment may be permitted pending verification that the student has met the prerequisite or corequisite. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or to the student code of conduct.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Article 3. Bilingual Crosscultural Programs and Courses

§ 55225. Annual Articulation Agreement Plans.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 52150–52158, Education Code.

HISTORY

1. New article 3 (section 55225) filed 6–8–83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Subchapter 2. Programs and Classes Outside of District

NOTE: Authority cited: Section 72012, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 55200–55204) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Register 77, No. 45.
2. Amendment of subchapter 2 heading filed 5–15–93; operative 6–14–93 (Register 93, No. 25).

§ 55230. Classes, Property and Buildings Outside of District.

The governing board of a community college district may conduct community college classes and acquire the necessary property and erect the necessary buildings therefor, outside of the boundaries of the district if all of the following conditions exist:

(a) The proposed location is within the state.

(b) the activities, trades, businesses, or work to be carried on at the proposed location is such as to offer educational opportunities to students who are residents of the district in the subject or all of the subjects proposed to be taught at that location, and facilities for such instruction are not available either at the location of the principal buildings of the community college, or elsewhere within the district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55231. Establishment of Classes Outside of District.

The governing board of a community college district may establish courses outside the district primarily for students who are nonresidents of the district, providing the following conditions are fulfilled:

(a) The governing board of a high school district or another community college district, requests that community college classes be offered in the high school district or community college district.

(b) The community college district annually reports to the Board of Governors, in advance of their offering, on the classes to be established or continued pursuant to this authorization.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

(commencing with section 56200) of division 7 of this part, to provide specialized matriculation services and modified or alternative matriculation services to their respective student populations. Notwithstanding this authorization, participation in the EOPS and DSPS programs is voluntary and no student may be denied necessary accommodations in the assessment process because he or she chooses not to use specialized matriculation services provided by these programs. Modified or alternative matriculation services for limited or non–English–speaking students may be provided in English as a Second Language programs.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55523. Counseling and Advisement.

(a) If not already required to do so by the minimum standards for counseling services set forth in section 51018 of division 1 of this Part, each community college district shall do all of the following:

(1) make reasonable efforts to ensure that all nonexempt students who are on probation participate in counseling as provided in section 55759 of this Part;

(2) make reasonable efforts to ensure that all nonexempt students who have not declared a specific educational goal participate in counseling to assist them in the process of selecting a specified educational goal pursuant to section 55525;

(3) make reasonable efforts to ensure that all nonexempt students who are enrolled in pre–collegiate basic skills courses participate in counseling or advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational plan as required by section 55525.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to subsection (b) shall be recorded in written or electronic form. The plan, and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this section, the student may file a complaint pursuant to section 55534 (c).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55526. Student Follow–up.

Each community college district shall establish a student follow–up process to assist the student in achieving his/her educational goal. The follow–up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre–collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this Subchapter shall be construed to interfere with the right of a student admitted to a community college in accord with district admission policies adopted pursuant to Education Code Section 76000, et seq. to enroll in any course for which he or she can meet necessary and appropriate prerequisites, if any, which have been established pursuant to the requirements of Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division.

(b) Community college districts shall take steps to ensure that information is available in written form to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under this Chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to

avoid additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 5 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Subsection (f) of Section 55521, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) "Eligible costs" means all direct and indirect related instructional costs but does not include expenditures for capital outlay (6000 category in the California Community Colleges Budget and Accounting Manual).

Register 94-38

§ 51006
§ 55534
§ 59404
§ 59410

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service which a student is otherwise entitled under any other provision of law.

Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Section 55521(a)(6), the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation

Chancellor shall allow the district to acquiesce in this finding prior to filing an accusation against the district.

(b) Notify the district and the complainant that there is no reasonable cause to believe the district has violated the provisions of this chapter.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59358. Hearing.

If the Chancellor finds the district has violated the provisions of this chapter, and if the district does not acquiesce in that finding, the Chancellor shall initiate the hearing process pursuant to Chapter 5 (commencing with Section 11500) of Part I, Division 3, Title 2 of the Government Code, to determine whether the violation did occur.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

§ 59360. Enforcement.

(a) Upon a determination that a district has violated the provisions of this chapter, the Chancellor shall notify the district of the action he or she will take to effect compliance. The Chancellor may use any means authorized by law to effect compliance, including:

(1) Withhold all or part of the district's state support;

(2) Probationary eligibility for future state support, conditional on compliance with specified conditions;

(3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state funding to a district under this chapter shall be made until the Chancellor has determined that compliance cannot be secured by voluntary means.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, 11136, and 11138, Government Code.

59362. Judicial Review.

A decision by the Chancellor pursuant to Section 59360 is subject to judicial review by the district, as provided by Section 1094.5 of the Code of Civil Procedure.

NOTE: Authority cited: Section 11138, Government Code; Sections 71020 and 71025, Education Code. Reference: Sections 11135, and 11138, Government Code.

Subchapter 6. Waiver of Part-Time Instructor Limit

NOTE: Authority cited: Sections 71020 and 87613, Education Code. Reference: Section 87613, Education Code.

HISTORY

1. New Chapter 6 (Sections 59380–59388, not consecutive) filed 6–1–82; effective thirtieth day thereafter (Register 82, No. 23).
2. Repealer of Chapter 6 (Sections 59380–59388, not consecutive) filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

Subchapter 7. Instructional and Other Materials

§ 59400. Required Instructional and Other Materials.

(a) The governing board of a district may, consistent with the provisions of this Subchapter, require students to provide instructional and other materials required for a credit or noncredit course, provided that such materials are of continuing value to a student outside of the classroom setting, and provided that such materials are not solely or exclusively available from the district.

(b) Except as specifically authorized or required in the Education Code, the governing board of a community college district shall not require a student to pay a fee for any instructional and other materials required for a credit or noncredit course.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. New chapter 7 (sections 59400–59408, not consecutive) filed 5–16–85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment of subsection (a) and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 59402. Definitions.

For the purposes of this Subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost and:

(1) the material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) the material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of opening statement, subsections (a) and (c)–(c)(2) and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course shall adopt policies or regulations, consistent with the provisions of this Subchapter, which specify the conditions under which such materials will be required.

(b) The policies or regulations specified in Subsection (a) shall be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and thereafter published in each college catalog developed after the date of adoption.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of section and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 59406. Report to Chancellor.

The governing board of a community college district which prescribes required instructional and other materials for its courses shall respond to periodic surveys or inquiries of the Chancellor on the subject.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of Note filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 59406.5. Reports Re Instructional Materials Used.

Each district board shall make reports, whenever required, directly to the Board of Governors or Chancellor's Office, concerning the instructional materials used in its colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 59408. Operative Date and Violations of Subchapter.

(a) The regulations in this Subchapter shall become operative on August 15, 1985, provided that a district governing board which wishes to implement these regulations earlier may do so.

(b) The governing board of a district which prescribes required instructional and other materials in violation of this Subchapter shall be deemed to have established a student fee not expressly established by law.

Note: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of section heading, text and Note filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 7.5. Student Financial Obligations

§ 59410. Withholding Grades, Transcripts, etc., for Nonrepayment of Financial Obligations.

The governing board of a community college district may provide by appropriate rules and regulations that grades, transcripts, diplomas and registration privileges, or any combination thereof, shall be withheld from any student or former student who has been provided with written notice that he or she has failed to pay a proper financial obligation due to the district or a college. Any item or items withheld shall be released when the student satisfactorily meets the financial obligation.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. New subchapter 7.5 heading filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 8. District Reorganization

§ 59420. Newly Formed District.

A community college district is a newly formed district up to the close of the fiscal year in which its formation became effective for all purposes.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. New subchapter 8 and section filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 59422. Use of Bond Proceeds.

When the territory of a district is reorganized, any funds derived from the sale of the bonds issued by the former district shall be used for the acquisition, construction, or improvement of college property only in the territory which comprised the former district or to discharge the bonded indebtedness of the former district, except that if the bonded indebtedness is assumed by the new district, the funds may be used in any area of the new district for the purposes for which the bonds were originally voted.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Renumbering and amendment of former section 53530 to section 59422 filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 59424. Territory of District Becoming Part of Two or More Districts; Disposition of Records.

If all the territory of any reorganized district becomes part of two or more districts, and the inclusion in the two or more districts of the several portions of territory comprising the whole of the original district is effective for all purposes on the same date, the records of the original district shall be disposed of as follows:

(a) All records of the original district which are required by law to be kept on file shall be deposited with the governing board of the district which, after the reorganization has become effective for all purposes, has located within its boundaries the former office of the superintendent of the original district.

(b) Records of employees shall be transferred to the district thereafter employing the personnel or thereafter maintaining the last place of employment.

(c) Records of students shall be transferred to the district which, after the date on which the reorganization becomes effective for all purposes, maintains the college in which a student was last enrolled.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Renumbering and amendment of former section 53540 to section 59424 filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

Subchapter 9. Minority, Women, and Disabled Veteran Business Enterprise Participation Goals for the California Community Colleges

§ 59500. Scope of Subchapter.

(a) The California Community Colleges shall provide opportunities for minority, women, and disabled veteran business enterprise participation in the award of district contracts consistent with this Subchapter. The statewide goal for such participation is not less than 15 percent minority business enterprise participation, not less than 5 percent women business enterprise participation, and not less than 3 percent disabled veteran business enterprise participation of the dollar amount expended by all districts each year for construction, professional services, materials, supplies, equipment, alteration, repair, or improvement. However, each district shall have flexibility to determine whether or not to seek participation by minority, women, and disabled veteran business enterprises for any given contract.

(b) Nothing in this Subchapter authorizes any district to discriminate in awarding contracts on the basis of ethnic group identification, ancestry, religion, age, sex, race, color, or physical or mental disability.

Note: Authority cited: Sections 66700, 70901 and 71028, Education Code. Reference: Section 71028, Education Code; Article 1.5, Chapter 1, Part 1, Public Contract Code.

History

1. New subchapter 9 and section filed 12-29-93; operative 1-28-94. Submitted to OAL for printing only (Register 94, No. 6).

§ 59502. Definitions.

The definitions set forth in Subsections (d), (e), and (f) of Section 10115.1 of the Public Contract Code, as they may be amended from time to time, apply to this Subchapter and are incorporated herein as though fully set forth in addition, for purposes of this Subchapter:

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Register 95-20

§ 54805
§ 55005

(d) Athletic insurance for the intercollegiate athletic team;

(e) Medical supplies for athletics;

(f) Physical examinations for intercollegiate athletics;

(g) Ambulance services and salaries of health professionals for athletic events;

(h) Any deductible expenses for accident claims filed for athletic team members;

(i) Sabbatical expenses for health service personnel.

Nothing within these provisions should deny a student participating in athletic programs a service which is properly supported by student health fees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 72246, Education Code.

HISTORY

1. New section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18). For prior history, see Register 79, No. 28.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54708. Fundable Expenses.

Student health fees may be expended for the following.

(a) Cost of instructional materials for health education;

(b) Consultants directly involved in student health service programs;

(c) Rental and lease of space for the conduct of student health programs and services;

(d) Cost of equipment and medical supplies;

(e) Salaries of student health personnel (including fringe benefits);

(f) Student health and/or hospitalization insurance.

(g) Travel with student health services funds is limited to student health personnel and only for student health related activities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 72246, Education Code.

HISTORY

1. New section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18). For prior history, see Register 79, No. 28.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54710. Emergency Information.

For the protection of a student's health and welfare the governing board of a community college district may require the parent or legal guardian of a minor to keep current at the minor's school of attendance, emergency information including the home address and telephone number, business address, and telephone number of the parents or guardian, and the name, address, and telephone number of a relative or friend who is authorized to care for the student in any emergency situation if the parent or legal guardian cannot be reached.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

Subchapter 8. Student Organization

Article 1. Student Representation Fee

§ 54801. Calling of Election.

The governing body of each student body association authorized by Education Code section 76060 shall establish procedures for elections conducted for the purpose of collecting a student representation fee, and call an election for such purpose. The election shall, at a minimum, meet the following criteria:

(a) The student body association on each campus shall maintain in its office written information regarding election procedures. Such information shall be made available to the public upon request.

(b) Adequate notice of the election shall be given by the student body association. Adequate notice is deemed to be at least ten school days prior to the election date.

(c) Each election shall be held on a day which counts toward the 175 day requirement as defined in section 58120 of this part. In instances where an election is conducted for more than one day, those days shall be consecutive and shall be limited to a maximum of five days.

NOTE: Authority cited: Section 66700, 70901, and 76060.5, Education Code. Reference: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54803. Termination of Fee.

(a) Any student representation fee that has been instituted pursuant to the procedures enumerated in section 54801 may be terminated by a majority of the students voting in an election called in one of the following two manners:

(1) By placing the issue on the ballot for the next regular associated student body election. The issue shall be placed on the ballot upon receipt of a petition indicating an interest in the termination of the representation fee signed by a majority of the number of students who voted in the election establishing the fee.

(2) Pursuant to procedures pre–established by the student body association for calling such an election. Such procedures shall be available for public inspection during regular business hours.

(b) The elections shall be conducted in accordance with the procedures established pursuant to section 54801.

NOTE: Authority cited: Section 66700, 70901 and 76060.5, Education Code. Reference: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 54805. Collection of the Fee.

District governing boards shall include in the materials given to each student at registration, information pertaining to the representation fee. The form used by a college for the purpose of collecting the fee shall contain, at a minimum, the following:

(a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;

(b) the amount of the fee;

(c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

NOTE: Authority cited: Sections 66700, 70901 and 76060.5, Education Code. References: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

dards of attendance and achievement that the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in Education Code Section 84711 and must be approved by the Chancellor's Office as noted in Title 5, Section 55150.

(2) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class that meets the following minimum requirements:

(1) is approved by the local district governing board;

(2) is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein;

(3) provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students;

(4) is conducted in accordance with a predetermined strategy or plan;

(5) is open to all members of the community; and

(6) may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5–18–84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
6. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
7. Editorial correction of HISTORY 4 (Register 95, No. 20).

§ 55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four–year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit–no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in second paragraph (Register 91, No. 43).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Editorial correction of HISTORY 1 (Register 95, No. 20).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

Register 95-22

§ 55750
§ 55752
§ 55753
§§ 55758 - 55765

§ 55728. Flexible Calendar Attendance Reporting.

(a) On forms provided by the Chancellor, districts with approved flexible calendar operations shall report at least the following:

(1) the total hours of classroom assignments (teaching time) which instructors specified in the district's approved plan were required to teach;

(2) of the total in Subsection (a)(1), the total faculty contact hours of instruction for which staff, student, and instructional improvement activities are being substituted. This total of faculty contact hours shall further be reported in terms of credit and noncredit faculty contact hours of instruction; and

(3) the number of faculty contact hours of instruction for which instruction during the designated days is being substituted. Such instruction during the designated days meeting the attendance accounting standards may be claimed for apportionment; and the faculty contact hours shall not be eligible for adjustment pursuant to Section 55729.

(b) Districts with approved flexible calendar operations shall also report such additional data as deemed necessary by the Chancellor including any data necessary to compute the FTES adjustment specified in Section 55729.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. New section filed 11-10-82; effective thirtieth day thereafter (Register 82, No. 46).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).
3. Amendment of subsections (a)(1), (a)(3), (b) and NOTE filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
4. Amendment of subsections (a)(2)-(b) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55729. Full-time Equivalent Student (FTES) Units; Adjustments to Reflect Activities; Computation by Multiplier Factor.

(a) The Chancellor's Office shall adjust the actual units of full-time equivalent student of a district operating under a plan approved in accordance with Sections 55720-32 to reflect the conduct of staff, student, and instructional improvement activities in lieu of scheduled instruction during flexible time. The adjusted units of full-time equivalent student shall be computed by multiplying the actual units of full-time equivalent student in the academic year, exclusive of any intersessions, computed pursuant to Section 58003.1, by a factor which does not change the full-time equivalent student which would have otherwise been generated if the time for the improvement activities had not been permitted and scheduled instruction had instead taken place.

(b) For courses other than those described in Subsection (b) of Section 58003.1, the multiplier factor shall equal the sum of the following:

(1) 1.0; and

(2) the total of all the actual hours of flexible time of all instructors pursuant to Section 55720 in the fiscal year, divided by the total of all the actual hours of classroom instruction of all instructors in the academic year, exclusive of any intersessions.

(c) For those courses described in Subsection (b) of Section 58003.1, this multiplier factor shall equal the maximum term length multiplier set forth in that Subsection.

(d) The Chancellor shall also withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
2. Amendment of section heading and text filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55730. Ongoing Responsibilities of Districts.

Any district conducting an approved flexible calendar shall do all of the following to ensure effective use of resources during flex days:

(a) conduct and annually update a survey of the most critical staff, student, and instructional improvement needs in the district;

(b) develop and carry out a plan of activities to address the critical needs;

(c) maintain records on the description, type and number of activities scheduled and the number of district employees and students participating in these activities;

(d) evaluate annually the effectiveness of conducted activities and update the plan to reflect needed changes;

(e) appoint and hold regular meetings of an advisory committee composed of faculty, students, administrators and other interested persons to make recommendations on staff, student, and instructional improvement activities; and

(f) provide, upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of section 55729 of this Part;

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond; and

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) failed to conduct its flexible calendar operation in a manner consistent with its approved request;

(2) failed to carry out the responsibilities specified in section 55726; or

(3) failed to meet its ongoing responsibilities as specified in section 55730.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).
2. Amendment filed 5-15-93; operative 6-14-93 (Register 93, No. 25).

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750-55765) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been

enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 25). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned.

Symbol	Definition
	The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy. Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of subsection (c) filed 5–20–91 and submitted to OAL on 5–24–91 for printing only pursuant to Education Code section 10901.5; operative 6–19–91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning

of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of

grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55800.5. Minimum Credit Hours for Graduation from Two–Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

Register 95-29

§ 59404
§ 59410

HISTORY

1. New chapter 7 (sections 59400–59408, not consecutive) filed 5–16–85; effective thirtieth day thereafter (Register 85, No. 20).
2. ...ment filed 3–4–91 by Board of Governors of California Community ... with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Sub...tted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 29).

§ 59402. Definitions.

For the purposes of this Subchapter the following definitions apply:

(a) "Instructional and other materials" means any tangible personal property which is owned or primarily controlled by an individual student.

(b) "Required instructional and other materials" means any instructional and other materials which a student must procure or possess as a condition of registration, enrollment or entry into a class; or any such material which is necessary to achieve those required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

(c) "Solely or exclusively available from the district" means that the material is not available except through the district, or that the district requires that the material be purchased or procured from it. A material shall not be considered to be solely or exclusively available from the district if it is provided to the student at the district's actual cost and:

(1) the material is otherwise generally available, but is provided solely or exclusively by the district for health and safety reasons; or

(2) the material is provided in lieu of other generally available but more expensive material which would otherwise be required.

(d) "Required instructional and other materials which are of continuing value outside of the classroom setting" are materials which can be taken from the classroom setting, and which are not wholly consumed, used up, or rendered valueless as they are applied in achieving the required objectives of a course which are to be accomplished under the supervision of an instructor during class hours.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Amendment of opening statement, subsections (a) and (c)–(c)(2) and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Editorial correction of HISTORY 1 (Register 95, No. 29).

59404. District Policies and Regulations for Instructional and Other Materials.

(a) The governing board of a community college district which requires that students provide instructional or other materials for a course shall adopt policies or regulations, consistent with the provisions of this subchapter, which specify the conditions under which such materials will be required.

(b) The policies or regulations specified in Subsection (a) shall be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and thereafter published in each college catalog developed after the date of adoption.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Amendment of section and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59406. Report to Chancellor.

The governing board of a community college district which prescribes required instructional and other materials for its courses shall respond to periodic surveys or inquiries of the Chancellor on the subject.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59406.5. Reports Re Instructional Materials Used.

Each district board shall make reports, whenever required, directly to the Board of Governors or Chancellor's Office, concerning the instructional materials used in its colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 29).

§ 59408. Operative Date and Violations of Subchapter.

(a) The regulations in this Subchapter shall become operative on August 15, 1985, provided that a district governing board which wishes to implement these regulations earlier may do so.

(b) The governing board of a district which prescribes required instructional and other materials in violation of this Subchapter shall be deemed to have established a student fee not expressly established by law.

NOTE: Authority cited: Sections 66700, 70901 and 76365, Education Code. Reference: Sections 70901, 70902 and 76365, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of section heading, text and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

Subchapter 7.5. Student Financial Obligations

§ 59410. Withholding Grades, Transcripts, etc., for Nonrepayment of Financial Obligations.

The governing board of a community college district may provide by appropriate rules and regulations that grades, transcripts, diplomas and registration privileges, or any combination thereof, shall be withheld from any student or former student who has been provided with written notice that he or she has failed to pay a proper financial obligation due to the district or a college. Any item or items withheld shall be released when the student satisfactorily meets the financial obligation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. New subchapter 7.5 heading filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 29).

enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(e) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols, except as provided in subsection (b):

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board of a community college district may use "plus" and "minus" designations in combination with letter grades, except that the grade of C minus shall not be used. If pluses and minuses are used, the grade point value of a plus shall be computed by adding 0.3 to the value assigned to the letter grade with which it is combined, and the grade point value of a minus shall be computed by subtracting 0.3 from the value assigned to the letter grade with which it is combined, except that no grade point value shall be less than 0 or greater than 4.0.

(c) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) or subsections (a) and (b) (if pluses and minuses are used) in the catalog or catalogs of that community college district as a part of its grading practices.

(d) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	Definition
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy. Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment of subsection (c) filed 5–20–91 and submitted to OAL on 5–24–91 for printing only pursuant to Education Code section 10901.5; operative 6–19–91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).
6. Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE filed 1–12–98; operative 2–11–98. Submitted to OAL for printing only (Register 98, No. 3).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(c) The governing board of a district shall adopt and publish proce-s and conditions for dismissal and appeal of dismissal and request for tatement. Such procedures and conditions may establish standards ower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 56.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of divi- f this part. However, except as provided in subsection (c) of this s , no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second guage (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college-level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college-level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college-level courses, request reinstatement to proceed with college-level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to en he Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols, except as provided in subsections (b) and (c):

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board of a community college district may use "plus" and "minus" designations in combination with letter grades, except that the grade of C minus shall not be used. If pluses and minuses are used, the grade point value of a plus shall be computed by adding 0.3 to the value assigned to the letter grade with which it is combined, and the grade point value of a minus shall be computed by subtracting 0.3 from the value assigned to the letter grade with which it is combined, except that no grade point value shall be less than 0 or greater than 4.0.

(c) Regardless of whether the governing board elects to use plus and minus grading, it may provide for the use of the "FW" grade symbol to indicate that a student has both ceased participating in a course some time after the last day to officially withdraw from the course without having achieved a final passing grade, and that the student has not received district authorization to withdraw from the course under extenuating circumstances. The "FW" symbol may not be used if a student has qualified for and been granted military withdrawal. If "FW" is used, its grade point value shall be zero (0).

(d) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) or subsections (a) and (b) (if pluses and minuses are used) in the catalog or catalogs of that community college district as a part of its grading practices. In the event the governing board chooses to use the "FW" described in subsection (c), it shall be included in the grading scale and point equivalencies published in the catalog.

(e) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in this Section other than a "W."

Symbol	*Definition*
	The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in Sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.
MW	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military Withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s. In no case would a military withdrawal result in a student being assigned an "FW" grade.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

...endment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 ...printing only pursuant to Education Code section 70901.5; operative ...9-91 (Register 91, No. 31).

3. Editorial correction of printing error in NOTE (Register 91, No. 43).

4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).

5. Editorial correction of HISTORY 1 (Register 95, No. 22).

6. Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE filed 1-12-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).

7. Amendment of subsection (a), new subsection (c), subsection relettering, and amendment of newly designated subsections (d) and (e) filed 12-8-2000; operative 1-7-2001. Submitted to OAL for printing only (Register 2000, No. 50).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. ...section filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of printing error (Register 91, No. 43).

3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section ...(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(e) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(f) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(g) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 22).

3. Repealer of subsection (d), subsection relettering, and amendment of NOTE filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded.

(b) Except as provided in Subsection (c), repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the gov-

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board of each community college district shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this Subchapter.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The nature and content of the examination shall be determined solely by faculty in the discipline that normally teaches the course for which credit is to be granted in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002. The faculty shall determine that the examination adequately measures mastery of the course content as set forth in the outline of record. The faculty may accept an examination conducted at a location other than the community college for this purpose.

(d) A separate examination shall be conducted for each course for which credit is to be granted. Credit may be awarded for prior experience or prior learning only in terms of individually identified courses for which examinations are conducted pursuant to this section.

(e) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(f) Grading shall be according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit–no credit option if that option is ordinarily available for the course.

(g) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.5. Articulation of High School Courses.

(a) For purposes of this section, the term "articulated high school course" means a high school course or courses that the faculty in the appropriate discipline, using policies and procedures approved by the curriculum committee established pursuant to Section 55002, have determined to be comparable to a specific community college course.

(b) The governing board of a community college district may adopt policies to permit articulated high school courses to be applied to community college requirements in accordance with this Section. Articulated high school courses may be accepted in lieu of comparable community college courses to partially satisfy:

(1) requirements for a certificate program, including the total number of units required for the certificate; or,

(2) the major requirements in a degree program.

(c) Articulated high school courses used to partially satisfy certificate or major requirements shall be clearly noted as such on the student's academic record. Notations of community college course credit shall be made only if community college courses are successfully completed or if credit is earned via credit by examination.

(d) Except through credit by examination, as defined in Section 55753, high school courses may not be used to satisfy:

(1) the requirement of Section 55806 that students complete at least 60 semester or 90 quarter units in order to receive an associate degree; or,

(2) any general education requirement for the associate degree established by the district.

(e) All community college district–high school articulation agreements shall be subject to the provisions of this Section. However, any student who, prior to the date this Section takes effect, has successfully completed a high school course articulated under the terms of a previous agreement shall be permitted to apply the credit so earned according to the terms of the previous agreement.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

HISTORY

1. New section filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.7. Advanced Placement Examinations.

The governing board of a community college district may adopt policies to grant credit for satisfactory completion of advanced placement examinations typically recognized by colleges and universities as measuring competencies comparable to those achieved in baccalaureate level courses.

The faculty in the appropriate discipline must approve advanced placement examinations, scores deemed to constitute satisfactory performance, courses offered by the college for which credit will be granted, and requirements that may be met by such examinations in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002.

The student's academic record shall be clearly annotated to reflect that credit was earned through an advanced placement examination.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

HISTORY

. New section filed 1-4-2002; operative 7-1-2002. Submitted to OAL for printing pursuant to Education Code section 70901.5 (Register 2002, No. 8).

5. . Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall e placed on academic probation if the student has earned a grade point verage below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 2 semester or 18 quarter units as shown by the official academic record hall be placed on progress probation when the percentage of all units in hich a student has enrolled and for which entries of "W," "I," and "NC" is defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt andards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 2 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of W," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: sections 70901, 70902 and 76000, Education Code.

HISTORY

Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Editorial correction of HISTORY 1 (Register 95, No. 22).

55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0;

(2) A district may establish, as the minimum percentage of units of W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: sections 70901, 70902 and 76000, Education Code.

HISTORY

Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Editorial correction of HISTORY 1 (Register 95, No. 22).

55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 on all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college-level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college-level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor*

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX (916) 445-0278
E-mail: csminfo@csm.ca.gov

Exhibit I

November 2, 2007

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Submission of Additional Information
Notice to Students (02-TC-25)
Los Rios Community College District, Claimant
Education Code sections 66281.5, 66721.5
California Code of Regulations, title 5, sections 51006, 54626, 54805, 55005, 55202, 55530, 55534, 55750, 55752, 55753, 55758, 55759, 55760, 55761, 55762, 55764, 55765, 55800, 58102, 58104, 59404, and 59410.

Dear Mr. Petersen:

The California Community Colleges – Chancellor's Office has submitted the enclosed information in response to staff's October 19, 2007, request for additional information.

If you have questions on the above, please contact Kenny Louie at (916) 323-2611.

Sincerely,

Paula Higashi

PAULA HIGASHI
Executive Director

cc: Mailing list (enclosed)

Enclosures

Paula Higashi

From: Skinner, Erik [eskinner@CCCCO.edu]
Sent: Wednesday, October 31, 2007 5:33 PM
To: Paula Higashi
Cc: Oropeza, Jeannie; Podesto, Lynn; Todd, Thomas; Lee, Jonathan; Harris, Fred; Brady, Diane
Subject: Information Request--Notice to Students 02-TC-25
Attachments: Funding sources Oct 30 07.xls

Ms. Paula Higashi,

In a letter dated October 19, you requested information related to the test claim Notice to Students (02-TC-25). Specifically, you asked for: 1) community college funding broken down by State, Federal, and Local sources for 2001-02 through the present; and 2) information regarding specific State appropriations for printing of official catalogs, schedules, and notices.

The attached spreadsheet provides the response to the first item. In regards to the second item, no specific appropriations were made in the State Budget for the identified activities during the specified time period.

I hope this response meets you needs. Please let me know if any further information or clarification is needed.

Regards,

Erik Skinner

Vice Chancellor for Fiscal Policy

Chancellor's Office

California Community Colleges

1102 Q Street, Sacramento, CA 95814-6511

www.cccco.edu

phone: 916-323-7007

fax: 916-322-4783

<<Funding sources Oct 30 07.xls>>

FUNDING SOURCES FOR COMMUNITY COLLEGE FUNDING
(in millions)

	2001-02		2002-03		2003-04		2004-05		2005-06		2006-07		2007-08	
	$	%	$	%	$	%	$	%	$	%	$	%	$	%
FEDERAL	225.9	3.5%	250.9	3.8%	249.2	3.7%	244.1	3.3%	249.8	3.2%	266.2	3.2%	268.2	3.1%
STATE														
General Fund	2,847.0	44.1%	2,879.5	43.7%	2,554.8	38.1%	3,277.5	44.9%	3,934.5	50.7%	4,322.0	52.3%	4,479.6	52.2%
Other state funds	10.5	0.2%	11.3	0.2%	8.6	0.1%	9.3	0.1%	13.3	0.2%	15.7	0.2%	15.6	0.2%
Lottery funds	138.1	2.1%	141.2	2.1%	140.9	2.1%	143.3	2.0%	177.9	2.3%	155.3	1.9%	155.3	1.8%
LOCAL														
Property tax	1,854.1	28.7%	1,990.4	30.2%	2,100.4	31.4%	1,754.4	24.0%	1,800.6	23.2%	1,872.5	22.6%	2,056.4	24.0%
Local miscellaneous	1,217.5	18.9%	1,145.9	17.4%	1,400.2	20.9%	1,537.5	21.1%	1,244.7	16.0%	1,326.2	16.0%	1,326.2	15.4%
STUDENT FEES	164.1	2.5%	169.2	2.6%	243.5	3.6%	334.7	4.6%	344.1	4.4%	311.6	3.8%	283.7	3.3%
TOTAL REVENUES	6,457.2	100.0%	6,588.4	100.0%	6,697.6	100.0%	7,300.8	100.0%	7,764.9	100.0%	8,269.5	100.0%	8,585.0	100.0%

Federal funds include Workforce Investment Act (WIA), Temporary Assistance for Needy Families (TANF), and Vocational and Technical Education Act (VTEA, or Perkins) funds.

Local miscellaneous funds include contract instruction, rental and interest income, endowments, and locally-collected fees.

Commission on State Mandates

Original List Date: 6/19/2003
Last Updated: 4/26/2007
List Print Date: 11/02/2007
Claim Number: 02-TC-25
Issue: Notice to Students

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Tel: (916) 323-5849
Fax: (916) 327-0832

Ms. Carla Castaneda
Department of Finance (A-15)
915 L Street, 11th Floor
Sacramento, CA 95814

Tel: (916) 445-3274
Fax: (916) 323-9584

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 322-4005
Fax: (916) 323-8245

Mr. Jon Sharpe
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Claimant

Tel: (559) 244-5910
Fax: (559) 243-1949

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 894059
Temecula, CA 92589

Tel: (951) 303-3034
Fax: (951) 303-6607

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Tel: (916) 727-1350
Fax: (916) 727-1734

Mr. Steve Smith
Steve Smith Enterprises, Inc.
3323 Watt Avenue #291
Sacramento, CA 95821
Tel: (916) 216-4435
Fax: (916) 972-0873

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814
Tel: (916) 446-7517
Fax: (916) 446-2011

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816
Tel: (916) 454-7310
Fax: (916) 454-7312

Mr. Arthur Palkowitz
San Diego Unified School District
Office of Resource Development
4100 Normal Street, Room 3209
San Diego, CA 92103-8363
Tel: (619) 725-7785
Fax: (619) 725-7564

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730
Tel: (866) 481-2621
Fax: (866) 481-2682

Mr. David E. Scribner
Scribner Consulting Group, Inc.
3840 Rosin Court, Suite 190
Sacramento, CA 95834
Tel: (916) 922-2636
Fax: (916) 922-2719

Ms. Ginny Brummels
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816
Tel: (916) 324-0256
Fax: (916) 323-6527

Ms. Carol Bingham
California Department of Education (E-08)
Fiscal Policy Division
1430 N Street, Suite 5602
Sacramento, CA 95814
Tel: (916) 324-4728
Fax: (916) 319-0116

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814
Tel: (916) 445-0328
Fax: (916) 323-9530

Ms. Susan Geanacou
Department of Finance (A-15)
915 L Street, Suite 1190
Sacramento, CA 95814

Tel: (916) 445-3274

Fax: (916) 324-4888

Mr. J. Bradley Burgess
Public Resource Management Group
895 La Sierra Drive
Sacramento, CA 95864

Tel: (916) 595-2646

Fax:

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

Claimant Representative

Tel: (916) 565-6104

Fax: (916) 564-6103

Exhibit J

DEPARTMENT OF FINANCE
ARNOLD SCHWARZENEGGER, GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

November 9, 2007

RECEIVED
NOV 15 2007
COMMISSION ON
STATE MANDATES

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

The Department of Finance has completed its review of Test Claim No. 02-TC-25, Notice to Students, submitted by the Los Rios Community College District (LRCCD). Based on our review of the claim, as well as relevant statutes and regulations, we assert that the procedures, definitions, and general instructions provided in this claim do not constitute a reimbursable state mandated activity on local community college districts.

The claimant alleges that there are reimbursable mandated costs that arise through the creation of two Education Code sections and 22 regulations adopted by the Board of Governors of the California Community Colleges. Claimants assert that prior to January 1, 1975, there were no statutes, codes, or regulations requiring specific notices to students. As a result, these new statutes and regulations require community college districts to "prepare, publish, and implement various policies, procedures, and notices to students" above and beyond what was required prior to their enactment.

Education Code Section 66281.5

The purpose of this Education Code Section 66281.5 is to "provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies." More specifically, this section requires that each postsecondary educational institution have a written policy on sexual harassment. This policy is required to be displayed in a prominent location, and a copy of that policy "shall be provided as a part of any orientation program conducted for new students." The code section also requires that a copy of this written policy be provided to each faculty member, all members of the administrative staff, and all members of support staff. Finally, the written policy is required to be published in any work that sets forth comprehensive rules, regulations, procedures and standards of conduct for the institution.

We concur with the Chancellor's Office of the California Community Colleges (COCCC) that the new requirements are not substantially different than those already prescribed by federal law. Title IX and Title VII both prohibit sex discrimination and sexual harassment within the workplace, which includes community college districts. Any mandated costs that could result from these federal laws are precluded from state reimbursement by Government Code Section 17556 (c). This section states there cannot be a finding of a reimbursable mandate where a federal mandate results in the claimed costs. Both Title IX and Title VII are pre-existing federal laws that require the community college districts to undertake the same activities required by Education Code Section 66281.5.

Title IX, enacted in 1972, was created to "eliminate...discrimination on the basis of sex in any education program or activity receiving Federal financial assistance..." (34 CFR § 106.1). We would note that according to the COCCC's Fiscal Data Abstract, Summary of General Fund Revenues Fiscal Year 2005-06, every community college district chose to receive federal financial assistance and are therefore subject to the requirements of Title IX. Under Title IX, districts must "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part" (34 CFR §§106.8(b), 106.9).

Title IX also specifically addresses the issue of sexual harassment. The Office of Civil Rights (OCR), which is charged with the enforcement of Title IX, requires districts to have an effective sexual harassment policy which addresses the issue. Failure to implement such a policy violates Title IX regulations. Among the required policies is the distribution of sexual harassment policy and procedures. In January 2001 the OCR published its Title IX "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties" which outlined the requirements, as follows:

> "Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination" (*Id.* at 14).

One facet of "prompt and equitable" resolutions is the requirement that students and employees are notified of the procedure, "including where complaints may be filed" (*Id.* at 20).

Title VII of the Civil Rights Act of 1964 also imposes notice requirements on community college districts. Title VII prohibits discrimination on the basis of race, color, religion, sex, or national origin. Inclusive within Title VII rules requirements is the following language:

> "An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned" (29 CFR § 1604.11(f)).

In light of these two federal requirements governing the activities of community college districts and Government Code 17756 (c), Education Code Section 66281.5 does not impose costs mandated by the state, and therefore does not create a reimbursable state mandate.

Education Code Section 66721.5

Education Code Section 66721.5 requires the governing board of each community college district to provide each of their students with a copy of the current transfer core curriculum. This is defined as lower-division, general education transfer curriculum that is fully articulated between the California Community Colleges and the California State University and the University of California.

The claimant posits that this section creates a reimbursable state mandate by requiring that the text of the transfer core curriculum be included in the published class schedule for each academic term. We note that any costs that may be incurred from this code section are relatively minor, and fall well within the established purposes of each community college districts current general purpose funding provided in Schedule (1) of Item 6870-101-0001 of the annual Budget Act, pursuant to Chapter 5, of Part 50, of Division 7, of Title 3 of the Education Code.

Regulations of the Board of Governors of the California Community Colleges

The claimant has identified 22 regulations adopted by the Board that allegedly create state mandates. These regulations require community college districts to perform a wide ranging degree of functions, which include:

- Publishing information about educational programs and services to students and members of the public
- Adopting by the community college districts of an open policy in regards to enrollment
- Identifying categories of directory information to be released to the student body
- Providing information concerning student representation fees
- Ensuring the availability of college publications to students
- Identifying the prerequisites, corequisites, and advisories on recommended preparation
- Adopting and implementing regulations addressing standards of scholarship
- Categorizing credit and non-credit classes
- Publishing information on regulations related to credit by examination
- Publishing point equivalencies of grades
- Making reasonable efforts to notify students of probation or dismissal and to provide counseling to those students
- Establishing procedures and regulations pertaining to repetition of courses and completion of courses with substandard scores
- Creating policies on degrees and certificates
- Providing clear description of courses
- Creating requirements for instructional materials for classes
- Adopting a policy to withhold grades, transcripts, diplomas, and registration privileges for students who fail to fulfill financial obligations.

One common theme that runs through all these regulations are that they require community college districts to give some form of notice regarding various aspects of their programs. Notice requirements, however, do not in and of themselves create mandates. This is discussed in *Department of Finance v. Commission on State Mandates (Kern High School (2003) 30 Cal.4th 727.* In *Kern*, the California Supreme Court found that the "notice" requirements set forth by the Brown Act did not create a mandated program "because the state, in providing program funds to claimants, already has provided funds that may be used to cover the necessary notice and agenda related expenses."

Community college districts receive general purpose funding from the state to support broad instructional services and programs of study for their students. As such, this source of funding is available and appropriate to support any costs of implementing the requirements set forth by the regulations. As in *Kern*, these are "reasonable" expenses that can be incurred. We further contend that the activities outlined in these notice regulations are more than just a general framework. These regulations provide a guideline for fundamental activities that are integral to providing instructional services and operating instructional programs, and in our view are fully supported by general purpose apportionment funding allocated annually to community colleges in Schedule (1) Apportionments, of Item 6870-101-0001 of the annual Budget Act pursuant to the aforementioned Chapter 5.

In light of the fact that the additions to the Education Code and California Code of Regulations do not create costs mandated by the state, we believe this claim should be denied in its entirety.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your April 17, 2007 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Thomas Todd, Principal Program Budget Analyst at (916) 445-0328.

Sincerely,

Jeannie Oropeza

Jeannie Oropeza
Program Budget Manager

Attachment

Attachment A
DECLARATION OF THOMAS TODD
DEPARTMENT OF FINANCE
CLAIM NO. 02-TC-25

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

2. We concur that the sections relevant to this claim are accurately quoted in the test claim submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

11-09-07
at Sacramento, CA

Thomas Todd

PROOF OF SERVICE

Test Claim Name: Notice to Students
Test Claim Number: 02-TC-25

I, the undersigned, declare as follows:
I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On November 9, 2007, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

Ms. Carla Castandeda
Department of Finance (A-15)
915 L Street, 11th Floor
Sacramento, CA 95814

Mr. Jon Sharpe
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814

Mr. Arthur Palkowitz
San Diego Unified School District
Office of Resource Development
4100 Normal Street, Room 3209
San Diego, CA 92103-8363

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 894059
Temecula, CA 92589

Mr. Steve Smith
Steve Smith Enterprises, Inc.
3323 Watt Avenue #291
Sacramento, CA 95821

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730

Mr. David E. Scribner
Scribner Consulting Group, Inc.
3840 Rosin Court, Suite 190
Sacramento, CA 95834

Ms. Ginny Brummels
State Controller's Office (-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Ms. Carol Bingham
California Department of Education (E-08)
Fiscal Policy Division
1430 N Street, Suite 5601
Sacramento, CA 95814

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 9, 2007 at Sacramento, California.

Annette Waite

ICC: OROPEZA, PODESTO, TODD, LEE, FEREBEE, GEANACOU, FILE

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
CRAMENTO, CA 95814
NE: (916) 323-3562
(916) 445-0278
E-mail: csminfo@csm.ca.gov

Exhibit K

January 9, 2008

Mr. Keith Petersen
SixTen and Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: Notice of Consolidation of Test Claims and Hearing Date
Notice to Students; 02-TC-25
Education Code sections 66281.5, 66721.5
California Code of Regulations, title 5, sections 51006, 54626, 54805, 55005, 55202, 55530, 55534, 55750, 55752, 55753, 55758, 55759, 55760, 55761, 55762, 55764, 55765, 55800, 58102, 58104, 59404, and 59410.
Los Rios Community College District, Claimant

Minimum Conditions for State Aid; 02-TC-31
(See attachment for statutes and regulations pled)
Santa Monica Community College District, Claimant

Dear Mr. Petersen:

After review of the analysis for *Notice to Students* (02-TC-25), which is set for hearing on March 27, 2008, it has been determined that test claims *Notice to Students* (02-TC-25) and *Minimum Conditions for State Aid* (02-TC-31) share common issues, and allegations. Specifically, the test claims address statutes and administrative regulations that establish minimum conditions for the receipt of state aid by community college districts. For the sake of efficiency, the claims shall be consolidated pursuant to my authority under California Code of Regulations, title 2, section 1183.06, effective 10 days from the service of this letter.

For future correspondence, the test claims will be designated *Minimum Conditions for State Aid*, test claim number 02-TC-25 and 02-TC-31, Los Rios Community College District and Santa Monica Community College District, Co-claimants. A consolidated mailing list is enclosed.

As provided in the Commission's regulations this action and decision of the executive director may be appealed to the Commission for review. Please refer to California Code of Regulations, title 2, section 1181, subdivision (c).

Please contact me at (916) 323-3562 if you have any questions or concerns regarding this matter.

Sincerely,

PAULA HIGASHI
Executive Director

cc: Mailing list (enclosed)

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only

RECEIVED

JUN 13 2003

COMMISSION ON STATE MANDATES

TEST CLAIM FORM

Claim No. 02-TC-31

Local Agency or School District Submitting Claim

SANTA MONICA COMMUNITY COLLEGE DISTRICT

Contact Person

Keith B. Petersen, President
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, California 92117

Telephone Number

Voice: 858-514-8605
Fax: 858-514-8645

Claimants Addresses

Thomas J. Donner, Executive Vice President, Business/Administration
Santa Monica Community College District
1900 Pico Blvd.
Santa Monica, California 90405-1628

Representative Organization to be Notified

Dr. Carol Berg, Consultant, Education Mandated Cost Network
c/o School Services of California
1121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable.

(1169/02) Minimum Conditions for State Aid
See Attached

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

Thomas J. Donner
Executive Vice President, Business/Administration

Telephone No.

VOICE: (310) 434-4201
FAX: (310) 434-8200

Signature of Authorized Representative

x Thomas J. Donner

Date

June 13, 2003

Attached Exhibit to Form CSM 2
Test Claim of Santa Monica Community College District
Minimum Conditions for State Aid (1169/02)

Chaptered Bills:

Chapter 1169, Statutes of 2002
Chapter 187, Statutes of 2000
Chapter 587, Statutes of 1999
Chapter 1023, Statutes of 1998
Chapter 914, Statutes of 1998
Chapter 365, Statutes of 1998
Chapter 758, Statutes of 1995
Chapter 493, Statutes of 1995
Chapter 1198, Statutes of 1991
Chapter 1188, Statutes of 1991
Chapter 1038, Statutes of 1991
Chapter 1667, Statutes of 1990
Chapter 1372, Statutes of 1990
Chapter 1514, Statutes of 1988
Chapter 973, Statutes of 1988
Chapter 1467, Statutes of 1986
Chapter 1371, Statutes of 1984
Chapter 537, Statutes of 1983
Chapter 143, Statutes of 1983
Chapter 1329, Statutes of 1982
Chapter 1117, Statutes of 1982
Chapter 891, Statutes of 1981
Chapter 470, Statutes of 1981
Chapter 910, Statutes of 1980
Chapter 977, Statutes of 1979
Chapter 797, Statutes of 1979
Chapter 967, Statutes of 1977
Chapter 36, Statutes of 1977
Chapter 1176, Statutes of 1976
Chapter 1010, Statutes of 1976
Chapter 783, Statutes of 1976
Chapter 275, Statutes of 1976
Chapter 802, Statutes of 1975

Education Code Sections:

212
212.5
213
214
221.5
221.7
66010.2
66010.7
66016
66030
66251
66252
66261
66261.5
66262
66262.5
66263
66264
66270
66271.7
66281.5
66290
66291
66292
66292.3
66721
66721.5
66722
66722.5
66731
66732
66736
66737
66738
66740
66741
66742
66743
70901
70901.5
70902
71027
72011
72012
72013
72014
78015
78016
78211.5
78212
78213
78214
78215
78216
81820
81821
81823
87101
87102
87482.6
87482.7

California Code of Regulations:

51000
51002
51004
51006
51008
51010
51012
51014
51016
51018
51020
51021
51022
51023
51023.5
51023.7
51024
51025
51026
51027
51100
51102
53001
53002
53003
53004
53005
53006
53020
53021
53022
53023
53024
53025
53026
53033
53034
53200
53202
53203
53204
53207
53300
53301
53302
53308
53309
53310
53311
53312
53314
54220
55000
55000.5
55001
55002
55002.5
55004
55005
55006
55100
55130
55150
55160
55170
55182
55200
55201
55202
55205
55207
55209
55211
55213
55215
55217
55219
55300
55316
55316.5
55320
55321
55322
55340
55350
55401
55402
55403
55404
55500
55502
55510
55512
55514
55516
55518
55520
55521
55522
55523
55524
55525
55526
55530
55532
55534
55600
55601
55602
55602.5
55603
55605
55607
55620
55630
55750
55751
55752
55753
55753.5
55753.7
55754
55755
55756
55756.5
55757
55758
55758.5
55759
55760
55761
55762
55763
55764
55765
55800
55800.5
55801
55805
55805.5
55806
55807
55808
55809
55825
55827
55828
55829
55830
55831
58102
58104
58106
58107
58108

Commission on State Mandates

Original List Date: 6/19/2003
Last Updated: 4/26/2007
List Print Date: 01/09/2008
Claim Number: 02-TC-25
Issue: Notice to Students

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Tel: (916) 323-5849
Fax: (916) 327-0832

Ms. Carla Castaneda
Department of Finance (A-15)
915 L Street, 11th Floor
Sacramento, CA 95814

Tel: (916) 445-3274
Fax: (916) 323-9584

Mr. Douglas R. Brinkley
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Tel: (916) 000-0000
Fax: (916) 000-0000

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 322-4005
Fax: (916) 323-8245

Mr. Jon Sharpe
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Claimant
Tel: (559) 244-5910
Fax: (559) 243-1949

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 894059
Temecula, CA 92589

Tel: (951) 303-3034
Fax: (951) 303-6607

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842
Tel: (916) 727-1350
Fax: (916) 727-1734

Mr. Steve Smith
Steve Smith Enterprises, Inc.
3323 Watt Avenue #291
Sacramento, CA 95821
Tel: (916) 216-4435
Fax: (916) 972-0873

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814
Tel: (916) 446-7517
Fax: (916) 446-2011

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816
Tel: (916) 454-7310
Fax: (916) 454-7312

Mr. Arthur Palkowitz
San Diego Unified School District
Office of Resource Development
4100 Normal Street, Room 3209
San Diego, CA 92103-8363
Tel: (619) 725-7785
Fax: (619) 725-7564

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730
Tel: (866) 481-2621
Fax: (866) 481-2682

Mr. David E. Scribner
Scribner & Smith, Inc.
2200 Sunrise Boulevard, Suite 220
Gold River, CA 95670
Tel: (916) 852-8970
Fax: (916) 852-8978

Ms. Ginny Brummels
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816
Tel: (916) 324-0256
Fax: (916) 323-6527

Ms. Carol Bingham
California Department of Education (E-08)
Fiscal Policy Division
1430 N Street, Suite 5602
Sacramento, CA 95814
Tel: (916) 324-4728
Fax: (916) 319-0116

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

Tel: (916) 445-0328
Fax: (916) 323-9530

Ms. Susan Geanacou
Department of Finance (A-15)
915 L Street, Suite 1190
Sacramento, CA 95814

Tel: (916) 445-3274
Fax: (916) 324-4888

Mr. J. Bradley Burgess
Public Resource Management Group
895 La Sierra Drive
Sacramento, CA 95864

Tel: (916) 595-2646
Fax:

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

Claimant Representative
Tel: (916) 565-6104
Fax: (916) 564-6103

Exhibit L

SixTen and Associates
Mandate Reimbursement Services

KEITH B. PETERSEN, MPA, JD, President
E-Mail: Kbpsixten@aol.com

San Diego
5252 Balboa Avenue, Suite 900
San Diego, CA 92117
Telephone: (858) 514-8605
Fax: (858) 514-8645

Sacramento
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834
Telephone: (916) 565-6104
Fax: (916) 564-6103

March 14, 2008

RECEIVED
MAR 18 2008
COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: No. CSM. 02-TC-31
Minimum Conditions for State Aid

Dear Ms. Higashi:

Please find enclosed a supplement to the test claim filing, specifically, a history of the Title 5, CCR, sections included in the test claim.

Sincerely,

Keith B. Petersen

C: Douglas Brinkley, Vice-Chancellor
Finance and Administration
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Keith B. Petersen
SixTen and Associates
3841 North Freeway Blvd, Suite 170
Sacramento, CA 95834
Voice: (916) 565-6104
Fax: (916) 564-6103
kbpsixten@aol.com

BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

Supplement to the:	No. CSM. 02-TC-31
Test Claim Filed June 23, 2003	Minimum Conditions for State Aid:
	History Index for
	Title 5, California Code of Regulations
by **Santa Monica Community College District**	
	Section 51000
	Section 51002
	Section 51004
	Section 51006
	Section 51008
	Section 51010
	Section 51012
	Section 51014
	Section 51016
	Section 51018
	Section 51020
	Section 51021
	Section 51022
	Section 51023
	Section 51023.5
	Section 51023.7
	Section 51024
	Section 51025
	Section 51026
	Section 51027
	Section 51100
	Section 51102
	Section 53000

) Section 53001
) Section 53002
) Section 53003
) Section 53004
) Section 53005
) Section 53006
) Section 53020
) Section 53021
) Section 53022
) Section 53023
) Section 53024
) Section 53025
) Section 53026
) Section 53027
) Section 53030
) Section 53033
) Section 53034
) Section 53200
) Section 53202
) Section 53203
) Section 53204
) Section 53206
) Section 53207
) Section 53300
) Section 53301
) Section 53302
) Section 53308
) Section 53309
) Section 53310
) Section 53311
) Section 53312
) Section 53314
) Section 54220
) Section 55000
) Section 55000.5
) Section 55001
) Section 55002
) Section 55002.5
) Section 55004
) Section 55005
) Section 55006
) Section 55100

) Section 55130
) Section 55150
) Section 55160
) Section 55170
) Section 55180
) Section 55182
) Section 55200
) Section 55201
) Section 55202
) Section 55205
) Section 55207
) Section 55209
) Section 55211
) Section 55213
) Section 55215
) Section 55217
) Section 55219
) Section 55300
) Section 55310
) Section 55316
) Section 55316.5
) Section 55320
) Section 55321
) Section 55322
) Section 55340
) Section 55350
) Section 55401
) Section 55402
) Section 55403
) Section 55404
) Section 55405
) Section 55500
) Section 55502
) Section 55510
) Section 55512
) Section 55514
) Section 55516
) Section 55518
) Section 55520
) Section 55521
) Section 55522
) Section 55523

) Section 55524
) Section 55525
) Section 55526
) Section 55530
) Section 55532
) Section 55534
) Section 55600
) Section 55601
) Section 55602
) Section 55602.5
) Section 55603
) Section 55605
) Section 55607
) Section 55620
) Section 55630
) Section 55750
) Section 55751
) Section 55752
) Section 55753
) Section 55753.5
) Section 55753.7
) Section 55754
) Section 55755
) Section 55756
) Section 55756.5
) Section 55757
) Section 55758
) Section 55758.5
) Section 55759
) Section 55760
) Section 55761
) Section 55762
) Section 55763
) Section 55764
) Section 55765
) Section 55800
) Section 55800.5
) Section 55801
) Section 55805
) Section 55805.5
) Section 55806
) Section 55807

)	Section 55808
)	Section 55809
)	Section 55825
)	Section 55827
)	Section 55828
)	Section 55829
)	Section 55830
)	Section 55831
)	Section 58102
)	Section 58104
)	Section 58106
)	Section 58107
)	Section 58108
)	
)	

SUPPLEMENTAL INFORMATION

This supplement to the test claim provides an index and copy of each change to the Title 5, CCR, sections included in the test claim. The Registers cited are attached as Exhibit A. Amended language is underlined (new language) or stricken out (deleted language).

HISTORY OF TITLE 5, CCR, SECTIONS INCLUDED IN THE TEST CLAIM

Register 71-27 New Chapter 5 (§§ 55400 - 55405).

Register 72-01 New Division 9, Subchapter 2, Article 1 (§§ 58100 - 58110).

Register 74-17 New chapter 7 (sections 55600-55631, not consecutive).

Register 77-30 New Chapter 1 (§§ 53000 - 53004).

Renumbering of Chapter 1 (Sections 53100 - 53205) to Chapter 2 (Sections 53100 -53205).

Register 77-45 § 53200: Amendment of NOTE.

	§ 55400: Amendment of section and NOTE.
	§ 55405: Amendment of section.
	§ 55600: Amendment of section and NOTE.
	§ 55601: Amendment of section.
	§ 55602: Amendment of section.
	§ 55604: Amendment of section.
	§ 55605: Amendment of section.
	§ 55607: Amendment of section.
	§ 55620: Amendment of section.
	§ 55631: Amendment of section.
Register 78-06	§ 53201: Amendment of section.
	§ 53202: Amendment of section.
Register 78-19	§ 53206: New section filed.
Register 78-51	Repealer of chapter 4 (sections 55300 - 55344, not consecutive) and new chapter 4 (articles 1-5; sections 55300 - 55360, not consecutive).
Register 79-46	§ 55300: Amendment of section.
	§ 55310: Amendment of section.
	§ 55604: Amendment of section.
Register 81-03	§ 53203: Amendment of section.
	§ 53205: Amendment of section.

Register 81-52	Repealer of Chapter 1 (Subchapters 1-3, Sections 55000 - 55144, not consecutive) and new Chapter 1 (Articles 1-2, Sections 55000-55180, not consecutive).
	Repealer of Division 9, Subchapter 2, Article 1 (§§ 58100 - 58110).
Register 82-06	Repealer of Chapter 1 (Subchapter 1, §§ 53000 - 53004) and new Chapter 1 (Subchapters 1 - 4, §§ 53000 - 53052, not consecutive).
Register 82-09	§ 53023: New section filed.
Register 82-31	New Division 9, Subchapter 2, Article 1 (§§ 58100 - 58110).
Register 83-18	§ 53200: Amendment of NOTE.
	§ 53201: Amendment of NOTE.
	§ 53202: Amendment of section.
	§ 53204: Amendment of section.
	§ 53205: Amendment of NOTE.
	§ 53206: Amendment of section.
	§ 55300: Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section.
	§ 55310: Repealer of Article 2 heading.
	§ 55312: Repealed.
	§ 55314: Amendment of section.
	§ 55316: Amendment of section.
	§ 55318: Amendment of NOTE.

§ 55320: Repealer of article 3 heading.

§ 55321: Amendment of section.

§ 55322: Amendment of NOTE.

§ 55323: Amendment of NOTE.

§ 55340: Repealer of article 4 heading and amendment of section.

§ 55342: Repealed.

§ 55343: Repealed.

§ 55344: Repealed.

§ 55346: Repealed.

§ 55348: Repealed.

§ 55350: Amendment of section.

§ 55360: Repealed.

§ 55600: Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600.

§ 55601: Repealed.

§ 55602: Repealed.

§ 55603: Added new NOTE.

§ 55604: Repealed.

§ 55605: Repealed, new section filed.

§ 55606: Repealed.

§ 55607: Amendment of section.

	§ 55608: Repealed.
	§ 55620: Repealer, new section added.
	§ 55630: Repealer, new section added.
Register 83-29	Repealer of Chapter 1 (Section 51000) and new Chapter 1
	(Sections 51000-51021, not consecutive).
	Repealer of Chapter 2 (sections 51100 and 51101) and new
	Chapter 2 (sections 51100 and 51102).
	New Chapter 9 (sections 55750 - 55765).
	New Chapter 10 (Sections 55800 - 55810).
	New Chapter 11 (sections 55825-55831, not consecutive).
	§ 55806: Editorial correction of subsection (b)(1)(A).
Register 83-53	§ 55002: Amendment of subsection (a).
	§ 55182: Added new section.
Register 84-20	§ 55002: Amendment of section.
Register 84-26	§ 51022: Added new section.
	§ 51023: Added new section.
Register 84-51	§ 55323: Repealed.
Register 88-42	§ 55002: Repealer and new section.
	§ 55805.5: new section filed.
Register 90-37	§ 51024: New section by the Board of Governors, California
	Community Colleges, with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53300: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53302: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53310: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53311: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53312: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education

Code section 70901.5(b).

§ 53314: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55756.5: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55500: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55502: Amendment of subsection (a) and (b) and new subsections (g), (h), (i), (j) and (k) filed by the Board of Governors, California Community Colleges, with the Secretary of State; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55510: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education

Code section 70901.5(b).

§ 55512: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55514: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55516: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55518: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55520: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55521: Amendment of subsection (d), (e), and (f) filed by the Board of Governors, California Community Colleges, with the Secretary of State; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55522: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55523: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55524: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55525: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55526: New section by the Board of Governors, California

Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55530: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55532: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55534: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 58106: Repealer and new section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Register 90-41 § 58106: Editorial correction of printing error inadvertently omitting text.

Register 90-45 § 53060: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53061: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53062: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53063: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53064: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

Register 90-49 § 53200: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53201: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

§ 53203: Repealer and new section filed with Secretary of State by Board of Governors, California Community Colleges; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53204: Repealer and new section filed with Secretary of State by Board of Governors, California Community Colleges; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53205: Repealer filed with Secretary of State by Board of Governors, California Community Colleges; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-23 § 51000: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51002: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51004: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51006: Amendment of section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

§ 51008: Amendment of section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

§ 51010: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51012: Amendment by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Code Section 70901.5(b).

§ 51014: Amendment filed by Board of Governors of California

Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 51016: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 51018: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 51020: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 51021: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 51022: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51023: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51203.5: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51203.7: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51100: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51102: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

§ 53206: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55000: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55000.5: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55001: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55002: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55002.5: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55004: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55005: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55006: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55008: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55100: Amendment filed by Board of Governors of California

Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55130: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55150: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55160: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55170: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55180: Repealer filed by Board of Governors of California
Community Colleges with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55182: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55300: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55310: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55314: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55316: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

§ 55318: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55320: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55321: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55322: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55340: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55350: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55400: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55600: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55602: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55602.5: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55603: New section filed by Board of Governors of California

Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55605: New section filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55607: New section filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55620: New section filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55630: New section filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55750: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55751: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55752: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55753: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55754: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55755: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

§ 55756: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55757: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55758: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55759: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55760: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55761: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55762: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55763: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55764: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55765: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55800: Amendment filed by Board of Governors of California

Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55800.5: New Section filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55801: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55802: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55803: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55805: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55805.5: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55806: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55807: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55808: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55809: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

§ 55810: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55825: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55827: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55828: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55829: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55830: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55831: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 58107: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Register 91-31

§ 53061: Editorial correction of printing error in subsection (c).

§ 53300: Editorial correction of printing error in Subchapter 3 heading.

§ 53310: Editorial correction of printing error in Article 2 heading.

§ 55758: Amendment of subsection (c) and submitted to OAL for printing only pursuant to Education Code section 10901.5.

Register 91-43

§ 51203.5: Editorial correction of printing errors in subsection (b) and HISTORY 1.

§ 51203.7: Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1.

§ 55008: Editorial correction of printing error in second paragraph.

§ 55602.5: Editorial correction of printing error.

§ 55758: Editorial correction of printing error in NOTE.

§ 55759: Editorial correction of printing error.

§ 55765: Editorial correction of printing error in NOTE.

§ 55806: Editorial correction of printing error in NOTE.

§ 55825: Editorial correction of printing error.

Register 91-45 § 55400: Amendment filed; submitted to OAL for printing only pursuant to Government Code section 11343.8.

Register 91-46 § 51025: New section filed and submitted to OAL for printing only pursuant to Education Code 70901.5.

Register 92-01 § 55400: Amendment of NOTE; submitted to OAL for printing only pursuant to Government Code section 11343.8.

Register 92-04 § 51027: Added new section.

Register 92-05 § 55758: Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE.

Register 92-07 § 55002: Amendment of section.

§ 55758.5: New section filed.

Register 92-09 § 53300: Amendment of section.

Register 92-15
§ 51024: Amendment of first paragraph and subsection (e).
§ 55300: New article heading.
§ 55521: Amendment of subsection (a) and redesignating following subsections (1)-(6), adoption of subsection (b) and amendment of NOTE.
§ 55530: Amendment of subsection (b).
§ 58100: Section repealed.
§ 58110: Section repealed.

Register 92-17
§ 53000: Repealed; new section filed.
§ 53001: Repealed; new section filed.
§ 53002: Repealed, new section filed.
§ 53003: Repealed, new section filed.
§ 53004: Repealed, new section filed.
§ 53005: Repealed, new section filed.
§ 53010: Repealed.
§ 53011: Repealed.
§ 53012: Repealed.
§ 53020: Repealed, new section filed.
§ 53021: Repealed, new section filed.
§ 53022: Repealed, new section filed.
§ 53023: Repealed, new section filed.

§ 53024: Repealed, new section filed.

§ 53025: Repealed, new section filed.

§ 53026: Repealed, new section filed.

§ 53027: Repealed, new section filed.

§ 53028: Repealed.

§ 53029: Repealed.

§ 53030: Repealed, new section filed.

§ 53031: Repealed, new section filed.

§ 53032: New section filed.

§ 53033: New section filed.

§ 53034: New section filed.

§ 53040: Repealed.

§ 53041: Repealed.

§ 53042: Repealed.

§ 53043: Repealed.

§ 53044: Repealed.

§ 53045: Repealed.

§ 53046: Repealed.

§ 53049: Repealed.

§ 53050: Repealed.

§ 53051: Repealed.

§ 53052: Repealed.

§ 53060: Repealed.

§ 53061: Repealed.

§ 53062: Repealed.

§ 53063: Repealed.

§ 53064: Repealed.

§ 55500: Amendment of subsection (a) and repealer of subsection (c).

Register 92-34 § 51025: New first paragraph, amendment of subsections (a)-(a)(4) and (c) and NOTE.

§ 53300: Repealer and new section and amendment of NOTE.

§ 53302: Amendment of NOTE.

§ 53310: New subsections (f)-(h) and amendment of NOTE.

§ 53311: Amendment of section heading, text and NOTE.

§ 53312: Amendment of subsections (a) and (c) and NOTE and new subsection (d).

§ 53314: Repealer and new section and amendment of NOTE.

Register 93-06 § 54220: New Subchapter 4 and section.

§ 53310: Amendment of subsection (h).

Register 93-25 § 53200: Relocation of article 2 heading.

§ 55008: Section repealed.

§ 55600: Amendment of section.

§ 58102: Amendment of NOTE.

§ 58104: Amendment of NOTE.

§ 58108: Amendment of NOTE.

Register 93-42 § 55002: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55200: New article 2.5 and section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55201: Added new section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55202: Added new section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55510: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55530: Amendment of subsections (a), (b) and (d). Submitted to OAL only pursuant to Education Code section 70901.5(b).

§ 55534: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 58106: Repealer and new section; submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Register 94-18 § 55314: Repealed. Submitted to OAL for printing only.

§ 55316: Amendment of opening statement, subsection (b) and NOTE.

§ 55316.5: New section filed; submitted to OAL for printing only.

§ 55317: New section filed, submitted to OAL for printing only.

§ 55318: Repealed. Submitted to OAL for printing only.

§ 55340: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 55352: Repealer and new section. Submitted to OAL for printing only.

Register 94-38

§ 51000: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51002: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51004: Amendment of section. Submitted to OAL for printing only pursuant to Education Code Section 70901.5.

§ 51006: Amendment of section; submitted to OAL for printing only pursuant to Education Code Section 70901.5.

§ 51008: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51010: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51014: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51016: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51018: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51021: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51023: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51203.5: Amendment of subsections (a)(1), (a)(3), (a)(5), (a)(7), (b), (c), and (d). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51203.7: Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51025: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51027: Amendment of section; submitted to OAL for printing only pursuant to Education Code Section 70901.5.

§ 51100: Amendment of subsection (a). Submitted to OAL for

printing only pursuant to Education Code section 70901.5.

§ 51102: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53001: Amendment of subsections (a), (b)(1) - (b)-(3), (c), (k) and (m). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53002: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53003: Amendment of subsections (c)(4) and (7). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53020: Amendment of subsections (a) and (c). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53021: Amendment of subsections (b) and (d)-(e)(2). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53025: Amendment of section and NOTE. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53026: Amendment of section. Submitted to OAL for printing only

pursuant to Education Code section 70901.5.

§ 53030: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5..

§ 53031: Amendment of subsection (a). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53200: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53203: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53204: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53206: Amendment of subsection (a). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53300: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53302: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53310: Amendment of subsections (d), (e), (g), and (h). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53311: Amendment of section. Submitted to OAL for printing only

pursuant to Education Code section 70901.5.

§ 53314: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55001: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55502: Amendment of first paragraph and subsections (a) and (c)-(k). Submitted to OAL for printing only pursuant to Education Code Section 70901.5.

§ 55510: Amendment of subsection (a)(6), new subsection (a)(7) and subsection renumbering. Submitted to OAL for printing only pursuant to Education Code Section 70901.5.

§ 55525: Amendment of subsections (a), (c) and (d). Submitted to OAL for printing only pursuant to Education Code 70901.5.

§ 55534: Amendment of subsection (b). Submitted to OAL for printing only pursuant to Education Code 70901.5.

§ 55602.5: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55827: Amendment of subsections (a), (a)(3) and (b). Submitted to OAL for printing only pursuant to Education Code

section 70901.5.

Register 95-15 § 51000: Editorial correction of HISTORY 2.

§ 51002: Editorial correction of HISTORY 1.

§ 51004: Editorial correction of HISTORY 1.

§ 51006: Editorial correction of HISTORY 1.

§ 51008: Editorial correction of HISTORY 1.

§ 51010: Editorial correction of HISTORY 1.

§ 51012: Editorial correction of HISTORY 1.

§ 51014: Editorial correction of HISTORY 1.

§ 51016: Editorial correction of HISTORY 1.

§ 51018: Editorial correction of HISTORY 1.

§ 51020: Editorial correction of HISTORY 1.

§ 51021: Editorial correction of HISTORY 1.

§ 51022: Editorial correction of HISTORY 2.

§ 51023: Editorial correction of HISTORY 2.

§ 51100: Editorial correction of HISTORY 2.

§ 51102: Editorial correction of HISTORY 1.

Register 95-19 § 53206: Editorial correction of HISTORY 3.

Register 95-20 § 55000: Editorial correction of HISTORY 2.

§ 55000.5: Editorial correction of HISTORY 1.

§ 55001: Editorial correction of HISTORY 1.

§ 55002: Editorial correction of HISTORY 4.

§ 55002.5: Editorial correction of HISTORY 1.

§ 55004: Editorial correction of HISTORY 1.

§ 55005: Editorial correction of HISTORY 1.

§ 55006: Editorial correction of HISTORY 1.

§ 55008: Editorial correction of HISTORY 1.

§ 55100: Editorial correction of HISTORY 1.

§ 55130: Editorial correction of HISTORY 1.

§ 55150: Editorial correction of HISTORY 1.

§ 55160: Editorial correction of HISTORY 1.

§ 55170: Editorial correction of HISTORY 1.

§ 55180: Editorial correction of HISTORY 2.

§ 55182: Editorial correction of HISTORY 2.

§ 55200: Editorial correction of Article heading.

§ 55300: Editorial correction of HISTORY 4.

§ 55310: Editorial correction of HISTORY 3.

§ 55314: Editorial correction of HISTORY 2.

§ 55316: Editorial correction of HISTORY 2.

§ 55318: Editorial correction of HISTORY 2.

§ 55320: Editorial correction of HISTORY 2.

§ 55321: Editorial correction of HISTORY 2.

1		§ 55322: Editorial correction of HISTORY 2.
2		§ 55340: Editorial correction of HISTORY 2.
3		§ 55350: Editorial correction of HISTORY 2.
4		§ 55400: Editorial correction of HISTORY 3.
5	**Register 95-22**	§ 55600: Editorial correction of HISTORY 4.
6		§ 55602: Editorial correction of HISTORY 1.
7		§ 55602.5: Editorial correction of HISTORY 1.
8		§ 55603: Editorial correction of HISTORY 2.
9		§ 55605: Editorial correction of HISTORY 3.
10		§ 55607: Editorial correction of HISTORY 3.
		§ 55620: Editorial correction of HISTORY 3.
12		§ 55630: Editorial correction of HISTORY 2.
13		§ 55750: Editorial correction of HISTORY 2.
14		§ 55751: Editorial correction of HISTORY 1.
15		§ 55752: Editorial correction of HISTORY 1.
16		§ 55753: Editorial correction of HISTORY 1.
17		§ 55754: Editorial correction of HISTORY 1.
18		§ 55755: Editorial correction of HISTORY 1.
19		§ 55756: Editorial correction of HISTORY 1.
20		§ 55757: Editorial correction of HISTORY 1.
21		§ 55758: Editorial correction of HISTORY 1.

§ 55759: Editorial correction of HISTORY 1.

§ 55760: Editorial correction of HISTORY 1.

§ 55761: Editorial correction of HISTORY 1.

§ 55762: Editorial correction of HISTORY 1.

§ 55763: Editorial correction of HISTORY 1.

§ 55764: Editorial correction of HISTORY 1.

§ 55765: Editorial correction of HISTORY 1.

§ 55800: Editorial correction of HISTORY 2.

§ 55800.5: Editorial correction of HISTORY 1.

§ 55801: Editorial correction of HISTORY 1.

§ 55802: Editorial correction of HISTORY 1.

§ 55803: Editorial correction of HISTORY 1.

§ 55805: Editorial correction of HISTORY 1.

§ 55805.5: Editorial correction of HISTORY 2.

§ 55806: Editorial correction of HISTORY 3.

§ 55807: Editorial correction of HISTORY 1.

§ 55808: Editorial correction of HISTORY 1.

§ 55809: Editorial correction of HISTORY 1.

§ 55810: Editorial correction of HISTORY 1.

§ 55825: Editorial correction of HISTORY 2.

§ 55827: Editorial correction of HISTORY 1.

§ 55828: Editorial correction of HISTORY 1.

§ 55829: Editorial correction of HISTORY 1.

§ 55830: Editorial correction of HISTORY 1.

§ 55831: Editorial correction of HISTORY 1.

Register 95-23 § 58107: Editorial correction of HISTORY 1.

Register 96-23 § 53000: Amendment of subsection (a) and NOTE. Submitted to OAL for printing only.

§ 53001: Amendment of subsections (a), (b), (e), (f), (h), (j), and (m), new subsections (m)(1)-(q)(3), and amendment of NOTE. Submitted to OAL for printing only.

§ 53003: Amendment of subsections (b), (c), and (c)(7), new subsections (c)(8)-(9) and subsection renumbering, amendment of newly designated subsection (c)(10), and new subsection (f). Submitted to OAL for printing only.

§ 53004: Amendment of subsections (a) and (b). Submitted to OAL for printing only.

§ 53006: New section added. Submitted to OAL for printing only.

§ 53021: Amendment of subsections (a) and (b)(1)-(b)(2), repealer of subsection (b)(3), amendment of subsections (c), (d) and (e)(1)-(e)(4) and new subsection (e)(5). Submitted to OAL for printing only.

§ 53023: Amendment of subsections (a) and (b), repealer of subsection (b)(2) and subsection renumbering, and amendment of subsection (c)(2). Submitted to OAL for printing only.

§ 53024: Amendment of subsections (a)(2)-(c), (e) and (g). Submitted to OAL for printing only.

§ 53025: Repealer of subsections (a) and (b) and deletion of subsection designator. Submitted to OAL for printing only.

§ 53030: Amendment of subsections (b) and (b)(3) and repealer of subsections (b)(4) and (b)(5). Submitted to OAL for printing only.

§ 53031: Repealed. Submitted to OAL for printing only.

§ 53032: Repealed. Submitted to OAL for printing only.

§ 53033: Amendment of section. Submitted to OAL for printing only.

Register 98-03

§ 51026: Added new section. Submitted to OAL for printing only.

§ 54220: Amendment of subsections (a)(1), (a)(2) and (b), repealer of subsections (d)-(d)(2), and new subsection (d). Submitted to OAL for printing only.

§ 55758: Amendment of subsection (a), new subsection (b), subsection relettering, and amendment of newly

designated subsection (c). Submitted to OAL for printing only.

Register 98-07 § 55201: Amendment of subsection (c), new subsections (e)(1)-(e)(2)(B) and amendment of NOTE. Submitted to OAL for printing only.

Register 98-14 § 51025: Amendment of subsections (a)-(a)(4), (b) and (c). Submitted to OAL for printing only.

§ 53300: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53302: Amendment of section heading and section. Submitted to OAL for printing only.

§ 53310: Amendment of section heading and section. Submitted to OAL for printing only.

§ 53311: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55762: Repealer of subsection (d), subsection relettering, and amendment of NOTE. Submitted to OAL for printing only.

§ 55763: Amendment of section and NOTE. Submitted to OAL for printing only.

Register 98-36 § 55316.5: Amendment of last paragraph and NOTE. Submitted to OAL for printing only.

§ 55317: Amendment of subsection (b), last paragraph and NOTE. Submitted to OAL for printing only.

Register 2000-26 § 51025: Amendment of section. Submitted to OAL for printing only.

§ 53301: Added new section. Submitted to OAL for printing only.

§ 53302: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53308: Added new section. Submitted to OAL for printing only.

§ 53309: Added new section. Submitted to OAL for printing only.

§ 53310: Repealer and new section filed. Submitted to OAL for printing only.

§ 53311: Amendment of section. Submitted to OAL for printing only.

§ 53312: Amendment of subsection (a). Submitted to OAL for printing only.

§ 53314: Amendment of section. Submitted to OAL for printing only.

Register 2000-50 § 55758: Amendment of subsection (a), new subsection (c), subsection relettering, and amendment of newly designated subsections (d) and (e). Submitted to OAL for printing only.

Register 2001-06 § 53002: Amendment of section. Submitted to OAL for printing only.

Register 2001-43 § 53309: Amendment of subsection (i). Submitted to OAL for printing only.

§ 53310: New subsection (c)(4). Submitted to OAL for printing only.

Register 2001-50 § 55316.5: Amendment of subsection (b). Submitted to OAL for printing only.

§ 55317: Amendment of subsections (b)-(c). Submitted to OAL for printing only.

Register 2002-08 § 55753.5: New section filed. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55753.7: New section filed. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 2002-26 § 55205: New article 3 (sections 55205 - 55219) and section. Submitted to OAL for printing only.

§ 55207: Added new section. Submitted to OAL for printing only.

§ 55209: Added new section. Submitted to OAL for printing only.

§ 55211: Added new section. Submitted to OAL for printing only.

§ 55213: Added new section. Submitted to OAL for printing only.

§ 55215: Added new section. Submitted to OAL for printing only.

§ 55217: Added new section. Submitted to OAL for printing only.

§ 55219: Added new section. Submitted to OAL for printing only.

§ 55316.5: Repealed.

§ 55317: Repealed.

§ 55352: Repealed. Submitted to OAL for printing only.

Register 2002-35 § 53000: Amendment of subchapter heading, section and NOTE. Submitted to OAL for printing only.

§ 53001: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53002: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53003: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53004: Amendment of subsections (a) and (b) and amendment of NOTE. Submitted to OAL for printing only.

§ 53005: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53006: Amendment of section heading, section and NOTE. Submitted to OAL for printing only.

§ 53020: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53021: Amendment of section and NOTE. Submitted to OAL for

printing only.

§ 53022: Amendment of section heading, section and NOTE. Submitted to OAL for printing only.

§ 53024: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53025: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53026: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53027: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53030: Amendment of section heading, section and NOTE. Submitted to OAL for printing only.

§ 53033: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53034: Amendment of section and NOTE. Submitted to OAL for printing only.

Register 2003-18 § 53207: New section filed. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

CERTIFICATION

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this document is true and complete to the best of my own knowledge or information or belief, and that the attached regulations are true and correct copies of documents from archives of a recognized law library.

EXECUTED this 14th day of March 2008, at Sacramento, California

FOR THE TEST CLAIMANT

Keith Petersen, President

SixTen and Associates

ATTACHMENT

Exhibit A Title 5, CCR Registers

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 01: Standards of Scholarship

History Index for
Title 5, California Code of Regulations

Section 51002
Section 55750
Section 55751
Section 55752
Section 55753
Section 55753.5
Section 55753.7
Section 55754
Section 55755
Section 55756
Section 55756.5
Section 55757
Section 55758
Section 55758.5
Section 55759
Section 55760
Section 55761
Section 55762
Section 55763
Section 55764
Section 55765

Register 83-29 Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000-51021, not consecutive).
New Chapter 9 (sections 55750 - 55765).

Register 90-37 § 55756.5: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-23 § 51002: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55750: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55751: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55752: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55753: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55754: Amendment filed by Board of Governors of California

Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55755: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55756: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55757: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55758: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55759: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55760: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55761: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55762: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55763: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55764: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

	Education Code section 70901.5(b).
	§ 55765: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
Register 91-31	§ 55758: Amendment of subsection (c) and submitted to OAL for printing only pursuant to Education Code section 10901.5.
Register 91-43	§ 55758: Editorial correction of printing error in NOTE.
	§ 55759: Editorial correction of printing error.
	§ 55765: Editorial correction of printing error in NOTE.
Register 92-05	§ 55758: Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE.
Register 92-07	§ 55758.5: New section filed.
Register 94-38	§ 51002: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.
Register 95-15	§ 51002: Editorial correction of HISTORY 1.
Register 95-22	§ 55750: Editorial correction of HISTORY 2.
	§ 55751: Editorial correction of HISTORY 1.
	§ 55752: Editorial correction of HISTORY 1.
	§ 55753: Editorial correction of HISTORY 1.

§ 55754: Editorial correction of HISTORY 1.

§ 55755: Editorial correction of HISTORY 1.

§ 55756: Editorial correction of HISTORY 1.

§ 55757: Editorial correction of HISTORY 1.

§ 55758: Editorial correction of HISTORY 1.

§ 55759: Editorial correction of HISTORY 1.

§ 55760: Editorial correction of HISTORY 1.

§ 55761: Editorial correction of HISTORY 1.

§ 55762: Editorial correction of HISTORY 1.

§ 55763: Editorial correction of HISTORY 1.

§ 55764: Editorial correction of HISTORY 1.

§ 55765: Editorial correction of HISTORY 1.

Register 98-03 § 55758: Amendment of subsection (a), new subsection (b), subsection relettering, and amendment of newly designated subsection (c). Submitted to OAL for printing only.

Register 98-14 § 55762: Repealer of subsection (d), subsection relettering, and amendment of NOTE. Submitted to OAL for printing only.

§ 55763: Amendment of section and NOTE. Submitted to OAL for printing only.

Register 2000-50 § 55758: Amendment of subsection (a), new subsection (c),

subsection relettering, and amendment of newly designated subsections (d) and (e). Submitted to OAL for printing only.

Register 2002-08 § 55753.5: New section filed. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55753.7: New section filed. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1983-29

§ 51002
§§ 55750 - 55765

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55025) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

CHAPTER 9. STANDARDS OF SCHOLARSHIP

55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with the provisions of this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by Section 51002 of this part.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY:

1. New Chapter 9 (Sections 55750–55765) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with Section 55758.

(b) Such work shall also be graded in accordance with the provisions of Section 55752 or Section 55753.

NOTE: Authority cited: Sections 66700, 71020, 71024, 71025, 71027 and 71066, Education Code. Reference: Sections 71066 and 72285, Education Code.

55752. Credit—No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specifiy in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit—no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit—no credit" or a letter grade.

(b) All units earned on a "credit—no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit—no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in Section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with Sections 55300–55352 of this part may be graded on a "credit—no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single satisfactory standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71027, 71066 and 78207, Education Code.

55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of Sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 71020, 71025, 71066 and 78207, Education Code. Reference: Sections 71066, 72285, 78205 and 78207, Education Code.

55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in Section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in Section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in Section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in Section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in Section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with Section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

55757. Units Attempted.

For the purposes of Sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit—no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	Definition	Grade Point
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	Definition
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the

Symbol	Definition
	student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawl from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W."

For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer.

The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in Sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures.

Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs.

A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with Section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with Sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066 and 76224, Education Code.

55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in Section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066 and 72285, Education Code.

55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code Section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with Section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of Section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in Section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under Section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives;"

(e) Shall clearly indicate any courses repeated under the provisions of this section and Section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and Section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066, 72285, 76224, 78205 and 78207, Education Code.

55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the district superintendent or authorized representative based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in Section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066, 72285, 76224, 78205 and 78207, Education Code.

55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in Section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code Section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with Section 59020) of Division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of Section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and Section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71066, 72285, 76224, 78205 and 78207, Education Code.

proved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond.

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) Failed to conduct its flexible calendar operation in a manner consistent with its approved request.

(2) Failed to carry out the responsibilities specified in Section 55726.

(3) Failed to meet its ongoing responsibilities as specified in Section 55730.

(d) Withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

(e) Report to the Legislature as required by Section 84896 of the Education Code.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Sections 84890, 84893, 84894, 84895, 84895.5 and 84896, Education Code.

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with the provisions of this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by Section 51002 of this part.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. New Chapter 9 (Sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with Section 55758.

(b) Such work shall also be graded in accordance with the provisions of Section 55752 or Section 55753.

NOTE: Authority cited: Sections 66700, 71020, 71024, 71025, 71027 and 71066, Education Code. Reference: Sections 71066 and 72285, Education Code.

§ 55752. Credit—No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit—no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit—no credit" or a letter grade.

(b) All units earned on a "credit—no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit—no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in Section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with Sections 55300–55352 of this part may be graded on a "credit—no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single satisfactory standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 71020, 71025, 71027 and 71066, Education Code. Reference: Sections 71027, 71066 and 78207, Education Code.

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of Sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 71020, 71025, 71066 and 78207, Education Code. Reference: Sections 71066, 72285, 78205 and 78207, Education Code.

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in Section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in Section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in Section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in Section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in Section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with Section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college-level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college-level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college-level courses, request reinstatement to proceed with college-level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of Sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit—no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 71020, 71025 and 71066, Education Code. Reference: Sections 72285 and 76000, Education Code.

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W."

[The next page is 349.]

Register 1991-23

§ 51002
§§ 55750 - 55765

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 o. the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

ommendations on staff, student, and instructional improvement activities.

(f) Provide, upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Section 84894, Education Code.

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of Sections 84895 and 84895.5 of the Education Code. For fiscal year 1982–83, the Chancellor shall also adjust the ADA of any district which has been newly approved to operate a flexible calendar operation during that fiscal year. The adjustment shall be made in order that those districts do not experience an arbitrary gain or loss in average daily attendance as a result of shifting to a flexible calendar operation.

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of Sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond.

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) Failed to conduct its flexible calendar operation in a manner consistent with its approved request.

(2) Failed to carry out the responsibilities specified in Section 55726.

(3) Failed to meet its ongoing responsibilities as specified in Section 55730.

(d) Withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

(e) Report to the Legislature as required by Section 84896 of the Education Code.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Sections 84890, 84893, 84894, 84895, 84895.5 and 84896, Education Code.

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0;

or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college-level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college-level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college-level courses, request reinstatement to proceed with college-level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 72285 and 76000, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timeliness established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902, and 76624, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall

ommendations on staff, student, and instructional improvement activities.

(f) Provid^ upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Section 84894, Education Code.

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of Sections 84895 and 84895.5 of the Education Code. For fiscal year 1982–83, the Chancellor shall also adjust the ADA of any district which has been newly approved to operate a flexible calendar operation during that fiscal year. The adjustment shall be made in order that those districts do not experience an arbitrary gain or loss in average daily attendance as a result of shifting to a flexible calendar operation.

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of Sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond.

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) Failed to conduct its flexible calendar operation in a manner consistent with its approved request.

(2) Failed to carry out the responsibilities specified in Section 55726.

(3) Failed to meet its ongoing responsibilities as specified in Section 55730.

(d) Withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

(e) Report to the Legislature as required by Section 84896 of the Education Code.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Sections 84890, 84893, 84894, 84895, 84895.5 and 84896, Education Code.

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

Symbol	*Definition*
	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following:
	"Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990, and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 72285 and 76000, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of subsection (c) filed 5–20–91 and submitted to OAL on 5–24–91 for printing only pursuant to Education Code section 10901.5; operative 6–19–91 (Register 91, No. 31).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timeliness established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

Register 1991-43

§ 55758
§ 55759
§ 55765

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances at shall warrant exceptions to the standards for dismissal herein set rth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning

of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculum.

The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of Sections 84895 and 84895.5 of the Education Code. For fiscal year 1982–83, the Chancellor shall also adjust the ADA of any district which has been newly approved to operate a flexible calendar operation during that fiscal year. The adjustment shall be made in order that those districts do not experience an arbitrary gain or loss in average daily attendance as a result of shifting to a flexible calendar operation.

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of Sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond.

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) Failed to conduct its flexible calendar operation in a manner consistent with its approved request.

(2) Failed to carry out the responsibilities specified in Section 55726.

(3) Failed to meet its ongoing responsibilities as specified in Section 55730.

(d) Withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

(e) Report to the Legislature as required by Section 84896 of the Education Code.

NOTE: Authority cited: Sections 71020 and 84890, Education Code. Reference: Sections 84890, 84893, 84894, 84895, 84895.5 and 84896, Education Code.

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy. Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal

symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 for printing only pursuant to Education Code section 10901.5; operative 6-19-91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

History
1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

History
1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History
1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

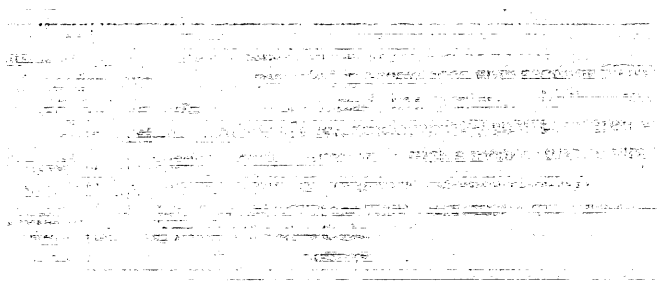
(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

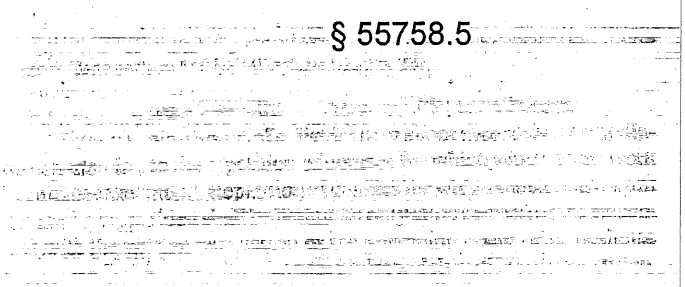
(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.





sonably assure success in college-level courses, request reinstatement to proceed with college-level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned.
	The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty.

Symbol	*Definition*
	Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W."
	For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer.
	The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures.
	Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs.
	A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.
	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following:
	"Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 for printing only pursuant to Education Code section 10901.5; operative 6-19-91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, inclicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

may be claimed for apportionment; and the faculty contact hours shall not be eligible for adjustment pursuant to Section 58188 of this Part.

(b) Districts with approved flexible calendar operations shall also report such additional data as deemed necessary by the Chancellor including any data necessary to compute the ADA adjustment specified in Section 58188 of this Part.

NOTE: Authority cited: Section 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. New section filed 11-10-82; effective thirtieth day thereafter (Register 82, No. 46).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55730. Ongoing Responsibilities of Districts.

A district conducting an approved flexible calendar shall do all of the following to ensure effective use of resources during flex days:

(a) conduct and annually update a survey of the most critical staff, student, and instructional improvement needs in the district;

(b) develop and carry out a plan of activities to address the critical needs;

(c) maintain records on the description, type and number of activities scheduled and the number of district employees and students participating in these activities;

(d) evaluate annually the effectiveness of conducted activities and update the plan to reflect needed changes;

(e) appoint and hold regular meetings of an advisory committee composed of faculty, students, administrators and other interested persons to make recommendations on staff, student, and instructional improvement activities; and

(f) provide, upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of Section 58188 of this Part;

(b) periodically review documentation from selected districts to determine whether they are in compliance with the provisions of Sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond; and

(c) terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) failed to conduct its flexible calendar operation in a manner consistent with its approved request;

(2) failed to carry out the responsibilities specified in Section 55726.; or

(3) failed to meet its ongoing responsibilities as specified in Section 55730.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750-55765) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55752. Credit-No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit-no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit-no credit" or a letter grade.

(b) All units earned on a "credit-no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit-no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300-55352 of this part may be graded on a "credit-no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college-level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college-level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will rea-

Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full-time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81505, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

ıbmitted to OAL for printing only pursuant to Education Code Section ,0901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, ınning, and implementing his or her immediate and long–range aca- ıic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sections 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under Section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer–employee relations. Nothing in this Section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

(c) Nothing in this Section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to Sections 53200–53204, and Section 51023.7, respectively.

(d) The governing board of a community college district shall comply substantially with the provisions of this Section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).
3. Amendment of subsections (a)(1), (a)(3), (a)(5), (a)(7), (b), (c) and (d) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations, the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this Section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this Section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this Section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to the regulations on academic senates contained in Sections 53200–53206.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this Section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1 (Register 91, No. 43).
3. Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 7).

Amendment of first paragraph and subsection (e) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 51025. Full–Time/Part–Time Faculty.

This Section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) Community college districts which have less than 75 percent of their hours of credit instruction taught by full–time instructors, as determined from their base data calculated pursuant to Section 53311, shall apply the growth revenues received related to increases in credit FTES in accordance with Section 58774 and a portion of the program improvement allocation received in accordance with Section 58775, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to Section 58774, the districts shall increase the base number of full–time instructors, subject to Subsection (e) below, by the Fall term of the succeeding fiscal year, by the product of their base number of full–time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, as determined from their base data, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full–time instructors shall apply up to 33 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(3) Districts which, as determined from their base data, had less than 67 percent of their hours of credit instruction taught by full–time instructors shall apply up to 40 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(4) Of the program improvement funds identified in Subsection (a)(2) or (3), as appropriate, the district shall increase the number of full–time instructors, by the Fall term of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full–time faculty derived in Subsections (a)(1) and (4) result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part–time instructors times the statewide average full–time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by the Fall term of that year, has maintained or hired the number of additional full–time instructors determined pursuant to Subsection (a) for the prior fiscal year. To the extent that the number of full–time faculty has not been maintained or additional full–time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full–time faculty. To the extent a district hires the additional full–time instructors in subsequent fiscal years the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to Subsection (c), shall be made available on a one–time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code, Section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost–of–living funds have been provided to allow full or partial implementation of the provisions of Subsection (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full–time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7–3–91 and submitted to OAL on 7–12–91 for printing only pursuant to Education Code section 70901.5; operative 8–3–91 (Register 91, No. 46).
2. New first paragraph, amendment of subsections (a)–(a)(4) and (c) and NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African–American, Chicano/Latino, American Indian, disabled, low–income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a transfer center plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in the standards outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students. Plans shall be developed in consultation with baccalaureate college and university personnel as available.

Plan components shall include, but not be limited to: services to be provided to students; facilities; staffing; advisory committee; and evaluation and reporting.

(1) Required Services. Districts shall:

(A) Identify, contact, and provide transfer support services to targeted student populations as identified in the transfer center plan, with a priority emphasis placed on African–American, Chicano/Latino, American Indian, disabled, low–income, and other underrepresented students. These

activities shall be developed and implemented in cooperation with student services departments and with faculty.

(B) Ensure the provision of academic planning for transfer, the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and the development and use of course-to-course and major articulation agreements. Academic planning and articulation activities shall be provided in cooperation with student services, with faculty, and with baccalaureate institution personnel as available.

(C) Ensure that students receive accurate and up-to-date academic and transfer information through coordinated transfer counseling services.

(D) Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan.

(E) Support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, counseling, and to other instructional and student services on campus as appropriate.

(F) Assist students in the transition process, including timely completion and submittal of necessary forms and applications.

(G) In cooperation with baccalaureate institution personnel as available, develop and implement a schedule of services for transfer students to be provided by baccalaureate institution staff.

(H) Provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to baccalaureate institutions, and related transfer information.

(2) Facilities. Each district governing board shall provide space and facilities adequate to support the transfer center and its activities. Each district shall designate a particular location on campus as the focal point of transfer functions. This location should be readily identifiable and accessible to students, faculty, and staff.

(3) Staffing. Each district governing board shall provide clerical support for the transfer center and assign college staff to coordinate the activities of the transfer center; to coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on campus; and to work with baccalaureate institution personnel.

(4) Advisory Committee. Each district shall designate an advisory committee to plan the development, implementation, and ongoing operations of the transfer center. Membership shall be representative of campus departments and services. Baccalaureate institution personnel shall be included as available.

(5) Evaluation and Reporting. Each district governing board shall include in its transfer center plan a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan.

Each community college district shall submit an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of transfer center plan targets and goals, and expenditures supporting transfer center operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66010.4 and 70901, Education Code.

HISTORY

1. New section filed 7-22-91; operative 8-21-91 (Register 92, No. 4).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) At least once each seven years, and at such other times as he or she deems necessary, the Chancellor shall review each community college to determine whether it has met the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51102. Enforcement.

(a) If any review pursuant to Section 51100 discloses that a college is not in compliance with the provisions of Subchapter 1 (commencing with Section 51100) of Chapter 2, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) accept in whole or part the district's response regarding noncompliance;

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to Subsection (b) of this Section, provided that, in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3[216z (Sections 51200 and 51201) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300-51319, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

Register 1995-22

§§ 55750 - 55765

§ 55728. Flexible Calendar Attendance Reporting.

(a) On forms provided by the Chancellor, districts with approved flexible calendar operations shall report at least the following:

(1) the total hours of classroom assignments (teaching time) which instructors specified in the district's approved plan were required to teach;

(2) of the total in Subsection (a)(1), the total faculty contact hours of instruction for which staff, student, and instructional improvement activities are being substituted. This total of faculty contact hours shall further be reported in terms of credit and noncredit faculty contact hours of instruction; and

(3) the number of faculty contact hours of instruction for which instruction during the designated days is being substituted. Such instruction during the designated days meeting the attendance accounting standards may be claimed for apportionment; and the faculty contact hours shall not be eligible for adjustment pursuant to Section 55729.

(b) Districts with approved flexible calendar operations shall also report such additional data as deemed necessary by the Chancellor including any data necessary to compute the FTES adjustment specified in Section 55729.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. New section filed 11–10–82; effective thirtieth day thereafter (Register 82, No. 46).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
3. Amendment of subsections (a)(1), (a)(3), (b) and NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Amendment of subsections (a)(2)–(b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55729. Full–time Equivalent Student (FTES) Units; Adjustments to Reflect Activities; Computation by Multiplier Factor.

(a) The Chancellor's Office shall adjust the actual units of full–time equivalent student of a district operating under a plan approved in accordance with Sections 55720–32 to reflect the conduct of staff, student, and instructional improvement activities in lieu of scheduled instruction during flexible time. The adjusted units of full–time equivalent student shall be computed by multiplying the actual units of full–time equivalent student in the academic year, exclusive of any intersessions, computed pursuant to Section 58003.1, by a factor which does not change the full–time equivalent student which would have otherwise been generated if the time for the improvement activities had not been permitted and scheduled instruction had instead taken place.

(b) For courses other than those described in Subsection (b) of Section 58003.1, the multiplier factor shall equal the sum of the following:

(1) 1.0; and

(2) the total of all the actual hours of flexible time of all instructors pursuant to Section 55720 in the fiscal year, divided by the total of all the actual hours of classroom instruction of all instructors in the academic year, exclusive of any intersessions.

(c) For those courses described in Subsection (b) of Section 58003.1, this multiplier factor shall equal the maximum term length multiplier set forth in that Subsection.

(d) The Chancellor shall also withhold the appropriate amount of state aid whenever there is a final audit finding that an instructor did not spend at least as much time performing staff, student, and instructional improvement activities as the amount of time he or she was released from classroom instruction.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
2. Amendment of section heading and text filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only purruant to Education Code section 70901.5 (Register 94, No. 38).

§ 55730. Ongoing Responsibilities of Districts.

A district conducting an approved flexible calendar shall do all of the following to ensure effective use of resources during flex days:

(a) conduct and annually update a survey of the most critical staff, student, and instructional improvement needs in the district;

(b) develop and carry out a plan of activities to address the critical needs;

(c) maintain records on the description, type and number of activities scheduled and the number of district employees and students participating in these activities;

(d) evaluate annually the effectiveness of conducted activities and update the plan to reflect needed changes;

(e) appoint and hold regular meetings of an advisory committee composed of faculty, students, administrators and other interested persons to make recommendations on staff, student, and instructional improvement activities; and

(f) provide, upon request of the Chancellor, copies of documents and information specified in Subsections (a) through (d), inclusive.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55732. Ongoing Responsibilities of the Chancellor.

The Chancellor shall:

(a) Adjust state aid for districts with approved flexible calendar operations in accordance with the provisions of section 55729 of this Part;

(b) Periodically review documentation from selected districts to determine whether they are in compliance with the provisions of sections 55726, 55728, and 55730, and to determine whether they are conducting their flexible calendar operations in a manner consistent with the approved requests. Districts which are found to be out of compliance shall be notified and be given an opportunity to respond; and

(c) Terminate approval of any flexible calendar operation if it is found that the district has, without good cause:

(1) failed to conduct its flexible calendar operation in a manner consistent with its approved request;

(2) failed to carry out the responsibilities specified in section 55726; or

(3) failed to meet its ongoing responsibilities as specified in section 55730.

NOTE: Authority cited: Sections 66700, 70901 and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
2. Amendment filed 5–15–93; operative 6–14–93 (Register 93, No. 25).

Subchapter 9. Standards of Scholarship

§ 55750. Regulations.

The governing board of a district maintaining a community college shall adopt regulations consistent with this chapter. The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. New chapter 9 (sections 55750–55765) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55751. Grading Practices.

Each governing board maintaining one or more community colleges shall determine a uniform grading practice for the district which shall be based on sound academic principles and conform to the following standards:

(a) Work in all courses acceptable in fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license shall be graded in accordance with a grading scale adopted by the governing board consistent with section 55758.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been

enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average. The highest grade shall receive four points, and the lowest grade shall receive 0 points, using only the following evaluative symbols:

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) of this section in the catalog or catalogs of that community college district as a part of its grading practices.

(c) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned.

Symbol	*Definition*
	The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty.

Symbol	*Definition*
	Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy. Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of subsection (c) filed 5–20–91 and submitted to OAL on 5–24–91 for printing only pursuant to Education Code section 10901.5; operative 6–19–91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–25–91; operative 11–24–91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning

of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

(b) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

(c) Grades awarded for courses repeated under the provisions of this section shall not be counted in calculating a student's grade point average.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of

grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55800.5. Minimum Credit Hours for Graduation from Two–Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1989).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been

enrolled for which entries of "W," "I," and "NC" (as defined in section 58) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community–based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college–level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college–level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college–level courses, request reinstatement to proceed with college–level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols, except as provided in subsection (b):

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board of a community college district may use "plus" and "minus" designations in combination with letter grades, except that the grade of C minus shall not be used. If pluses and minuses are used, the grade point value of a plus shall be computed by adding 0.3 to the value assigned to the letter grade with which it is combined, and the grade point value of a minus shall be computed by subtracting 0.3 from the value assigned to the letter grade with which it is combined, except that no grade point value shall be less than 0 or greater than 4.0.

(c) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) or subsections (a) and (b) (if pluses and minuses are used) in the catalog or catalogs of that community college district as a part of its grading practices.

(d) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy. Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Amendment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 for printing only pursuant to Education Code section 10901.5; operative 6-19-91 (Register 91, No. 31).

3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).
6. Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE filed 1-[illegible]-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall, in accordance, deem any course repetition permitted under section 55761 to require "prior written permission from the district superintendent or the district superintendent's authorized representative or representatives";

(e) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(f) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(g) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(h) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55763. Course Repetition: Special Circumstances.

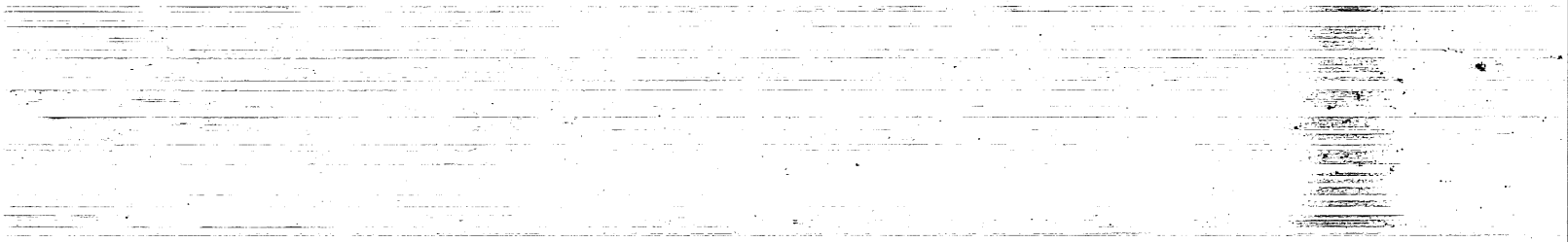
(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded. Repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition.

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open–entry, open–exit" course is assigned an "IP" at the end of an attendance period and does not re–enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy. Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).



(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23) Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22)

§ 55752. Credit-No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit-no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit-no credit" or a letter grade.

(b) All units earned on a "credit-no credit" basis in accredited California institutions of higher education or equivalent out-of-state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit-no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300-55352 of this part may be graded on a "credit-no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State, operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the student was not enrolled in the winter quarter of that academic year).

(a) A student who is on academic probation shall be subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college-level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college-level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college-level courses, request reinstatement to proceed with college-level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit–no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols, except as provided in subsections (b) and (c):

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board of a community college district may use "plus" and "minus" designations in combination with letter grades, except that the grade of C minus shall not be used. If pluses and minuses are used, the grade point value of a plus shall be computed by adding 0.3 to the value assigned to the letter grade with which it is combined, and the grade point value of a minus shall be computed by subtracting 0.3 from the value assigned to the letter grade with which it is combined, except that no grade point value shall be less than 0 or greater than 4.0.

(c) Regardless of whether the governing board elects to use plus and minus grading, it may provide for the use of the "FW" grade symbol to indicate that a student has both ceased participating in a course some time after the last day to officially withdraw from the course without having achieved a final passing grade, and that the student has not received district authorization to withdraw from the course under extenuating circumstances. The "FW" symbol may not be used if a student has qualified for and been granted military withdrawal. If "FW" is used, its grade point value shall be zero (0).

(d) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) or subsections (a) and (b) (if pluses and minuses are used) in the catalog or catalogs of that community college district as a part of its grading practices. In the event the governing board chooses to use the "FW" described in subsection (c), it shall be included in the grading scale and point equivalencies published in the catalog.

(e) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in this Section other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in Sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.
MW	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military Withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s. In no case would a military withdrawal result in a student being assigned an "FW" grade.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 for printing only pursuant to Education Code section 10901.5; operative 6-19-91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).
6. Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE filed 1-12-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).
7. Amendment of subsection (a), new subsection (c), subsection relettering, and amendment of newly designated subsections (d) and (e) filed 12-8-2000; operative 1-7-2001. Submitted to OAL for printing only (Register 2000, No. 50).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(e) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(f) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(g) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Repealer of subsection (d), subsection relettering, and amendment of NOTE filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded.

(b) Except as provided in Subsection (c), repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the gov-

erning board or its designee based on a finding that circumstances exist which justify such repetition. Grades awarded for courses repeated under the provisions of this subsection shall not be counted in calculating a student's grade point average.

(c) If a district permits repetition of courses where substandard work has not been recorded, repetition shall be permitted, without petition, in instances when such repetition is necessary for a student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment. Such courses must conform to all attendance accounting, course approval, and other requirements imposed by applicable provisions of law. Such courses may be repeated for credit any number of times, regardless of whether or not substandard work was previously recorded, and the grade received each time shall be included for purposes of calculating the student's grade point average. The governing board of a district may establish policies and procedures requiring students to certify or document that course repetition is necessary to complete legally mandated training pursuant to this subsection.

(d) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment of section and NOTE filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of

[The next page is 360.4(c).]

Register 2002-08

§ 55753.5
§ 55753.7

(b) Such work shall also be graded in accordance with the provisions of section 55752 or section 55753.

NOTE: Authority cited: Sections 66700, 70901, 71020, and 71024, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55752. Credit–No Credit Options.

(a) The governing board of a district maintaining a community college may by resolution and regulation offer courses in either or both of the following categories and shall specify in its catalog the category into which each course falls:

(1) Courses wherein all students are evaluated on a "credit–no credit" basis.

(2) Courses wherein each student may elect on registration, or no later than the end of the first 30% of the term, whether the basis of evaluation is to be "credit–no credit" or a letter grade.

(b) All units earned on a "credit–no credit" basis in accredited California institutions of higher education or equivalent out–of–state institutions shall be counted in satisfaction of community college curriculum requirements.

(c) Units earned on a "credit–no credit" basis shall not be used to calculate grade point averages. However, units attempted for which "NC" (as defined in section 55758) is recorded shall be considered in probation and dismissal procedures.

(d) Independent study courses offered in accordance with sections 55300–55352 of this part may be graded on a "credit–no credit" basis in accordance with subdivision (a) of this section.

(e) When a district offers courses in which there is a single standard of performance for which unit credit is assigned, the "CR/NC" grading system shall be used to the exclusion of other grades. Credit shall be assigned for meeting that standard, no credit for failure to do so.

NOTE: Authority cited: Sections 70901 and 71020, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55753. Credit by Examination.

(a) The governing board of each community college district shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this Subchapter.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The nature and content of the examination shall be determined solely by faculty in the discipline that normally teaches the course for which credit is to be granted in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002. The faculty shall determine that the examination adequately measures mastery of the course content as set forth in the outline of record. The faculty may accept an examination conducted at a location other than the community college for this purpose.

(d) A separate examination shall be conducted for each course for which credit is to be granted. Credit may be awarded for prior experience or prior learning only in terms of individually identified courses for which examinations are conducted pursuant to this section.

(e) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(f) Grading shall be according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit–no credit option if that option is ordinarily available for the course.

(g) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.5. Articulation of High School Courses.

(a) For purposes of this section, the term "articulated high school course" means a high school course or courses that the faculty in the appropriate discipline, using policies and procedures approved by the curriculum committee established pursuant to Section 55002, have determined to be comparable to a specific community college course.

(b) The governing board of a community college district may adopt policies to permit articulated high school courses to be applied to community college requirements in accordance with this Section. Articulated high school courses may be accepted in lieu of comparable community college courses to partially satisfy:

(1) requirements for a certificate program, including the total number of units required for the certificate; or,

(2) the major requirements in a degree program.

(c) Articulated high school courses used to partially satisfy certificate or major requirements shall be clearly noted as such on the student's academic record. Notations of community college course credit shall be made only if community college courses are successfully completed or if credit is earned via credit by examination.

(d) Except through credit by examination, as defined in Section 55753, high school courses may not be used to satisfy:

(1) the requirement of Section 55806 that students complete at least 60 semester or 90 quarter units in order to receive an associate degree; or,

(2) any general education requirement for the associate degree established by the district.

(e) All community college district–high school articulation agreements shall be subject to the provisions of this Section. However, any student who, prior to the date this Section takes effect, has successfully completed a high school course articulated under the terms of a previous agreement shall be permitted to apply the credit so earned according to the terms of the previous agreement.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

HISTORY

1. New section filed 1–4–2002; operative 7–1–2002. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55753.7. Advanced Placement Examinations.

The governing board of a community college district may adopt policies to grant credit for satisfactory completion of advanced placement examinations typically recognized by colleges and universities as measuring competencies comparable to those achieved in baccalaureate level courses.

The faculty in the appropriate discipline must approve advanced placement examinations, scores deemed to constitute satisfactory performance, courses offered by the college for which credit will be granted, and requirements that may be met by such examinations in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002.

The student's academic record shall be clearly annotated to reflect that credit was earned through an advanced placement examination.

NOTE: Authority cited: Sections 66700, 70901 and 70902, Education Code. Reference: Sections 66700, 70901 and 70902, Education Code.

HISTORY

w section filed 1-4-2002; operative 7-1-2002. Submitted to OAL for print-..g only pursuant to Education Code section 70901.5 (Register 2002, No. 8).

§ 55754. Standards for Probation.

(a) Academic probation. A student who has attempted at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on academic probation if the student has earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale described in section 55758.

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded reaches or exceeds fifty percent (50%).

(c) The governing board of a community college district may adopt standards for probation not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum number of units before academic or progress probation is assessed, a number of units fewer than 12 semester or 18 quarter units; or

(2) A district may establish, as the minimum grade point average for academic probation purposes, a grade point average greater than 2.0; or

(3) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

'orial correction of HISTORY 1 (Register 95, No. 22).

.5755. Removal from Probation.

(a) A student on academic probation for a grade point deficiency shall be removed from probation when the student's accumulated grade point average is 2.0 or higher.

(b) A student on progress probation because of an excess of units for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded shall be removed from probation when the percentage of units in this category drops below fifty percent (50%).

(c) The governing board of a district shall adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. Such procedures and conditions may establish standards not lower than those standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as a minimum grade point average for removal from academic probation, a grade point average greater than 2.0; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756. Standards for Dismissal.

For purposes of this section, semesters or quarters shall be considered consecutive on the basis of the student's enrollment (i.e., a fall quarter followed by a spring quarter shall be considered consecutive if the stu- was not enrolled in the winter quarter of that academic year).

A student who is on academic probation shall be subject to dismiss- the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters (5 consecutive quarters) which were graded on the basis of the grading scale described in section 55758.

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "W," "I," and "NC" (as defined in section 55758) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55754.

(c) The governing board of a district shall adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Such procedures and conditions may establish standards not lower than the standards specified in subsections (a) and (b) of this section. Specifically:

(1) A district may establish, as the minimum cumulative grade point average for dismissal purposes, a grade point average greater than 1.75; or

(2) A district may establish, as the minimum percentage of units of "W," "I," and "NC," a percentage less than fifty percent (50%), or

(3) A district may establish, as a minimum number of consecutive semesters or quarters, a number fewer than 3 consecutive semesters or 5 consecutive quarters.

(d) The district board shall adopt rules setting forth the circumstances that shall warrant exceptions to the standards for dismissal herein set forth and shall file a copy of such rules with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55756.5. Remedial Coursework Limit.

(a) This section implements and should be read in conjunction with the provisions of section 68 of chapter 973 of the Statutes of 1988, relating to the establishment of a limit on the amount of remedial coursework community college students may take. For the purposes of this section, "remedial coursework" refers to precollegiate basic skills courses as defined in subsection (d) of section 55502 of this part.

(b) A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to chapter 6 (commencing with section 55500) of division 6 of this part. However, except as provided in subsection (c) of this section, no student shall receive more than 30 semester units (or 45 quarter units) of credit for remedial coursework. Students having exhausted the unit limitation shall be referred to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement.

(c) The following students are exempted from the limitation on remedial coursework described in subsection (b) of this section:

(1) Students enrolled in one or more courses of English as a Second Language (ESL);

(2) Students identified by the district as having a learning disability as defined in section 56014 of this part.

(d) The governing board of a district may provide a waiver of the limitation on remedial coursework with respect to any student who shows significant, measurable progress toward the development of skills appropriate to his or her enrollment in college-level courses. Such waivers, if granted, shall be provided pursuant to locally developed standards which are reviewed and approved by the governing board. The standards shall include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units.

(e) A student who does not attain full eligibility status for college-level work within the limit described in subsection (b) of this section shall, unless provided with a waiver, be dismissed and referred to adult noncredit education courses.

(f) A student may, upon successful completion of appropriate "remedial coursework," or upon demonstration of skills levels which will reasonably assure success in college-level courses, request reinstatement to proceed with college-level coursework.

(g) The governing board of a each district shall submit, through the established Management Information System, information necessary to enable the Chancellor to determine the following:

(1) The effect of this section on students by sex, age, and ethnicity;

(2) Success rates for students enrolled in "remedial coursework";

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55757. Units Attempted.

For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55758. Academic Record Symbols and Grade Point Average.

(a) Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols, except as provided in subsections (b) and (c):

Symbol	*Definition*	*Grade Point*
A	Excellent	4
B	Good	3
C	Satisfactory	2
D	Passing, less than satisfactory	1
F	Failing	0
CR	Credit (at least satisfactory—units awarded not counted in GPA)	
NC	No Credit (less than satisfactory, or failing—units not counted in GPA)	

(b) The governing board of a community college district may use "plus" and "minus" designations in combination with letter grades, except that the grade of C minus shall not be used. If pluses and minuses are used, the grade point value of a plus shall be computed by adding 0.3 to the value assigned to the letter grade with which it is combined, and the grade point value of a minus shall be computed by subtracting 0.3 from the value assigned to the letter grade with which it is combined, except that no grade point value shall be less than 0 or greater than 4.0.

(c) Regardless of whether the governing board elects to use plus and minus grading, it may provide for the use of the "FW" grade symbol to indicate that a student has both ceased participating in a course some time after the last day to officially withdraw from the course without having achieved a final passing grade, and that the student has not received district authorization to withdraw from the course under extenuating circumstances. The "FW" symbol may not be used if a student has qualified for and been granted military withdrawal. If "FW" is used, its grade point value shall be zero (0).

(d) The governing board for each community college district shall publish the point equivalencies for the grades used in subsection (a) or subsections (a) and (b) (if pluses and minuses are used) in the catalog or catalogs of that community college district as a part of its grading practices. In the event the governing board chooses to use the "FW" described in subsection (c), it shall be included in the grading scale and point equivalencies published in the catalog.

(e) The governing board of each community college district may authorize the use under specified controls and conditions of only the following nonevaluative symbols:

Symbol	*Definition*
I	Incomplete: Incomplete academic work for unforeseeable, emergency and justifiable reasons at the end of the term may result in an "I" symbol being entered in the student's record. The condition for the removal of the "I" shall be stated by the instructor in a written record. This record shall contain the conditions for the removal of the "I" and the grade assigned in lieu of its removal. This record must be given to the student with a copy on file with the registrar until the "I" is made up or the time limit has passed. A final grade shall be assigned when the work stipulated has been completed and evaluated, or when the time limit for completing the work has passed. The "I" may be made up no later than one year following the end of the term in which it was assigned. The "I" Symbol shall not be used in calculating units attempted nor for grade points. The governing board shall provide a process whereby a student may petition for a time extension due to unusual circumstances.
IP	In progress: The "IP" symbol shall be used only in those courses which extend beyond the normal end of an academic term. It indicates that work is "in progress," but that assignment of an evaluative symbol (grade) must await its completion. The "IP" symbol shall remain on the student's permanent record in order to satisfy enrollment documentation. The appropriate evaluative symbol (grade) and unit credit shall be assigned and appear on the student's permanent record for the term in which the course is completed. The "IP" shall not be used in calculating grade point averages. If a student enrolled in an "open-entry, open-exit" course is assigned an "IP" at the end of an attendance period and does not re-enroll in that course during the subsequent attendance period, the appropriate faculty will assign an evaluative symbol (grade) in accordance with subsection (a) of this part to be recorded on the student's permanent record for the course.
RD	Report Delayed: The "RD" symbol may be assigned by the registrar only. It is to be used when there is a delay in reporting the grade of a student due to circumstances beyond the control of the student. It is a temporary notation to be replaced by a permanent symbol as soon as possible. "RD" shall not be used in calculating grade point averages.
W	Withdrawal: The governing board of a district which decides to provide a withdrawal procedure shall adopt a policy consistent with the following: Withdrawal from a class or classes shall be authorized through the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The governing board, however, may establish a final withdrawal date which prohibits withdrawal after a designated point in time between the end of the fourth week of instruction (or 30% of a term, whichever is less) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less). The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in this Section other than a "W."

Symbol	Definition
	The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. No notation ("W" or other) shall be made on the academic record of the student who withdraws during the first four weeks or 30% of a term, whichever is less. The governing board may establish a period of time shorter than the first four weeks or 30% of a term, during which no notation shall be made. Withdrawal between the end of the fourth week (or such time as established by the district) and the last day of the fourteenth week of instruction (or 75% of a term, whichever is less) shall be authorized after informing the appropriate faculty. Withdrawal after the end of the fourteenth week (or 75% of a term, whichever is less) when the district has authorized such withdrawal in extenuating circumstances, after consultation with appropriate faculty, shall be recorded as a "W." For purposes of withdrawal policies, the term "appropriate faculty" means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer. The "W" shall not be used in calculating grade point averages, but excessive "W"s (as defined in Sections 55754 and 55756 of this part) shall be used as factors in probation and dismissal procedures. Within these guidelines, criteria for withdrawal and the procedures to accomplish it shall be established by governing boards and published in college catalogs. A district's responsibilities with respect to enrollment or attendance accounting shall not be modified or superseded in any way by adoption of a withdrawal policy.
MW	Military Withdrawal: The governing board of a district which decides to provide a withdrawal policy shall also adopt military withdrawal procedures consistent with the following: "Military Withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. The withdrawal symbol so assigned may be a "W" or, if necessary to distinguish military withdrawals, may be a "MW." Military withdrawals shall not be counted in progress probation and dismissal calculations. "W"s incurred during the period between January 1, 1990 and the effective date of this paragraph, which meet the definition of military withdrawal herein, shall not be counted in progress probation and dismissal calculations and may be changed to "MW"s. In no case would a military withdrawal result in a student being assigned an "FW" grade.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of subsection (c) filed 5-20-91 and submitted to OAL on 5-24-91 for printing only pursuant to Education Code section 10901.5; operative 6-19-91 (Register 91, No. 31).
3. Editorial correction of printing error in NOTE (Register 91, No. 43).
4. Editorial correction restoring omitted definition of "Military Withdrawal" and its HISTORY NOTE (Register 92, No. 5).
5. Editorial correction of HISTORY 1 (Register 95, No. 22).
6. Amendment of subsection (a), new subsection (b), subsection relettering, amendment of newly designated subsection (c), and amendment of NOTE filed 1-12-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).
7. Amendment of subsection (a), new subsection (c), subsection relettering, and amendment of newly designated subsections (d) and (e) filed 12-8-2000; operative 1-7-2001. Submitted to OAL for printing only (Register 2000, No. 50).

§ 55758.5. Grade Point Averaging.

(a) This section augments and should be read in conjunction with Section 55758 relating to academic record symbols and grade point average.

(b) In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55759. Notification of Probation and Dismissal.

Each community college shall make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect but, in any case, no later than the start of the fall semester or quarter. Each community college shall also make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. Each community college shall make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. Probation and dismissal policies and procedures shall be published in the college catalog.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55760. Grade Changes.

(a) In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record.

(b) The governing board of a district shall adopt and publish procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded in accordance with sections 55761 and 55762. When grade changes are made in accordance with these sections, appropriate annotations of any courses repeated shall be entered on the student's permanent academic record in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55761. District Policy for Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. For purposes of course repetition, academic renewal, and all other related provisions in this part, the term "substandard" shall be defined as meaning course work for which the grading symbols "D," "F," and/or "NC" (as defined in section 55758) have been recorded. The procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages. When course repetition occurs, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55762. Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the repetition of courses for which substandard academic performance has been previously recorded, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instructors, and

(2) Chapter 2.5 (commencing with section 59020) of Division 10 of this part, pertaining to the retention and destruction of records and particularly subdivision (d) of section 59023, relating to the permanency of certain student records;

(b) May permit repetition of any course which was taken in an accredited college or university and for which substandard academic performance as defined in section 55761 is recorded;

(c) Shall, when adopted procedures or regulations permit course repetition, indicate any specific courses or categories of courses which are exempt from consideration under these regulations;

(d) Shall clearly indicate any courses repeated under the provisions of this section and section 55761 on the student's permanent academic record, using an appropriate symbol;

(e) Shall, when adopted procedures or regulations permit course repetition, publish specific procedures to implement this section;

(f) May, in determining transfer of a student's credits, honor similar, prior course repetition actions by other accredited colleges and universities; and

(g) Shall maintain a careful record of actions taken under course repetition procedures or regulations adopted in compliance with this section and section 55761, since periodic reports may be required by the Chancellor.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Repealer of subsection (d), subsection relettering, and amendment of NOTE filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55763. Course Repetition: Special Circumstances.

(a) The governing board of a district may adopt procedures or regulations pertaining to the repetition of courses for which substandard work has not been recorded.

(b) Except as provided in Subsection (c), repetition of courses for which substandard work has not been recorded shall be permitted only upon petition of the student and with the written permission of the governing board or its designee based on a finding that circumstances exist which justify such repetition. Grades awarded for courses repeated under the provisions of this subsection shall not be counted in calculating a student's grade point average.

(c) If a district permits repetition of courses where substandard work has not been recorded, repetition shall be permitted, without petition, in instances when such repetition is necessary for a student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment. Such courses must conform to all attendance accounting, course approval, and other requirements imposed by applicable provisions of law. Such courses may be repeated for credit any number of times, regardless of whether or not substandard work was previously recorded, and the grade received each time shall be included for purposes of calculating the student's grade point average. The governing board of a district may establish policies and procedures requiring students to certify or document that course repetition is necessary to complete legally mandated training pursuant to this subsection.

(d) When course repetition under this section occurs, the student's permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).
3. Amendment of section and NOTE filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 55764. District Policy for Academic Renewal Without Course Repetition.

The governing board of a district maintaining a community college shall adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance, as defined in section 55761, which is not reflective of a student's demonstrated ability. Such procedures or regulations shall include a clear statement of the educational principles upon which they are based, and shall be referred to as academic renewal regulations. When academic renewal procedures or regulations adopted by the districts permit previously recorded, substandard course work to be disregarded in the computation of

[The next page is 360.4(c).]

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 02: Degrees and Certificates

History Index for
Title 5, California Code of Regulations

Section 51004
Section 55800
Section 55800.5
Section 55801
Section 55805
Section 55805.5
Section 55806
Section 55807
Section 55808
Section 55809

Register 83-29 Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000-51021, not consecutive).

New Chapter 10 (Sections 55800 - 55810).

§ 55806: Editorial correction of subsection (b)(1)(A).

Register 88-42 § 55805.5: new section filed.

Register 91-23 § 51004: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55800: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55800.5: New Section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55801: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55802: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55803: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55805: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55805.5: Amendment filed by Board of Governors of California

Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55806: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55807: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55808: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55809: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55810: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-43 § 55806: Editorial correction of printing error in NOTE.

Register 94-38 § 51004: Amendment of section. Submitted to OAL for printing only pursuant to Education Code Section 70901.5.

Register 95-15 § 51004: Editorial correction of HISTORY 1.

Register 95-22 § 55800: Editorial correction of HISTORY 2.

§ 55800.5: Editorial correction of HISTORY 1.

§ 55801: Editorial correction of HISTORY 1.

§ 55802: Editorial correction of HISTORY 1.

§ 55803: Editorial correction of HISTORY 1.

§ 55805: Editorial correction of HISTORY 1.

§ 55805.5: Editorial correction of HISTORY 2.

§ 55806: Editorial correction of HISTORY 3.

§ 55807: Editorial correction of HISTORY 1.

§ 55808: Editorial correction of HISTORY 1.

§ 55809: Editorial correction of HISTORY 1.

§ 55810: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

§ 51004
§ 55800
§ 55801
§ 55802
§ 55803
§ 55805
§ 55806
§ 55807
§ 55808
§ 55809
§ 55810

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

CHAPTER 10. DEGREES AND CERTIFICATES

55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by Section 51004 of this part.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY:

1. New Chapter 10 (Sections 55800–55810, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit—no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas:

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculum.

The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

55805. Philosophy and Criteria for Associate Degree and General Education.

(a) The governing board of a community college district shall adopt policy which states its specific philosophy on General Education. In developing this policy governing boards shall consider the following policy of the Board of Governors:

The awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights. Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self-understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by the various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture, and the society in which they live. Most importantly, General Education should lead to better self-understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a regular basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

55806. Minimum Requirements for the Associate Degree (Applicable July 1, 1983).

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). It must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each part of (D). The remainder of the unit requirement is also to be selected from among these four divisions of learning or as determined by local option:

(A) Natural Sciences. Courses in the natural sciences are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of Section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY:

1. Editorial correction of subsection (b) (1) (A) filed 7-19-83; designated effective 8-12-83 (Register 83, No. 29).

55807. Conversion to Credit.

Upon student petition to and certification by a local board of trustees of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 71020, 71027 and 78405, Education Code. Reference: Sections 66701, 78200, 78201 and 78405, Education Code.

55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 71066 and 72285, Education Code.

55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (Sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (Sections 55805 and 55806).

(b) The governing board of a community college may implement Sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a regular basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

NOTE: Authority cited: Sections 66700, 71022 and 71066, Education Code. Reference: Sections 66701, 71066 and 72235, Education Code.

55805.5. Types of Courses Appropriate to the Associate Degree.

The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in Section 55002(a) and that fall into the following categories to be offered for associate degree credit:

(a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.

(b) Courses that apply to the major in non-baccalaureate occupational fields.

(c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.

(d) All mathematics courses above and including Elementary Algebra.

(e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local board of trustees, require entrance skills at a level equivalent to those necessary for the courses specified in subsection (c) and (d) above.

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72235, Education Code.

HISTORY:

1. New section filed 10-7-88; operative 11-6-88 (Register 88, No. 42).

55806. Minimum Requirements for the Associate Degree (Applicable July 1, 1983).

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). It must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each part of (D). The remainder of the unit requirement is also to be selected from among these four divisions of learning or as determined by local option:

(A) Natural Sciences. Courses in the natural sciences are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially

satisfy a general education requirement at the California State University, if such course is eligible under the provisions of Section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY:

1. Editorial correction of subsection (b) (1) (A) filed 7-19-83; designated effective 8-12-83 (Register 83, No. 29).

55807. Conversion to Credit.

Upon student petition to and certification by a local board of trustees of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 71020, 71027 and 78405, Education Code. Reference: Sections 66701, 78200, 78201 and 78405, Education Code.

55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 71066 and 72285, Education Code.

55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (Sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (Sections 55805 and 55806).

(b) The governing board of a community college may implement Sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700, 71023 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

Register 1991-23

§ 51004
§ 55800
§ 55800.5
§ 55801
§ 55802
§ 55803
§ 55805
§ 55805.5
§ 55806
§ 55807
§ 55808
§ 55809
§ 55810

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 o. the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902, and 76624, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1993).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1993).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall

clude a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculum.

The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55805. Philosophy and Criteria for Associate Degree and General Education.

(a) The governing board of a community college district shall adopt policy which states its specific philosophy on General Education. In developing this policy governing boards shall consider the following policy of the Board of Governors:

The awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights. Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self-understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by the various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture, and the society in which they live. Most importantly, General Education should lead to better self-understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a regular basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55805.5. Types of Courses Appropriate to the Associate Degree.

The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in section 55002(a) and that fall into the following categories to be offered for associate degree credit:

(a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.

(b) Courses that apply to the major in non-baccalaureate occupational fields.

(c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.

(d) All mathematics courses above and including Elementary Algebra.

(e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the courses specified in subsections (c) and (d) above.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New section filed 10-7-88; operative 11-6-88 (Register 88, No. 42).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55806. Minimum Requirements for the Associate Degree (Applicable July 1, 1983).

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). It must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each part of (D). The remainder of the unit requirement is also to be selected from among these four divisions of learning or as determined by local option:

(A) Natural Sciences. Courses in the natural sciences are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to them-

selves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70902 and 70902, Education Code.

HISTORY

1. Editorial correction of subsection (b)(1)(A) filed 7-19-83; designated effective 8-12-83 (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55807. Conversion to Credit.

Upon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 78405, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (sections 55805 and 55806).

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 51827 shall employ and comply with the standards contained in sections 51829, 51830 and 51831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. New chapter 11 (sections 55825–55831, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55827. Definitions.

(a) College. As used in this chapter, "college" means a degree-granting institution intended to provide instruction through the second year of college, including but not limited to one or more of the following categories:

(1) standard collegiate courses for transfer to higher institutions;

(2) vocational and technical fields leading to employment; or

(3) general or liberal arts courses and for which institution the district intends to obtain accreditation.

(b) Education Center. As used in this chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 ADA by the third year of operation. The center typically has an on-site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 66700, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off-campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community

Register 1991-43

§ 55806

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55800.5. Minimum Credit Hours for Graduation from Two-Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1983).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculum.

The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

History

Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55805. Philosophy and Criteria for Associate Degree and General Education.

(a) The governing board of a community college district shall adopt policy which states its specific philosophy on General Education. In developing this policy governing boards shall consider the following policy of the Board of Governors:

The awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights. Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self-understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by the various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture, and the society in which they live. Most importantly, General Education should lead to better self-understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a regular basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55803.5. Types of Courses Appropriate to the Associate Degree.

The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in section 55002(a) and that fall into the following categories to be offered for associate degree credit:

(a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.

(b) Courses that apply to the major in non-baccalaureate occupational fields.

(c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.

(d) All mathematics courses above and including Elementary Algebra.

(e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the courses specified in subsections (c) and (d) above.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

History

1. New section filed 10-7-88; operative 11-6-88 (Register 88, No. 42).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55806. Minimum Requirements for the Associate Degree (Applicable July 1, 1983).

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). It must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each part of (D). The remainder of the unit requirement is also to be selected from among these four divisions of learning or as determined by local option:

(A) Natural Sciences. Courses in the natural sciences are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical

evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Editorial correction of subsection (b)(1)(A) filed 7-19-83; designated effective 8-12-83 (Register 83, No. 29).
2. New section filed 10-7-88; operative 11-6-88 (Register 88, No. 42).
3. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
4. Editorial correction of printing error in NOTE (Register 91, No. 43).

§ 55807. Conversion to Credit.

Upon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 78405, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (sections 55805 and 55806).

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. New chapter 11 (sections 55825-55831, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
3. Editorial correction of printing error (Register 91, No. 43).

§ 55827. Definitions.

(a) College. As used in this chapter, "college" means a degree-granting institution intended to provide instruction through the second year of college, including but not limited to one or more of the following categories:

(1) standard collegiate courses for transfer to higher institutions;

(2) vocational and technical fields leading to employment; or

(3) general or liberal arts courses and for which institution the district intends to obtain accreditation.

(b) Education Center. As used in this chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 ADA by the third year of operation. The center typically has an on-site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 66700, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off-campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community college district and the Postsecondary Education Commission for use in planning activities.

(b) The Chancellor's Office shall develop procedures to identify and review plans for new colleges and new educational centers within the district's Five-Year Academic and Capital Outlay Master Plans.

Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

Senior Accounting Officers (Specialists)	3
Accounting Officers (Specialists)	3
Accounting I (Specialist)	3
Administrators Fiscal Planning and Administration	1
Specialists Fiscal Planning and Administration	2
Business Services Officer I (Specialist)	3
Property Controller I	1
Administrator Facilities Planning and Utilization	1
Specialist Facilities Planning and Utilization	2
Specialist Student Services Planning and Development	2
Staff Services Manager I	3
State Financial Examiner III	2
Consultants*	2
Student Services Division	
Vice Chancellor	1, 4
Specialists Student Services Planning and Development	2, 4
Administrator Student Services Planning and Development	1
Consultants*	2
Transfer/General Education Division	
Vice Chancellor	1, 4
Specialists/Lib. Planning and Development	2
Administrators Academic Planning and Development	1
Specialists Academic Planning and Development	2
Specialist Student Services Planning and Development	2
Consultants*	2
Economic Development/Vocational Education Division	
Vice Chancellor	1, 4
Specialists General Vocational Education	2
Specialists Business Education	2
Specialist Criminal Justice	2
Specialist Agricultural Education	2
Specialist Health Occupations	2
Specialists Industrial Education	2
Specialists Employment and Certification	2
Administrator Vocational Education	1
Consultants*	2
Management Information Services Division	
Vice Chancellor	1, 4
Specialists Information Systems and Analysis	2
Staff Information Systems Analyst (Supervisor)	3
Staff Programmer Analyst (Specialist)	3
Senior Programmer Analyst (Supervisor)	3
Consultants*	2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full-time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his /her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

§ 55800
§ 55800.5
§ 55801
§ 55802
§ 55803
§ 55805
§ 55805.5
§ 55806
§ 55807
§ 55808
§ 55809
§ 55810

grade point averages, the permanent academic record shall be annotated in such a manner that all work remains legible, insuring a true and complete academic history.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55765. Academic Renewal Without Course Repetition: Implementation.

In adopting procedures or regulations pertaining to the alleviation of previously recorded, substandard academic performance, as defined in section 55764, which is not reflective of a student's demonstrated ability, the governing board of a district maintaining a community college:

(a) Shall not adopt any regulation or procedure which conflicts with:

(1) Education Code section 76224, pertaining to the finality of grades assigned by instruction, and

(2) Chapter 2.5 (commencing with section 59020) of division 10 of this part pertaining to the retention and destruction of records, and particularly subdivision (d) of section 59023, relating to the permanency of certain student records.

(b) Shall, when the adopted procedures or regulations permit such alleviation, state:

(1) The maximum amount of coursework that may be alleviated;

(2) The amount of academic work to have been completed at a satisfactory level (minimum 2.00) subsequent to the coursework to be alleviated;

(3) The length of time to have elapsed since the coursework to be alleviated was recorded; and

(4) A description of any specific courses and/or categories of courses that are, for any reason, exempt from consideration under the alleviation regulations.

(c) Shall, when the adopted procedures or regulations permit such alleviation, publish specific procedures to be followed in implementing procedures or regulations adopted pursuant to this section and section 55764 stating, at a minimum:

(1) The procedures to be followed by students in petitioning for alleviation; and

(2) The officers and/or personnel responsible for implementing the procedures or regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76224, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 10. Degrees and Certificates

§ 55800. Regulations.

The governing board of community college districts shall adopt policy consistent with the provisions of this chapter. The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New chapter 10 (sections 55800–55810, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55800.5. Minimum Credit Hours for Graduation from Two–Year Course.

An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55801. Definitions.

For the purpose of this chapter, "satisfactorily completed" means either credit earned on a "credit–no credit" basis or a grade point average of 2.0 or better in community college credit courses in the curriculum upon which the degree is based.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55802. Associate in Arts Degree (Applicable Until July 1, 1993).

The governing board of a community college district shall confer the degree of associate in arts upon a student who in grades 13 and 14 has satisfactorily completed from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes all of the following minimum requirements, provided that 12 hours of the required credit hours were secured in residence at that community college:

(a) 18 semester units of study taken in a discipline or from related disciplines as listed in the Community Colleges "Classification of Instructional Disciplines."

(b) 15 semester units of general education which shall include at least one course in each of the following areas

(1) Natural sciences. Those courses of study which deal with matter and energy and their interrelations and transformations (e.g., chemistry, physics, biology).

(2) Social sciences. The body of knowledge that relates to the human being as a member of society or component of society, such as the state, family, or any systematized human institution (e.g., economics, political science, sociology).

(3) Humanities. Those courses of study having primarily a cultural character (e.g., languages, literature, philosophy, fine arts).

(4) Learning skills. Courses, such as oral and written communication, logic, mathematics, and statistics, designed to facilitate acquisition and utilization of knowledge in natural sciences, social sciences, and humanities.

These courses may be eligible for partial satisfaction of the general education requirements for a baccalaureate degree at the California State University in accordance with the provisions of Section 40405 of this title.

(c) Ethnic studies courses shall be offered in one or more of the areas listed in subdivision (b).

The community college may determine which courses satisfy the requirements of this subdivision.

The governing board may make exceptions to the residence requirement in any instance in which it determines that an injustice or hardship would otherwise be placed upon an individual student.

(d) The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55803. Associate in Science Degree (Applicable Until July 1, 1983).

The governing board of a community college district may confer the degree of associate in science upon a student who in grades 13 and 14 has completed satisfactorily a minimum of 60 semester hours of work, which shall satisfy all the requirements for an associate in arts degree and shall include a major of at least 18 semester hours in the fields of engineering, physical and biological sciences, or occupational curriculum.

The provisions of this section shall be applicable to all students in attendance prior to July 1, 1983, unless provided otherwise by governing board policy adopted pursuant to subsection (b) of section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55805. Philosophy and Criteria for Associate Degree and General Education.

(a) The governing board of a community college district shall adopt policy which states its specific philosophy on General Education. In developing this policy governing boards shall consider the following policy of the Board of Governors:

The awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights. Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; to be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self–understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by the various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture, and the society in which they live. Most importantly, General Education should lead to better self–understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a regular basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55805.5. Types of Courses Appropriate to the Associate Degree.

The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in section 55002(a) and that fall into the following categories to be offered for associate degree credit:

(a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.

(b) Courses that apply to the major in non–baccalaureate occupational fields.

(c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.

(d) All mathematics courses above and including Elementary Algebra.

(e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the courses specified in subsections (c) and (d) above.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. New section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55806. Minimum Requirements for the Associate Degree (Applicable July 1, 1983).

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). It must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in a major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs," shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each part of (D). The remainder of the unit requirement is also to be selected from among these four divisions of learning or as determined by local option:

(A) Natural Sciences. Courses in the natural sciences are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This

category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Editorial correction of subsection (b)(1)(A) filed 7–19–83; designated effective 8–12–83 (Register 83, No. 29).
2. New section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of printing error in NOTE (Register 91, No. 43).
5. Editorial correction of HISTORY 3 (Register 95, No. 22).

§ 55807. Conversion to Credit.

Upon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 78405, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (sections 55805 and 55806).

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

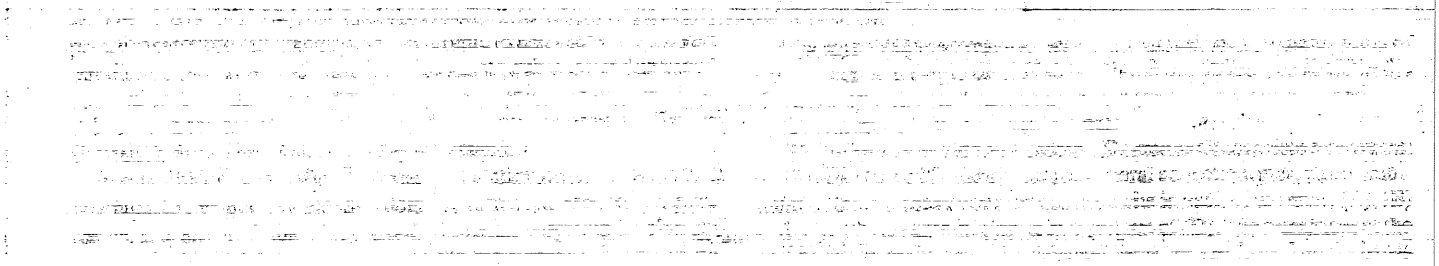
1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 03. Open Courses

History Index for
Title 5, California Code of Regulations

Section 51006
Section 58102
Section 58104
Section 58106
Section 58107
Section 58108

Register 72-01 New Division 9, Subchapter 2, Article 1 (§§ 58100 - 58110).

Register 81-52 Repealer of Division 9, Subchapter 2, Article 1 (§§ 58100 - 58110).

Register 82-31 New Division 9, Subchapter 2, Article 1 (§§ 58100 - 58110).

Register 83-29 Repealer of Chapter 1 (section 51000) and new Chapter 1 (sections 51000-51021, not consecutive).

Register 90-37 § 58106: Repealer and new section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Register 90-41 § 58106: Editorial correction of printing error inadvertently omitting text.

Register 91-23 § 51006: Amendment of section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code Section 70901.5(b).

§ 58107: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Register 92-15 § 58100: Section repealed.

§ 58110: Section repealed.

Register 93-25 § 58102: Amendment of NOTE.

§ 58104: Amendment of NOTE.

§ 58108: Amendment of NOTE.

Register 93-42: § 58106: Repealer and new section; submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Register 94-38 § 51006: Amendment of section; submitted to OAL for printing only pursuant to Education Code Section 70901.5.

Register 95-15 § 51006: Editorial correction of HISTORY 1.

Register 95-23 § 58107: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1972-01

§§ 58100 - 58110

CHAPTER 1. GENERAL PROVISIONS

58000. Continuing Education. Continuing education in Community Colleges is comprised of the following kinds of classes:

(a) Adult classes.

(b) Graded classes.

(c) Community service classes offered under the provisions of Article 12 (commencing with Section 6321) of Chapter 6, Division 6, of the Education Code.

(d) Contract classes.

NOTE: Authority cited for Division 9: Sections 197, 5708, 22650, Education Code.

History: 1. New Division 9, Chapters 1 through 4 (§§ 58000–58253, not consecutive) filed 12-29-71; effective thirtieth day thereafter (Register 72, No. 1).

58001. Function of Community Colleges. Continuing education is one of the major functions of the Community Colleges and should be fully supported, organized, and supervised.

CHAPTER 2. ADULT CLASSES

SUBCHAPTER 1. GENERAL PROVISIONS

58100. Credit. District boards of trustees may grant credit toward an associate of arts or sciences degree for an adult class provided that the class also meets the criteria and standards for graded classes as set forth in Sections 55001 and 55002 of this title.

58101. Definitions. For purposes of this chapter the following definitions are adopted:

(a) "District" means a Community College district.

(b) "Adult class" means an ungraded course which has been designed primarily to meet the special needs of adult students and determined to be an adult class by the governing board of the district.

58102. Payment for Attendance. For the purposes of Section 5753 of the Education Code, state support may not be claimed for students attending an adult class (except classes in hospitals for military personnel) who are paid by their employers while in attendance when all the following conditions exist:

(a) Class membership consists of persons regularly employed by one company, concern, or agency public or private.

(b) The class is conducted on other than school premises.

(c) The class is conducted during the hours of paid employment of class members.

SUBCHAPTER 2. STANDARDS FOR CONTINUING EDUCATION CENTERS

58110. Standards Defined. In addition to the requirements established elsewhere in the law for the conduct of adult classes, continuing education centers must meet the requirements set forth in this article.

58111. Standards for Continuing Education Centers. Continuing education centers may be defined as adult schools under the provisions of Education Code Sections 5701 and 5716.

58112. Program of Studies. Each continuing education center shall establish a program of studies based upon the educational needs of persons eligible for admission.

58116. Personnel. District boards of trustees shall make a sufficient assignment of properly credentialed personnel for instruction, administration, supervision, evaluation, curriculum development, and guidance and counseling in the continuing education center.

SUBCHAPTER 3. STANDARDS FOR ADULT CLASSES

58120. Approval. The district shall file an application with the Chancellor for the approval of each adult class not part of the educational program (Administrative Code, Title 5, Sections 55130–55144) for which it desires state support.

58121. Requirements. Adult classes shall meet the following criteria in order to be approved:

(a) The class is designed to meet educational needs and capabilities of adults.

(b) The class is conducted in accordance with a course outline. Adult classes may require prerequisites before a student can enroll. Adult classes need not be a part of an organized sequence of classes.

58122. Non State-Supported Classes. Attendance in the following adult classes shall not qualify for state support:

(a) Recreational physical education, which is an activity program organized primarily for adult participation as a recreational outlet and includes all classes organized primarily for participation in sports and games.

(b) Recreational dancing.

(c) Military subjects, if the class is offered only to military personnel and conducted on military establishments.

(d) Classes for which the district receives compensation from any public or private agency, individual, or group of individuals, except fees authorized by Section 5757 of the Education Code and apportionments from the state and federal government.

(e) Classes which are not open to the general public.

58123. Vocational Training for Military Personnel. Vocational training adult classes provided to military personnel on a military establishment shall not duplicate any military training received by the students in that field.

58124. Summer Adult Classes. Adult classes offered between the close of one academic year and the beginning of the next academic year shall meet the same standards and are subject to the same rules and regulations as those offered during the academic year.

58125. Enrollment. The district board of trustees may establish the regular enrollment procedures for adult classes of the Community College.

58126. Course Outlines. Course outlines in all subjects offered in adult classes shall be on file in the Community College offering the courses.

58127. Governing Law. Continuing education centers and classes shall be governed by, and operated in accordance with, the provisions of Chapter 5.5 (commencing with Section 5701) of Division 6 of the Education Code.

SUBCHAPTER 4. SPECIAL ADULT CLASSES

Article 1. General Provisions

58130. Applicability of Other Provisions. Each adult class which is a physical education, crafts, forum series or lecture series class shall be conducted in accordance with the requirements of Subchapter 3 (commencing with Section 58120) of this chapter as well as the requirements of the appropriate article in this subchapter.

58131. Approval. In considering an application for approval of an adult class which is a physical education, crafts, forum series or lecture series class, the Chancellor shall evaluate the class on the basis of the provisions of the appropriate article of this subchapter in addition to the requirements set forth in Subchapter 3 (commencing with Section 58120 of this chapter). These classes and forum or lecture series shall be approved by the Chancellor prior to their first meeting in order for attendance in these sessions to receive credit for purposes of state support.

Article 2. Physical Education Classes

58135. Permitted Classes. Community College adult classes in physical education shall include only those organized primarily for instruction and which are planned to:

(a) Develop individual and public safety through swimming and life saving.

(b) Develop leaders in physical and recreational education.

(c) Provide education for improved posture, efficient body movement, and physical conditioning.

58136. Application for Approval. All applications for approval of physical education adult classes shall be accompanied by evidence that the class is instructional and shall include the following information:

(a) Purpose of course
(b) Instructional units (in detail)
(c) Hours planned for each unit
(d) Methods and procedures used

Article 3. Craft Classes

58140. Application. In the application for approval of adult courses in crafts, including leather, clay, plastic, metals, and needle craft, there shall be a statement stipulating maximum number of course hours to be allowed for each student to complete the courses in this field.

58141. Maximum Hours. The maximum number of hours allowed for completion of adult crafts classes shall be approved by the Chancellor.

Article 4. Forum Series

58150. Definition. A "forum series" as used in this article is an adult class which provides for free discussion of public affairs under qualified leadership.

58151. Discussion Subject. The subject for discussion at any class session may be presented by the regular forum leader or other qualified persons. In either case the forum leader shall be responsible for leadership and guidance of discussion.

58152. Credentialed Personnel. Each forum series shall be conducted under the immediate supervision and direction of an employee of the community college district who holds a credential.

58153. Active Participation. A forum series shall be conducted in such a manner as to provide opportunity for active participation in discussion by the members. Enrollment in a forum series shall be limited to insure such participation.

58154. Minimum Sessions. Each forum series shall comprise at least four class sessions relating to the same general topic unless a fewer number of sessions has previously been approved by the Chancellor. Not more than one session in the same forum series shall be held the same day.

A class session may be repeated for different groups of students as many times in a single day or on different days as the governing board may determine.

58155. Limitation of Attendance. The number of persons attending each class session of a forum series shall be limited to a number which will permit effective participation in discussion.

Article 5. Lecture Series

58160. Definition. A "lecture series" is an adult class concerned with regulated subjects of educational value excluding those in public affairs.

58161. Credential. A lecturer shall hold a California credential authorizing teaching service for the level and subject in which he is lecturing if he lectures more than four times in a semester or quarter, whichever system is used at the particular Community College.

58162. Minimum Sessions. Each lecture series shall comprise at least four class sessions related to the same general topic unless a fewer number of sessions has been approved previously by the Chancellor. No more than one session in the same lecture series shall be held on the same day.

A class session may be repeated for different groups of students as many times in a single day or on different days as the governing board may determine.

SUBCHAPTER 5. ATTENDANCE AND APPORTIONMENTS

58185. State Support. State support shall be provided in accordance with the provisions of the Education Code on the basis of actual attendance, except as provided in this chapter.

58186. Records and Reports. Authorities of each Community College maintaining adult classes shall keep such current records and reports concerning their total activities as may be required by the Chancellor.

58187. Attendance. Attendance of persons not regularly enrolled in a class shall not be counted. A person is regularly enrolled only when his class enrollment has been entered on forms which meet the requirements of the Chancellor. Sign-up sheets used at a class session for attendance keeping purposes do not constitute regular enrollment.

58188. Supplementary Lectures. Where lectures are used in adult classes to supplement instruction, only attendance of regularly enrolled students shall be credited for apportionment purposes.

58190. Crafts. Attendance of persons who have completed the maximum hours allowed in an adult crafts class pursuant to Article 3 shall not thereafter be counted in such course.

58191. Lecture. No person shall be counted in attendance in a lecture series who has not been in attendance for at least two sessions.

58192. Forum. Attendance of only regularly enrolled persons in a forum series shall be credited for apportionment purposes. Attendance for any class session of a forum series which is primarily for entertainment purposes or which is conducted for the general public rather than for regularly enrolled members of the forum series shall not be credited for apportionment purposes.

CHAPTER 3. STANDARDS FOR COMMUNITY SERVICE CLASSES

58210. Authority. Districts are authorized, without the approval of the Chancellor, to establish and maintain community service classes in accordance with the provisions of Article 12 (commencing with Section 6321) of Chapter 6, Division 6, of the Education Code.

58211. Purpose of Class. Such classes shall be designed for the physical, mental, moral, economic, or civic development of persons enrolled therein, to provide instruction in subjects not entitled to state apportionment under the provisions of this division.

58212. Admission. Community services shall be available and open for admission of adults and such minors who may profit therefrom, as the governing board of the district may decide.

58213. Hours. District boards of trustees may determine the hours for such community service classes, length of time during the day or evening, and length of time during the school year for presentation.

58214. Certificates. District boards of trustees may grant appropriate certificates of recognition for completion of community service classes.

58215. Apportionment. No state apportionment shall be made to districts for establishment or maintenance of community service classes.

58216. Attendance. Attendance and average daily attendance in community service classes need not be reported to the Chancellor.

58217. Funds. District boards of trustees may expend from the general fund of the college district any money budgeted for community services to establish and maintain community service classes. Student fees not to exceed cost of maintaining such classes may be charged. Fees may be paid to the district on the basis of a contract or by contributions or donations from individuals or groups.

CHAPTER 4. CONTRACT CLASSES

58250. Contract Classes. "Contract classes" means those classes which a Community College district offers in fulfillment of a contract between itself and a public or private agency, corporation, association, or other body or person. For purposes of state support for such classes, the contract payment will be deemed to be tuition.

58251. Approval. No approval of a contract class is required if the district does not claim state support for the class. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type. State support for contract classes shall not be greater than the difference between the amount provided per ADA under terms of the contract and the average current expenditures by the district for such classes.

58252. Operation. Contract classes shall be operated in accordance with the applicable provisions of the law and in accordance with the provisions of the contract to the extent that they are not inconsistent with the applicable provisions of law.

58253. Funds. Under experimental, pilot, or model programs, the district may collect state A.D.A. or other funds for such purposes.

The criteria specified above are to be applied in recognition of the fact that the need for immediate supervision will vary according to the course being offered, as well as with the design or mode of instruction of such course or program.

(b) Under the following limited circumstances, attendance of students enrolled in a course or program which does not meet the requirements of subdivision (a) shall qualify for apportionment purposes if:

(1) The course or program is approved and being conducted as independent study in accordance with Chapter 4 (commencing with Section 55300) of Division 6 of this part; or

(2) The course or program is approved and being conducted as work experience education in accordance with Chapter 3 (commencing with Section 55250) of Division 6 of this part; or

(3) The course or program is approved and is being conducted as health sciences education in accordance with Section 84500.5 of the Education Code.

(c) Attendance generated solely under an instructional assistant or aide does not qualify for apportionment. In addition, instructional aides shall not be used to increase the number of students in relation to the number of classroom teachers in the district. However, attendance may qualify for apportionment under the following limited circumstances:

(1) The assistant or aide functions under the exclusive direction of the certificated employee assigned to that educational activity, and not independently; and

(2) The assistant or aide performs only those duties specifically authorized by law, including, but not limited to, Sections 88240–88249 of the Education Code; and,

(3) The certificated employee is able, in terms of physical proximity and range of communication, to provide necessary supervision and control of students, so that by working in conjunction with the assistant or aide, the requirements of subsection (a) of this section are met.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405, 84500 84500.5, 84520, 84530 and 88240–88249, Education Code.

§ 58058. Employee of the District.

(a) A person is an "employee of the district" within the meaning of subdivision (a)(1) of Section 84500 of the Education Code if:

(1) The district has the primary right to control and direct the person's activities during the time such person is serving the district; and

(2) A contract exists between the person and the district, indicia of which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87800), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405 and 84500, Education Code.

§ 58060. Valid Certification Document.

For the purposes of Section 84500 of the Education Code, a certification document must meet the following requirements relative to the activity for which attendance is being claimed:

(a) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(b) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405 and 84500, Education Code.

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

Unless specifically exempted by statute, every course, course section or class for which average daily attendance is to be reported for state aid shall be open for enrollment and participation by any person who has been admitted to the college and who meets the prerequisites of such course as defined in Section 58104 of this chapter.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58106. Prerequisites.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: "Chapter" was renamed to "Subchapter"; "Division" was renamed to "Chapter"; and "Part" was renamed to "Division." The organizational headings referenced in this regulation and/or HISTORY/NOTE have not been renamed; refer to the renamed organizational headings described in this paragraph.
2. Repealer and new section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58110. Enrollment Limitations.

Nothing in this chapter shall be deemed to impose obligations upon colleges to admit students to classes, courses, or programs beyond the limitations imposed by the size of physical facilities, availability of qualified instructors, funding limitations, and the constraints of regional planning. In all cases, when limitations do exist it is incumbent upon the governing board of a district to insure that each college establishes fair and equitable procedures for admission of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

Article 2. 175-Day Rule

§ 58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of Education Code Section 84370, the total hours of course offerings scheduled during the day must be at least fifty percent (50%) of the average daily hours of course offerings for the academic year. The average daily hours of course offerings shall be computed by dividing the previous fiscal year's total scheduled hours of course offerings by the total number of days in which instruction was scheduled during the same fiscal year.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of Education Code Section 84370, provided that:

(1) Such examinations are administered under the immediate supervision and control of an appropriately certificated employee of the district; and

(2) Not more than fourteen days of final examinations shall be counted for any academic year, as defined by the district.

NOTE: Authority cited: Sections 71020, 76300, 78405 and 84370, Education Code. Reference: Sections 76301, 76302, 76311, 76320, 78206, 79000, 79028 and 84370, Education Code.

Article 3. (Reserved)

Article 4. (Reserved)

Article 5. Other Limitations

§ 58160. Noncredit Course Funding.

(a) Only those noncredit courses which are eligible for funding pursuant to Section 84711 of the Education Code may be claimed for purposes of state apportionments.

(b) The provisions of Education Code Sections 8538, 78412, 78460, 84500, and 84500.1 also apply in determining whether a noncredit course is eligible for funding.

NOTE: Authority cited: Sections 71020, 71062, 76300 and 78405, Education Code. Reference: Sections 8538, 78412, 78460, 84500, 84500.1 and 84711, Education Code.

HISTORY

1. Amendment of subsection (a) filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).

§ 58161. State Apportionment for Course Repetition.

(a) Except as specifically authorized by statute or by this section, no state apportionment shall be allowed for the attendance of a student in a course in which the student has previously received a grade from the district.

(b) State apportionment may be claimed for the attendance of a student in a course in which the student has received a grade only if:

(1) The student is repeating the course to alleviate substandard work which has been recorded on the student's record. The term "substandard" shall be defined as course work for which the grading symbol "D," "F," or "N/C" has been recorded; or

(2) The district finds that the student's previous grade is, at least in part, the result of extenuating circumstances. Extenuating circumstances are verified cases of accidents, illness or other circumstances beyond the control of the student; or

(3) The district has determined that a student should repeat a course because there has been a significant lapse of time since the student previously took the course.

The attendance of students repeating a course as authorized by this subsection may be claimed only once for state apportionment.

(c) State apportionment for repetition of courses not expressly authorized by this section may be claimed upon approval of the Chancellor in accordance with the following procedure:

(1) The district must identify the courses which are to be repeatable, and designate such courses in its catalog;

(2) The district must determine and certify that each identified course is one in which the course content differs each time it is offered, and that the student who repeats it is gaining an expanded educational experience for one of the two of the following reasons:

(A) Skills or proficiencies are enhanced by supervised repetition and practice within class periods; or

(B) Active participatory experience in individual study or group assignments is the basic means by which learning objectives are obtained.

(3) The district must develop and implement a mechanism for the proper monitoring of such repetition.

The attendance of students repeating a course pursuant to this subsection, when approved by the Chancellor, may be claimed for state apportionment for not more than three semesters or five quarters.

NOTE: Authority cited: Sections 71020 and 76300, Education Code. Reference: Sections 76300 and 84500, Education Code.

HISTORY

1. New section filed 8-25-83; effective thirtieth day thereafter (Register 83, No. 35).

Register 1990-41

§ 58106

The criteria specified above are to be applied in recognition of the fact that the need for immediate supervision will vary according to the course being offered, as well as with the design or mode of instruction of such course or program.

(b) Under the following limited circumstances, attendance of students enrolled in a course or program which does not meet the requirements of subdivision (a) shall qualify for apportionment purposes if:

(1) The course or program is approved and being conducted as independent study in accordance with Chapter 4 (commencing with Section 55300) of Division 6 of this part; or

(2) The course or program is approved and being conducted as work experience education in accordance with Chapter 3 (commencing with Section 55250) of Division 6 of this part; or

(3) The course or program is approved and is being conducted as health sciences education in accordance with Section 84500.5 of the Education Code.

(c) Attendance generated solely under an instructional assistant or aide does not qualify for apportionment. In addition, instructional aides shall not be used to increase the number of students in relation to the number of classroom teachers in the district. However, attendance may qualify for apportionment under the following limited circumstances:

(1) The assistant or aide functions under the exclusive direction of the certificated employee assigned to that educational activity, and not independently; and

(2) The assistant or aide performs only those duties specifically authorized by law, including, but not limited to, Sections 88240–88249 of the Education Code; and,

(3) The certificated employee is able, in terms of physical proximity and range of communication, to provide necessary supervision and control of students, so that by working in conjunction with the assistant or aide, the requirements of subsection (a) of this section are met.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405, 84500 84500.5, 84520, 84530 and 88240–88249, Education Code.

§ 58058. Employee of the District.

(a) A person is an "employee of the district" within the meaning of subdivision (a)(1) of Section 84500 of the Education Code if:

(1) The district has the primary right to control and direct the person's activities during the time such person is serving the district; and

(2) A contract exists between the person and the district, indicia of which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87800), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405 and 84500, Education Code.

§ 58060. Valid Certification Document.

For the purposes of Section 84500 of the Education Code, a certification document must meet the following requirements relative to the activity for which attendance is being claimed:

(a) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(b) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405 and 84500, Education Code.

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

Unless specifically exempted by statute, every course, course section or class for which average daily attendance is to be reported for state aid shall be open for enrollment and participation by any person who has been admitted to the college and who meets the prerequisites of such course as defined in Section 58104 of this chapter.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58106. Prerequisites and Other Limitations On Enrollment.

(a) In order to be claimed for purposes of State apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, except that students may be required to meet necessary and valid prerequisites established pursuant to this section. In addition, a community college district may also limit enrollment in a course based on health and safety considerations, facility limitations, or legal requirements imposed by statute or regulations. The district governing board shall adopt policies identifying any such requirements and establishing fair and equitable procedures for determining who may enroll in affected courses. Such procedures may:

(1) limit enrollment on a "first come first served" basis or utilize other nonevaluative selection techniques to determine who may enroll; or

(2) limit enrollment to those students capable of meeting relevant skill prerequisites established pursuant to subsection (b)(3) of this section.

(b) Upon recommendation by the curriculum committee, pursuant to section 55002 of this part, a district may, subject to the conditions set forth in subdivision (c), require completion of any of the following types of prerequisites:

(1) It is permissible to require, as a prerequisite, the completion of any course in a sequence of related courses in a given discipline in which understanding or technical performance in such course is necessary for success in later courses in the sequence.

(2) As used in this section, the term "prerequisite" also includes "corequisites" which require a student to concurrently enroll in one course as a condition of enrollment in another course. A student may be required

to concurrently enroll in a corequisite only when the college has conducted a comprehensive assessment of the student using multiple measures and the objectives of the courses are clearly complementary, the interrelation of the units of instruction is evident, and completion of the corequisite is necessary for success in the related course. In addition, community college districts shall ensure that corequisite courses are available at the college in sufficient numbers to accommodate all students who are required to take them.

(3) Prerequisites may be defined in terms of skills measured by relevant assessment instruments, methods or procedures where the required level of performance is necessary to success in a particular course or program and the assessment instruments are selected and used in accordance with the provisions of chapter 6 (commencing with section 55500) of division 6 of this part. Community college districts shall ensure that precollegiate basic skills courses designed to teach required skills are available to accommodate students required to meet the associated skill prerequisites. Any student obtaining a passing grade in such a pre-collegiate basic skills course shall be deemed to satisfy the associated the skill prerequisite.

(4) Eligibility for enrollment in entry level associate degree courses in English and/or mathematics may be used in a prerequisite where communication or computation skills are necessary for success in a course.

(c) No prerequisite described in subdivision (b) may be imposed unless it conforms to all of the following requirements:

(1) Prerequisites shall not state or imply that enrollment in a course is limited to a specialized clientele unless such limitation is directly and specifically authorized by statute or regulation.

(2) Prerequisites for a course shall be clearly related to course content and must be validated as being necessary for success in such course. A sequential coursework prerequisite described in subdivision (b)(1) need not be validated if it was established prior to the effective date of this section or is required to ensure transferability of subsequent courses to a four-year institution.

(3) Prerequisites involving experience requirements may not be established solely on the basis of "hours of exposure."

(4) Community college districts may not establish communication or computational skill prerequisites which apply across the entire curriculum.

(d) Any prerequisite may be challenged by a student, using the procedures provided for in subsections (b) and (c) of section 55534 on one or more of the following grounds:

(1) the prerequisite is not valid because it is not necessary to success in the course for which it is required;

(2) the student has the knowledge or ability to succeed in the course despite not meeting the prerequisite; or

(3) the prerequisite is discriminatory or is being applied in a discriminatory manner.

(e) Districts shall adopt policies and procedures for validating prerequisites in accord with the provisions of this section. The Chancellor shall, as part of the evaluation required pursuant to section 55512(c), review district policies and procedures for validation of prerequisites.

(f) Notwithstanding the provisions of this section, prerequisites for Work Experience shall be as stated in chapter 3 (commencing with section 55250) of division 6 of this part.

NOTE: Authority cited: Sections 66700, 70901 and 84500.1, Education Code. Reference: Sections 78211, 78213 and 84500.1, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: "Chapter" was renamed to "Subchapter"; "Division" was renamed to "Chapter"; and "Part" was renamed to "Division." The organizational headings referenced in this regulation and/or HISTORY/NOTE have not been renamed; refer to the renamed organizational headings described in this paragraph.
2. Repealer and new section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
3. Editorial correction of printing error inadvertently omitting text (Register 90, No. 41).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58110. Enrollment Limitations.

Nothing in this chapter shall be deemed to impose obligations upon colleges to admit students to classes, courses, or programs beyond the limitations imposed by the size of physical facilities, availability of qualified instructors, funding limitations, and the constraints of regional planning. In all cases, when limitations do exist it is incumbent upon the governing board of a district to insure that each college establishes fair and equitable procedures for admission of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

Article 2. 175-Day Rule

§ 58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of Education Code Section 84370, the total hours of course offerings scheduled during the day must be at least fifty percent (50%) of the average daily hours of course offerings for the academic year. The average daily hours of course offerings shall be computed by dividing the previous fiscal year's total scheduled hours of course offerings by the total number of days in which instruction was scheduled during the same fiscal year.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of Education Code Section 84370, provided that:

(1) Such examinations are administered under the immediate supervision and control of an appropriately certificated employee of the district; and

(2) Not more than fourteen days of final examinations shall be counted for any academic year, as defined by the district.

Register 1981-52

§§ 58100 - 58110

DIVISION 9. CONTINUING EDUCATION

NOTE: Authority cited for Division 9: Sections 71020, 78405 and 66700, Education Code.

HISTORY:

1. New Division 9, Chapters 1 through 4 (§§ 58000–58253, not consecutive) filed 12-29-71; effective thirtieth day thereafter (Register 72, No. 1).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Division 9 (Chapters 1–4, Sections 58000–58253, not consecutive) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 79, No. 46; 77, No. 45; and 72, No. 1.

Register 1982-31

§§ 58100 - 58110

CHAPTER 1. ATTENDANCE

Article 1. General Provisions

58000. Introduction.

The documentation requirements set forth in this chapter have been developed to promote standardized, accurate reporting of data used for calculating the State general apportionment, and to facilitate audits of related community college records. This documentation, based on detailed tabulations of course sections and appropriate support records as described below, shall be available to the auditor retained by the district pursuant to Education Code Section 84040, the Department of Finance, the Auditor General, and the Chancellor's Office. These records may also be required by federal auditors when federal funds are involved.

NOTE: Authority cited: Sections 71020, 71062, 76300 and 78405, Education Code. Reference: Sections 84040 and 84040.5, Education Code.

HISTORY:

1. New Division 9, Chapters 1 through 4 (§§ 58000–58253, not consecutive) filed 12-29-71; effective thirtieth day thereafter (Register 72, No. 1).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Division 9 (Chapters 1–4, Sections 58000–58253, not consecutive) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 79, No. 46; 77, No. 45; and 72, No. 1.
4. New Division 9 (Chapters 1–4, Sections 58000–58306, not consecutive) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31).

58002. Change in Academic Year Terms.

Prior to any change in academic year terms, including the addition, deletion, shortening or lengthening of any term, the governing board of a district shall request and obtain the approval of the Chancellor. The provisions of Chapter 8 (commencing with Section 55700) of Division 6 shall govern the content, review and approval of such requests.

NOTE: Authority cited: Sections 71020, 71062, 78002 and 84520, Education Code. Reference: Sections 78002 and 84520, Education Code.

Article 2. Attendance Reporting Procedures

58006. Application of Actual Student Contact Hours of Attendance Procedure.

The actual student contact hours of attendance procedure is based upon a count of students present at each course meeting, and shall apply to:

(a) All credit courses, exclusive of independent study and work experience education courses, scheduled to meet for fewer than five days, or credit courses of five or more days which are scheduled irregularly with respect to the number of days of the week and the number of hours the course meets;

(b) All open entry/open exit courses;

(c) All noncredit courses otherwise eligible for state aid;

(d) Inservice training courses in the areas of police, fire, corrections, and other criminal justice system occupations as defined in subdivision (c) of Education Code Section 84500.

(e) The attendance of students other than indentured apprentices who are actively enrolled in apprenticeship courses of related and supplemental instruction.

CHAPTER 2. LIMITATIONS ON STATE AID

Article 1. Open Courses

58100. Open Enrollment.

Unless specifically exempted by statute, every course, course section or class for which average daily attendance is to be reported for state aid shall be open for enrollment and participation by any person who has been admitted to the college and who meets the prerequisites of such course as defined in Section 58104 of this chapter.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58106. Prerequisites.

Prerequisites shall not state or imply that enrollment in a course is limited to a specialized clientele, unless such limitation is specifically authorized by law.

(a) Academic prerequisites for a course shall be clearly related to course content and academic foundation of such course.

(b) In activity or laboratory type courses, prerequisites may require demonstrated ability or technical performance to a level of proficiency to be determined by equitable district procedures. Experience requirements may not be established solely on the basis of "hours of exposure."

(c) That a course is one in a related sequence of courses in which understanding or technical performance of the one is dependent upon successful completion of the preceding is an acceptable prerequisite.

(d) "Permission of the instructor" as an alternative to a prerequisite shall be limited in application to the determination of equivalence to stated academic prerequisites or performance standards in activity or laboratory type courses.

(e) Concurrent enrollment in a course may be a prerequisite only when the objectives of the courses are clearly complementary and the interrelation of the units of instruction is evident.

(f) Where health, safety, legal requirements or the facility is a limiting factor in the conduct of a course, the governing board shall establish official policy delineating prerequisites, requirements and fair and equitable procedures to meet such limitation.

(g) Prerequisites for Work Experience shall be as stated in Division 6, Chapter 3 (commencing with Section 55250) of Title 5 of the California Administrative Code.

(h) Scoring on a relevant standardized examination or test at a level sufficient to clearly indicate ability to benefit from instruction is an acceptable prerequisite.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

58110. Enrollment Limitations.

Nothing in this chapter shall be deemed to impose obligations upon colleges to admit students to classes, courses, or programs beyond the limitations imposed by the size of physical facilities, availability of qualified instructors, funding limitations, and the constraints of regional planning. In all cases, when limitations do exist it is incumbent upon the governing board of a district to insure that each college establishes fair and equitable procedures for admission of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

Article 2. 175-Day Rule

58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of Education Code Section 84370, the total hours of course offerings scheduled during the day must be at least fifty percent (50%) of the average daily hours of course offerings for the academic year. The average daily hours of course offerings shall be computed by dividing the previous fiscal year's total scheduled hours of course offerings by the total number of days in which instruction was scheduled during the same fiscal year.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of Education Code Section 84370, provided that:

(1) Such examinations are administered under the immediate supervision and control of an appropriately certificated employee of the district; and

(2) Not more than fourteen days of final examinations shall be counted for any academic year, as defined by the district.

NOTE: Authority cited: Sections 71020, 76300, 78405 and 84370, Education Code. Reference: Sections 76301, 76302, 76311, 76320, 78206, 79000, 79028 and 84370, Education Code.

Article 3. (Reserved)

Article 4. (Reserved)

Article 5. Other Limitations

58160. Noncredit Course Funding.

(a) Only those noncredit courses which are eligible for funding pursuant to Section 84641 of the Education Code may be claimed for purposes of state apportionments.

(b) The provisions of Education Code Sections 8538, 78412, 78460, 84500, and 84500.1 also apply in determining whether a noncredit course is eligible for funding.

NOTE: Authority cited: Sections 71020, 71062, 76300 and 78405, Education Code. Reference: Sections 8538, 78412, 78460, 84500, 84500.1 and 84641, Education Code.

58162. Intercollegiate Athletics.

(a) State apportionment may be claimed for the attendance of students enrolled in approved courses of intercollegiate athletics otherwise eligible for state assistance.

(b) State apportionment for students in courses of intercollegiate athletics shall not be claimed for more than 175 hours of attendance for each enrolled student in each fiscal year for each sport in which the student participates.

NOTE: Authority cited: Sections 71020 and 76300, Education Code. Reference: Section 76300, Education Code.

58164. Open Entry/Open Exit Courses.

(a) The term "open entry/open exit courses" refers to courses in which students may enroll at various times, which students may complete at various times or at varying paces, and for which students may receive varying credit. Open entry/open exit courses may be conducted with or without regularly scheduled hours.

(b) Average daily attendance of students enrolled in open entry/open exit courses shall be computed pursuant to the provisions of subdivision (e) of Education Code Section 84520.

(c) State apportionment for the attendance of students in open entry/open exit courses shall not be claimed for more than two times the class hours normally required to complete the course as determined by the district governing board.

NOTE: Authority cited: Sections 71020 and 76300, Education Code. Reference: Section 76300, Education Code.

58166. Field Trips.

(a) State apportionment may be claimed for the attendance of students in courses which include a field trip or excursion pursuant to Education Code Section 72640.

(b) State apportionment for the attendance of students in courses which include a field trip or excursion shall not be claimed for more than forty-eight hours per unit of credit earned. No more attendance may be claimed for a field trip or excursion than if the class were held on campus.

NOTE: Authority cited: Sections 71020 and 76300, Education Code. Reference: Sections 72640 and 76300, Education Code.

Register 1983-29

§ 51006

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

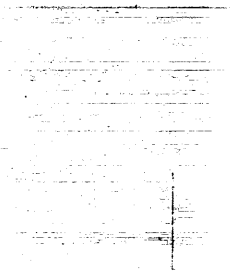
Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.



4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(3) The course or program is approved and is being conducted as health sciences education in accordance with Section 84500.5 of the Education Code.

(c) Attendance generated solely under an instructional assistant or aide does not qualify for apportionment. In addition, instructional aides shall not be used to increase the number of students in relation to the number of classroom teachers in the district. However, attendance may qualify for apportionment under the following limited circumstances:

(1) The assistant or aide functions under the exclusive direction of the certificated employee assigned to that educational activity, and not independently; and

(2) The assistant or aide performs only those duties specifically authorized by law, including, but not limited to, Sections 88240–88249 of the Education Code; and,

(3) The certificated employee is able, in terms of physical proximity and range of communication, to provide necessary supervision and control of students, so that by working in conjunction with the assistant or aide, the requirements of subsection (a) of this section are met.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405, 84500 84500.5, 84520, 84530 and 88240–88249, Education Code.

§ 58058. Employee of the District.

(a) A person is an "employee of the district" within the meaning of subdivision (a)(1) of Section 84500 of the Education Code if:

(1) The district has the primary right to control and direct the person's activities during the time such person is serving the district; and

(2) A contract exists between the person and the district, indicia of which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87800), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405 and 84500, Education Code.

§ 58060. Valid Certification Document.

For the purposes of Section 84500 of the Education Code, a certification document must meet the following requirements relative to the activity for which attendance is being claimed:

(a) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(b) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

NOTE: Authority cited: Sections 71020, 76300 and 78405, Education Code. Reference: Sections 76300, 78405 and 84500, Education Code.

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

Unless specifically exempted by statute, every course, course section or class for which average daily attendance is to be reported for state aid shall be open for enrollment and participation by any person who has been admitted to the college and who meets the prerequisites of such course as defined in Section 58104 of this chapter.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58106. Prerequisites and Other Limitations On Enrollment.

(a) In order to be claimed for purposes of State apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, except that students may be required to meet necessary and valid prerequisites established pursuant to this section. In addition, a community college district may also limit enrollment in a course based on health and safety considerations, facility limitations, or legal requirements imposed by statute or regulations. The district governing board shall adopt policies identifying any such requirements and establishing fair and equitable procedures for determining who may enroll in affected courses. Such procedures may:

(1) limit enrollment on a "first come first served" basis or utilize other nonevaluative selection techniques to determine who may enroll; or

(2) limit enrollment to those students capable of meeting relevant skill prerequisites established pursuant to subsection (b)(3) of this section.

(b) Upon recommendation by the curriculum committee, pursuant to section 55002 of this part, a district may, subject to the conditions set forth in subdivision (c), require completion of any of the following types of prerequisites:

(1) It is permissible to require, as a prerequisite, the completion of any course in a sequence of related courses in a given discipline in which understanding or technical performance in such course is necessary for success in later courses in the sequence.

(2) As used in this section, the term "prerequisite" also includes "corequisites" which require a student to concurrently enroll in one course as a condition of enrollment in another course. A student may be required to concurrently enroll in a corequisite only when the college has conducted a comprehensive assessment of the student using multiple measures and the objectives of the courses are clearly complementary, the interrelation of the units of instruction is evident, and completion of the corequisite is necessary for success in the related course. In addition, community college districts shall ensure that corequisite courses are available at the college in sufficient numbers to accommodate all students who are required to take them.

(3) Prerequisites may be defined in terms of skills measured by relevant assessment instruments, methods or procedures where the required level of performance is necessary to success in a particular course or program and the assessment instruments are selected and used in accordance with the provisions of chapter 6 (commencing with section 55500) of di-

vision 6 of this part. Community college districts shall ensure that pre-collegiate basic skills courses designed to teach required skills are available to accommodate students required to meet the associated skill prerequisites. Any student obtaining a passing grade in such a pre-collegiate basic skills course shall be deemed to satisfy the associated the skill prerequisite.

(4) Eligibility for enrollment in entry level associate degree courses in English and/or mathematics may be used in a prerequisite where communication or computation skills are necessary for success in a course.

(c) No prerequisite described in subdivision (b) may be imposed unless it conforms to all of the following requirements:

(1) Prerequisites shall not state or imply that enrollment in a course is limited to a specialized clientele unless such limitation is directly and specifically authorized by statute or regulation.

(2) Prerequisites for a course shall be clearly related to course content and must be validated as being necessary for success in such course. A sequential coursework prerequisite described in subdivision (b)(1) need not be validated if it was established prior to the effective date of this section or is required to ensure transferability of subsequent courses to a four-year institution.

(3) Prerequisites involving experience requirements may not be established solely on the basis of "hours of exposure."

(4) Community college districts may not establish communication or computational skill prerequisites which apply across the entire curriculum.

(d) Any prerequisite may be challenged by a student, using the procedures provided for in subsections (b) and (c) of section 55534 on one or more of the following grounds:

(1) the prerequisite is not valid because it is not necessary to success in the course for which it is required;

(2) the student has the knowledge or ability to succeed in the course despite not meeting the prerequisite; or

(3) the prerequisite is discriminatory or is being applied in a discriminatory manner.

(e) Districts shall adopt policies and procedures for validating prerequisites in accord with the provisions of this section. The Chancellor shall, as part of the evaluation required pursuant to section 55512(c), review district policies and procedures for validation of prerequisites.

(f) Notwithstanding the provisions of this section, prerequisites for Work Experience shall be as stated in chapter 3 (commencing with section 55250) of division 6 of this part.

NOTE: Authority cited: Sections 66700, 70901 and 84500.1, Education Code. Reference: Sections 78211, 78213 and 84500.1, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: "Chapter" was renamed to "Subchapter"; "Division" was renamed to "Chapter"; and "Part" was renamed to "Division." The organizational headings referenced in this regulation and/or HISTORY/NOTE have not been renamed; refer to the renamed organizational headings described in this paragraph.
2. Repealer and new section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
3. Editorial correction of printing error inadvertently omitting text (Register 90, No. 41).

§ 58107. Facilities and Opportunities for Participation.

Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58110. Enrollment Limitations.

Nothing in this chapter shall be deemed to impose obligations upon colleges to admit students to classes, courses, or programs beyond the limitations imposed by the size of physical facilities, availability of qualified instructors, funding limitations, and the constraints of regional planning. In all cases, when limitations do exist it is incumbent upon the governing board of a district to insure that each college establishes fair and equitable procedures for admission of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

Article 2. 175-Day Rule

§ 58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of Education Code Section 84370, the total hours of course offerings scheduled during the day must be at least fifty percent (50%) of the average daily hours of course offerings for the academic year. The average daily hours of course offerings shall be computed by dividing the previous fiscal year's total scheduled hours of course offerings by the total number of days in which instruction was scheduled during the same fiscal year.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of Education Code Section 84370, provided that:

(1) Such examinations are administered under the immediate supervision and control of an appropriately certificated employee of the district; and

(2) Not more than fourteen days of final examinations shall be counted for any academic year, as defined by the district.

(2) The course or program is approved and being conducted as work experience education in accordance with Subchapter 3 (commencing with Section 55250) of Chapter 6 of this part; or

(3) The course or program is approved and is being conducted as health sciences education in accordance with Section 58055(a).

(c) Attendance generated solely under an instructional assistant or aide does not qualify for apportionment. In addition, instructional aides shall not be used to increase the number of students in relation to the number of classroom instructors in the district. However, attendance may qualify for apportionment under the following limited circumstances:

(1) The assistant or aide functions under the exclusive direction of the authorized employee assigned to that educational activity, and not independently; and

(2) The assistant or aide performs only those duties specifically authorized by law, including, but not limited to, Sections 88240–88249 of the Education Code; and,

(3) The authorized employee is able, in terms of physical proximity and range of communication, to provide necessary supervision and control of students, so that by working in conjunction with the assistant or aide, the requirements of subsection (a) of this section are met.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 88240–88249, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58058. Employee of the District.

(a) A person is an "employee of the district" within the meaning of subdivision (a)(1) of Section 58051 if:

(1) The district has the primary right to control and direct the person's activities during the time such person is serving the district; and

(2) A contract exists between the person and the district, indicia of which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87801), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 87801, Education Code.

HISTORY

1. Amendment of subsections (a) and (a)(3) and NOTE filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58060. Valid Employment Qualifications.

For the purposes of Sections 58051 and 58056, the employee is deemed authorized to perform the services because he or she is employed pursuant to a valid, unrevoked credential issued by the Board of Governors or pursuant to minimum qualifications adopted by the Board of Governors or equivalencies pursuant to Section 53430.

(a) If the person serves pursuant to a credential,

(1) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(2) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

(b) If the person serves pursuant to minimum qualifications adopted by the Board of Governors or equivalencies, the qualifications or equivalencies must be related to the asignment and effective during the period of instruction for which attendance is being claimed.

(c) For purposes of this section, an employee is deemed authorized to perform the services if he or she is employed as a faculty intern.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 84500 and 87487, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Section 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58106. Prerequisites and Other Limitations On Enrollment.

(a) In order to be claimed for purposes of State apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, except that students may be required to meet prerequisites established pursuant to this section. In addition, a community college district may also limit enrollment in a course based on health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning, or legal requirements imposed by statute, regulations or contracts. The district governing board shall adopt policies identifying any such requirements and establishing fair and equitable procedures for determining who may enroll in affected courses. Such procedures may:

(1) limit enrollment on a "first come first served" basis or utilize other nonevaluative selection techniques to determine who may enroll; or

(2) limit enrollment to those students capable of safely performing required tasks as measured by relevant skill prerequisites established pursuant to subsection (b)(3) of this section.

(b) After review pursuant to Sections 53200–53203, and 55002 of this Part, a district may, subject to the conditions set forth in subdivision (c), require a student to meet any of the following types of prerequisites as a condition for enrollment in a course:

(1) It is permissible to require, as a prerequisite, the completion of any course where understanding or technical performance taught in that course is necessary for success in later courses.

(2) As used in this section, the term "prerequisite" also includes "corequisites" which require a student to concurrently enroll in one course as a condition of enrollment in another course. A student may be required to concurrently enroll in a corequisite only when the college has conducted a comprehensive assessment of the student using multiple measures and the objectives of the courses are clearly complementary, the interrelation of the units of instruction is evident, and completion of the corequisite is necessary for success in the related course. In addition, community college districts shall ensure that corequisite courses are available at the college in sufficient numbers to accommodate all students who are required to take them. If this is not the case, the corequisite shall be waived pursuant to Section 55534(a) of this Division.

(3) Prerequisites may be defined in terms of skills necessary to success in a particular course or program. This includes, but is not limited to, skill competencies in reading, written expression, and mathematics established pursuant to Section 55806 of this Division. The determination of whether a student possesses the required skills shall be based on a comprehensive assessment using multiple measures and any assessment instruments relied upon shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division. Community college districts shall ensure that pre–collegiate basic skills courses designed to teach required skills are available to accommodate students required to meet the associated skill prerequisites. Any student obtaining a satisfactory grade in such a pre–collegiate basic skills course shall be deemed to meet the associated skill prerequisite.

(4) Eligibility for enrollment in entry level associate degree courses in English and/or mathematics may be used as a prerequisite where communications or computation skills are necessary for success in a course.

(c) No prerequisite described in subdivision (b) may be imposed unless it conforms to all of the following requirements:

(1) Prerequisites shall not state or imply that enrollment in a course is limited to a specialized clientele unless such limitation is directly and specifically authorized by statute or regulation.

(2) Prerequisites for a course shall be clearly related to course content and must be validated as being necessary for success in such course. Provided, however, that a prerequisite need not be validated if it:

(A) was established prior to the effective date of this section and is part of a sequence of degree–applicable courses within a given discipline;

(B) is required by statute or regulation;

(C) is part of a closely related lecture–laboratory course pairing which requires concurrent enrollment; or

(D) is required by a four–year institution to ensure transferability of subsequent courses.

(3) Prerequisites involving experience requirements may not be established solely on the basis of "hours of exposure."

(4) Community college districts may not establish communication or computational skill prerequisites which apply across the entire curriculum.

(d) Any prerequisite may be challenged by a student, using the procedures provided for in subsections (b) and (c) of Section 55534, on one or more of the grounds listed below. Challenges shall be resolved in a timely manner and the student shall be permitted to enroll in the course in question if the challenge is upheld. Grounds for challenge are:

(1) a prerequisite which must be validated pursuant to subdivision (c)(2) has not been so validated or is being applied in a discriminatory manner;

(2) the student has the knowledge or ability to succeed in the course despite not meeting the prerequisite; or

(3) a prerequisite which need not be validated under subdivision (c)(2) and has not been so validated is discriminatory or is being applied in a discriminatory manner.

(e) Districts shall adopt policies and procedures for validating prerequisites in accord with the provisions of this section. In order to show that a prerequisite is necessary to success in a particular course, the validation procedure must establish that a student who has not met the prerequisite is highly unlikely to obtain a satisfactory grade in the course. The Chancellor shall, as part of the evaluation required pursuant to Section 55512(c), review district policies and procedures for validation of prerequisites.

(f) Notwithstanding the provisions of this section, prerequisites for Work Experience shall be as stated in Subchapter 3 (commencing with Section 55250) of Chapter 6 of this Division.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring that prerequisite; provided, however, that enrollment may be permitted pending verification that the student obtained a satisfactory grade in a prerequisite course. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise, a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or the student code of conduct.

(h) A student who obtains a satisfactory grade in a prerequisite course described in subsection (b)(1) shall be deemed to meet the prerequisite for enrollment in a subsequent course in the sequence. No "exit" test may be required unless it is incorporated into the grading for the prerequisite course. A student who obtains satisfactory grades in all required courses in a program shall be deemed to have completed the program and no additional "exit" test may be required.

(i) As used in this section, the term "satisfactory grade" means that, for the course in question, the student's academic record has been annotated with the symbol A, B, C or "CR" as those symbols are defined in Section 55758 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78211 and 78213, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: "chapter" was renamed to "subchapter"; "division" was renamed to "chapter"; and "part" was renamed to "division." The organizational headings referenced in this regulation and/or HISTORY/NOTE have not been renamed; refer to the renamed organizational headings described in this paragraph.
2. Repealer and new section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
3. Editorial correction of printing error restoring text (Register 91, No. 29).
4. Amendment filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58107. Facilities and Opportunities for Participation.

Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off–campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

§ 58110. Enrollment Limitations.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

Article 2. 175–Day Rule

§ 58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of Education Code Section 84370, the total hours of course offerings scheduled during the day must be at least fifty percent (50%) of the average daily hours of course offerings for the academic year. The average daily hours of course

[The next page is 387.]

Register 1993-25

§ 58102
§ 58104
§ 58108

work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87801), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 87801, Education Code.

HISTORY

1. Amendment of subsections (a) and (a)(3) and NOTE filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58060. Valid Employment Qualifications.

For the purposes of Sections 58051 and 58056, the employee is deemed authorized to perform the services because he or she is employed pursuant to a valid, unrevoked credential issued by the Board of Governors or pursuant to minimum qualifications adopted by the Board of Governors or equivalencies pursuant to Section 53430.

(a) If the person serves pursuant to a credential,

(1) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(2) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

(b) If the person serves pursuant to minimum qualifications adopted by the Board of Governors or equivalencies, the qualifications or equivalencies must be related to the asignment and effective during the period of instruction for which attendance is being claimed.

(c) For purposes of this section, an employee is deemed authorized to perform the services if he or she is employed as a faculty intern.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 84500 and 87487, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Section 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58106. Prerequisites and Other Limitations On Enrollment.

(a) In order to be claimed for purposes of State apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, except that students may be required to meet prerequisites established pursuant to this section. In addition, a community college district may also limit enrollment in a course based on health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning, or legal requirements imposed by statute, regulations or contracts. The district governing board shall adopt policies identifying any such requirements and establishing fair and equitable procedures for determining who may enroll in affected courses. Such procedures may:

(1) limit enrollment on a "first come first served" basis or utilize other nonevaluative selection techniques to determine who may enroll; or

(2) limit enrollment to those students capable of safely performing required tasks as measured by relevant skill prerequisites established pursuant to subsection (b)(3) of this section.

(b) After review pursuant to Sections 53200–53203, and 55002 of this Part, a district may, subject to the conditions set forth in subdivision (c), require a student to meet any of the following types of prerequisites as a condition for enrollment in a course:

(1) It is permissible to require, as a prerequisite, the completion of any course where understanding or technical performance taught in that course is necessary for success in later courses.

(2) As used in this section, the term "prerequisite" also includes "corequisites" which require a student to concurrently enroll in one course as a condition of enrollment in another course. A student may be required to concurrently enroll in a corequisite only when the college has conducted a comprehensive assessment of the student using multiple measures and the objectives of the courses are clearly complementary, the interrelation of the units of instruction is evident, and completion of the corequisite is necessary for success in the related course. In addition, community college districts shall ensure that corequisite courses are available at the college in sufficient numbers to accommodate all students who are required to take them. If this is not the case, the corequisite shall be waived pursuant to Section 55534(a) of this Division.

(3) Prerequisites may be defined in terms of skills necessary to success in a particular course or program. This includes, but is not limited to, skill competencies in reading, written expression, and mathematics established pursuant to Section 55806 of this Division. The determination of whether a student possesses the required skills shall be based on a comprehensive assessment using multiple measures and any assessment instruments relied upon shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division. Community college districts shall ensure that pre–collegiate basic skills courses designed to teach required skills are available to accommodate students required to meet the associated skill prerequisites. Any student obtaining a satisfactory grade in such a pre–collegiate basic skills course shall be deemed to meet the associated skill prerequisite.

(4) Eligibility for enrollment in entry level associate degree courses in English and/or mathematics may be used as a prerequisite where communications or computation skills are necessary for success in a course.

(c) No prerequisite described in subdivision (b) may be imposed unless it conforms to all of the following requirements:

(1) Prerequisites shall not state or imply that enrollment in a course is limited to a specialized clientele unless such limitation is directly and specifically authorized by statute or regulation.

(2) Prerequisites for a course shall be clearly related to course content and must be validated as being necessary for success in such course. Provided, however, that a prerequisite need not be validated if it:

(A) was established prior to the effective date of this section and is part of a sequence of degree–applicable courses within a given discipline;

(B) is required by statute or regulation;

(C) is part of a closely related lecture–laboratory course pairing which requires concurrent enrollment; or

(D) is required by a four–year institution to ensure transferability of subsequent courses.

(3) Prerequisites involving experience requirements may not be established solely on the basis of "hours of exposure."

(4) Community college districts may not establish communication or computational skill prerequisites which apply across the entire curriculum.

(d) Any prerequisite may be challenged by a student, using the procedures provided for in subsections (b) and (c) of Section 55534, on one or more of the grounds listed below. Challenges shall be resolved in a timely manner and the student shall be permitted to enroll in the course in question if the challenge is upheld. Grounds for challenge are:

(1) a prerequisite which must be validated pursuant to subdivision (c)(2) has not been so validated or is being applied in a discriminatory manner;

(2) the student has the knowledge or ability to succeed in the course despite not meeting the prerequisite; or

(3) a prerequisite which need not be validated under subdivision (c)(2) and has not been so validated is discriminatory or is being applied in a discriminatory manner.

(e) Districts shall adopt policies and procedures for validating prerequisites in accord with the provisions of this section. In order to show that a prerequisite is necessary to success in a particular course, the validation procedure must establish that a student who has not met the prerequisite is highly unlikely to obtain a satisfactory grade in the course. The Chancellor shall, as part of the evaluation required pursuant to Section 55512(c), review district policies and procedures for validation of prerequisites.

(f) Notwithstanding the provisions of this section, prerequisites for Work Experience shall be as stated in Subchapter 3 (commencing with Section 55250) of Chapter 6 of this Division.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring that prerequisite; provided, however, that enrollment may be permitted pending verification that the student obtained a satisfactory grade in a prerequisite course. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise, a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or the student code of conduct.

(h) A student who obtains a satisfactory grade in a prerequisite course described in subsection (b)(1) shall be deemed to meet the prerequisite for enrollment in a subsequent course in the sequence. No "exit" test may be required unless it is incorporated into the grading for the prerequisite course. A student who obtains satisfactory grades in all required courses in a program shall be deemed to have completed the program and no additional "exit" test may be required.

(i) As used in this section, the term "satisfactory grade" means that, for the course in question, the student's academic record has been annotated with the symbol A, B, C or "CR" as those symbols are defined in Section 55758 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78211 and 78213, Education Code.

HISTORY

1. Organizational headings of CCR were renamed as a result of CCR Reformat Project as follows: "chapter" was renamed to "subchapter"; "division" was renamed to "chapter"; and "part" was renamed to "division." The organizational headings referenced in this regulation and/or HISTORY/NOTE have not been renamed; refer to the renamed organizational headings described in this paragraph.
2. Repealer and new section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
3. Editorial correction of printing error restoring text (Register 91, No. 29).
4. Amendment filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58107. Facilities and Opportunities for Participation.

Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off–campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58110. Enrollment Limitations.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87801), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 87801, Education Code.

HISTORY

1. Amendment of subsections (a) and (a)(3) and NOTE filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58060. Valid Employment Qualifications.

For the purposes of Sections 58051 and 58056, the employee is deemed authorized to perform the services because he or she is employed pursuant to a valid, unrevoked credential issued by the Board of Governors or pursuant to minimum qualifications adopted by the Board of Governors or equivalencies pursuant to Section 53430.

(a) If the person serves pursuant to a credential,

(1) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(2) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

(b) If the person serves pursuant to minimum qualifications adopted by the Board of Governors or equivalencies, the qualifications or equivalencies must be related to the asignment and effective during the period of instruction for which attendance is being claimed.

(c) For purposes of this section, an employee is deemed authorized to perform the services if he or she is employed as a faculty intern.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 84500 and 87487, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Section 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58106. Limitations on Enrollment.

In order to be claimed for purposes of state apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, provided that enrollment in specific courses or programs may be limited as follows:

(a) Enrollment may be limited to students meeting prerequisites and corequisites established pursuant to Sections 55200–55202 of this Division,

(b) Enrollment may be limited due to health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning or legal requirements imposed by statutes, regulations, or contracts. The governing board shall adopt policies identifying any such limitations and requiring fair and equitable procedures for determining who may enroll in affected courses or programs. Such procedures shall be consistent with one or more of the following approaches:

(1) limiting enrollment to a "first–come, first–served" basis or using other nonevaluative selection techniques to determine who may enroll; or

(2) limiting enrollment using a registration procedure authorized by Section 58108; or

(3) in the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students judged most qualified; or

(4) limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions; or

(5) with respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Sections 55754–55755 of this Part, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan.

(c) A student may challenge an enrollment limitation established pursuant to Subsection (b) of this Section on any of the following grounds:

(1) the enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(2) the district is not following its policy on enrollment limitations;

(3) the basis upon which the district has established an enrollment limitation does not in fact exist; or

(4) any other criteria established by the district.

(d) The student shall bear the burden of showing that grounds exists for the challenge. Challenges shall be handled in a timely manner, and if the challenge is upheld, the district shall waive the enrollment limitation with respect to that student.

(e) In the case of a challenge under Subsection (c)(1) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of

tion 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer and new section filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42). For prior history, see Register 92, No. 15.

§ 58107. Facilities and Opportunities for Participation.

Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in a class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 58110. Enrollment Limitations.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

Article 2. 175-Day Rule

120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of section 58142, the total hours of course offerings scheduled during the day must be at least fifty percent (50%) of the average daily hours of course offerings for the academic year. The average daily hours of course offerings shall be computed by dividing the previous fiscal year's total scheduled hours of course offerings by the total number of days in which instruction was scheduled during the same fiscal year.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of section 58142, provided that:

(1) such examinations are administered under the immediate supervision and control of an appropriate academic employee of the district; and

(2) not more than fourteen days of final examinations shall be counted for any academic year, as defined by the district.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section and NOTE filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

Article 3. (Reserved)

Article 4. (Reserved)

Article 5. Other Limitations

§ 58130. Noncredit Classes in Dancing or Recreational Physical Education; State Aid or Apportionment for Attendance.

No state aid or apportionment may be claimed on account of the attendance of students in noncredit classes in dancing or recreational physical education.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 58130.5. Estimate of School Money to Be Apportioned.

The Chancellor shall, not later than the 25th day of July in each year, prepare an estimate of the amount of state school money that will be apportioned to each community college district during the current school year, and furnish a certified copy of the estimate to each community college district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 58131. Second Principal Apportionment.

The Chancellor shall on or before June 25th of each year apportion to each community college district the total amounts allowed to them under section 84850. This apportionment shall be called the second principal apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correcton of printing error (Register 91, No. 43).

§ 58132. Final Apportionment.

The Chancellor shall on or before June 25th of each year apportion to each community college district the total of the amounts allowed to the district. This apportionment shall be called the final apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full-time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

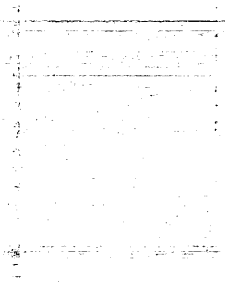
(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).



NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 88240–88249, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58058. Employee of the District.

(a) A person is an "employee of the district" within the meaning of subdivision (a)(1) of Section 58051 if:

(1) The district has the primary right to control and direct the person's activities during the time such person is serving the district; and

(2) A contract exists between the person and the district, indicia of which may include provisions which specify the terms and conditions of work, salary and other compensation, work to be performed, and employment classification; and,

(3) The district compensates the person according to an adopted salary or wage schedule which complies with the provisions of Article 8 (commencing with Section 87801), Chapter 3, Part 51 of the Education Code.

(b) For the purposes of complying with the requirements of this section, a district may also contract for instruction to be provided by a public or private agency. Such contracts shall specify that the district has the primary right to control and direct the activities of the person or persons furnished by the public or private agency during the term of the contract. In addition, the district shall enter into a written contract with each person furnished by the public or private agency; and said contracts shall meet the requirements of subsection (a)(1) and (2) of this section. In this manner an individual employed will continue to be an employee of a public or private agency, while at the same time qualifying as an employee of the district.

NOTE: Authority cited: Sections 66700, 70901 and 84500, Education Code. Reference: Sections 70901, 84500 and 87801, Education Code.

HISTORY

1. Amendment of subsections (a) and (a)(3) and NOTE filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 58060. Valid Employment Qualifications.

For the purposes of Sections 58051 and 58056, the employee is deemed authorized to perform the services because he or she is employed pursuant to a valid, unrevoked credential issued by the Board of Governors or pursuant to minimum qualifications adopted by the Board of Governors or equivalencies pursuant to Section 53430.

(a) If the person serves pursuant to a credential,

(1) It must authorize the holder to provide instruction in the particular subject matter or matters; and

(2) It must authorize the holder to provide that instruction during the period in which the holder is providing it.

(b) If the person serves pursuant to minimum qualifications adopted by the Board of Governors or equivalencies, the qualifications or equivalencies must be related to the assignment and effective during the period of instruction for which attendance is being claimed.

(c) For purposes of this section, an employee is deemed authorized to perform the services if he or she is employed as a faculty intern.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 84500 and 87487, Education Code.

HISTORY

1. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 2. Limitations on State Aid

Article 1. Open Courses

§ 58100. Open Enrollment.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Section 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 58102. Course Description.

The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.

A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58104. Dissemination of Information.

All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.

Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.

Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58106. Limitations on Enrollment.

In order to be claimed for purposes of state apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, provided that enrollment in specific courses or programs may be limited as follows:

(a) Enrollment may be limited to students meeting prerequisites and corequisites established pursuant to Sections 55200–55202 of this Division,

(b) Enrollment may be limited due to health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding limitations, the constraints of regional planning or legal requirements imposed by statutes, regulations, or contracts. The governing board shall adopt policies identifying any such limitations and requiring fair and equitable procedures for determining who may enroll in affected courses or programs. Such procedures shall be consistent with one or more of the following approaches:

(1) limiting enrollment to a "first–come, first–served" basis or using other nonevaluative selection techniques to determine who may enroll; or

(2) limiting enrollment using a registration procedure authorized by Section 58108; or

(3) in the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students judged most qualified; or

(4) limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions; or

(5) with respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Sections 55754–55755 of this Part, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan.

(c) A student may challenge an enrollment limitation established pursuant to Subsection (b) of this Section on any of the following grounds:

(1) the enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(2) the district is not following its policy on enrollment limitations;

(3) the basis upon which the district has established an enrollment limitation does not in fact exist; or

(4) any other criteria established by the district.

(d) The student shall bear the burden of showing that grounds exists for the challenge. Challenges shall be handled in a timely manner, and if the challenge is upheld, the district shall waive the enrollment limitation with respect to that student.

(e) In the case of a challenge under Subsection (c)(1) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer and new section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42). For prior history, see Register 92, No. 15.

§ 58107. Facilities and Opportunities for Participation.

Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. Facilities and opportunities for participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

§ 58108. Registration and Enrollment Procedures.

Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.

Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.

Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.

No registration procedures shall be used that result in restricting enrollment to a specialized clientele.

The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.

With respect to accessibility to off–campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 84500, Education Code.

HISTORY

1. Amendment of NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 58110. Enrollment Limitations.

NOTE: Authority cited: Sections 71020, 71062 and 84500.1, Education Code. Reference: Sections 84500 and 84500.1, Education Code.

HISTORY

1. Repealer filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

Article 2. 175–Day Rule

§ 58120. Conditions for Inclusion as a Day.

(a) For a day to count towards meeting the requirements of section 58142, the total hours of course offerings scheduled during the day must be at least fifty percent (50%) of the average daily hours of course offerings for the academic year. The average daily hours of course offerings shall be computed by dividing the previous fiscal year's total scheduled hours of course offerings by the total number of days in which instruction was scheduled during the same fiscal year.

(b) Notwithstanding subsection (a) of this section, days of final examination may be counted toward meeting the requirements of section 58142, provided that:

(1) such examinations are administered under the immediate supervision and control of an appropriate academic employee of the district; and

(2) not more than fourteen days of final examinations shall be counted for any academic year, as defined by the district.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section and NOTE filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 3. (Reserved)

Article 4. (Reserved)

Article 5. Other Limitations

§ 58130. Noncredit Classes in Dancing or Recreational Physical Education; State Aid or Apportionment for Attendance.

No state aid or apportionment may be claimed on account of the attendance of students in noncredit classes in dancing or recreational physical education.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

§ 58130.5. Estimate of School Money to Be Apportioned.

The Chancellor shall, not later than the 25th day of July in each year, prepare an estimate of the amount of state school money that will be apportioned to each community college district during the current school year, and furnish a certified copy of the estimate to each community college district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

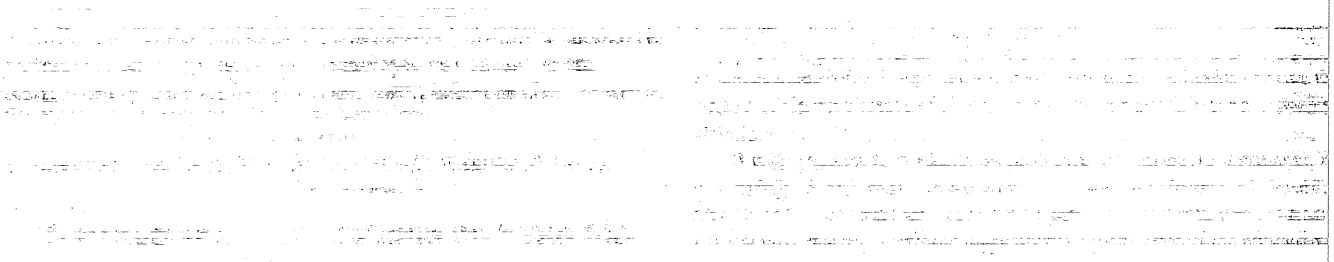
1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

3. Editorial correction of HISTORY 1 (Register 95, No. 23).

§ 58131. Second Principal Apportionment.

The Chancellor shall on or before June 25th of each year apportion to each community college district the total amounts allowed to them under



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 04. Comprehensive Plan

History Index for
Title 5, California Code of Regulations

Section 51008
Section 55401
Section 55402
Section 55403
Section 55404
Section 55405

Register 71-27 New Chapter 5 (§§ 55400 - 55405).

Register 77-45 § 55400: Amendment of section and NOTE.

§ 55405: Amendment of section.

Register 83-29 Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000-51021, not consecutive).

Register 91-23 § 51008: Amendment of section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

§ 55400: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-45 § 55400: Amendment filed; submitted to OAL for printing only

pursuant to Government Code section 11343.8.

Register 92-01 § 55400: Amendment of NOTE; submitted to OAL for printing only pursuant to Government Code section 11343.8.

Register 94-38 § 51008: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51008: Editorial correction of HISTORY 1.

Register 95-20 § 55400: Editorial correction of HISTORY 3.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1971-27

§§ 55400 - 55405

CHAPTER 5. EDUCATIONAL MASTER PLANS

55400. Definitions. The definitions provided in the *Handbook of Definitions* issued by the Chancellor shall apply to the provisions of this chapter.

NOTE: Authority cited: Section 199, Education Code.

History: 1. New Chapter 5 (§§ 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter (Register 71, No. 27).

55401. Current and Long Range Plans. The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

55402. Educational Master Plans. On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

55403. Form. Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

55404. Contents. Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

55405. Review and Approval. The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, he shall send a copy of his approval of it to the superintendent of each district.

Register 1977-45

§ 55400
§ 55405

CHAPTER 5. EDUCATIONAL MASTER PLANS

55400. Definitions. The definitions provided in the *Student Attendance Accounting Manual* issued by the Chancellor shall apply to the provisions of this chapter.

NOTE: Authority cited for Chapter 5: Sections 71028, 72231.5 and 71026, Education Code.

History: 1. New Chapter 5 (§§ 55400 through 55405) filed 7-1-71; effective thirtieth day thereafter (Register 71, No. 27).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55401. Current and Long Range Plans. The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

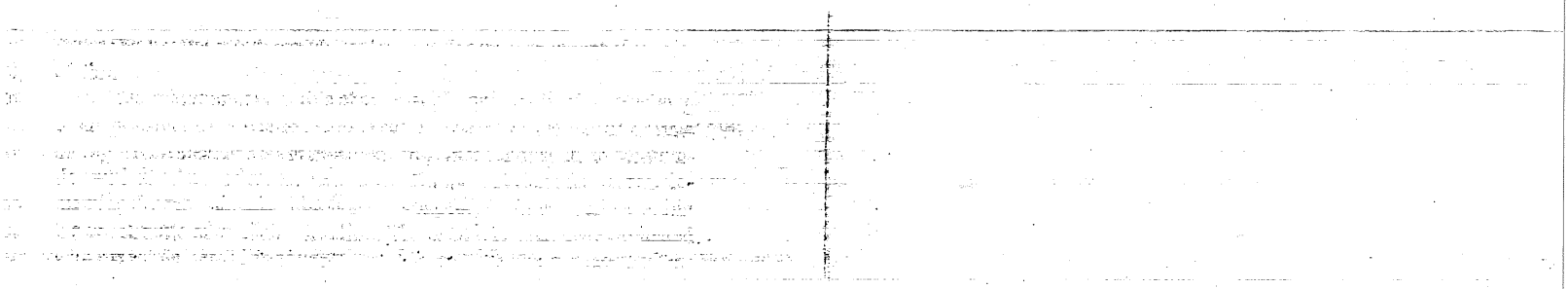
55402. Educational Master Plans. On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

55403. Form. Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

55404. Contents. Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

55405. Review and Approval. The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, the Chancellor shall send a copy of the approval of it to the superintendent of each district.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).



CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

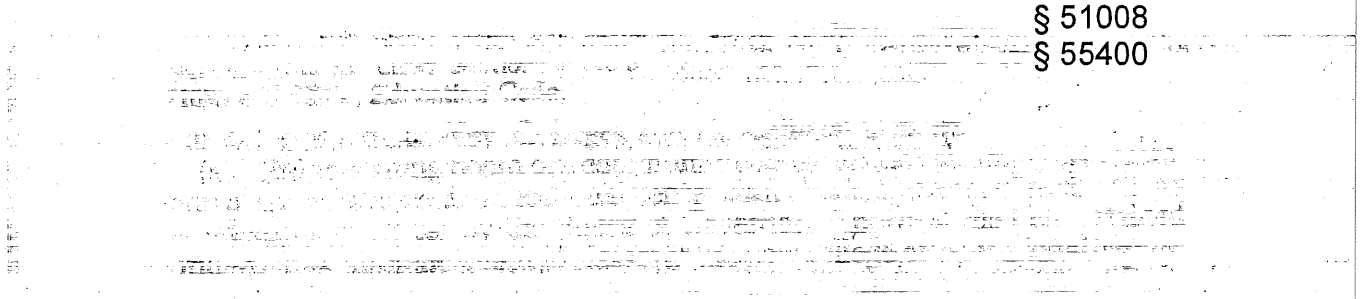
51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

Register 1991-23

§ 51008
§ 55400



4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

(a) In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

(b) For purposes of computing attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55352. Number of Students.

The number of students assigned to any one instructor of courses offered pursuant to this section shall not exceed 125 students per instructor unless exempted by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer of Article 5 heading and Section 55360 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Subchapter 5. Educational Master Plans

§ 55400. Definitions.

The definitions provided in the Student Attendance Accounting Manual issued by the Chancellor shall apply to the provisions of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New chapter 5 (sections 55400 through 55405) filed 7–1–71; effective thirtieth day thereafter (Register 71, No. 27).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55401. Current and Long Range Plans.

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

§ 55402. Educational Master Plans.

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

§ 55403. Form.

Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

§ 55404. Contents.

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services,

including services in the library and for counseling, placement, and financial aids.

§ 55405. Review and Approval.

The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, the Chancellor shall send a copy of the approval of it to the superintendent of each district.

History

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

§ 55450. Excursions of Field Trips.

The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places in the state, or any other state, the District of Columbia, or a foreign country for students enrolled in a college. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for the students.

(b) Engage instructors, supervisors, and other personnel who desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where the excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, the liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(d) Provide supervision of students involved in field trips or excursions by academic employees of the district.

No student shall be required to pay a fee to participate in an instructionally related field trip or excursion within the state.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if a class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

(e) Nothing in this section shall be construed to require the governing board to pay the costs of meals, lodging, and other incidental expenses for students participating in field trips and excursions. The costs of meals and lodging are incidental in nature and shall not be applied in determining the funds necessary for a student to participate in a filed trip or excursion.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55451. Provision for Medical or Hospital Service for Pupils; Duration of Section.

The governing board of any community college district conducting excursions and field trips pursuant to this article shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for students of the district injured while participating in the excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership shall be paid from the funds of the district.

The insurance may be purchased from, or the membership may be taken in, only companies or corporations that are authorized to do business in this state.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 6. Matriculation Programs

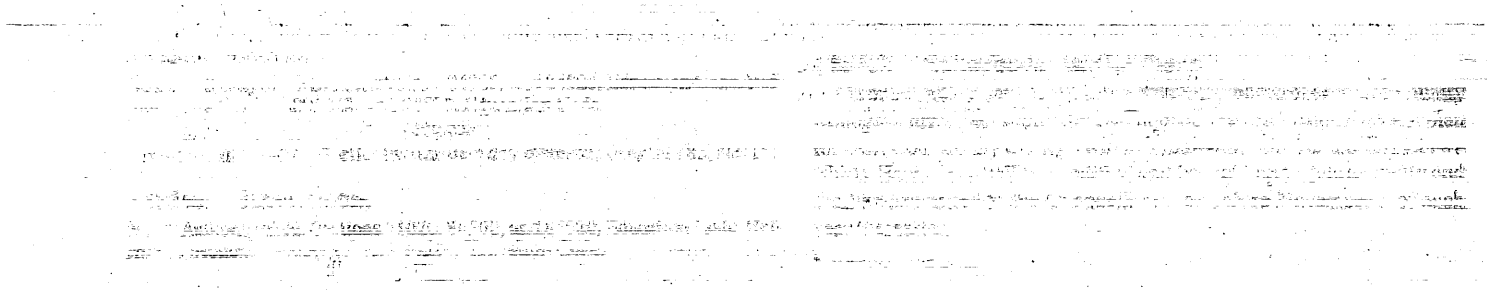
Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour-Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code section 78210 et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges. This chapter sets forth minimum standards for district matriculation programs and further elaborates requirements for the assessment component of matriculation.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code section 71020.5.

(c) Minimum standards for the enforcement of this chapter, as set forth in section 51024, shall not become effective until the Chancellor certifies, in accordance with established policies of the Board of Governors, that matriculation has been fully funded. Until that time, the Chancellor shall ensure that funds allocated to community college districts pursuant to Education Code section 78216 are used in accordance with district matriculation plans developed as provided in section 55510.



instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

(a) In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

(b) For purposes of computing attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55352. Number of Students.

The number of students assigned to any one instructor of courses offered pursuant to this section shall not exceed 125 students per instructor unless exempted by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer of Article 5 heading and Section 55360 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Subchapter 5. Educational Master Plans

§ 55400. Definitions.

The definitions provided in the Student Attendance Accounting Manualissued by the Chancellor shall apply to the provisions of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New chapter 5 (sections 55400 through 55405) filed 7–1–71; effective thirtieth day thereafter (Register 71, No. 27).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
4. Amendment of section filed 6–11–91; operative 7–11–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 45).

§ 55401. Current and Long Range Plans.

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

§ 55402. Educational Master Plans.

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

§ 55403. Form.

Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

§ 55404. Contents.

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

§ 55405. Review and Approval.

The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, the Chancellor shall send a copy of the approval of it to the superintendent of each district.

History

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

§ 55450. Excursions or Field Trips.

The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places in the state, or any other state, the District of Columbia, or a foreign country for students enrolled in a college. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for the students.

(b) Engage instructors, supervisors, and other personnel who desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where the excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, the liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(d) Provide supervision of students involved in field trips or excursions by academic employees of the district.

No student shall be required to pay a fee to participate in an instructionally related field trip or excursion within the state.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

(e) Nothing in this section shall be construed to require the governing board to pay the costs of meals, lodging, and other incidental expenses for students participating in field trips and excursions. The costs of meals and lodging are incidental in nature and shall not be applied in determining the funds necessary for a student to participate in a field trip or excursion.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in section heading and subsection (e) (Register 91, No. 43).

§ 55451. Provision for Medical or Hospital Service for Pupils; Duration of Section.

The governing board of any community college district conducting excursions and field trips pursuant to this article shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for students of the district injured while participating in the excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership shall be paid from the funds of the district.

The insurance may be purchased from, or the membership may be taken in, only companies or corporations that are authorized to do business in this state.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 6. Matriculation Programs

Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour-Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code section 78210 et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges. This chapter sets forth minimum standards for district matriculation programs and further elaborates requirements for the assessment component of matriculation.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code section 71020.5.

(c) Minimum standards for the enforcement of this chapter, as set forth in section 51024, shall not become effective until the Chancellor certifies, in accordance with established policies of the Board of Governors, that matriculation has been fully funded. Until that time, the Chancellor shall ensure that funds allocated to community college districts pursuant to Education Code section 78216 are used in accordance with district matriculation plans developed as provided in section 55510.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 71020.5, 78210-78218, Education Code.

History

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Register 1992-01

§ 55400

instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

(a) In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

(b) For purposes of computing attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55352. Number of Students.

The number of students assigned to any one instructor of courses offered pursuant to this section shall not exceed 125 students per instructor unless exempted by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer of Article 5 heading and Section 55360 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Subchapter 5. Educational Master Plans

§ 55400. Definitions.

The definitions provided in the Student Attendance Accounting Manual issued by the Chancellor shall apply to the provisions of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New chapter 5 (sections 55400 through 55405) filed 7–1–71; effective thirtieth day thereafter (Register 71, No. 27).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
4. Amendment of section filed 6–11–91; operative 7–11–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 45).
5. Amendment of NOTE filed 6–11–91; operative 7–11–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 92, No. 1).

§ 55401. Current and Long Range Plans.

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

§ 55402. Educational Master Plans.

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

§ 55403. Form.

Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

§ 55404. Contents.

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services,

including services in the library and for counseling, placement, and financial aids.

§ 55405. Review and Approval.

The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, the Chancellor shall send a copy of the approval of it to the superintendent of each district.

History

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

§ 55450. Excursions or Field Trips.

The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places in the state, or any other state, the District of Columbia, or a foreign country for students enrolled in a college. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for the students.

(b) Engage instructors, supervisors, and other personnel who desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where the excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, the liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(d) Provide supervision of students involved in field trips or excursions by academic employees of the district.

No student shall be required to pay a fee to participate in an instructionally related field trip or excursion within the state.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

(e) Nothing in this section shall be construed to require the governing board to pay the costs of meals, lodging, and other incidental expenses for students participating in field trips and excursions. The costs of meals and lodging are incidental in nature and shall not be applied in determining the funds necessary for a student to participate in a field trip or excursion.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in section heading and subsection (e) (Register 91, No. 43).

§ 55451. Provision for Medical or Hospital Service for Pupils; Duration of Section.

The governing board of any community college district conducting excursions and field trips pursuant to this article shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for students of the district injured while participating in the excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership shall be paid from the funds of the district.

The insurance may be purchased from, or the membership may be taken in, only companies or corporations that are authorized to do business in this state.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 6. Matriculation Programs

Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour-Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code section 78210 et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges. This chapter sets forth minimum standards for district matriculation programs and further elaborates requirements for the assessment component of matriculation.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code section 71020.5.

(c) Minimum standards for the enforcement of this chapter, as set forth in section 51024, shall not become effective until the Chancellor certifies, in accordance with established policies of the Board of Governors, that matriculation has been fully funded. Until that time, the Chancellor shall ensure that funds allocated to community college districts pursuant to Education Code section 78216 are used in accordance with district matriculation plans developed as provided in section 55510.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 71020.5, 78210-78218, Education Code.

History

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full-time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000-53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

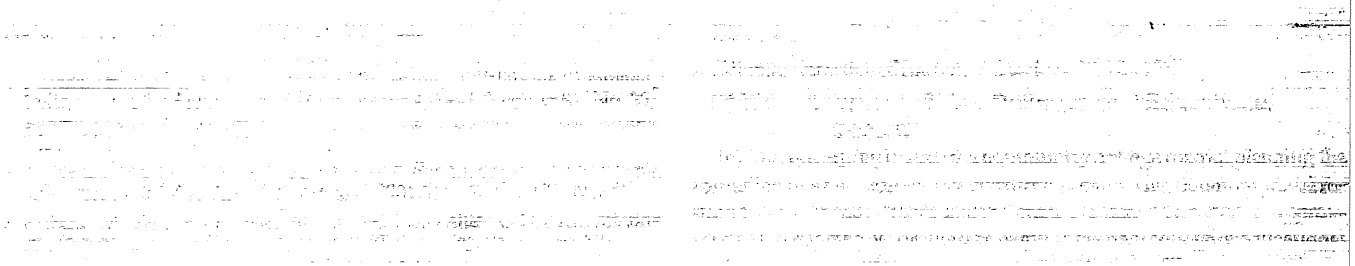
§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

Register 1995-20

§ 55400



History

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment of section heading and text filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55378. Separate Course Approval.

Each proposed or existing course if delivered by distance education, shall be separately reviewed and approved, according to the district's certified course approval procedures.

Note: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

History

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55380. Faculty Selection.

Instructors of sections delivered via distance education technology shall be selected by the same procedures used to determine all instructional assignments. Instructors shall possess the minimum qualifications for the discipline into which the course's subject matter most appropriately falls, in accordance with Article 2 of Chapter 4 of Division 4 of this Part (commencing with Section 53410), and with the list of disciplinary definitions and requirements adopted by the Board of Governors to implement that Article, as such list may be amended from time to time.

Note: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

History

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

Subchapter 5. Educational Master Plans

§ 55400. Definitions.

The definitions provided in the Student Attendance Accounting Manual issued by the Chancellor shall apply to the provisions of this chapter.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. New chapter 5 (sections 55400 through 55405) filed 7–1–71; effective thirtieth day thereafter (Register 71, No. 27).
2. Amendment of section and Note filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Amendment of section filed 6–11–91; operative 7–11–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 45).
5. Amendment of Note filed 6–11–91; operative 7–11–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 92, No. 1).
6. Editorial correction of History 3 (Register 95, No. 20).

§ 55401. Current and Long Range Plans.

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

§ 55402. Educational Master Plans.

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

§ 55403. Form.

Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

§ 55404. Contents.

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

§ 55405. Review and Approval.

The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, the Chancellor shall send a copy of the approval of it to the superintendent of each district.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

§ 55450. Excursions or Field Trips.

The governing board of a community college district may:

(a) Conduct field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places in the state, or any other state, the District of Columbia, or a foreign country for students enrolled in a college. A field trip or excursion to and from a foreign country may be permitted to familiarize students with the language, history, geography, natural sciences, and other studies relative to the district's course of study for the students.

(b) Engage instructors, supervisors, and other personnel who desire to contribute their services over and above the normal period for which they are employed by the district, if necessary, and provide equipment and supplies for the field trip or excursion.

(c) Transport by use of district equipment, contract to provide transportation, or arrange transportation by the use of other equipment, of students, instructors, supervisors or other personnel to and from places in the state, any other state, the District of Columbia, or a foreign country where the excursions and field trips are being conducted; provided that, when district equipment is used, the governing board shall secure liability insurance, and if travel is to and from a foreign country, the liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

(d) Provide supervision of students involved in field trips or excursions by academic employees of the district.

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 05. Equal Employment Opportunity

History Index for
Title 5, California Code of Regulations

Section 51010
Section 53000
Section 53001
Section 53002
Section 53003
Section 53004
Section 53005
Section 53006
Section 53020
Section 53021
Section 53022
Section 53023
Section 53024
Section 53025
Section 53026
Section 53027
Section 53030
Section 53033
Section 53034

Register 77-30 New Chapter 1 (§§ 53000 - 53004).

Register 82-06 Repealer of Chapter 1 (Subchapter 1, §§ 53000 - 53004) and new Chapter 1 (Subchapters 1 - 4, §§ 53000 - 53052, not consecutive).

Register 82-09 § 53023: New section filed.

Register 83-29 Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000-51021, not consecutive).

Register 90-45 § 53060: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53061: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53062: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53063: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

§ 53064: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State.

Register 91-23 § 51010: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-31 § 53061: Editorial correction of printing error in subsection (c).

Register 92-17 § 53000: Repealed; new section filed.

§ 53001: Repealed; new section filed.

§ 53002: Repealed, new section filed.

§ 53003: Repealed, new section filed.

§ 53004: Repealed, new section filed.

§ 53005: Repealed, new section filed.

§ 53010: Repealed.

§ 53011: Repealed.

§ 53012: Repealed.

§ 53020: Repealed, new section filed.

§ 53021: Repealed, new section filed.

§ 53022: Repealed, new section filed.

§ 53023: Repealed, new section filed.

§ 53024: Repealed, new section filed.

§ 53025: Repealed, new section filed.

§ 53026: Repealed, new section filed.

§ 53027: Repealed, new section filed.

§ 53028: Repealed.

§ 53029: Repealed.

§ 53030: Repealed, new section filed.

§ 53031: Repealed, new section filed.

§ 53032: New section filed.

§ 53033: New section filed.

§ 53034: New section filed.

§ 53040: Repealed.

§ 53041: Repealed.

§ 53042: Repealed.

§ 53043: Repealed.

§ 53044: Repealed.

§ 53045: Repealed.

§ 53046: Repealed.

§ 53049: Repealed.

§ 53050: Repealed.

§ 53051: Repealed.

§ 53052: Repealed.

§ 53060: Repealed.

§ 53061: Repealed.

§ 53062: Repealed.

§ 53063: Repealed.

§ 53064: Repealed.

Register 94-38 § 51010: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53001: Amendment of subsections (a), (b)(1) - (b)-(3), (c), (k) and (m). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53002: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53003: Amendment of subsections (c)(4) and (7). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53020: Amendment of subsections (a) and (c). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53021: Amendment of subsections (b) and (d)-(e)(2). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53025: Amendment of section and NOTE. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53026: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53030: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5..

§ 53031: Amendment of subsection (a). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51010: Editorial correction of HISTORY 1.

Register 96-23 § 53000: Amendment of subsection (a) and NOTE. Submitted to OAL for printing only.

§ 53001: Amendment of subsections (a), (b), (e), (f), (h), (j), and (m), new subsections (m)(1)-(q)(3), and amendment of NOTE. Submitted to OAL for printing only.

§ 53003: Amendment of subsections (b), (c), and (c)(7), new

subsections (c)(8)-(9) and subsection renumbering, amendment of newly designated subsection (c)(10), and new subsection (f). Submitted to OAL for printing only.

§ 53004: Amendment of subsections (a) and (b). Submitted to OAL for printing only.

§ 53006: New section added. Submitted to OAL for printing only.

§ 53021: Amendment of subsections (a) and (b)(1)-(b)(2), repealer of subsection (b)(3), amendment of subsections (c), (d) and (e)(1)-(e)(4) and new subsection (e)(5). Submitted to OAL for printing only.

§ 53023: Amendment of subsections (a) and (b), repealer of subsection (b)(2) and subsection renumbering, and amendment of subsection (c)(2). Submitted to OAL for printing only.

§ 53024: Amendment of subsections (a)(2)-(c), (e) and (g). Submitted to OAL for printing only.

§ 53025: Repealer of subsections (a) and (b) and deletion of subsection designator. Submitted to OAL for printing only.

§ 53030: Amendment of subsections (b) and (b)(3) and repealer of subsections (b)(4) and (b)(5). Submitted to OAL for printing only.

§ 53031: Repealed. Submitted to OAL for printing only.

§ 53032: Repealed. Submitted to OAL for printing only.

§ 53033: Amendment of section. Submitted to OAL for printing only.

Register 2001-06 § 53002: Amendment of section. Submitted to OAL for printing only.

Register 2002-35 § 53000: Amendment of subchapter heading, section and NOTE. Submitted to OAL for printing only.

§ 53001: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53002: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53003: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53004: Amendment of subsections (a) and (b) and amendment of NOTE. Submitted to OAL for printing only.

§ 53005: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53006: Amendment of section heading, section and NOTE. Submitted to OAL for printing only.

§ 53020: Amendment of section and NOTE. Submitted to OAL for

printing only.

§ 53021: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53022: Amendment of section heading, section and NOTE. Submitted to OAL for printing only.

§ 53024: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53025: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53026: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53027: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53030: Amendment of section heading, section and NOTE. Submitted to OAL for printing only.

§ 53033: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 53034: Amendment of section and NOTE. Submitted to OAL for printing only.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1977-30

§§ 53000 - 53004

DIVISION 4. EMPLOYEES

Detailed Analysis

CHAPTER 1. PROVISIONS RELATING TO ALL EMPLOYEES

SUBCHAPTER 1. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Section
53000. Rationale and Intent
53001. Definitions
53002. Responsibilities of the Chancellor
53003. Responsibilities of Community College Districts
53004. Minimum Standards

CHAPTER 2. CERTIFICATED POSITIONS

SUBCHAPTER 1. SPECIAL NON-CREDENTIALED EMPLOYEES

Section
53100. Prerequisites for Employment Under Education Code Section 25423.5
53101. Processing of Fingerprint Cards
53102. Cause for Dismissal
53103. Report of Persons Employed

SUBCHAPTER 1.5. SICK LEAVE TRANSFER

Section
53125. Transfer of Accumulated Sick Leave

SUBCHAPTER 2. ACADEMIC SENATES

Section
53200. Definitions
53201. Academic Senate or Faculty Council
53202. Formation; Procedures; Membership
53203. Powers
53204. "Meet and Confer"
53205. Duties Assigned by Administration and Governing Board

CHAPTER 3. CLASSIFIED POSITIONS (No Provisions)

CHAPTER 1. PROVISIONS RELATING TO ALL EMPLOYEES

SUBCHAPTER 1. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

53000. Rationale and Intent. (a) Community Colleges have an obligation to promote cultural, racial, and human understanding within the communities they serve as well as within their spheres of influence.

(b) It is educationally sound for all students attending California Community Colleges to have available positive images provided by individuals from historically underrepresented groups, and to observe that such individuals can assume responsible and diverse roles in society.

(c) The richness which cultural and racial diversity brings to our national heritage and the exercise of democratic principles can best be taught in the presence of staffs of mixed races and ethnic groups as well as both sexes working toward mutually established goals.

(d) Efforts toward the adoption of affirmative action and equal employment opportunity policies and programs, leading to successful recruitment, employment and promotion of historically under-represented groups, should be increased.

(e) These regulations and the guidelines developed hereunder are aimed not only at correction of employment deficiencies but seek to improve and strengthen the total personnel programs of the California Community Colleges by providing opportunities for equitable consideration of all candidates for employment and promotion.

(f) The Board of Governors of the California Community Colleges reaffirms its commitment to equal employment opportunities. It emphasizes the determination that those practices employed by California Community College districts which result in certain groups of job applicants being excluded and/or underrepresented in the institution's workforce be eliminated and that the results of their employment practices through affirmative action will be increased representation and retention of historically underrepresented groups as defined by Federal regulations.

(g) Policies which call for efforts to promote action in the recruitment, employment, and promotion of persons, regardless of race, color, religion, national origin, sex, age, handicap, or marital status, should be more than proclamations of nondiscrimination in employment practice but should be affirmative and result-oriented efforts to produce a substantial increase in employment opportunities of underrepresented groups, in all areas and at all levels, including executive, administrative, and managerial.

(h) Since past efforts of Community College districts have been constrained by the multiplicity of Federal and State regulations and changing definitions within these regulations, guidelines are needed in order to provide assistance to Community College districts in implementing the provisions of this subchapter. Such guidelines shall be designed by the Chancellor's Office of the California Community Colleges to clarify and consolidate existing regulations and to respond to future additions and modifications to Federal and State regulations.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71062 and 71068, Education Code. Reference: Sections 66700, 71023, 71025 and 71068, Education Code.

History: 1. New Chapter 1 (Sections 53000–53004) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).

53001. Definitions. As used in this subchapter:

(a) **Affirmative Action Programs.** "Affirmative action programs" means all the various methods by which equal employment opportunity for all is made a reality. Equal employment opportunity is a condition, and affirmative action is the means by which the condition is achieved. Further, an affirmative action program with goals and timetables is a set of specific and result-oriented procedures. The objective of such a program is to achieve equal employment opportunity by recognizing and overcoming the effects of past discrimination in employment.

(b) **Board of Governors.** "Board of Governors" means the Board of Governors of the California Community Colleges.

(c) **Chancellor.** "Chancellor" means the Chancellor of the California Community Colleges.

(d) **College.** "College" means a public Community College established pursuant to laws of this state.

(e) **District.** "District" means any college district in California that maintains one or more colleges pursuant to the provisions of the Education Code.

(f) **Ethnic Minorities.** "Ethnic minorities" means those protected ethnic minority groups so designated by Federal compliance agencies and includes Alaskan Natives/American Indians, Asians or Pacific Islanders, Blacks, and Hispanics.

(g) **Goals and Timetables.** "Goals and timetables" means projected new levels of employment of women and historically underrepresented ethnic minority groups as specified in Federal regulations to be worked toward on a specific schedule, given the expected turnover in the workforce and the availability of persons who are qualified through appropriate training or experience within a reasonable length of time. Goals are not "quotas" or rigid proportions. Quantitative measurements should only be used as management tools to assess the over-all effectiveness of the programs. They should relate both to the qualitative and quantitative needs of the district.

(h) **Handicapped Person.** "Handicapped person" is any individual who has or had a physical or mental disability who is otherwise qualified for employment, and who can perform the functions of the job when the district makes a reasonable physical accommodation in work location.

(i) **Historically underrepresented groups.** "Historically underrepresented groups" means women, ethnic minorities, handicapped persons, and persons forty to sixty-five years of age.

53002. Responsibilities of the Chancellor. The Chancellor shall provide guidelines for the development of policies, programs and procedures for affirmative action and equal employment opportunity programs. The Chancellor shall render assistance to Community Colleges in carrying out the provisions of this subchapter. These guidelines shall be available no later than July 1, 1977. The Chancellor shall review and approve programs submitted by districts pursuant to Section 53003.

The Chancellor shall report biannually to the Board of Governors on the progress of all California Community College districts in meeting the provisions of this subchapter.

53003. Responsibilities of Community College Districts. (a) The governing board of each California Community College district shall adopt by resolution an Affirmative Action Employment policy which will outline the district's commitment to implement "affirmatively" equal employment opportunity programs for all employees and applicants for employment regardless of race, color, religion, sex, national origin, age, handicap, or marital status. This policy shall cover all aspects of personnel policy and practice.

Each affirmative action and equal employment opportunity program designed to implement the adopted policy shall comply with the provisions of this subchapter. The policy statement shall be adopted no later than January 1, 1978.

(b) Each district shall develop and adopt a district-wide affirmative action and equal employment opportunity program to be submitted in writing for review and approval to the Chancellor no later than July 1, 1978. Documents submitted by districts shall become public records and shall be treated as such by the Chancellor's Office.

(c) Each affirmative action and equal employment opportunity program shall include goals and timetables for the implementation of these goals, including adequate enforcement procedures.

(d) Districts shall report every two years to the Chancellor in a manner designated by the Chancellor, their progress in reaching affirmative action goals.

(e) Such program shall provide adequate safeguards for the privacy of employees and prospective employees and shall include a requirement that no person be subjected to sanctions or discriminatory action for failing to identify himself or herself by age, race, color, ethnicity or religion.

53004. Minimum Standards. Policies and programs as provided herein shall constitute minimum standards within the meaning of Education Code Section 71025.

Register 1982-06

§ 53000
§ 53001
§ 53002
§ 53003
§ 53004
§ 53005
§ 53010
§ 53011
§ 53012
§ 53020
§ 53021
§ 53022
§ 53024
§ 53025
§ 53026
§ 53027
§ 53028
§ 53029
§ 53030
§ 53040
§ 53041
§ 53042
§ 53043
§ 53044
§ 53045
§ 53046
§ 53049
§ 53050
§ 53051
§ 53052

CHAPTER 1. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

SUBCHAPTER 1. GENERAL

53000. Rationale and Intent.

(a) Community Colleges have an obligation to promote cultural, racial, and human understanding within the communities they serve as well as within their spheres of influence.

(b) It is educationally sound for all students attending California Community Colleges to have available positive images provided by individuals from historically underrepresented groups, and to observe that such individuals can assume responsible and diverse roles in society.

(c) The richness which cultural and racial diversity brings to our national heritage and the exercise of democratic principles can best be taught in the presence of staffs of mixed races and ethnic groups as well as both sexes working toward mutually established goals.

(d) Efforts toward the adoption of affirmative action and equal employment opportunity policies and programs, leading to successful recruitment, employment and promotion of historically underrepresented groups, should be increased.

(e) The intent of these regulations and the guidelines developed hereunder is not only to correct employment deficiencies but to seek to improve and strengthen the total personnel programs of the California Community Colleges by providing opportunities for equitable consideration of all candidates for employment and promotion.

(f) The Board of Governors of the California Community Colleges reaffirms its commitment to equal employment opportunities. It emphasizes the determination that those practices employed by California Community College districts which result in certain groups of job applicants being excluded and/or underrepresented in the institution's work force be eliminated and that the results of their employment practices through affirmative action will be increased representation and retention of historically underrepresented groups as defined by federal regulations.

(g) Policies which call for efforts to promote action in the recruitment, employment, and promotion of persons, regardless of race, color, religion, national origin, sex, age, handicap, or marital status, should be more than proclamations of nondiscrimination in employment practice but should be affirmative and result-oriented efforts to produce a substantial increase in employment opportunities of underrepresented groups, in all areas and at all levels, including executive, administrative, and managerial.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87100, Education Code.

HISTORY:

1. New Chapter 1 (Sections 53000–53004) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).
2. Repealer of Chapter 1 (Subchapter 1, Sections 53000–53004) and new Chapter 1 (Subchapters 1–4, Sections 53000–53052, not consecutive) filed 2-1-82; effective thirtieth day thereafter (Register 82, No. 6).

53001. Definitions.

As used in this subchapter:

(a) Affirmative Action Programs. "Affirmative action programs" means all the various methods by which equal employment opportunity for all is made a reality. Equal employment opportunity is a condition, and affirmative action is the means by which the condition is achieved. Further, an affirmative action program with goals and timetables is a set of specific and result-oriented procedures. The objective of such a program is to achieve equal employment opportunity by recognizing and overcoming the effects of past discrimination in employment. Affirmative action programs specifically address the underrepresentation of ethnic minorities, women, handicapped persons and Vietnam-Era veterans in the labor market and in certain employment classifications.

(b) Affirmative Action Plan. The "Affirmative Action Plan" is a written plan in which a district's work force is analyzed and includes a plan of specific result-oriented procedures to insure equal employment opportunity and proportionate representation of qualified representatives of protected class members.

(c) Business Necessity. "Business necessity" means circumstances necessitating an employment practice. Business necessity exists where the employment practice is necessary to avoid substantial extra costs or human risk. Business necessity requires greater cost than does mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

(d) Equal Employment Opportunity. "Equal employment opportunity" is the goal of affirmative action programs. It means that individuals must have access to employment and are not to be excluded from participation in any employment process, advancement, or benefits of employment because of their race, color, religion, sex, national origin, age, marital status or handicap.

(e) Ethnic Minorities. "Ethnic minorities" means those protected ethnic minority groups so designated by federal compliance agencies for goal-setting and includes Alaskan Natives/American Indians, Asians or Pacific Islanders, Blacks, and Hispanics.

A person may be included in the group to which he or she appears to belong, identifies as his or her group, or is regarded in the community as belonging, but shall be counted in only one ethnic group.

(1) American Indian or Alaskan Native means all persons having origins in any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.

(2) Asian or Pacific Islanders means all persons having origins in any of the original peoples of the Far East, Southeast Asia or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, Samoa, and the Indian subcontinent.

(3) Black (not of Hispanic origin) means all persons having origins in any of the black racial groups of Africa.

(4) Hispanic means all persons of Chicano, Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.

(f) Filipino. "Filipino" means all persons having origins in the original peoples of the Philippine Islands. Filipinos are to be counted and reported as part of the Asian/Pacific Islander group as well as in a separate group as required by state law. However, in the goal-setting process, separate employment goals are not needed for Filipinos.

(g) White Persons. "White persons" means all persons having origins in any of the original peoples of Europe, North Africa, the Middle East, and not of Hispanic origin.

(h) Goals and Timetables. "Goals and timetables" means projected new levels of employment of women and historically underrepresented ethnic minority groups as specified in federal regulations to be worked toward on a specific schedule, given the expected turnover in the work force and the availability of persons who are qualified through appropriate training or experience within a reasonable length of time. Goals are not "quotas" or rigid proportions. Quantitative measurements should only be used as management tools to assess the overall effectiveness of the programs. They should relate both to the qualitative and quantitative needs of the district.

Filipinos shall be included in the Asian/Pacific Islander group for goal setting purposes.

(i) Handicapped Persons. "Handicapped person" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment or (3) is regarded as having such an impairment. A handicapped individual is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of a handicap.

(j) Protected Groups. "Protected groups" means ethnic minorities, women, handicapped persons and Vietnam-era veterans.

(k) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the employer to remove artificial or real barriers, which prevent or limit the employment and upward mobility of disabled persons.

(*l*) Sexual Harassment. "Sexual harassment" means unwelcome sexual conduct which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87101, Education Code; Section 11092, Government Code; 29 C.F.R. 1602.48 (1981); 29 U.S.C. 793; 41 C.F.R. 60-741-2 (1980).

53002. District Affirmative Action Policy.

The governing board of each California Community College district shall adopt by resolution an Affirmative Action Employment policy which will outline the district's commitment to implement "affirmatively" equal employment opportunity programs for all employees and applicants for employment regardless of race, color, religion, sex, national origin, age, handicap, status as a Vietnam-era veteran, or marital status. This policy shall cover all aspects of personnel policy and practice for all personnel.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

53003. District Affirmative Action Plan.

(a) Each community college district shall develop and adopt a district-wide written affirmative action and equal employment opportunity plan to implement its Affirmative Action Policy. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) Each community college district shall revise its affirmative action goals and timetables every three years and submit them to the Chancellor's Office for approval. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its affirmative action plan.

(c) The plans submitted to the Chancellor shall be public records.

(d) Each community college district shall make a continuous good faith effort to comply with the requirements of its affirmative action plan.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

53004. District Evaluation and Report to Chancellor.

Each district shall annually survey its employment patterns in an effort to evaluate its progress in reaching the goals set forth in its affirmative action plan. Each district shall annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey.

The Chancellor's Office shall seek field input from community college districts in developing reporting formats.

NOTE: Authority cited: Sections 71020, 71025, 71060 and 87105, Education Code. Reference: Section 87100, Education Code.

53005. Minimum Standards.

The compliance with the requirements of Sections 53002, 53003, 53004, and 53021 shall be a minimum standard which a community college district must satisfy to receive state aid.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 71025 and 87100, Education Code.

SUBCHAPTER 2. RESPONSIBILITIES OF THE CHANCELLOR

53010. Assistance.

The Chancellor shall provide guidelines for the development of policies, programs and procedures for affirmative action and equal employment opportunity programs. The Chancellor shall cooperate with and render assistance to community colleges in carrying out the provisions of this subchapter. The Chancellor shall review and approve programs submitted by districts pursuant to Section 53003.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87103, Education Code.

53011. Report.

The Chancellor shall report annually to the Board of Governors and Legislature on the progress and/or effectiveness of all California Community College districts in meeting the provisions of this chapter.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87104, Education Code.

53012. Periodic Evaluation.

The Chancellor shall periodically evaluate community college districts to determine their compliance with the requirements of their affirmative action plans and this chapter. If the Chancellor finds that a district has failed to substantially comply with the requirements of its plan, the Chancellor shall offer assistance and take whatever action he or she deems necessary to effect compliance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87102, Education Code.

SUBCHAPTER 3. RESPONSIBILITIES OF COMMUNITY COLLEGE DISTRICTS

53020. Implement Affirmative Action Plan.

The means specified in this subchapter are the essential requirements for implementing a district affirmative action plan.

NOTE: Authority cited: Sections 71020 and 87105, Education Code; Section 11138, Government Code. Reference: Section 87102, Education Code.

53021. Recruitment.

Community college districts shall undertake a program of verifiable affirmative action recruitment for protected group members in all job categories which reflect underrepresentation, including categorically funded positions and in all executive/administrative/managerial positions. Upward mobility programs may be used in conjunction with a recruitment effort when it promotes the goals of the district's affirmative action plan. "In house" or "promotional only" recruitment shall not be used except when "business necessity" dictates.

NOTE: Authority cited: Sections 71020 and 87105, Education Code; Section 11138, Government Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980); Section 87100, Education Code.

53022. Job Announcements.

Job announcements shall state clearly job specifications setting forth those skills necessary to job performance and the required training and experience related to those skills. The requirements are to be based on a careful analysis of the job. Only bona fide occupational qualifications may be included in job announcements.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980); Section 87100, Education Code.

53024. Screening.

All selection testing for employees shall follow procedures as outlined in Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures." Selection procedures established in the district's affirmative action plan shall be used to identify a reasonable number of qualified candidates for interviews for all recruited positions.

Selection committees shall include members of protected groups whenever possible.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980); 29 C.F.R. 1607 (1978).

53025. Agents.

Any individual or group of individuals acting on behalf of the local governing board for the recruitment and screening of personnel, including superintendentships, are agents of the district and subject to all state and federal laws and regulations.

NOTE: Authority cited: Sections 71020 and 87105, Education Code; Section 11138, Government Code. Reference: Section 87100, Education Code.

53026. Selection Procedure.

(a) Selection devices such as interviews shall be solely based on job-related requirements.

(b) The Affirmative Action Officer shall ensure that the entire selection process shall be solely based on job-related criteria, a fair impartial examination of the candidates based on job-related criteria, with job-related questions prepared in advance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980).

53027. Final Selection.

(a) The results of the selection procedures shall be reviewed by the affirmative action officer to ensure that selection of a qualified candidate is supported by factual data and that the elimination of other candidates is based upon bona fide occupational qualifications.

(b) Throughout the entire selection process, the Affirmative Action Officer is responsible for monitoring for adverse impact. If discriminatory intent or effect is identified, the Affirmative Action Officer shall implement solutions and/or confer with the chief administrative officer or designee of the district or college to determine necessary remedies.

(c) Length of service in the district shall not be used as the sole determinant for decisions affecting hiring and promotions.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980).

53028. Affirmative Action Commitment.

All employment practices, including selection, assignment, promotion, transfer, demotion, or termination decisions, shall be based on job-related factors which include qualifications and capabilities. Seniority shall be considered only where required by law. The goals of the affirmative action program shall also be designed to meet the special needs and aspirations of minority groups, students and the community in counseling, bilingual/multicultural education, and school-staff mobility.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

53029. Handicapped.

Districts shall make reasonable accommodation for the handicapped applicant or employee.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code; Section 11135, Government Code; 29 U.S.C. 705 and 706.

53030. Sexual Harassment Policy.

A work place free of sexual harassment and intimidation shall be maintained.

NOTE: Authority cited: Sections 71020, 71068 and 87105, Education Code; Section 11138, Government Code. Reference: 42 U.S.C. 2000e, et seq.; 29 C.F.R. 1604.11 (1981).

SUBCHAPTER 4. ESSENTIAL ELEMENTS OF AN AFFIRMATIVE ACTION PLAN

53040. Governing Board's Affirmative Action Employment Policy Statement.

Each affirmative action plan shall have a written policy statement adopted by the district governing board which sets forth the district's obligation and commitment to equal employment opportunity through affirmative action. The statement must include a plan to ensure nondiscrimination in employment, promotion, transfer, and assignment on the basis of race, color, religion, national origin, sex, age, handicap, status as Vietnam-era veteran and/or marital status. This plan must be applied to all levels of employment procedure and to all position classifications.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Section 87101, Education Code; Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 20 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980).

53041. Affirmative Action Responsibilities and Duties.

The affirmative action plan shall state that the community college district governing board and the chief district administrator have the overall responsibility for ensuring affirmative action and equal employment opportunity including, but not limited to, recruitment, assignment, promotion, retention, compensation, and training; and for improving representation of minority racial and ethnic groups, women, handicapped persons and Vietnam-era veterans.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

53042. Affirmative Action Officer.

In the affirmative action plan the community college district shall designate an affirmative action officer to administer the affirmative action program. This officer shall report to the chief district administrator or designee who reports to the chief district administrator.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

53043. Internal Dissemination.

The affirmative action plan shall require that all district employees shall be apprised of the equal employment opportunity/affirmative action policy, affirmative action plan, and the importance of the employee's participation and responsibility in ensuring the plan's implementation.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

53044. External Dissemination.

The affirmative action plan shall require that a written notice be provided at least annually to various community organizations concerning the district's affirmative action policy and to solicit their assistance in recruiting ethnic minority, female, handicapped, and Vietnam-era veteran candidates.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

53045. Complaint Procedure.

The district affirmative action plan shall state that an employee or applicant for employment may file a complaint with the district affirmative action officer alleging that the district has failed to satisfy the requirements of this chapter. The affirmative action plan shall state the district's procedure for responding to complaints.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

53046. Work Force Analysis.

Each affirmative action plan shall contain a work force analysis in which the district shall determine statistically the racial, ethnic, and sex composition of existing staff by the following seven job categories:

Executive/Administrative/Managerial, Faculty and Other Instructional Staff, Professional Nonfaculty, Secretarial/Clerical, Technical and Paraprofessional, Skilled Crafts, Service and Maintenance.

Districts shall supply the information required by the Chancellor's Office Information System, Staff Data File.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

53049. Utilization Analysis.

The affirmative action plan shall include a utilization analysis that includes a determination of whether minorities and women are being underrepresented or underutilized in any job category. The district shall consider the numbers and percentages of staff in each position category within each of the job categories by ethnic and sex classification compared with the general availability of minorities and women in the relevant work force having requisite skills to fill vacancies as they occur.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980).

53050. Corrective Action.

The affirmative action plan shall require that when imbalances exist in the various job categories of the district work force, district practices and policies must be examined to determine the factors contributing to the imbalance. Employment practices within the personnel system which constitute barriers to equal opportunity shall be identified and corrective action designed to eliminate the barriers.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980).

53051. Goals and Timetables.

The affirmative action plan shall require that affirmative action programs be designed to eliminate discriminatory employment practices. Goals, timetables, and affirmative action commitments must be designed to correct any identifiable deficiencies in representation from ethnic minority groups and women at all employment levels within the district.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980).

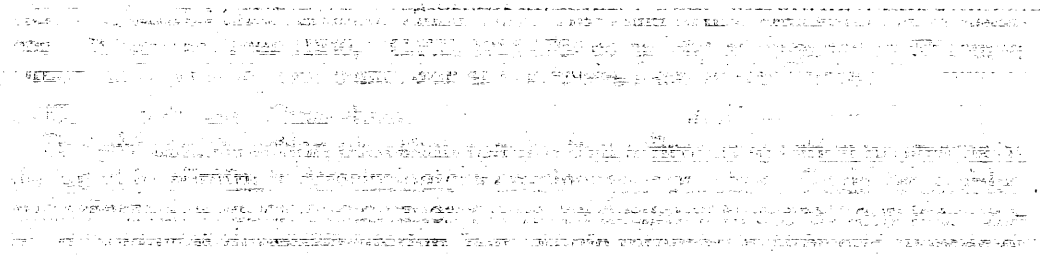
53052. Affirmative Action Advisory Committee.

The district affirmative action plan shall require that an affirmative action advisory committee be established to assist the district to achieve understanding and support of affirmative action/equal employment opportunity policies and programs, and shall assist in developing the affirmative action program in conformity with state and federal statutes, regulations, and guidelines, monitoring its progress and acting as an advisory body to the affirmative action officer. The membership of the Affirmative Action Advisory Committee shall include ethnic minorities, women, the handicapped and Vietnam-era veterans whenever possible.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

Register 1982-09

§ 53023



SUBCHAPTER 2. RESPONSIBILITIES OF THE CHANCELLOR

53010. Assistance.

The Chancellor shall provide guidelines for the development of policies, programs and procedures for affirmative action and equal employment opportunity programs. The Chancellor shall cooperate with and render assistance to community colleges in carrying out the provisions of this subchapter. The Chancellor shall review and approve programs submitted by districts pursuant to Section 53003.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87103, Education Code.

53011. Report.

The Chancellor shall report annually to the Board of Governors and Legislature on the progress and/or effectiveness of all California Community College districts in meeting the provisions of this chapter.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87104, Education Code.

53012. Periodic Evaluation.

The Chancellor shall periodically evaluate community college districts to determine their compliance with the requirements of their affirmative action plans and this chapter. If the Chancellor finds that a district has failed to substantially comply with the requirements of its plan, the Chancellor shall offer assistance and take whatever action he or she deems necessary to effect compliance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87102, Education Code.

SUBCHAPTER 3. RESPONSIBILITIES OF COMMUNITY COLLEGE DISTRICTS

53020. Implement Affirmative Action Plan.

The means specified in this subchapter are the essential requirements for implementing a district affirmative action plan.

NOTE: Authority cited: Sections 71020 and 87105, Education Code; Section 11138, Government Code. Reference: Section 87102, Education Code.

53021. Recruitment.

Community college districts shall undertake a program of verifiable affirmative action recruitment for protected group members in all job categories which reflect underrepresentation, including categorically funded positions and in all executive/administrative/managerial positions. Upward mobility programs may be used in conjunction with a recruitment effort when it promotes the goals of the district's affirmative action plan. "In house" or "promotional only" recruitment shall not be used except when "business necessity" dictates.

NOTE: Authority cited: Sections 71020 and 87105, Education Code; Section 11138, Government Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980); Section 87100, Education Code.

53022. Job Announcements.

Job announcements shall state clearly job specifications setting forth those skills necessary to job performance and the required training and experience related to those skills. The requirements are to be based on a careful analysis of the job. Only bona fide occupational qualifications may be included in job announcements.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980); Section 87100, Education Code.

53023. Applicant Pool.

All applicants shall be given an opportunity to identify themselves as being a member of a protected group when their application is submitted for purposes of monitoring employment practices. This confidential information will be maintained in the affirmative action office for use in research and in evaluating the effectiveness of the district's affirmative action program.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965, comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967, comp. 320; 41 C.F.R. 60–2.; 29 U.S.C. 793; 41 C.F.R. 60–741; 38 U.S.C. 2012; 41 C.F.R. 60–250.

HISTORY:

1. New section filed 2-26-82; designated effective 2-28-82 pursuant to Government Code Section 11346.2(d) (Register 82, No. 9).

53024. Screening.

All selection testing for employees shall follow procedures as outlined in Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures." Selection procedures established in the district's affirmative action plan shall be used to identify a reasonable number of qualified candidates for interviews for all recruited positions.

Selection committees shall include members of protected groups whenever possible.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1–3.2, et seq. (1980); 29 U.S.C. 793; 41 C.F.R. 60-741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1–.9, et seq. (1980); 29 C.F.R. 1607 (1978).

53025. Agents.

Any individual or group of individuals acting on behalf of the local governing board for the recruitment and screening of personnel, including superintendentships, are agents of the district and subject to all state and federal laws and regulations.

NOTE: Authority cited: Sections 71020 and 87105, Education Code; Section 11138, Government Code. Reference: Section 87100, Education Code.

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

Register 1990-45

§ 53060
§ 53061
§ 53062
§ 53063
§ 53064

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

§ 53046. Work Force Analysis.

Each affirmative action plan shall contain a work force analysis in which the district shall determine statistically the racial, ethnic, and sex composition of existing staff by the following seven job categories:

Executive/Administrative/Managerial, Faculty and Other Instructional Staff, Professional Nonfaculty, Secretarial/Clerical, Technical and Paraprofessional, Skilled Crafts, Service and Maintenance.

Districts shall supply the information required by the Chancellor's Office Information System, Staff Data File.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

§ 53049. Utilization Analysis.

The affirmative action plan shall include a utilization analysis that includes a determination of whether minorities and women are being underrepresented or underutilized in any job category. The district shall consider the numbers and percentages of staff in each position category within each of the job categories by ethnic and sex classification compared with the general availability of minorities and women in the relevant work force having requisite skills to fill vacancies as they occur.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

§ 53050. Corrective Action.

The affirmative action plan shall require that when imbalances exist in the various job categories of the district work force, district practices and policies must be examined to determine the factors contributing to the imbalance. Employment practices within the personnel system which constitute barriers to equal opportunity shall be identified and corrective action designed to eliminate the barriers.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

§ 53051. Goals and Timetables.

The affirmative action plan shall require that affirmative action programs be designed to eliminate discriminatory employment practices. Goals, timetables, and affirmative action commitments must be designed to correct any identifiable deficiencies in representation from ethnic minority groups and women at all employment levels within the district.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp.

§ 53052. Affirmative Action Advisory Committee.

The district affirmative action plan shall require that an affirmative action advisory committee be established to assist the district to achieve understanding and support of affirmative action/equal employment opportunity policies and programs, and shall assist in developing the affirmative action program in conformity with state and federal statutes, regulations, and guidelines, monitoring its progress and acting as an advisory body to the affirmative action officer. The membership of the Affirmative Action Advisory Committee shall include ethnic minorities, women, the handicapped and Vietnam-era veterans whenever possible.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

§ 53060. Fund Allocation.

Prior to the end of the fiscal year preceding the year of allocation, the Chancellor shall recommend to the Board of Governors an allocation formula for distribution of the Faculty and Staff Diversity Fund established pursuant to Education Code section 87170. The allocation shall be consistent with the following:

(a) A proportion of the fund, but not more than 25 percent, shall be set aside for the purposes of Education Code section 87107(c), provided that:

(1) sufficient funds to provide technical assistance, service, monitoring, and compliance functions shall be designated from these monies; and

(2) the remainder of these funds shall be distributed on the basis of the average daily attendance or full-time equivalent students of each district as a proportion of the total average daily attendance or full-time equivalent for all districts. These funds are to be used to reimburse costs as specified in Education Code section 87107.

(b) That portion of the funds not allocated pursuant to subsection (a) may be allocated to the districts in the following five categories:

(1) an amount proportional to the average daily attendance or full-time equivalent students of each district to the total average daily attendance or full-time equivalent students for all districts;

(2) an equal dollar amount to each district;

(3) an amount related success in employing ethnic minorities in EEO6 categories 1 through 3 (professional positions);

(4) an amount related to success in employing ethnic minorities in EEO6 categories 4 through 7 (non-professional positions); and

(5) an amount related to past success in employing ethnic minorities, women and, persons with disabilities, as evidenced by the proportion of ethnic minority and women staff in each of the EEO6 categories and for the proportion of persons with disabilities in the general staff. The inclusion of persons with disabilities will commence with the Fiscal Year 1991–92 allocation.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53061. Success.

For the purpose of this subchapter, "success" is defined as:

(a) for ethnic minorities, a hiring rate of 30 percent (30%) in each of the professional occupational areas and a hiring rate equivalent to the Standard Metropolitan Statistical Area (SMSA)/county availability rate, as provided by the Chancellor's Office, in each of the non-professional occupational areas;

(b) a hiring and staffing rate for women and a staffing rate for ethnic minorities equivalent to the availability rate, as provided by the Chancellor's Office; and

(c) an overall staffing rate for persons with disabilities equivalent to the general availability rate, as provided by the Chancellor's Office

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53062. Point Factors.

(a) In determining the sub-allocations for section 53060(b)(3), (4), (5), a point-factor system shall be used. A district will receive points as shown below for (1) each of the above sections dealing with ethnic minorities and women in each EEO6 category, based on the latest annual survey required under section 53004 of this chapter; and (2) the total hiring reported in the section 53004 survey, or in a special survey of persons with disabilities, if necessary.

Degree of Success	*Proportion of Goal Met*	*Points*
None	0.00 %	0
Low	0.01 – 33.32 %	1
Moderate	33.33 – 66.66 %	2
High	66.67 – 99.99 %	3
Successful	100.00 %	4

(b) For each district, a statistical quantity will be calculated for each EEO6 category, or on the total staffing in the case of persons with disabilities, based on the ratio of points awarded to the district, divided by the total points awarded to all districts. The sum of a district's category calcu-

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

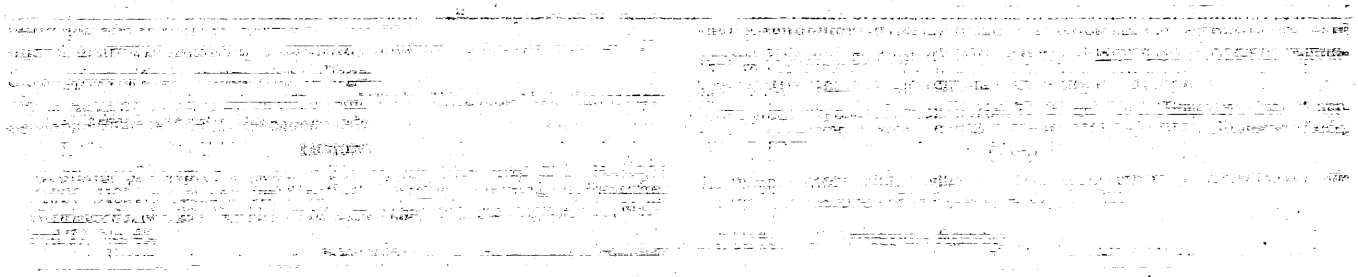
HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,



NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

§ 53048. Work Force Analysis.

Each affirmative action plan shall contain a work force analysis in which the district shall determine statistically the racial, ethnic, and sex composition of existing staff by the following seven job categories:

Executive/Administrative/Managerial, Faculty and Other Instructional Staff, Professional Nonfaculty, Secretarial/Clerical, Technical and Paraprofessional, Skilled Crafts, Service and Maintenance.

Districts shall supply the information required by the Chancellor's Office Information System, Staff Data File.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

§ 53049. Utilization Analysis.

The affirmative action plan shall include a utilization analysis that includes a determination of whether minorities and women are being underrepresented or underutilized in any job category. The district shall consider the numbers and percentages of staff in each position category within each of the job categories by ethnic and sex classification compared with the general availability of minorities and women in the relevant work force having requisite skills to fill vacancies as they occur.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

§ 53050. Corrective Action.

The affirmative action plan shall require that when imbalances exist in the various job categories of the district work force, district practices and policies must be examined to determine the factors contributing to the imbalance. Employment practices within the personnel system which constitute barriers to equal opportunity shall be identified and corrective action designed to eliminate the barriers.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

§ 53051. Goals and Timetables.

The affirmative action plan shall require that affirmative action programs be designed to eliminate discriminatory employment practices. Goals, timetables, and affirmative action commitments must be designed to correct any identifiable deficiencies in representation from ethnic minority groups and women at all employment levels within the district.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp.

§ 53052. Affirmative Action Advisory Committee.

The district affirmative action plan shall require that an affirmative action advisory committee be established to assist the district to achieve understanding and support of affirmative action/equal employment opportunity policies and programs, and shall assist in developing the affirmative action program in conformity with state and federal statutes, regulations, and guidelines, monitoring its progress and acting as an advisory body to the affirmative action officer. The membership of the Affirmative Action Advisory Committee shall include ethnic minorities, women, the handicapped and Vietnam-era veterans whenever possible.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

§ 53060. Fund Allocation.

Prior to the end of the fiscal year preceding the year of allocation, the Chancellor shall recommend to the Board of Governors an allocation formula for distribution of the Faculty and Staff Diversity Fund established pursuant to Education Code section 87170. The allocation shall be consistent with the following:

(a) A proportion of the fund, but not more than 25 percent, shall be set aside for the purposes of Education Code section 87107(c), provided that:

(1) sufficient funds to provide technical assistance, service, monitoring, and compliance functions shall be designated from these monies; and

(2) the remainder of these funds shall be distributed on the basis of the average daily attendance or full-time equivalent students of each district as a proportion of the total average daily attendance or full-time equivalent for all districts. These funds are to be used to reimburse costs as specified in Education Code section 87107.

(b) That portion of the funds not allocated pursuant to subsection (a) may be allocated to the districts in the following five categories:

(1) an amount proportional to the average daily attendance or full-time equivalent students of each district to the total average daily attendance or full-time equivalent students for all districts;

(2) an equal dollar amount to each district;

(3) an amount related success in employing ethnic minorities in EEO6 categories 1 through 3 (professional positions);

(4) an amount related to success in employing ethnic minorities in EEO6 categories 4 through 7 (non-professional positions); and

(5) an amount related to past success in employing ethnic minorities, women and, persons with disabilities, as evidenced by the proportion of ethnic minority and women staff in each of the EEO6 categories and for the proportion of persons with disabilities in the general staff. The inclusion of persons with disabilities will commence with the Fiscal Year 1991–92 allocation.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53061. Success.

For the purpose of this subchapter, "success" is defined as:

(a) for ethnic minorities, a hiring rate of 30 percent (30%) in each of the professional occupational areas and a hiring rate equivalent to the Standard Metropolitan Statistical Area (SMSA)/county availability rate, as provided by the Chancellor's Office, in each of the non-professional occupational areas;

(b) a hiring and staffing rate for women and a staffing rate for ethnic minorities equivalent to the availability rate, as provided by the Chancellor's Office; and

(c) an overall staffing rate for persons with disabilities equivalent to the general availability rate, as provided by the Chancellor's Office.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Editorial correction of printing error in subsection (c) (Register 91, No. 31).

§ 53062. Point Factors.

(a) In determining the sub-allocations for section 53060(b)(3), (4), (5), a point-factor system shall be used. A district will receive points as shown below for (1) each of the above sections dealing with ethnic minorities and women in each EEO6 category, based on the latest annual survey required under section 53004 of this chapter; and (2) the total hiring reported in the section 53004 survey, or in a special survey of persons with disabilities, if necessary.

Degree of Success	*Proportion of Goal Met*	*Points*
None	0.00 %	0
Low	0.01 – 33.32 %	1
Moderate	33.33 – 66.66 %	2
High	66.67 – 99.99 %	3
Successful	100.00 %	4

(b) For each district, a statistical quantity will be calculated for each EEO6 category, or on the total staffing in the case of persons with disabilities, based on the ratio of points awarded to the district, divided by the

total points awarded to all districts. The sum of a district's category calculations, divided by the number of categories in which hiring/staffing took place, shall determine the share of the sub-allocation provided the district.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53063. Failure to Report.

Any district failing to provide the data required under section 53004 is not in compliance with this chapter. Faculty and Staff Diversity funds for any given fiscal year, other than those under section 53060(a) and (b)(1), (2), shall not be granted unless the district provides the data no later than March 31 of the year.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53064. Required Report.

Districts shall submit a report on the use of Faculty and Staff Diversity funds to the Chancellor's Office no later than September 30 of the fiscal year following the use of the funds. Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required under section 53004, districts will report the rate by a separate survey conducted, as directed by the Chancellor's Office.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Subchapter 2. Certificated Positions

Article 1. Special Non-Credentialed Employees

§ 53100. Prerequisites for Employment Under Education Code Section 87401.

Prior to the employment of any noncredentialed instructor pursuant to Education Code Section 87401, the employee candidate shall:

(a) Furnish reasonable evidence, and be, of good character and answer the following questions:

(1) Have you ever had a diploma, credential, permit, or certificate, denied, revoked, or suspended?

(2) Have you ever failed or refused to fulfill a contract of employment entered into by you with any school district?

(3) Have you ever left the service of any school district without the consent of the superintendent or the governing board of such district?

(4) Have you ever been found guilty of immoral conduct or dismissed from any teaching position for immoral or unprofessional conduct or for unfitness for service?

(5) Have you ever been found guilty of or dismissed from any teaching position for persistent defiance of or refusal to obey the laws regulating the duties of persons serving in the public school system?

(6) Have you ever been arrested for any crime (other than a minor traffic violation) which resulted in a conviction or a plea of nolo contendere? If this has occurred, this question must be answered "yes" regardless of subsequent court action under Penal Code Section 1203.4 resulting in dismissal or "expungement." If this has occurred with subsequent court action sealing the juvenile record under Penal Code Section 1203.45, this question may be answered "no."

(7) Have you had military service? (Both men and women must answer this question.)

If yes, state type of discharge: _____

If other than honorable discharge, explain fully.

(b) Execute the oath prescribed in Education Code Section 87214.

(c) Be free from any contagious and communicable disease or other disabling disease or defect unfitting the applicant to instruct or associate with minors.

(d) Submit personal identification cards to the governing board of the district which is to employ such person upon the special form provided by the Chancellor and in the manner prescribed in Sections 52130 and 52135 of this title.

(e) Not be disqualified to receive a teaching credential under the provisions of Education Code Sections 87289 and 87290.

The governing board of the prospective employee district shall determine whether these requirements have been satisfied.

NOTE: Authority cited: Sections 71020, 71064, and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Renumbering of Chapter 1 (Sections 53100-53205) to Chapter 2 (Sections 53100-53205) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 53101. Processing of Fingerprint Cards.

The governing board shall submit the personal identification fingerprint cards of candidates for teaching positions under the provisions of this subchapter, in duplicate, to the Bureau of Criminal Identification and Investigation of the Department of Justice, Sacramento, California, with a request in writing that the Bureau render a report thereon for such governing board to the Chancellor's Office, California Community Colleges, Sacramento, California. At that time the governing board shall also notify the county superintendent of schools of the county in which the Community College is located that such request has been made. The governing board shall not employ any person pursuant to Education Code Section 87401 unless and until the board has received a report from the Credentials Office in connection therewith. Any processing charges shall be borne by the submitting governing board.

NOTE: Authority cited: Sections 71020, 71064, 87220 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 53102. Cause for Dismissal.

No person employed pursuant to Education Code Section 87401 and this subchapter, who has engaged in any conduct which would constitute cause for denial of an application for teaching credential under Education Code Sections 87289 and 87290 or cause for dismissal under Education Code Section 87732 shall be retained in employment after discovery thereof by the employing governing board.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 53103. Report of Persons Employed.

Promptly after the close of each school year, every governing board which employs noncredentialed persons pursuant to Education Code Section 87401 shall file a report with the Credentials Office, California

Register 1992-17

§ 53000
§ 53001
§ 53002
§ 53003
§ 53004
§ 53005
§ 53010
§ 53011
§ 53012
§ 53020
§ 53021
§ 53022
§ 53023
§ 53024
§ 53025
§ 53026
§ 53027
§ 53028
§ 53029
§ 53030
§ 53031
§ 53032
§ 53033
§ 53034
§ 53040
§ 53041
§ 53042
§ 53043
§ 53044
§ 53045
§ 53046
§ 53049
§ 53050
§ 53051
§ 53052
§ 53060
§ 53061
§ 53062
§ 53063
§ 53064

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52310. Action by the Chancellor.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52311. Special Revocation.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subarticle 3. Administrative Hearing Procedure

§ 52320. Administrative Hearing.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 11503 and 11504, Government Code.

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subchapter 2. Validation of Service Without a Credential

§ 52400. Application.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52401. Approval.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52402. Verification.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52403. Investigation and Recommendation.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3–4–91; operative 4–5–91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Chapter 4. Employees

Subchapter 1. Affirmative Action and Equal Employment Opportunity Programs

Article 1. General

§ 53000. Scope and Intent.

(a) This Subchapter implements and should be read in conjunction with Education Code Sections 87100 et seq.

(b) The regulations in this Subchapter require affirmative steps to promote faculty and staff diversity which are in addition to the nondiscrimination requirements of state or federal law. Therefore, compliance with these regulations or approval of the district's faculty and staff diversity plan pursuant to Section 53003 does not imply and should not be construed to mean that a district has necessarily complied with its obligations under any other applicable laws or regulations. The Chancellor shall assist districts in identifying other applicable state or federal laws which may affect district affirmative action or nondiscrimination policies.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

History

1. New chapter 1 (sections 53000–53004) filed 7–19–77; effective thirtieth day thereafter (Register 77, No. 30).
2. Repealer of chapter 1 (subchapter 1, sections 53000–53004) and new chapter 1 (subchapters 1–4, sections 53000–53052, not consecutive) filed 2–1–82; effective thirtieth day thereafter (Register 82, No. 6).
3. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53001. Definitions.

As used in this Subchapter:

(a) Affirmative Action Employment Programs. "Affirmative action employment programs" means all the various methods by which equal employment opportunity and proportionate representation is to be achieved for qualified members of historically underrepresented groups.

(b) Faculty and Staff Diversity Plan. A "faculty and staff diversity plan" is a written document in which a district's work force is analyzed and specific result–oriented plans and procedures for achieving equal employment opportunity and proportionate representation of qualified members of historically underrepresented groups are set forth.

(c) Business Necessity. "Business Necessity" means circumstances which justify an exception to the requirements of Section 53021 because compliance with that section would result insubstantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than does mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

(d) Equal Employment Opportunity. "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the district.

(e) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks, and Hispanics. A person shall be included in the group with which he or she identifies as his or her group, but may be counted in only one ethnic group. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

(f) Goals and Timetables. "Goals and timetables" means projected new levels of employment of historically underrepresented groups to be worked toward on a specific schedule, given the expected turnover in the work force and the availability of persons who are qualified to perform a particular job through appropriate training or experience or who will become so qualified within a reasonable length of time. Goals are not "quotas" or rigid proportions.

(g) Person with a Disability. "Person with a disability" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of such an impairment.

(h) Historically Underrepresented Group. "Historically underrepresented group" means any group for which the percentage of persons from that group in the applicable work force is now, and has historically been, significantly lower than the percentage that members of that group represent in the pool of persons who are determined by the Chancellor to be available and qualified to perform the work in question. The Board of Governors has determined that, on a statewide basis, ethnic minorities, women, and persons with disabilities are historically underrepresented groups.

(i) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the employer to remove artificial or real barriers which prevent or limit the employment and upward mobility of persons with disabilities.

(j) Proportionate Representation. "Proportionate representation" means that the percentage of persons from an historically underrepresented group in the applicable work force is at least equal to the percentage that members of that group represent in the pool of persons who are determined by the Chancellor to be available and qualified to perform the work in question.

(k) In-house or Promotional Only Hiring. "In-house" or "promotional only" hiring means that only existing district employees are allowed to apply for a position.

(l) Screening or Selection Procedure. "Screening or selection procedure" means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

(m) Adverse or Disparate Impact. "Adverse impact" or "disparate impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure, and demonstrates a disproportionate negative impact on a historically underrepresented group as defined in subsection (h).

NOTE: Authority cited: Sections 66700, 70901 and 87105, Education Code. Reference: Sections 87101, Education Code; Section 11092, Government Code; 29 C.F.R. 1602.48 (1981); 29 U.S.C. 793; 41 C.F.R. 60-741-2 (1980).

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53002. Policy Statement.

The governing board of each community college district shall adopt a policy statement setting forth the district's commitment to an affirmative action employment program. This statement may also incorporate the nondiscrimination policy statement required pursuant to Section 59304 of this Division and other similar nondiscrimination or equal employment opportunity statements which may be required under other provisions of state and federal law.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53003. District Plan.

(a) The governing board of each community college district shall develop and adopt a district-wide written faculty and staff diversity plan to implement its affirmative action employment program. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) This plan shall include the goals and timetables for hiring and promotion of members of historically underrepresented groups for each college in the district and for the district as a whole. These goals and timetables shall be revised every three years and submitted to the Chancellor's Office for approval. When the district achieves proportionate representation for any historically underrepresented group in one or more of the categories specified in Section 53004(a), it shall so indicate when it next revises its goals and timetables. Thereafter, goals and timetables shall not be required for such a group in that job category or categories, unless underrepresentation subsequently recurs. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its plan.

(c) In addition, the plan shall include all of the following:

(1) the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this Subchapter pursuant to Section 53020;

(2) the procedure for filing complaints pursuant to Section 53026 and the person with whom such complaints are to be filed;

(3) a process for notifying all district employees of the provisions of the plan and the policy statement required under Section 53002;

(4) a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this Subchapter and of state and federal non-discrimination laws.

(5) a process for providing annual written notice to appropriate community organizations concerning the district's plan and the need for assistance from the community in identifying qualified members of historically underrepresented groups for openings with the district;

(6) an analysis of the number of persons from historically underrepresented groups who are employed in the district's work force and those who have applied for employment in each of the job categories listed in Section 53004(a);

(7) an analysis of the degree to which women, ethnic minorities, and persons with disabilities are underrepresented in comparison to the numbers of persons from such groups who the Chancellor determines to be available and qualified to perform the work required for each such job category; and

(8) a plan of corrective action, including goals and timetables for hiring and promotion, which is necessary to remedy any underrepresentation identified in the plan by achieving proportionate representation for all historically underrepresented groups in all job classifications.

(d) The plans submitted to the Chancellor shall be public records.

(e) Each community college district shall make a continuous good faith effort to comply with the requirements of the plan required under this Section.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53004. District Evaluation and Report to Chancellor.

(a) Each district shall annually survey its employees and shall monitor applicants for employment on an ongoing basis in order to evaluate its progress in reaching the goals set forth in its faculty and staff diversity plan. Each district shall annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of employees at each college in the district. Each employee shall be reported so that he or she may be identified as belonging to one of the following seven job categories:

(1) executive/administrative/managerial;

(2) faculty and other instructional staff;

(3) professional nonfaculty;

(4) secretarial/clerical;

(5) technical and paraprofessional;
(6) skilled crafts; and
(7) service and maintenance.

(b) For purposes of the report to the Chancellor, Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are to be counted and reported as part of the Asian/Pacific Islander group as well as in separate subcategories. However, in the goal-setting process, separate employment goals are not needed for these subgroups.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; and Section 8310.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53005. Advisory Committee.

Each community college district shall establish a Faculty and Staff Diversity Advisory Committee to assist the district in developing and implementing the plan required under Section 53003. This advisory committee shall include members of all historically underrepresented groups whenever possible.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53010. Assistance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87103, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53011. Report.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87104, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53012. Periodic Evaluation.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87102, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 2. Other Specific Responsibilities of Community College Districts

§ 53020. Responsibility; Delegation of Authority; Complaints.

(a) The governing board of each community college district is ultimately responsible for proper implementation of this Subchapter at all levels of district and college operation and for making measurable progress toward the goals established in the district's faculty and staff diversity plan. In carrying out this responsibility, the governing board, upon the recommendation of the chief executive officer, shall ensure that an affirmative action officer is designated to oversee the day to day implementation of the requirements set forth in this Subchapter.

(b) The administrative structure created by any delegation of authority to the affirmative action officer or others shall be described in the district's faculty and staff diversity plan submitted pursuant to Section 53003 and shall be designed in such a manner so as to ensure prompt and effective implementation of the requirements of this Subchapter. The plan shall also designate a single officer, who may be the affirmative action officer, who shall be given authority and responsibility for receiving complaints filed pursuant to Section 53026, for ensuring that such complaints are promptly and impartially investigated, and ensuring that selection procedures and the applicant pool are properly monitored as required by Sections 53023 and 53024.

(c) any organization or individual, whether or not an employee of the district, who acts on behalf of the governing board with regard to the recruitment and screening of personnel is an agent of the district and is subject to all of the requirements of this Subchapter.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53021. Recruitment.

(a) Community college districts shall undertake a program of verifiable affirmative action recruitment of qualified members of historically underrepresented groups in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer, and all other executive/administrative/managerial positions.

(b) "In house or promotional only" recruitment shall not be used to fill any new opening except when:

(1) the pool of eligible district employees has achieved proportionate representation and the district has an upward mobility program which is included in the faculty and staff diversity plan approved by the Chancellor;

(2) the position is being filled on an interim basis (not to exceed one year) to allow for full and open recruitment; or

(3) justified by "business necessity" as defined in Section 53001(c).

(c) If a district believes justification exists for use of the "business necessity" exception, it shall so notify the Faculty and Staff Diversity Advisory Committee established pursuant to Section 53005 and the Chancellor at least ten (10) working days prior to offering the position to a candidate.

(d) Even where in-house or promotional only recruitment is permitted pursuant to subsection (b), all qualified district employees shall be afforded the opportunity to apply.

(e) For purposes of this section, a new opening is not created when:

(1) there is a reorganization or series of transfers that does not result in a net increase in the number of employees;

(2) a position which is currently occupied by an incumbent and is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;

(3) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term; or

(4) the position is filled by a temporary appointment using recruitment procedures authorized by other provisions of law.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53022. Job Announcements and Required Qualifications.

Job announcements shall state clearly job specifications setting forth the knowledge, skills, and abilities necessary to job performance. For faculty and administrative positions, job requirements shall include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students. Job specifications, including any "desired" or "required" qualifications beyond the state minimum qualifications (set forth in Subchapter 4, commencing with Section 53400 of this Chapter) which the district wishes to utilize, shall be reviewed before the position is announced, to ensure conformity with the requirements of this Subchapter and state and federal nondiscrimination laws.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

History

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53023. Applicant Pool.

(a) All applicants shall be given an opportunity to identify themselves as being a member of a historically underrepresented group when their application is submitted. This information shall be kept confidential and shall be used only in research, validation, monitoring, evaluating the effectiveness of the district's affirmative action employment program, or any other purpose specifically authorized in this Subchapter, or by any applicable statute or regulation.

(b) After the application deadline has passed, applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement. Before the selection process begins, the composition of the qualified applicant pool shall be analyzed to ensure that the goals established in the district's faculty and staff diversity plan may be furthered and that members of historically underrepresented groups are not adversely impacted. If this is not the case, the chief executive officer or his or her designee shall take effective steps to address the adverse impact before the selection process is begun. Such steps may include, but are not limited to:

(1) the deadline is extended and additional recruitment focused on historically underrepresented groups is undertaken;

(2) applicants from historically underrepresented groups who were initially screened out because they failed to meet locally established "desirable or preferred" qualifications beyond state minimum qualifications are included in the applicant pool where such applicants may be expected to meet these additional qualifications through appropriate training or experience within a reasonable length of time;

(3) locally established qualifications beyond state minimum qualifications are modified or removed and the application deadline is extended.

(c) If adverse impact persists after taking steps required under subdivision (b), the selection process may proceed only if:

(1) the job announcement does not require qualifications beyond the statewide minimum qualifications;

(2) locally established qualifications beyond state minimum qualifications, if any, are shown to be job related and consistent with business necessity through a process meeting the requirements of federal law; or

(3) the particular requirements beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job–related and consistent with business necessity throughout the community college system.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; 42 U.S.C. 2000e–2.

History

1. New section filed 2–26–82; designated effective 2–28–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 9).
2. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53024. Screening or Selection Procedures.

(a) All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, shall be:

(1) provided to the Chancellor upon request;

(2) designed to ensure that for faculty and administrative positions, consideration is given to the extent to which applicants have a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;

(3) based solely on job–related criteria, provided that, when a particular candidate who meets the minimum qualifications for the job is also a member of an historically underrepresented group, this membership may be taken into account as one factor in the final selection process where this would further achievement of the goals set forth in the district's faculty and staff diversity plan; and

(4) designed and monitored to ensure that they do not have an adverse impact on members of historically underrepresented groups.

(b) If monitoring pursuant to subsection (a)(4) reveals that any selection technique or procedure has adversely impacted any historically underrepresented group, the chief executive officer or his/her designee shall suspend the selection process and timely and effective steps shall be taken to remedy the problem before the selection process resumes. The affirmative action officer, or other official charged with responsibility for monitoring selection procedures, may assist the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures which have produced an adverse impact, provided that confidential information about individual candidates is not disclosed. Where necessary, the position may be re–opened at any time and a new selection process initiated in a way designed to avoid adverse impact.

(c) A district may not designate or set aside particular positions to be filled by members of any group defined in terms of race, ethnicity, gender, age, disability, or any other characteristic which would result in discriminatory treatment prohibited by state or federal law. Nor may a district apply goals set forth in the district's faculty and staff diversity plan in a rigid manner which has the purpose or effect of so discriminating.

(d) Seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion, and is included in the job announcement consistent with the requirements of Section 53022.

(e) Selection testing for employees shall follow procedures as outlined in Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures."

(f) Selection committees shall include members of historically underrepresented groups whenever possible.

(g) Notwithstanding any other provision of this Division, the governing board or its designee shall have the authority to make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee. This includes the right to reject all candidates and order further review by the screening committee or reopening of the position where necessary to further achievement of the goals established in the faculty and staff diversity plan. However, consistent failure to select qualified candidates from historically underrepresented groups who are recommended by screening committees shall constitute a violation of Section 51010 of this Division.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

History

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53025. Persons with Disabilities.

(a) By July 1, 1992, each community college district shall establish goals and timetables for hiring and promotion of persons with disabilities, provided that data on the availability of persons with disabilities who are qualified for employment by community colleges is furnished by the Chancellor.

(b) For academic year 1992–93, and each year thereafter, districts shall monitor for adverse impact on persons with disabilities consistent with the requirements of Sections 53004, 53023, and 53024 and shall report on the numbers of persons with disabilities who are employed by the district pursuant to Section 53004.

(c) Community college districts shall ensure that applicants and employees with disabilities receive reasonable accommodations consistent with the requirements of Government Code Sections 11135 et seq., and Section 504 of the Rehabilitation Act of 1973. Such accommodations may include, but are not limited to, job site modifications, job restructuring, flexible scheduling, adaptive equipment, and auxiliary aids such as readers, interpreters, and notetakers. Such accommodations may be paid for with faculty and staff diversity funds provided pursuant to Article 3 (commencing with Section 53030) of this Subchapter.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; Sections 11135 et seq., Government Code; 29 U.S.C. 794.

History
1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53026. Complaints.

Each community college district shall establish a process permitting any person to file a complaint alleging that the requirements of this Subchapter have been violated. A copy of the complaint shall immediately be forwarded to the Chancellor who may require that the district provide a written investigative report within ninety (90) days. Complaints which also allege discrimination prohibited by Government Code Sections 11135 et seq. shall be processed according to the procedures set forth in Subchapter 4 (commencing with Section 59300) of Chapter 10 of this Division.

Note: Authority Cited: Sections 70901 and 87105, Education Code; and Sections 11135 et seq. Government Code. Reference: Sections 87100 et seq., Education Code.

History
1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53027. Applicability to Districts Operating on the Merit System.

Nothing in this Subchapter shall be construed to conflict with or be inconsistent with the provisions of Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of the Education Code which apply to districts operating a merit system for classified employees.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq. and 88060 et seq., Education Code.

History
1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53028. Affirmative Action Commitment.

Note: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

History
1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53029. Handicapped.

Note: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code; Section 11135, Government Code; 29 U.S.C. 705 and 706.

History
1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 3. Faculty and Staff Diversity Fund

§ 53030. Fund Allocation.

Prior to the end of the fiscal year preceding the year of allocation, the Chancellor shall recommend to the Board of Governors an allocation formula for distribution of the Faculty and Staff Diversity Fund established pursuant to Education Code Section 87107. The allocation shall be consistent with the following:

(a) A portion of the fund, but not more than 25 percent, shall be set aside for the purposes of Education Code Section 87107(c), provided that:

(1) sufficient funds to provide technical assistance, service, monitoring, and compliance functions shall be designated from these monies; and

(2) the remainder of these funds shall be distributed on the basis of the average daily attendance or full–time equivalent students of each district as a proportion of the total average daily attendance or full–time equivalent students for all districts. These funds are to be used to reimburse costs as specified in Education Code Section 87107.

(b) That portion of the funds not allocated pursuant to subsection (a) may be allocated to the districts in the following five categories:

(1) an amount proportional to the average daily attendance or full–time equivalent students of each district to the total average daily attendance or full–time equivalent students for all districts;

(2) an equal dollar amount to each district;

(3) an amount related to success in employing ethnic minorities in EEO6 categories 1 through 3 (professional positions);

(4) an amount related to success in employing ethnic minorities in EEO6 categories 4 through 7 (non–professional positions); and

(5) an amount related to past success in employing ethnic minorities, women, and persons with disabilities, as evidenced by the proportion of ethnic minority and women staff in each of the EEO6 categories and for the proportion of persons with disabilities in the general staff.

Note: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

History
1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53031. Success.

For the purpose of this Subchapter, "success" is defined as:

(a) for ethnic minorities, a hiring rate of 30 percent (30%) in each of the professional occupational areas and a hiring rate equivalent to the Standard Metropolitan Statistical Area (SMSA)/COUNTY availability rate, as provided by the Chancellor's Office, in each of the non–professional occupational areas;

(b) a hiring and staffing rate for women and a staffing rate for ethnic minorities equivalent to the availability rate, as provided by the Chancellor's Office; and

(c) an overall staffing rate for persons with disabilities equivalent to the general availability rate, as provided by the Chancellor's Office.

Note: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

History
1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53032. Point Factors.

(a) In determining the sub–allocations for Section 53030(b)(3), (4), and (5), a point–factor system shall be used. A district will receive points as shown below for: (1) each of the above sections dealing with ethnic minorities and women in each EEO6 category, based on the latest annual survey required under Section 53004 of this Subchapter; and (2) the total hiring reported in the Section 53004 survey, or in a special survey of persons with disabilities, if necessary.

Degree of Success	*Proportion of Goal Met*	*Points*
None	0.00%	0
Low	0.01–33.32%	1
Moderate	33.33–66.66%	2
High	66.67–99.99%	3
Successful	100.00%	4

(b) For each district, a statistical quantity will be calculated for each EEO6 category, or on the total staffing in the case of persons with disabilities, based on the ratio of points awarded to the district, divided by the total points awarded to all districts. The sum of a district's category calculations, divided by the number of categories in which hiring/staffing took place, shall determine the share of the sub–allocation provided the district.

Note: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

History
1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53033. Failure to Report.

Any district failing to provide the data required under Section 53004 is not in compliance with this Subchapter. Faculty and Staff Diversity funds for any given fiscal year, other than those under Section 53030(a) and (b)(1) and (2), shall not be granted unless the district provides the data no later than March 31st of the preceding fiscal year.

Note: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

History
1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53034. Required Report.

Districts shall submit a report on the use of Faculty and Staff Diversity funds to the Chancellor's Office no later than September 30th of the fiscal year following the use of the funds. Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required under Section 53004, districts will report that rate by a separate survey conducted, as directed by the Chancellor's Office.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53040. Governing Board's Affirmative Action Employment Policy Statement.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Section 87101, Education Code; Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980); 20 U.S.C. 793; 41 C.F.R. 60–741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60–250.1–.9, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53041. Affirmative Action Responsibilities and Duties.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53042. Affirmative Action Officer.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53043. Internal Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53044. External Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53045. Complaint Procedure.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53046. work force Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53049. Utilization Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53050. Corrective Action.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53051. Goals and Timetables.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53052. Affirmative Action Advisory Committee.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53060. Fund Allocation.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53061. Success.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Editorial correction of printing error in subsection (c) (Register 91, No. 31).
3. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53062. Point Factors.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53063. Failure to Report.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53064. Required Report.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Subchapter 2. Certificated Positions

Article 1. Special Non-Credentialed Employees

§ 53100. Prerequisites for Employment Under Education Code Section 87401.

Prior to the employment of any noncredentialed instructor pursuant to Education Code Section 87401, the employee candidate shall:

(a) Furnish reasonable evidence, and be, of good character and answer the following questions:

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52310. Action by the Chancellor.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52311. Special Revocation.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subarticle 3. Administrative Hearing Procedure

§ 52320. Administrative Hearing.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 11503 and 11504, Government Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subchapter 2. Validation of Service Without a Credential

§ 52400. Application.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52401. Approval.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52402. Verification.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52403. Investigation and Recommendation.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Chapter 4. Employees

Subchapter 1. Affirmative Action and Equal Employment Opportunity Programs

Article 1. General

§ 53000. Scope and Intent.

(a) This Subchapter implements and should be read in conjunction with Education Code Sections 87100 et seq.

(b) The regulations in this Subchapter require affirmative steps to promote faculty and staff diversity which are in addition to the nondiscrimination requirements of state or federal law. Therefore, compliance with these regulations or approval of the district's faculty and staff diversity plan pursuant to Section 53003 does not imply and should not be construed to mean that a district has necessarily complied with its obligations under any other applicable laws or regulations. The Chancellor shall assist districts in identifying other applicable state or federal laws which may affect district affirmative action or nondiscrimination policies.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

History

1. New chapter 1 (sections 53000-53004) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).
2. Repealer of chapter 1 (subchapter 1, sections 53000-53004) and new chapter 1 (subchapters 1-4, sections 53000-53052, not consecutive) filed 2-1-82; effective thirtieth day thereafter (Register 82, No. 6).
3. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53001. Definitions.

As used in this Subchapter:

(a) Affirmative Action Employment Programs. "Affirmative action employment programs" means all the various methods by which equal employment opportunity and proportionate representation are to be achieved for qualified members of historically underrepresented groups.

(b) Faculty and Staff Diversity Plan. A "faculty and staff diversity plan" is a written document in which a district's work force is analyzed and specific result-oriented plans and procedures are set forth for achieving equal employment opportunity and proportionate representation of qualified members of historically underrepresented groups.

(c) Business Necessity. "Business necessity" means circumstances which justify an exception to the requirements of Section 53021 because compliance with that Section would result in substantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than does mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

(d) Equal Employment Opportunity. "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity to compete for hiring and promotion and to enjoy the benefits of employment with the district.

(e) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks, and Hispanics. A person shall be included in the group with which he or she identifies as his or her group, but may be counted in only one ethnic group. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

(f) Goals and Timetables. "Goals and timetables" means projected new levels of employment of historically underrepresented groups to be worked toward on a specific schedule, given the expected turnover in the work force and the availability of persons who are qualified to perform a particular job through appropriate training or experience or who will become so qualified within a reasonable length of time. Goals are not "quotas" or rigid proportions.

(g) Person with a Disability. "Person with a disability" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of such an impairment.

(h) Historically Underrepresented Group. "Historically underrepresented group" means any group for which the percentage of persons from that group in the applicable work force is now, and has historically been, significantly lower than the percentage that members of that group represent in the pool of persons who are determined by the Chancellor to be available and qualified to perform the work in question. The Board of Governors has determined that, on a statewide basis, ethnic minorities, women, and persons with disabilities are historically underrepresented groups.

(i) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the employer to remove artificial or real barriers which prevent or limit the employment and upward mobility of persons with disabilities.

(j) Proportionate Representation. "Proportionate representation" means that the percentage of persons from an historically underrepresented group in the applicable work force is at least equal to the percentage that members of that group represent in the pool of persons who are determined by the Chancellor to be available and qualified to perform the work in question.

(k) In-house or Promotional Only Hiring. "In-house or promotional only" hiring means that only existing district employees are allowed to apply for a position.

(l) Screening or Selection Procedure. "Screening or selection procedure" means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

(m) Adverse or Disparate Impact. "Adverse impact" or "disparate impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on a historically underrepresented group as defined in Subsection (h).

NOTE: Authority cited: Sections 66700, 70901 and 87105, Education Code. Reference: Sections 87101, Education Code; Section 11092, Government Code; 29 C.F.R. 1602.48 (1981); 29 U.S.C. 793; 41 C.F.R. 60-741-2 (1980).

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a), (b)(1)-(b)-(3), (e), (k) and (m) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53002. Policy Statement.

The governing board of each community college district shall adopt a policy statement setting forth the district's commitment to an affirmative action employment program. This statement may also incorporate the nondiscrimination policy statement required pursuant to Section 59301 and other similar nondiscrimination or equal employment opportunity statements which may be required under other provisions of state and federal law.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53003. District Plan.

(a) The governing board of each community college district shall develop and adopt a district-wide written faculty and staff diversity plan to implement its affirmative action employment program. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) This plan shall include the goals and timetables for hiring and promotion of members of historically underrepresented groups for each college in the district and for the district as a whole. These goals and timetables shall be revised every three years and submitted to the Chancellor's Office for approval. When the district achieves proportionate representation for any historically underrepresented group in one or more of the categories specified in Section 53004(a), it shall so indicate when it next revises its goals and timetables. Thereafter, goals and timetables shall not be required for such a group in that job category or categories, unless underrepresentation subsequently recurs. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its plan.

(c) In addition, the plan shall include all of the following:

(1) the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this Subchapter pursuant to Section 53020;

(2) the procedure for filing complaints pursuant to Section 53026 and the person with whom such complaints are to be filed;

(3) a process for notifying all district employees of the provisions of the plan and the policy statement required under Section 53002;

(4) a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this Subchapter and of state and federal nondiscrimination laws;

(5) a process for providing annual written notice to appropriate community organizations concerning the district's plan and the need for assistance from the community in identifying qualified members of historically underrepresented groups for openings with the district;

(6) an analysis of the number of persons from historically underrepresented groups who are employed in the district's work force and those who have applied for employment in each of the job categories listed in Section 53004(a);

(7) an analysis of the degree to which women, ethnic minorities, and persons with disabilities are underrepresented in comparison to the numbers of persons from such groups whom the Chancellor determines to be available and qualified to perform the work required for each such job category; and

(8) a plan of corrective action, including goals and timetables for hiring and promotion, which is necessary to remedy any underrepresentation identified in the plan by achieving proportionate representation for all historically underrepresented groups in all job classifications.

(d) The plans submitted to the Chancellor shall be public records.

(e) Each community college district shall make a continuous good faith effort to comply with the requirements of the plan required under this Section.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (c)(4) and (7) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53004. District Evaluation and Report to Chancellor.

(a) Each district shall annually survey its employees and shall monitor applicants for employment on an ongoing basis in order to evaluate its progress in reaching the goals set forth in its faculty and staff diversity plan. Each district shall annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of em-

ployees at each college in the district. Each employee shall be reported so that he or she may be identified as belonging to one of the following seven job categories:

(1) executive/administrative/managerial;
(2) faculty and other instructional staff;
(3) professional nonfaculty;
(4) secretarial/clerical;
(5) technical and paraprofessional;
(6) skilled crafts; and
(7) service and maintenance.

(b) For purposes of the report to the Chancellor, Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are to be counted and reported as part of the Asian/Pacific Islander group as well as in separate subcategories. However, in the goal-setting process, separate employment goals are not needed for these subgroups.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; and Section 8310.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53005. Advisory Committee.

Each community college district shall establish a Faculty and Staff Diversity Advisory Committee to assist the district in developing and implementing the plan required under Section 53003. This advisory committee shall include members of all historically underrepresented groups whenever possible.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53010. Assistance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87103, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53011. Report.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87104, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53012. Periodic Evaluation.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87102, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 2. Other Specific Responsibilities of Community College Districts

§ 53020. Responsibility; Delegation of Authority; Complaints.

(a) The governing board of each community college district is ultimately responsible for proper implementation of this Subchapter at all levels of district and college operation and for making measurable progress toward the goals established in the district's faculty and staff diversity plan. In carrying out this responsibility, the governing board, upon the recommendation of the chief executive officer, shall ensure that an affirmative action officer is designated to oversee the day-to-day implementation of the requirements set forth in this Subchapter.

(b) The administrative structure created by any delegation of authority to the affirmative action officer or others shall be described in the district's faculty and staff diversity plan submitted pursuant to Section 53003 and shall be designed in such a manner so as to ensure prompt and effective implementation of the requirements of this Subchapter. The plan shall also designate a single officer, who may be the affirmative action officer, who shall be given authority and responsibility for receiving complaints filed pursuant to Section 53026, for ensuring that such complaints are promptly and impartially investigated, and ensuring that selection procedures and the applicant pool are properly monitored as required by Sections 53023 and 53024.

(c) Any organization or individual, whether or not an employee of the district, who acts on behalf of the governing board with regard to the recruitment and screening of personnel is an agent of the district and is subject to all of the requirements of this Subchapter.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a) and (c) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53021. Recruitment.

(a) Community college districts shall undertake a program of verifiable affirmative action recruitment of qualified members of historically underrepresented groups in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer, and all other executive/administrative/managerial positions.

(b) "In-house or promotional only" recruitment shall not be used to fill any new opening except when:

(1) the pool of eligible district employees has achieved proportionate representation and the district has an upward mobility program which is included in the faculty and staff diversity plan approved by the Chancellor;

(2) the position is being filled on an interim basis (not to exceed one year) to allow for full and open recruitment; or

(3) justified by "business necessity" as defined in Section 53001(c).

(c) If a district believes justification exists for use of the "business necessity" exception, it shall so notify the Faculty and Staff Diversity Advisory Committee established pursuant to Section 53005 and the Chancellor at least ten (10) working days prior to offering the position to a candidate.

(d) Even where in-house or promotional only recruitment is permitted pursuant to Subsection (b), all qualified district employees shall be afforded the opportunity to apply.

(e) For purposes of this Section, a new opening is not created when:

(1) there is a reorganization or series of transfers that do not result in a net increase in the number of employees;

(2) a position which is currently occupied by an incumbent and is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;

(3) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term; or

(4) the position is filled by a temporary appointment using recruitment procedures authorized by other provisions of law.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment subsections (b) and (d)-(e)(2) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53022. Job Announcements and Required Qualifications.

Job announcements shall state clearly job specifications setting forth the knowledge, skills, and abilities necessary to job performance. For faculty and administrative positions, job requirements shall include a sensitivity to and understanding of the diverse academic, socioeconomic, cul-

tural, disability, and ethnic backgrounds of community college students. Job specifications, including any "desired" or "required" qualifications beyond the state minimum qualifications (set forth in Subchapter 4, commencing with Section 53400 of this Chapter) which the district wishes to utilize, shall be reviewed before the position is announced, to ensure conformity with the requirements of this Subchapter and state and federal nondiscrimination laws.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53023. Applicant Pool.

(a) All applicants shall be given an opportunity to identify themselves as being a member of a historically underrepresented group when their application is submitted. This information shall be kept confidential and shall be used only in research, validation, monitoring, evaluating the effectiveness of the district's affirmative action employment program, or any other purpose specifically authorized in this Subchapter, or by any applicable statute or regulation.

(b) After the application deadline has passed, applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement. Before the selection process begins, the composition of the qualified applicant pool shall be analyzed to ensure that the goals established in the district's faculty and staff diversity plan may be furthered and that members of historically underrepresented groups are not adversely impacted. If this is not the case, the chief executive officer or his or her designee shall take effective steps to address the adverse impact before the selection process is begun. Such steps may include, but are not limited to:

(1) the deadline is extended and additional recruitment focused on historically underrepresented groups is undertaken;

(2) applicants from historically underrepresented groups who were initially screened out because they failed to meet locally established "desirable or preferred" qualifications beyond state minimum qualifications are included in the applicant pool where such applicants may be expected to meet these additional qualifications through appropriate training or experience within a reasonable length of time;

(3) locally established qualifications beyond state minimum qualifications are modified or removed and the application deadline is extended.

(c) If adverse impact persists after taking steps required under subdivision (b), the selection process may proceed only if:

(1) the job announcement does not require qualifications beyond the statewide minimum qualifications;

(2) locally established qualifications beyond state minimum qualifications, if any, are shown to be job related and consistent with business necessity through a process meeting the requirements of federal law; or

(3) the particular requirements beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job–related and consistent with business necessity throughout the community college system.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; 42 U.S.C. 2000e–2.

HISTORY

1. New section filed 2–26–82; designated effective 2–28–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 9).
2. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53024. Screening or Selection Procedures.

(a) All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, shall be:

(1) provided to the Chancellor upon request;

(2) designed to ensure that for faculty and administrative positions, consideration is given to the extent to which applicants have a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;

(3) based solely on job–related criteria, provided that, when a particular candidate who meets the minimum qualifications for the job is also a member of an historically underrepresented group, this membership may be taken into account as one factor in the final selection process where this would further achievement of the goals set forth in the district's faculty and staff diversity plan; and

(4) designed and monitored to ensure that they do not have an adverse impact on members of historically underrepresented groups.

(b) If monitoring pursuant to subsection (a)(4) reveals that any selection technique or procedure has adversely impacted any historically underrepresented group, the chief executive officer or his/her designee shall suspend the selection process and timely and effective steps shall be taken to remedy the problem before the selection process resumes. The affirmative action officer, or other official charged with responsibility for monitoring selection procedures, may assist the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures which have produced an adverse impact, provided that confidential information about individual candidates is not disclosed. Where necessary, the position may be re–opened at any time and a new selection process initiated in a way designed to avoid adverse impact.

(c) A district may not designate or set aside particular positions to be filled by members of any group defined in terms of race, ethnicity, gender, age, disability, or any other characteristic which would result in discriminatory treatment prohibited by state or federal law. Nor may a district apply goals set forth in the district's faculty and staff diversity plan in a rigid manner which has the purpose or effect of so discriminating.

(d) Seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion, and is included in the job announcement consistent with the requirements of Section 53022.

(e) Selection testing for employees shall follow procedures as outlined in Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures."

(f) Selection committees shall include members of historically underrepresented groups whenever possible.

(g) Notwithstanding any other provision of this Division, the governing board or its designee shall have the authority to make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee. This includes the right to reject all candidates and order further review by the screening committee or reopening of the position where necessary to further achievement of the goals established in the faculty and staff diversity plan. However, consistent failure to select qualified candidates from historically underrepresented groups who are recommended by screening committees shall constitute a violation of Section 51010 of this Division.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53025. Persons with Disabilities.

(a) Each community college district shall establish goals and timetables for hiring and promoting of persons with disabilities, provided that data on the availability of persons with disabilities who are qualified for employment by community colleges is furnished by the Chancellor.

(b) During each academic year, districts shall monitor for adverse impact on persons with disabilities consistent with the requirements of Sections 53004, 53023, and 53024 and shall report pursuant to Section 53004 on the numbers of persons with disabilities who are employed by the district.

(c) Districts shall ensure that applicants and employees with disabilities receive reasonable accommodations consistent with the requirements of Government Code Sections 11135 et seq., Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. Such accommodations may include, but are not limited to, job site modifications, job restructuring, flexible scheduling, adaptive equipment, and

auxiliary aids such as readers, interpreters, and notetakers. Such accommodations may be paid for with faculty and staff diversity funds provided pursuant to Article 3 (commencing with Section 53030) of this Subchapter.

NOTE: Authority cited: Sections 70901 and 87103, Education Code. Reference: Sections 87100 et seq., Education Code; Sections 11135 et seq., Government Code; 29 U.S.C. 794; 42 U.S.C. Sections 12101, et seq.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53026. Complaints.

Each community college district shall establish a process permitting any person to file a complaint alleging that the requirements of this Subchapter have been violated. A copy of the complaint shall immediately be forwarded to the Chancellor who may require that the district provide a written investigative report within ninety (90) days. Complaints which also allege discrimination prohibited by Government Code Sections 11135 et seq. shall be processed according to the procedures set forth in Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division.

NOTE: Authority Cited: Sections 70901 and 87105, Education Code; and Sections 11135 et seq. Government Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53027. Applicability to Districts Operating on the Merit System.

Nothing in this Subchapter shall be construed to conflict with or be inconsistent with the provisions of Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of the Education Code which apply to districts operating a merit system for classified employees.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq. and 88060 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53028. Affirmative Action Commitment.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53029. Handicapped.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code; Section 11135, Government Code; 29 U.S.C. 705 and 706.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 3. Faculty and Staff Diversity Fund

§ 53030. Fund Allocation.

Before the end of the fiscal year preceding the year of allocation, the Chancellor shall recommend to the Board of Governors an allocation formula for distribution of the Faculty and Staff Diversity Fund established pursuant to Education Code Section 87107. The allocation shall be consistent with the following:

(a) A portion of the fund, but not more than 25 percent, shall be set aside for the purposes of Education Code Section 87107(c), provided that:

(1) sufficient funds to provide technical assistance, service, monitoring, and compliance functions shall be designated from these monies; and

(2) the remainder of these funds shall be distributed on the basis of the full-time equivalent students of each district as a proportion of the total full-time equivalent students for all districts. These funds are to be used to reimburse costs as specified in Education Code Section 87107.

(b) That portion of the funds not allocated pursuant to Subsection (a) may be allocated to the districts in the following five categories:

(1) an amount proportional to the full-time equivalent students of each district to the total full-time equivalent students for all districts;

(2) an equal dollar amount to each district;

(3) an amount related to success in employing ethnic minorities in Equal Employment Opportunity ("EEO") 6 categories 1 through 3 (professional positions);

(4) an amount related to success in employing ethnic minorities in EEO6 categories 4 through 7 (nonprofessional positions); and

(5) an amount related to past success in employing ethnic minorities, women, and persons with disabilities, as evidenced by the proportion of ethnic minority and women staff in each of the EEO6 categories and for the proportion of persons with disabilities in the general staff.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53031. Success.

For the purpose of this Subchapter, "success" is defined as:

(a) for ethnic minorities, a hiring rate of 30 percent (30%) in each of the professional occupational areas and a hiring rate equivalent to the Standard Metropolitan Statistical Area (SMSA)/COUNTY availability rate, as provided by the Chancellor's Office, in each of the nonprofessional occupational areas;

(b) a hiring and staffing rate for women and a staffing rate for ethnic minorities equivalent to the availability rate, as provided by the Chancellor's Office; and

(c) an overall staffing rate for persons with disabilities equivalent to the general availability rate, as provided by the Chancellor's Office.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53032. Point Factors.

(a) In determining the sub-allocations for Section 53030(b)(3), (4), and (5), a point-factor system shall be used. A district will receive points as shown below for: (1) each of the above sections dealing with ethnic minorities and women in each EEO6 category, based on the latest annual survey required under Section 53004 of this Subchapter; and (2) the total hiring reported in the Section 53004 survey, or in a special survey of persons with disabilities, if necessary.

Degree of Success	*Proportion of Goal Met*	*Points*
None	0.00%	0
Low	0.01–33.32%	1
Moderate	33.33–66.66%	2
High	66.67–99.99%	3
Successful	100.00%	4

(b) For each district, a statistical quantity will be calculated for each EEO6 category, or on the total staffing in the case of persons with disabilities, based on the ratio of points awarded to the district, divided by the total points awarded to all districts. The sum of a district's category calculations, divided by the number of categories in which hiring/staffing took place, shall determine the share of the sub-allocation provided the district.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53033. Failure to Report.

Any district failing to provide the data required under Section 53004 is not in compliance with this Subchapter. Faculty and Staff Diversity funds for any given fiscal year, other than those under Section 53030(a) and (b)(1) and (2), shall not be granted unless the district provides the data no later than March 31st of the preceding fiscal year.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53034. Required Report.

Districts shall submit a report on the use of Faculty and Staff Diversity funds to the Chancellor's Office no later than September 30th of the fiscal year following the use of the funds. Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required under Section 53004, districts will report that rate by a separate survey conducted, as directed by the Chancellor's Office.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53040. Governing Board's Affirmative Action Employment Policy Statement.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Section 87101, Education Code; Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980); 20 U.S.C. 793; 41 C.F.R. 60–741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60–250.1–.9, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53041. Affirmative Action Responsibilities and Duties.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53042. Affirmative Action Officer.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53043. Internal Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53044. External Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53045. Complaint Procedure.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53046. Work Force Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Editorial correction of section heading (Register 94, No. 38).

§ 53049. Utilization Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53050. Corrective Action.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53051. Goals and Timetables.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53052. Affirmative Action Advisory Committee.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53060. Fund Allocation.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53061. Success.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Editorial correction of printing error in subsection (c) (Register 91, No. 31).
3. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53062. Point Factors.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53063. Failure to Report.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53064. Required Report.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9–10–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10–10–90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Subchapter 2. Certificated Positions

Article 1. Special Non-Credentialed Employees

§ 53100. Prerequisites for Employment Under Education Code Section 87401.

NOTE: Authority cited: Sections 71020, 71064, and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Renumbering of chapter 1 (sections 53100–53205) to chapter 2 (sections 53100–53205) filed 7–19–77; effective thirtieth day thereafter (Register 77, No. 30).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53101. Processing of Fingerprint Cards.

NOTE: Authority cited: Sections 71020, 71064, 87220 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53102. Cause for Dismissal.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53103. Report of Persons Employed.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 1.5. Sick Leave Transfer

§ 53125. Transfer of Accumulated Sick Leave.

This Section prescribes the manner in which the amount of accumulated sick leave is certified for transfer under Sections 87782, 87783, and 87785 of the Education Code.

(a) As used in this Section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) Transfer shall be certified as follows:

(1) The person who accumulated the sick leave or the new employing agency requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave,

(2) Upon receipt of the request, the former employing agency transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is charged with maintaining employee attendance records,

(3) The new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785.

NOTE: Authority cited: Sections 70901, 71024 and 87782, Education Code. Reference: Sections 87781, 87782, 87783 and 87785, Education Code.

HISTORY

1. New subchapter 1.5 (section 53125) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 1.6. Evaluation of Academic Employees

§ 53130. Availability of Rules and Regulations for Evaluation of Performance.

The governing board of a community college district shall adopt and cause to be printed and made available to each academic employee of the district reasonable rules and regulations providing for the evaluation of the performance of academic employees in their assigned duties.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. New article 1.6 heading filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 2. Academic Senates

§ 53200. Definitions.

For the purpose of this Subchapter:

(a) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.

(b) "Academic senate," "faculty council," and "faculty senate" means an organization formed in accordance with the provisions of this Subchapter whose primary function, as the representative of the faculty, is to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this Subchapter, reference to the term "academic senate" also constitutes reference to "faculty council" or "faculty senate."

(c) "Academic and professional matters" means the following policy development and implementation matters:

(1) curriculum, including establishing prerequisites and placing courses within disciplines;

(2) degree and certificate requirements;

(3) grading policies;

(4) educational program development;

(5) standards or policies regarding student preparation and success;

(6) district and college governance structures, as related to faculty roles;

(7) faculty roles and involvement in accreditation processes, including self-study and annual reports;

(8) policies for faculty professional development activities;

(9) processes for program review;

(10) processes for institutional planning and budget development; and

Register 1995-15

§ 51010

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Register 1996-23

§ 53000
§ 53001
§ 53003
§ 53004
§ 53006
§ 53021
§ 53023
§ 53024
§ 53025
§ 53030
§ 53031
§ 53032
§ 53033

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52310. Action by the Chancellor.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52311. Special Revocation.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subarticle 3. Administrative Hearing Procedure

§ 52320. Administrative Hearing.

Note: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 11503 and 11504, Government Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subchapter 2. Validation of Service Without a Credential

§ 52400. Application.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52401. Approval.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52402. Verification.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52403. Investigation and Recommendation.

Note: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

History

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Chapter 4. Employees

Subchapter 1. Affirmative Action and Equal Employment Opportunity Programs

Article 1. General

§ 53000. Scope and Intent.

(a) This Subchapter implements and should be read in conjunction with Government Code Sections 11135–11139.5, Education Code Section 200 et seq., Education Code Sections 87100 et seq., Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101).

(b) The regulations in this Subchapter require affirmative steps to promote faculty and staff diversity which are in addition to the nondiscrimination requirements of state or federal law. Therefore, compliance with these regulations or approval of the district's faculty and staff diversity plan pursuant to Section 53003 does not imply and should not be construed to mean that a district has necessarily complied with its obligations under any other applicable laws or regulations. The Chancellor shall assist districts in identifying other applicable state or federal laws which may affect district affirmative action or nondiscrimination policies.

Note: Authority cited: Sections 70901 and 87105, Education Code; and Section 11138, Government Code. Reference: Sections 200 et seq., and 87100 et seq., Education Code; Sections 11135–11139.5, Government Code; Title 20, United States Code, Section 1681; Title 29, United States Code, Section 794; and Title 42, United States Code, Sections 2000d, 6101 and 12100, et seq.

History

1. New chapter 1 (sections 53000–53004) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).
2. Repealer of chapter 1 (subchapter 1, sections 53000–53004) and new chapter 1 (subchapters 1–4, sections 53000–53052, not consecutive) filed 2-1-82; effective thirtieth day thereafter (Register 82, No. 6).
3. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
4. Amendment of subsection (a) and Note filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53001. Definitions.

As used in this Subchapter:

(a) Affirmative Action Employment Programs. "Affirmative action employment programs" means all the various methods by which equal employment opportunity is ensured and expected representation is to be achieved for qualified members of historically underrepresented groups. Such methods include, but are not limited to, using nondiscriminatory employment practices, actively recruiting, monitoring and taking other steps to ensure equal employment opportunities, promoting diversity in the work force, and taking corrective action consistent with the requirements of Section 53006.

(b) Faculty and Staff Diversity Plan. A "faculty and staff diversity plan" is a written document in which a district's work force is analyzed and specific result-oriented plans and procedures are set forth for ensuring equal employment opportunity, promoting diversity, and achieving expected representation of qualified members of historically underrepresented groups.

(c) Business Necessity. "Business necessity" means circumstances which justify an exception to the requirements of Section 53021 because compliance with that Section would result in substantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than does mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

(d) Equal Employment Opportunity. "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity

to compete for hiring and promotion and to enjoy the benefits of employment with the district.

(e)(1) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks/African-Americans, and Hispanics/Latinos.

(2) Ethnicity. "Ethnicity" means the ethnic group in which an individual is included or with which an individual identifies. A person shall be included in the group with which he or she identifies as his or her group, but may be counted in only one ethnic group. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

(f) Goals. "Goals" means a statement that the district will strive to attract and hire additional qualified members of an historically underrepresented group in order to achieve the level of expected representation for that group by a target date established by taking into account the expected turnover in the work force and the availability of persons from that group who are qualified to perform a particular job. Goals are not "quotas" or rigid proportions.

(g) Person with a Disability. "Person with a disability" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of such an impairment.

(h) Historically Underrepresented Group. "Historically underrepresented group" means ethnic minorities, women and persons with disabilities. The Board of Governors recognizes that ethnic minorities, women and persons with disabilities have historically faced discrimination and other obstacles that limited their opportunities for education, employment and upward mobility. The Board of Governors further acknowledges that as early as 1983 evidence became available documenting that these groups were underrepresented in many job classifications in many community college districts throughout the system.

(i) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the employer to remove artificial or real barriers which prevent or limit the employment and upward mobility of persons with disabilities.

(j) Expected Representation. "Expected representation" means that the percentage of persons from an historically underrepresented group in the applicable work force is substantially the same as the percentage that members of that group would be expected to represent given the number of persons from that group in the pool of persons who are determined by the Chancellor to be available and qualified to perform the work in question.

(k) In-house or Promotional Only Hiring. "In-house or promotional only" hiring means that only existing district employees are allowed to apply for a position.

(l) Screening or Selection Procedure. "Screening or selection procedure" means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

(m) Adverse or Disparate Impact. "Adverse impact" or "disparate impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnicity, gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if:

(1) the numbers involved are too small to permit a meaningful comparison;

(2) the disparity is attributable to the fact that affirmative action recruitment resulted in large numbers of persons from historically underrepresented groups in the applicant pool; or

(3) the disparity occurs because the district is taking corrective action pursuant to Section 53006 to overcome the significant underrepresentation of another group.

(n) Diversity. "Diversity" means a condition each district must strive to achieve in which the district's work force includes men and women, persons with disabilities, and individuals from all ethnic groups in numbers adequate to ensure that the community college provides an inclusive educational and employment environment which fosters cooperation, acceptance, democracy and free expression of ideas. Diversity should exist at all levels and in all job categories listed in Section 53004(a). Although there is no universal or specific measure for determining when diversity has been achieved, the demographics of the adult population of the state and of the community served by the district should both be considered.

(o) Target Date. "Target date" means a point in time by which the district plans to meet an established goal and achieve expected representation for a particular historically underrepresented group in a particular job category.

(p) Timetable. "Timetable" means a set of specific annual hiring objectives that will lead to meeting a goal by a projected target date.

(q) Significantly Underrepresented Group. "Significantly underrepresented group" means any historically underrepresented group for which:

(1) the percentage of persons from that group employed by the district in any job category listed in Section 53004(a) is below seventy percent (70%) of the percentage that members of that group would be expected to represent given the pool of persons who are available and qualified to perform the work in question; or

(2) the number of persons from that group employed by the district in any job category listed in Section 53004(a) is lower than the number that would be expected given the number of persons from that group in the pool of persons available and qualified to perform the work in question, and that discrepancy is found to be statistically significant using the chi square test or any other statistical test the Chancellor determines to be appropriate for this purpose; or

(3) where small numbers are involved, both (1) and (2) are satisfied. The Chancellor shall issue guidelines to assist districts with the proper application of these rules in determining significant underrepresentation.

NOTE: Authority cited: Sections 66700, 70901 and 87105, Education Code. Reference: Sections 87101, Education Code; Section 11092, Government Code; 29 C.F.R. 1602.48 (1981); 29 C.F.R. 1607, 29 U.S.C. 793; 41 C.F.R. 60-741-2 (1980).

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a), (b)(1)-(b)-(3), (c), (k) and (m) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (a), (b), (e), (f), (h), (j) and (m), new subsections (m)(1)-(q)(3), and amendment of NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53002. Policy Statement.

The governing board of each community college district shall adopt a policy statement setting forth the district's commitment to an affirmative action employment program. This statement may also incorporate the nondiscrimination policy statement required pursuant to Section 59301 and other similar nondiscrimination or equal employment opportunity statements which may be required under other provisions of state and federal law.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

History

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53003. District Plan.

(a) The governing board of each community college district shall develop and adopt a district-wide written faculty and staff diversity plan to implement its affirmative action employment program. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) This plan shall include the goals and timetables, as appropriate, for hiring and promotion of members of historically underrepresented groups developed pursuant to Section 53006 for each college in the district and for the district as a whole. Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the Chancellor's Office for approval. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its plan.

(c) In particular, the plan shall include all of the following:

(1) the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this Subchapter pursuant to Section 53020;

(2) the procedure for filing complaints pursuant to Section 53026 and the person with whom such complaints are to be filed;

(3) a process for notifying all district employees of the provisions of the plan and the policy statement required under Section 53002;

(4) a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this Subchapter and of state and federal nondiscrimination laws;

(5) a process for providing annual written notice to appropriate community organizations concerning the district's plan and the need for assistance from the community in identifying qualified members of historically underrepresented groups for openings with the district;

(6) an analysis of the number of persons from historically underrepresented groups who are employed in the district's work force and those who have applied for employment in each of the job categories listed in Section 53004(a);

(7) an analysis of the degree to which women, ethnic minorities, and persons with disabilities are underrepresented in comparison to the numbers of persons from such groups whom the Chancellor determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;

(8) the steps the district will take to achieve diversity in its work force;

(9) goals for addressing any underrepresentation identified pursuant to Subparagraph (7); and

(10) a plan of corrective action consistent with Section 53006, including goals and timetables for hiring and promotion, if necessary, to remedy any significant underrepresentation identified in the plan by achieving expected representation for all historically underrepresented groups in all job categories listed in Section 53004(a).

(d) The plans submitted to the Chancellor shall be public records.

(e) Each community college district shall make a continuous good faith effort to comply with the requirements of the plan required under this Section.

(f) In developing the availability data called for in Subsection (c)(7), the Chancellor shall work through the established Consultation Process.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

History

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (c)(4) and (7) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (b), (c) and (c)(7), new subsections (c)(8)-(9) and subsection renumbering, amendment of newly designated subsection (c)(10) and new subsection (f) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53004. District Evaluation and Report to Chancellor.

(a) Each district shall annually survey its employees and shall monitor applicants for employment on an ongoing basis in order to evaluate its progress in implementing its faculty and staff diversity plan and to provide data needed for the analyses required by Sections 53003, 53006, 53023, and 53024. Each district shall annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of employees at each college in the district. Each employee shall be reported so that he or she may be identified as belonging to one of the following seven job categories:

(1) executive/administrative/managerial;
(2) faculty and other instructional staff;
(3) professional nonfaculty;
(4) secretarial/clerical;
(5) technical and paraprofessional;
(6) skilled crafts; and
(7) service and maintenance.

(b) For purposes of the survey and report required pursuant to Subsection (a) of this Section, each applicant or employee shall be afforded the opportunity to identify his or her gender, ethnicity and, if applicable, his or her disability. Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are to be counted and reported as part of the Asian/Pacific Islander group as well as in separate subcategories. However, in determining whether corrective action is necessary, analysis of the separate subgroups is not necessary.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; and Section 8310.5, Government Code.

History

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a) and (b) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53005. Advisory Committee.

Each community college district shall establish a Faculty and Staff Diversity Advisory Committee to assist the district in developing and implementing the plan required under Section 53003. This advisory committee shall include members of all historically underrepresented groups whenever possible.

Note: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

History

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53006. Corrective Action.

(a) Continuation of Existing Goals. If a district established a goal prior to the effective date of this Section and significant underrepresentation still exists, it shall update that goal, set a new target date for achieving expected representation for that group in the category or categories in question, and concurrently do the following:

(1) review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group;

(2) consider various other means of reducing the underrepresentation which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective; and

(3) Comply with Subsection (c) of this Section.

(b) New Goals. If a district determines, pursuant to Section 53003(c)(7), that a particular group is significantly underrepresented with respect to one or more job categories, and no goal has previously been set, the district shall take corrective action consistent with this Section. At a minimum, the district shall:

(1) review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group;

(2) consider various other means of reducing the underrepresentation which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective;

(3) determine whether the group is still significantly underrepresented in the category or categories in question after the measures described in (1) and (2) have been in place a reasonable period of time; and

(4) if significant underrepresentation persists, the district shall set a goal with a target date for achieving expected representation for the significantly underrepresented group in each job category where significant underrepresentation persists. The staffing rate for the significantly underrepresented group in the specified job category or categories shall be monitored on an ongoing basis and the use of goals shall be discontinued when expected representation has been achieved for that group in the category or categories in question.

(c) Additional Measures. If a goal has been set, and after a reasonable period of time significant underrepresentation persists for a particular group in the job category in question, the district shall establish a specific timetable to project the levels of annual hiring of persons from the significantly underrepresented group which will be necessary to meet the goal by the target date. In addition, the district shall implement one or more of the following additional corrective measures until expected representation has been achieved for that group in the category in question.

(1) include in the applicant pool applicants from significantly underrepresented groups who were initially screened out because they failed to meet locally established "desirable or preferred" qualifications beyond state minimum qualifications, where such applicants can be expected to meet the additional qualifications through appropriate training or experience within one year.

(2) consider, as one factor in the final selection process, the fact that a candidate is a member of a significantly underrepresented group, provided that the qualifications of the candidates under consideration are reasonably considered to be substantially equivalent.

(d) New Goals for Women or Persons with Disabilities. Where either women or persons with disabilities are found to be significantly underrepresented, and no goal has previously been set for that group, the measures required under Subsections (b)(1) and (b)(2) shall be implemented concurrently with setting a goal with a target date for achieving expected representation for that group in each job category where the underrepresentation was found to exist. Goals shall remain in effect only until expected representation has been achieved for that group in the category or categories in question. Until the Chancellor's Office provides data regarding the availability of persons with disabilities by job category, an aggregate labor force availability rate shall be utilized for setting goals for hiring persons with disabilities with respect to the total district work force. The district may also concurrently take other corrective action which takes gender or disability into account, so long as such measures are discontinued when expected representation is achieved for that group in the category or categories in question.

(e) Definition of Reasonable Period. For purposes of this Section, "a reasonable period of time" means three years, or such longer period as the Chancellor may approve, upon the request of the faculty and staff diversity committee and the chief executive officer, where the district has not filled enough positions to appreciably alter the composition of its work force in the job category in question.

(f) Other Voluntary Measures. Nothing in this Subchapter shall be construed to prohibit a district from taking any other steps it concludes are necessary to ensure equal employment opportunity, provided that such actions are consistent with the requirements of federal and state constitutional and statutory nondiscrimination law.

NOTE: Authority cited: Sections 70901 and 87105, Education Code; and Section 11138, Government Code. Reference: Sections 87100 et seq., Education Code; and Sections 11135–111139.5, Government Code.

HISTORY

1. New section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53010. Assistance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87103, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53011. Report.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87104, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53012. Periodic Evaluation.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87102, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 2. Other Specific Responsibilities of Community College Districts

§ 53020. Responsibility; Delegation of Authority; Complaints.

(a) The governing board of each community college district is ultimately responsible for proper implementation of this Subchapter at all levels of district and college operation and for making measurable progress toward the goals established in the district's faculty and staff diversity plan. In carrying out this responsibility, the governing board, upon the recommendation of the chief executive officer, shall ensure that an affirmative action officer is designated to oversee the day–to–day implementation of the requirements set forth in this Subchapter.

(b) The administrative structure created by any delegation of authority to the affirmative action officer or others shall be described in the district's faculty and staff diversity plan submitted pursuant to Section 53003 and shall be designed in such a manner so as to ensure prompt and effective implementation of the requirements of this Subchapter. The plan shall also designate a single officer, who may be the affirmative action officer, who shall be given authority and responsibility for receiving complaints filed pursuant to Section 53026, for ensuring that such complaints are promptly and impartially investigated, and ensuring that selection procedures and the applicant pool are properly monitored as required by Sections 53023 and 53024.

(c) Any organization or individual, whether or not an employee of the district, who acts on behalf of the governing board with regard to the recruitment and screening of personnel is an agent of the district and is subject to all of the requirements of this Subchapter.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsections (a) and (c) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53021. Recruitment.

(a) Except as otherwise provided in this Section, community college districts shall actively recruit from both within and outside the district work force to attract qualified applicants for all new openings. This shall include focused outreach to historically underrepresented groups. The requirement of open recruitment shall apply to all new full–time and part–time openings in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer, and all other executive/administrative/managerial positions. Recruitment for full–time faculty and educational administrator positions shall be at least statewide and, at a

minimum, shall include seeking qualified applicants listed in the California Community Colleges Faculty and Staff Diversity Registry. Recruitment for part-time faculty positions may be conducted separately for each new opening or by annually establishing a pool of eligible candidates, but in either case full and open affirmative action recruitment is required consistent with this Section.

(b) "In-house or promotional only" recruitment shall not be used to fill any new opening except when:

(1) the pool of eligible district employees has achieved expected representation for all historically underrepresented groups and the district has an upward mobility program which is included in the faculty and staff diversity plan approved by the Chancellor;

(2) the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceed one year in duration. The Chancellor may approve an extension of up to one additional year if the district demonstrates "business necessity" as defined in Section 53001(c).

(c) If a district believes justification exists for use of any of the exceptions listed in Subsection (b), it shall so notify the Faculty and Staff Diversity Advisory Committee established pursuant to Section 53005 and the Chancellor at least ten (10) working days prior to offering the position to a candidate.

(d) Even where in-house or promotional only recruitment is permitted pursuant to Subsection (b), the district shall comply with its established hiring procedures and all qualified district employees shall be afforded the opportunity to apply.

(e) For purposes of this Section, a new opening is not created when:

(1) there is a reorganization or series of lateral transfers that do not result in a net increase in the number of employees;

(2) a position which is currently occupied by an incumbent is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;

(3) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term;

(4) the position is filled by a temporary, short-term, or substitute employee appointed pursuant to Education Code Sections 87422, 87480, 87482.5(b) 88003, 88106 or 88109; or

(5) a part-time faculty member is assigned to teach the same or fewer hours he or she has previously taught in the same discipline without a substantial break in service. For purposes of this Section, "a substantial break in service" means more than one calendar year or such different period as may be defined by a collective bargaining agreement.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment subsections (b) and (d)-(e)(2) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (a) and (b)(1)-(b)(2), repealer of subsection (b)(3), amendment of subsections (c), (d) and (e)(1)-(e)(4) and new subsection (e)(5) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53022. Job Announcements and Required Qualifications.

Job announcements shall state clearly job specifications setting forth the knowledge, skills, and abilities necessary to job performance. For faculty and administrative positions, job requirements shall include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students. Job specifications, including any "desired" or "required" qualifications beyond the state minimum qualifications (set forth in Subchapter 4, commencing with Section 53400 of this Chapter) which the district wishes to utilize, shall be reviewed before the position is announced, to ensure conformity with the requirements of this Subchapter and state and federal nondiscrimination laws.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer and new section filed 2-26-82; designated effective 2-28-82 pursuant to Government Code section 11346.2(d) (Register 82, No. 9).
3. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
4. Amendment of subsections (a) and (b), repealer of subsection (b)(2) and subsection renumbering, and amendment of subsection (c)(2) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53023. Applicant Pool.

(a) The application for employment shall afford each applicant an opportunity to voluntarily identify his or her gender, ethnicity and, if applicable, his or her disability. This information shall be kept confidential and shall be used only in research, validation, monitoring, evaluating the effectiveness of the district's affirmative action employment program, or any other purpose specifically authorized in this Subchapter, or by any applicable statute or regulation.

(b) After the application deadline has passed, the composition of the initial applicant pool shall be analyzed to ensure that expected representation has been achieved for historically underrepresented groups. If necessary the application deadline shall be extended and additional focused recruitment shall be conducted for any historically underrepresented group for which expected representation has not been achieved. When the expected representation of historically underrepresented groups is achieved, or further recruitment efforts would be futile, applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement. Before the selection process continues, the composition of the qualified applicant pool shall be analyzed to ensure that no group, defined in terms of ethnicity, gender or disability, is adversely impacted pursuant to Section 53001(m). If adverse impact is found to exist, the chief executive officer or his or her designee shall take effective steps to address the adverse impact before the selection process is begun. Such steps may include, but are not limited to:

(1) the deadline is extended and additional recruitment focused on historically underrepresented groups is undertaken;

(2) locally established qualifications beyond state minimum qualifications are modified or removed and the application deadline is extended.

(c) If adverse impact persists after taking steps required under subdivision (b), the selection process may proceed only if:

(1) the job announcement does not require qualifications beyond the statewide minimum qualifications;

(2) locally established qualifications beyond state minimum qualifications, if any, are validated as job related and consistent with business necessity through a process meeting the requirements of federal law; or

(3) the particular requirements beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; 42 U.S.C. 2000e-2.

HISTORY

1. New section filed 2-26-82; designated effective 2-28-82 pursuant to Government Code section 11346.2(d) (Register 82, No. 9).
2. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
3. Amendment of subsections (a) and (b), repealer of subsection (b)(2) and subsection renumbering, and amendment of subsection (c)(2) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53024. Screening or Selection Procedures.

(a) All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, shall be:

(1) provided to the Chancellor upon request;

(2) designed to ensure that for faculty and administrative positions, meaningful consideration is given to the extent to which applicants demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;

(3) based solely on job-related criteria, except as authorized by Section 53006; and

(4) designed and monitored to ensure that they do not have an adverse impact, as defined in Section 53001(m), on any group defined in terms of ethnicity, gender, or disability.

(b) If monitoring pursuant to subsection (a)(4) reveals that any selection technique or procedure has adversely impacted any such group, the chief executive officer or his/her designee shall suspend the selection process and timely and effective steps shall be taken to remedy the problem before the selection process resumes. The affirmative action officer, or other official charged with responsibility for monitoring selection procedures, may assist the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures which have produced an adverse impact, provided that confidential information about individual candidates is not disclosed. Where necessary, the position may be re-opened at any time and a new selection process initiated in a way designed to avoid adverse impact.

(c) A district may not designate or set aside particular positions to be filled by members of any group defined in terms of race, ethnicity, gender, age, or disability, or engage in any other practice which would result in discriminatory treatment prohibited by state or federal law. Nor may a district apply the goals, if any, set forth in the district's faculty and staff diversity plan in a rigid manner which has the purpose or effect of so discriminating.

(d) Seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion, and is included in the job announcement consistent with the requirements of Section 53022.

(e) Selection testing for employees shall follow procedures as outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures."

(f) Selection committees shall include members of historically underrepresented groups whenever possible.

(g) Notwithstanding any other provision of this Division, the governing board or its designee shall have the authority to make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee. This includes the right to reject all candidates and order further review by the screening committee or reopening of the position where necessary to further achievement of the goals, if any, established in the faculty and staff diversity plan. However, consistent failure to select qualified candidates from historically underrepresented groups who are recommended by screening committees shall constitute a violation of Section 51010 of this Division.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a)(2)-(c), (e) and (g) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53025. Persons with Disabilities.

Districts shall ensure that applicants and employees with disabilities receive reasonable accommodations consistent with the requirements of Government Code Sections 11135 et seq., Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. Such accommodations may include, but are not limited to, job site modifications, job restructuring, flexible scheduling, adaptive equipment, and auxiliary aids such as readers, interpreters, and notetakers. Such accommodations may be paid for with faculty and staff diversity funds provided pursuant to Article 3 (commencing with Section 53030) of this Subchapter.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; Sections 11135 et seq., Government Code; 29 U.S.C. 794; 42 U.S.C. Sections 12101, et seq.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Repealer of subsections (a) and (b) and deletion of subsection designator filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53026. Complaints.

Each community college district shall establish a process permitting any person to file a complaint alleging that the requirements of this Subchapter have been violated. A copy of the complaint shall immediately be forwarded to the Chancellor who may require that the district provide a written investigative report within ninety (90) days. Complaints which also allege discrimination prohibited by Government Code Sections 11135 et seq. shall be processed according to the procedures set forth in Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division.

NOTE: Authority Cited: Sections 70901 and 87105, Education Code; and Sections 11135 et seq. Government Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53027. Applicability to Districts Operating on the Merit System.

Nothing in this Subchapter shall be construed to conflict with or be inconsistent with the provisions of Article 3 (commencing with Section 88060) of Chapter 4 of Part 51 of the Education Code which apply to districts operating a merit system for classified employees.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq. and 88060 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53028. Affirmative Action Commitment.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53029. Handicapped.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code; Section 11135, Government Code; 29 U.S.C. 705 and 706.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Article 3. Faculty and Staff Diversity Fund

§ 53030. Fund Allocation.

Before the end of the fiscal year preceding the year of allocation, the Chancellor shall recommend to the Board of Governors an allocation formula for distribution of the Faculty and Staff Diversity Fund established pursuant to Education Code Section 87107. The allocation shall be consistent with the following:

(a) A portion of the fund, but not more than 25 percent, shall be set aside for the purposes of Education Code Section 87107(c), provided that:

(1) sufficient funds to provide technical assistance, service, monitoring, and compliance functions shall be designated from these monies; and

(2) the remainder of these funds shall be distributed on the basis of the full-time equivalent students of each district as a proportion of the total

full-time equivalent students for all districts. These funds are to be used to reimburse costs as specified in Education Code Section 87107.

(b) That portion of the funds not allocated pursuant to Subsection (a) may be allocated to the districts in the following five categories:

(1) an amount proportional to the full-time equivalent students of each district to the total full-time equivalent students for all districts;

(2) an equal dollar amount to each district;

(3) an amount related to success in promoting diversity. Multiple methods of measuring success shall be identified by the Chancellor working through the established Consultation Process.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (b) and (b)(3) and repealer of subsections (b)(4) and (b)(5) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53031. Success.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Repealer of section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53032. Point Factors.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Repealer of section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53033. Failure to Report.

Any district failing to provide the data required under Section 53004 is not in compliance with this Subchapter. Faculty and Staff Diversity funds for any given fiscal year, other than those under Section 53030(a), shall not be granted unless the district provides the data no later than March 31st of the preceding fiscal year.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of section filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53034. Required Report.

Districts shall submit a report on the use of Faculty and Staff Diversity funds to the Chancellor's Office no later than September 30th of the fiscal year following the use of the funds. Until such time as a data element to calculate the staffing rate of persons with disabilities has been integrated into the report required under Section 53004, districts will report that rate by a separate survey conducted, as directed by the Chancellor's Office.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53040. Governing Board's Affirmative Action Employment Policy Statement.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Section 87101, Education Code; Executive Order 11246, 3 C.F.R. 1964-1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1-3.2, et seq. (1980); 20 U.S.C. 793; 41 C.F.R. 60-741.1-.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60-250.1-.9, et seq. (1980).

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53041. Affirmative Action Responsibilities and Duties.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53042. Affirmative Action Officer.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53043. Internal Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53044. External Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53045. Complaint Procedure.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53046. Work Force Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Editorial correction of section heading (Register 94, No. 38).

§ 53049. Utilization Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964-1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1-3.2, et seq. (1980).

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53050. Corrective Action.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964-1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60-2.1-3.2, et seq. (1980).

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53051. Goals and Timetables.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964-1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53052. Affirmative Action Advisory Committee.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53060. Fund Allocation.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

to compete for hiring and promotion and to enjoy the benefits of employment with the district.

(e)(1) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks/African-Americans, and Hispanics/Latinos.

(2) Ethnicity. "Ethnicity" means the ethnic group in which an individual is included or with which an individual identifies. A person shall be included in the group with which he or she identifies as his or her group, but may be counted in only one ethnic group. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

(f) Goals. "Goals" means a statement that the district will strive to attract and hire additional qualified members of an historically underrepresented group in order to achieve the level of expected representation for that group by a target date established by taking into account the expected turnover in the work force and the availability of persons from that group who are qualified to perform a particular job. Goals are not "quotas" or rigid proportions.

(g) Person with a Disability. "Person with a disability" means any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "substantially limited" if he or she is likely to experience difficulty in securing, retaining or advancing in employment because of such an impairment.

(h) Historically Underrepresented Group. "Historically underrepresented group" means ethnic minorities, women and persons with disabilities. The Board of Governors recognizes that ethnic minorities, women and persons with disabilities have historically faced discrimination and other obstacles that limited their opportunities for education, employment and upward mobility. The Board of Governors further acknowledges that as early as 1983 evidence became available documenting that these groups were underrepresented in many job classifications in many community college districts throughout the system.

(i) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the employer to remove artificial or real barriers which prevent or limit the employment and upward mobility of persons with disabilities.

(j) Expected Representation. "Expected representation" means that the percentage of persons from an historically underrepresented group in the applicable work force is substantially the same as the percentage that members of that group would be expected to represent given the number of persons from that group in the pool of persons who are determined by the Chancellor to be available and qualified to perform the work in question.

(k) In-house or Promotional Only Hiring. "In-house or promotional only" hiring means that only existing district employees are allowed to apply for a position.

(l) Screening or Selection Procedure. "Screening or selection procedure" means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

(m) Adverse or Disparate Impact. "Adverse impact" or "disparate impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnicity, gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if:

(1) the numbers involved are too small to permit a meaningful comparison;

(2) the disparity is attributable to the fact that affirmative action recruitment resulted in large numbers of persons from historically underrepresented groups in the applicant pool; or

(3) the disparity occurs because the district is taking corrective action pursuant to Section 53006 to overcome the significant underrepresentation of another group.

(n) Diversity. "Diversity" means a condition each district must strive to achieve in which the district's work force includes men and women, persons with disabilities, and individuals from all ethnic groups in numbers adequate to ensure that the community college provides an inclusive educational and employment environment which fosters cooperation, acceptance, democracy and free expression of ideas. Diversity should exist at all levels and in all job categories listed in Section 53004(a). Although there is no universal or specific measure for determining when diversity has been achieved, the demographics of the adult population of the state and of the community served by the district should both be considered.

(o) Target Date. "Target date" means a point in time by which the district plans to meet an established goal and achieve expected representation for a particular historically underrepresented group in a particular job category.

(p) Timetable. "Timetable" means a set of specific annual hiring objectives that will lead to meeting a goal by a projected target date.

(q) Significantly Underrepresented Group. "Significantly underrepresented group" means any historically underrepresented group for which:

(1) the percentage of persons from that group employed by the district in any job category listed in Section 53004(a) is below seventy percent (70%) of the percentage that members of that group would be expected to represent given the pool of persons who are available and qualified to perform the work in question; or

(2) the number of persons from that group employed by the district in any job category listed in Section 53004(a) is lower than the number that would be expected given the number of persons from that group in the pool of persons available and qualified to perform the work in question, and that discrepancy is found to be statistically significant using the chi square test or any other statistical test the Chancellor determines to be appropriate for this purpose; or

(3) where small numbers are involved, both (1) and (2) are satisfied. The Chancellor shall issue guidelines to assist districts with the proper application of these rules in determining significant underrepresentation.

NOTE: Authority cited: Sections 66700, 70901 and 87105, Education Code. Reference: Sections 87101, Education Code; Section 11092, Government Code; 29 C.F.R. 1602.48 (1981); 29 C.F.R. 1607, 29 U.S.C. 793; 41 C.F.R. 60-741-2 (1980).

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a), (b)(1)-(b)-(3), (c), (k) and (m) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (a), (b), (e), (f), (h), (j) and (m), new subsections (m)(1)-(q)(3), and amendment of NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53002. Policy Statement.

The governing board of each community college district shall adopt a policy statement setting forth the district's commitment to an affirmative action employment program. This statement may also incorporate the nondiscrimination policy statement required pursuant to Section 59300 and other similar nondiscrimination or equal employment opportunity statements which may be required under other provisions of state and federal law.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

2. Amendment filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).

§ 53003. District Plan.

(a) The governing board of each community college district shall develop and adopt a district-wide written faculty and staff diversity plan to implement its affirmative action employment program. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) This plan shall include the goals and timetables, as appropriate, for hiring and promotion of members of historically underrepresented groups developed pursuant to Section 53006 for each college in the district and for the district as a whole. Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the Chancellor's Office for approval. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its plan.

(c) In particular, the plan shall include all of the following:

(1) the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this Subchapter pursuant to Section 53020;

(2) the procedure for filing complaints pursuant to Section 53026 and the person with whom such complaints are to be filed;

(3) a process for notifying all district employees of the provisions of the plan and the policy statement required under Section 53002;

(4) a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this Subchapter and of state and federal nondiscrimination laws;

(5) a process for providing annual written notice to appropriate community organizations concerning the district's plan and the need for assistance from the community in identifying qualified members of historically underrepresented groups for openings with the district;

(6) an analysis of the number of persons from historically underrepresented groups who are employed in the district's work force and those who have applied for employment in each of the job categories listed in Section 53004(a);

(7) an analysis of the degree to which women, ethnic minorities, and persons with disabilities are underrepresented in comparison to the numbers of persons from such groups whom the Chancellor determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;

(8) the steps the district will take to achieve diversity in its work force;

(9) goals for addressing any underrepresentation identified pursuant to Subparagraph (7); and

(10) a plan of corrective action consistent with Section 53006, including goals and timetables for hiring and promotion, if necessary, to remedy any significant underrepresentation identified in the plan by achieving expected representation for all historically underrepresented groups in all job categories listed in Section 53004(a).

(d) The plans submitted to the Chancellor shall be public records.

(e) Each community college district shall make a continuous good faith effort to comply with the requirements of the plan required under this Section.

(f) In developing the availability data called for in Subsection (c)(7), the Chancellor shall work through the established Consultation Process.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (c)(4) and (7) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (b), (c) and (c)(7), new subsections (c)(8)-(9) and subsection renumbering, amendment of newly designated subsection (c)(10) and new subsection (f) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53004. District Evaluation and Report to Chancellor.

(a) Each district shall annually survey its employees and shall monitor applicants for employment on an ongoing basis in order to evaluate its progress in implementing its faculty and staff diversity plan and to provide data needed for the analyses required by Sections 53003, 53006, 53023, and 53024. Each district shall annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of employees at each college in the district. Each employee shall be reported so that he or she may be identified as belonging to one of the following seven job categories:

(1) executive/administrative/managerial;

(2) faculty and other instructional staff;

(3) professional nonfaculty;

(4) secretarial/clerical;

(5) technical and paraprofessional;

(6) skilled crafts; and

(7) service and maintenance.

(b) For purposes of the survey and report required pursuant to Subsection (a) of this Section, each applicant or employee shall be afforded the opportunity to identify his or her gender, ethnicity and, if applicable, his or her disability. Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are to be counted and reported as part of the Asian/Pacific Islander group as well as in separate subcategories. However, in determining whether corrective action is necessary, analysis of the separate subgroups is not necessary.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code; and Section 8310.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a) and (b) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53005. Advisory Committee.

Each community college district shall establish a Faculty and Staff Diversity Advisory Committee to assist the district in developing and implementing the plan required under Section 53003. This advisory committee shall include members of all historically underrepresented groups whenever possible.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Sections 87100 et seq., Education Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53006. Corrective Action.

(a) Continuation of Existing Goals. If a district established a goal prior to the effective date of this Section and significant underrepresentation still exists, it shall update that goal, set a new target date for achieving expected representation for that group in the category or categories in question, and concurrently do the following:

(1) review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group;

(2) consider various other means of reducing the underrepresentation which do not involve taking underrepresented group status into account, and implement any such techniques which are determined to be feasible and potentially effective; and

(3) Comply with Subsection (c) of this Section.

(b) New Goals. If a district determines, pursuant to Section 53003(c)(7), that a particular group is significantly underrepresented with respect to one or more job categories, and no goal has previously been set, the district shall take corrective action consistent with this Section. At a minimum, the district shall:

Register 2002-35

§ 53000
§ 53001
§ 53002
§ 53003
§ 53004
§ 53005
§ 53006
§ 53020
§ 53021
§ 53022
§ 53024
§ 53025
§ 53026
§ 53027
§ 53030
§ 53033
§ 53034

HISTORY

repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for ...ting only pursuant to Government Code section 11343.8 (Register 91, No. ...).

§ 52310. Action by the Chancellor.

NOTE: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

HISTORY

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52311. Special Revocation.

NOTE: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 87332, 87340, 87341 and 87342, Education Code.

HISTORY

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subarticle 3. Administrative Hearing Procedure

§ 52320. Administrative Hearing.

NOTE: Authority cited: Sections 71020, 87274 and 87295, Education Code. Reference: Sections 11503 and 11504, Government Code.

HISTORY

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Subchapter 2. Validation of Service Without a Credential

§ 52400. Application.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

HISTORY

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52401. Approval.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

HISTORY

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52402. Verification.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

HISTORY

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

§ 52403. Investigation and Recommendation.

NOTE: Authority cited: Section 87810, Education Code. Reference: Sections 87275, 87278, 87281, 87284 and 87295, Education Code.

HISTORY

1. Repealer of section filed 3-4-91; operative 4-5-91. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 43).

Chapter 4. Employees

Subchapter 1. Equal Employment Opportunity Programs

Article 1. General

§ 53000. Scope and Intent.

(a) This subchapter implements and should be read in conjunction with Government Code sections 11135–11139.5, Education Code sections 66010.2, 66030, and Chapter 4.5 of Part 40 of Title 3, commencing with section 66250; Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101). Nothing in this subchapter shall be construed to conflict with or be inconsistent with the provisions of article 1, section 31 of the California Constitution or to authorize conduct that is in conflict with or is inconsistent with such provisions.

(b) The regulations in this subchapter require steps to promote faculty and staff equal employment opportunity which are in addition to and consistent with the nondiscrimination requirements of state or federal law. Therefore, compliance with these regulations or approval of the district's equal employment opportunity plan pursuant to section 53003 does not imply and should not be construed to mean that a district has necessarily complied with its obligations under any other applicable laws or regulations. The Chancellor shall assist districts in identifying other applicable state or federal laws which may affect district equal employment opportunity or nondiscrimination policies.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; Sections 11135–11139.5, Government Code; Title 20, United States Code, Section 1681; Title 29, United States Code, Section 794; and Title 42, United States Code, Sections 2000d, 6101 and 12100, et seq.

HISTORY

1. New chapter 1 (sections 53000–53004) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).
2. Repealer of chapter 1 (subchapter 1, sections 53000–53004) and new chapter 1 (subchapters 1–4, sections 53000–53052, not consecutive) filed 2-1-82; effective thirtieth day thereafter (Register 82, No. 6).
3. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
4. Amendment of subsection (a) and NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
5. Amendment of subchapter heading, section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53001. Definitions.

As used in this subchapter:

(a) Adverse Impact. "Adverse impact" means that a statistical measure (such as those outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures") is applied to the effects of a selection procedure and demonstrates a disproportionate negative impact on any group defined in terms of ethnic group identification, gender, or disability. A disparity identified in a given selection process will not be considered to constitute adverse impact if the numbers involved are too small to permit a meaningful comparison.

(b) Business Necessity. "Business necessity" means circumstances which justify an exception to the requirements of section 53021 because compliance with that section would result in substantial additional financial cost to the district or pose a significant threat to human life or safety. Business necessity requires greater financial cost than does mere business convenience. Business necessity does not exist where there is an alternative that will serve business needs equally well.

(c) Equal Employment Opportunity. "Equal employment opportunity" means that all qualified individuals have a full and fair opportunity

to compete for hiring and promotion and to enjoy the benefits of employment with the district. Equal employment opportunity should exist at all levels and in all job categories listed in section 53004(a). Ensuring equal employment opportunity also involves creating an environment which fosters cooperation, acceptance, democracy, and free expression of ideas and is welcoming to men and women, persons with disabilities, and individuals from all ethnic and other groups protected from discrimination by this subchapter.

(d) Equal Employment Opportunity Plan. An "equal employment opportunity plan" is a written document in which a district's work force is analyzed and specific plans and procedures are set forth for ensuring equal employment opportunity.

(e) Equal Employment Opportunity Programs. "Equal employment opportunity programs" means all the various methods by which equal employment opportunity is ensured. Such methods include, but are not limited to, using nondiscriminatory employment practices, actively recruiting, monitoring and taking additional steps consistent with the requirements of section 53006.

(f)(1) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks/African-Americans, and Hispanics/Latinos.

(2) Ethnic Group Identification. "Ethnic group identification" means an individual's identification in one or more of the ethnic groups reported to the Chancellor pursuant to section 53004. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

(g) Goals for Persons with Disabilities. "Goals for persons with disabilities" means a statement that the district will strive to attract and hire additional qualified persons with a disability in order to achieve the level of projected representation for that group by a target date established by taking into account the expected turnover in the work force and the availability of persons with disabilities who are qualified to perform a particular job. Goals are not "quotas" or rigid proportions.

(h) In-house or Promotional Only Hiring. "In-house or promotional only" hiring means that only existing district employees are allowed to apply for a position.

(i) Monitored Group. "Monitored group" means those groups identified in section 53004(b) for which monitoring and reporting is required pursuant to section 53004(a).

(j) Person with a Disability. "Person with a disability" means any person who (1) has a physical or mental impairment as defined in Government Code section 12926 which limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. A person with a disability is "limited" if the condition makes the achievement of the major life activity difficult.

(k) Projected Representation. "Projected representation" means the percentage of persons from a monitored group determined by the Chancellor to be available and qualified to perform the work in question.

(l) Reasonable Accommodation. "Reasonable accommodation" means the efforts made on the part of the district to remove artificial or real barriers which prevent or limit the employment and upward mobility of persons with disabilities. "Reasonable accommodations" may include the items designated in section 53025.

(m) Screening or Selection Procedure. "Screening or selection procedure" means any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques, including but not limited to, traditional paper and pencil tests, performance tests, and physical, educational, and work experience requirements, interviews, and review of application forms.

(n) Significantly Underrepresented Group. "Significantly underrepresented group" means any monitored group for which the percentage of persons from that group employed by the district in any job category listed in section 53004(a) is below eighty percent (80%) of the projected representation for that group in the job category in question.

(o) Target Date. "Target date" means a point in time by which the district plans to meet an established goal for persons with disabilities and thereby achieve projected representation in a particular job category.

(p) Timetable. "Timetable" means a set of specific annual hiring objectives that will lead to meeting a goal for persons with a disability by a projected target date.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; Sections 11135-11139.5, 11092 and 12926, Government Code; 29 C.F.R. 1602.48 (1981); 29 C.F.R. 1607, 29 U.S.C. 793; 41 C.F.R. 60-741-2 (1980).

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a), (b)(1)-(b)-(3), (c), (k) and (m) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (a), (b), (e), (f), (h), (j) and (m), new subsections (m)(1)-(q)(3), and amendment of NOTE filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53002. Policy Statement.

The governing board of each community college district shall adopt a policy statement setting forth the district's commitment to an equal employment opportunity program. This statement may also incorporate the nondiscrimination policy statement required pursuant to section 59300 and other similar nondiscrimination or equal employment opportunity statements which may be required under other provisions of state and federal law.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.1, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135-11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment filed 2-7-2001; operative 3-9-2001. Submitted to OAL for printing only (Register 2001, No. 6).
4. Amendment of section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53003. District Plan.

(a) The governing board of each community college district shall develop and adopt a district-wide written equal employment opportunity plan to implement its equal employment opportunity program. Such plans and revisions shall be submitted to the Chancellor's Office for review and approval.

(b) Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the Chancellor's Office for approval. Each community college district shall notify the Chancellor at least 30 days prior to adopting any other amendments to its plan.

(c) In particular, the plan shall include all of the following:

(1) the designation of the district employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this subchapter pursuant to section 53020;

(2) the procedure for filing complaints pursuant to section 53026 and the person with whom such complaints are to be filed;

(3) a process for notifying all district employees of the provisions of the plan and the policy statement required under section 53002;

(4) a process for ensuring that district employees who are to participate on screening or selection committees shall receive appropriate training on the requirements of this subchapter and of state and federal nondiscrimination laws;

(5) a process for providing annual written notice to appropriate community-based and professional organizations concerning the district's plan and the need for assistance from the community and such organizations in identifying qualified applicants;

(6) an analysis of the number of persons from monitored groups who employed in the district's work force and those who have applied for ployment in each of the job categories listed in section 53004(a);

(7) an analysis of the degree to which monitored groups are underrepresented in comparison to the numbers of persons from such groups whom the Chancellor determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;

(8) methods for addressing any underrepresentation identified pursuant to subparagraph (7)

(9) additional steps consistent with section 53006 to remedy any significant underrepresentation identified in the plan; and

(10) any other measures necessary to further equal employment opportunity throughout the district.

(d) The plan shall include any goals for hiring persons with disabilities that are required by section 53025.

(e) The plans submitted to the Chancellor shall be public records.

(f) Each community college district shall make a continuous good faith effort to comply with the requirements of the plan required under this section.

(g) In developing the availability data called for in subsection (c)(7), the Chancellor shall work through the established Consultation Process.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and sections 11135-11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (c)(4) and (7) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (b), (c) and (c)(7), new subsections (c)(8)-(9) and section renumbering, amendment of newly designated subsection (c)(10) new subsection (f) filed 5-31-96; operative 6-30-96. Submitted to OAL printing only (Register 96, No. 23).
4. Amendment of section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53004. District Evaluation and Report to Chancellor.

(a) Each district shall annually survey its employees and shall monitor applicants for employment on an ongoing basis in order to evaluate the implementation of its equal employment opportunity plan and to provide data needed for the analyses required by sections 53003, 53006, 53023, and 53024. Each district shall annually report to the Chancellor, in a manner prescribed by the Chancellor, the results of its annual survey of employees at each college in the district. Each employee shall be reported so that he or she may be identified as belonging to one of the following seven job categories:

(1) executive/administrative/managerial;
(2) faculty and other instructional staff;
(3) professional nonfaculty;
(4) secretarial/clerical;
(5) technical and paraprofessional;
(6) skilled crafts; and
(7) service and maintenance.

(b) For purposes of the survey and report required pursuant to subsection (a) of this section, each applicant or employee shall be afforded the opportunity to identify his or her gender, ethnic group identification and, if applicable, his or her disability. A person may designate multiple ethnic groups with which he or she identifies, but shall be counted in only one ethnic group for reporting purposes. Chinese, Japanese, Filipinos, Koreans, Vietnamese, Asian Indians, Hawaiians, Guamanians, Samoans, Laotians, and Cambodians are to be counted and reported as part of the Asian/Pacific Islander group as well as in separate subcategories. ever, in determining whether additional steps are necessary to enat monitored groups have not been excluded on an impermissible , analysis of the separate subgroups is not necessary.

NOTE: Authority cited: Sections 66271.1, 66700, 70901 and 87105, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 8310.5 and 11135-11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of subsections (a) and (b) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of subsections (a) and (b) and amendment of NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53005. Advisory Committee.

Each community college district shall establish an Equal Employment Opportunity Advisory Committee to assist the district in developing and implementing the plan required under section 53003. This advisory committee shall include a diverse membership whenever possible.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135-11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53006. Additional Steps to Ensure Equal Employment Opportunity.

(a) If a district determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the district shall take additional steps consistent with this section. At a minimum, the district shall:

(1) review its recruitment procedures and identify and implement any additional measures which might reasonably be expected to attract candidates from the significantly underrepresented group;

(2) consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account, and implement any such techniques which are determined to be feasible and potentially effective;

(3) determine whether the group is still significantly underrepresented in the category or categories in question after the measures described in (1) and (2) have been in place a reasonable period of time; and

(4) if significant underrepresentation persists, the staffing rate for the significantly underrepresented group in the specified job category or categories shall be monitored on an ongoing basis until the projected representation has been achieved for that group in the category or categories in question.

(b) If a reasonable period of time passes and significant underrepresentation persists for a particular group in the job category in question, the district shall:

(1) review each locally established "required," "desired" or "preferred" qualification being used to screen applicants for positions in the job category to determine if it is job-related and consistent with business necessity through a process meeting the requirements of federal law or is among those qualifications which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system;

(2) discontinue the use of any locally established qualification that has not been found to satisfy the requirements set forth in paragraph (1) of this subdivision; and

(3) continue using qualification standards meeting the requirements of paragraph (1) only where no alternative qualification standard is reasonably available which would select for the same characteristics, meet the requirements of paragraph (1) and be expected to have a less exclusionary effect.

(c) For purposes of this section, "a reasonable period of time" means three years, or such longer period as the Chancellor may approve, upon the request of the equal employment opportunity advisory committee and the chief executive officer, where the district has not filled enough positions to appreciably affect its work force in the job category in question.

(d) Nothing in this subchapter shall be construed to prohibit a district from taking any other steps it concludes are necessary to ensure equal employment opportunity, provided that such actions are consistent with the requirements of federal and state constitutional and statutory nondiscrimination law.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. New section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
2. Amendment of section heading, section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53010. Assistance.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87103, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53011. Report.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87104, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53012. Periodic Evaluation.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Section 87102, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 2. Other Specific Responsibilities of Community College Districts

§ 53020. Responsibility; Delegation of Authority; Complaints.

(a) The governing board of each community college district is ultimately responsible for proper implementation of this subchapter at all levels of district and college operation and for making measurable progress toward equal employment opportunity by the methods described in the district's equal employment opportunity plan. In carrying out this responsibility, the governing board, upon the recommendation of the chief executive officer, shall ensure that an equal employment opportunity officer is designated to oversee the day–to–day implementation of the requirements set forth in this subchapter.

(b) The administrative structure created by any delegation of authority to the equal employment opportunity officer or others shall be described in the district's equal employment opportunity plan submitted pursuant to section 53003 and shall be designed in such a manner so as to ensure prompt and effective implementation of the requirements of this subchapter. The plan shall also designate a single officer, who may be the equal employment opportunity officer, who shall be given authority and responsibility for receiving complaints filed pursuant to section 53026, for ensuring that such complaints are promptly and impartially investigated, and ensuring that selection procedures and the applicant pool are properly monitored as required by sections 53023 and 53024.

(c) Any organization or individual, whether or not an employee of the district, who acts on behalf of the governing board with regard to the recruitment and screening of personnel is an agent of the district and is subject to all of the requirements of this subchapter.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsections (a) and (c) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53021. Recruitment.

(a) Except as otherwise provided in this section, community college districts shall actively recruit from both within and outside the district work force to attract qualified applicants for all new openings. This shall include outreach designed to ensure that all persons, including persons from monitored groups, are provided the opportunity to seek employment with the district. The requirement of open recruitment shall apply to all new full–time and part–time openings in all job categories and classifications, including, but not limited to, faculty, classified employees, categorically funded positions, the chief executive officer, and all other executive/administrative/managerial positions. Recruitment for full–time faculty and educational administrator positions shall be at least statewide and, at a minimum, shall include seeking qualified applicants listed in the California Community Colleges Equal Employment Opportunity Registry. Recruitment for part–time faculty positions may be conducted separately for each new opening or by annually establishing a pool of eligible candidates, but in either case full and open recruitment is required consistent with this section.

(b) "In–house or promotional only" recruitment shall not be used to fill any new opening except when the position is being filled on an interim basis for the minimum time necessary to allow for full and open recruitment; provided however, that no interim appointment or series of interim appointments exceed one year in duration. The Chancellor may approve an extension of up to one additional year if the district demonstrates "business necessity" as defined in section 53001(b).

(c) If a district believes justification exists for use of the exception listed in subsection (b), it shall so notify the Equal Employment Opportunity Advisory Committee established pursuant to section 53005 and the Chancellor at least ten (10) working days prior to offering the position to a candidate.

(d) Even where in–house or promotional only recruitment is permitted pursuant to subsection (b), the district shall comply with its established hiring procedures and all qualified district employees shall be afforded the opportunity to apply.

(e) For purposes of this section, a new opening is not created when:

(1) there is a reorganization or series of lateral transfers that do not result in a net increase in the number of employees;

(2) a position which is currently occupied by an incumbent is upgraded, reclassified, or renamed without significantly altering the duties being performed by the individual;

(3) the faculty in a division or department elect one faculty member to serve as a chairperson for a prescribed limited term;

(4) the position is filled by a temporary, short–term, or substitute employee appointed pursuant to Education Code sections 87422, 87480, 87482.5(b) 88003, 88106 or 88109; or

(5) a part–time faculty member is assigned to teach the same or fewer hours he or she has previously taught in the same discipline without a substantial break in service. For purposes of this section, "a substantial break in service" means more than one calendar year or such different period as may be defined by a collective bargaining agreement.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment subsections (b) and (d)–(e)(2) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (a) and (b)(1)–(b)(2), repealer of subsection (b)(3), amendment of subsections (c), (d) and (e)(1)–(e)(4) and new subsection (e)(5) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).

4. Amendment of section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

...d022. Job Announcements and Qualifications.

Job announcements shall state clearly job specifications setting forth the knowledge, skills, and abilities necessary to job performance. For faculty and administrative positions, job requirements shall include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students. Job specifications, including any "required," "desired" or "preferred" qualifications beyond the state minimum qualifications (set forth in subchapter 4, commencing with section 53400 of this chapter) which the district wishes to utilize, shall be reviewed before the position is announced, to ensure conformity with the requirements of this subchapter and state and federal nondiscrimination laws.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 973, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135-11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
2. Amendment of section heading, section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53023. Applicant Pool.

(a) The application for employment shall afford each applicant an opportunity to voluntarily identify his or her gender, ethnic group identification and, if applicable, his or her disability. This information shall be kept confidential and shall be used only in research, validation, monitoring, evaluating the effectiveness of the district's equal employment opportunity program, or any other purpose specifically authorized in this subchapter, or by any applicable statute or regulation.

(b) After the application deadline has passed, the composition of the ... applicant pool shall be analyzed to ensure that any failure to obtain ...ed representation for any monitored group is not due to discrimi... recruitment procedures. If necessary, the application deadline shall be extended and additional recruitment shall be conducted that eliminates discriminatory recruitment procedures and ensures that recruitment efforts provide a full and fair opportunity for participation to a wide diversity of potential applicants. When recruitment efforts have offered an opportunity for participation to a wide diversity of potential applicants or further recruitment efforts would be futile, applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement.

(c) Before the selection process continues, the composition of the qualified applicant pool shall be analyzed to ensure that no monitored group is adversely impacted pursuant to section 53001(a). If adverse impact is found to exist, the chief executive officer or his or her designee shall take effective steps to address the adverse impact before the selection process continues. Such steps may include, but are not limited to:

(1) extending the deadline and undertaking inclusive outreach efforts to ensure that members of the adversely impacted group have equal opportunity to seek employment with the district;

(2) including all applicants who were screened out on the basis of any locally established qualifications beyond state minimum qualifications which have not been specifically demonstrated to be job-related and consistent with business necessity through a process meeting the requirements of federal law or which are not among those which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system.

(d) If adverse impact persists after taking steps required under subdivision (c), the selection process may proceed only if:

(1) the job announcement does not require qualifications beyond the statewide minimum qualifications; or

...ically established qualifications beyond state minimum qualifica... any, are demonstrated to be job-related and consistent with busi... necessity through a process meeting the requirements of federal law and suitable alternative selection procedures to reduce the adverse impact were unavailable; or

(3) the particular qualification beyond statewide minimum qualifications which are used in the job announcement are among those which the Board of Governors has found to be job-related and consistent with business necessity throughout the community college system.

(e) The district may not advertise or utilize in future hiring processes for the same position or a substantially similar position any locally established qualifications beyond state minimum qualifications that the district was unable to verify under subsection (b)(2) unless such qualifications are so verified in advance of commencing any such future hiring process.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135-11139.5, Government Code

HISTORY

1. New section filed 2-26-82; designated effective 2-28-82 pursuant to Government Code section 11346.2(d) (Register 82, No. 9).
2. Repealer and new section filed 3-26-92; operative 4-24-92 (Register 92, No. 17).
3. Amendment of subsections (a) and (b), repealer of subsection (b)(2) and subsection renumbering, and amendment of subsection (c)(2) filed 5-31-96; operative 6-30-96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of section and NOTE filed 7-12-2002; operative 8-11-2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53024. Screening or Selection Procedures.

(a) All screening or selection techniques, including the procedure for developing interview questions, and the selection process as a whole, shall be:

(1) provided to the Chancellor upon request;

(2) designed to ensure that for faculty and administrative positions, meaningful consideration is given to the extent to which applicants demonstrate a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;

(3) based solely on job-related criteria; and

(4) designed to avoid an adverse impact, as defined in section 53001(a), and monitored by means consistent with this section to detect and address any adverse impact which does occur for any monitored group.

(b) If monitoring pursuant to subsection (a)(4) reveals that any selection technique or procedure has adversely impacted any such group, the chief executive officer or his/her designee shall suspend the selection process and timely and effective steps shall be taken to remedy the problem before the selection process resumes. The equal employment opportunity officer, or other official charged with responsibility for monitoring selection procedures, may assist the screening committee by discussing the overall composition of the applicant pool and the screening criteria or procedures which have produced an adverse impact, provided that confidential information about individual candidates is not disclosed. If adverse impact results from locally established qualifications beyond state minimum qualifications that have not been verified as described in section 53023(c)(2) or replaced with suitable alternatives having a lesser adverse impact, the use of such qualifications shall be immediately discontinued and any applicant eliminated on the basis of that qualification shall be continued in the hiring process. Where necessary, the position may be re-opened at any time and a new selection process initiated in a way designed to avoid adverse impact.

(c) A district may not designate or set aside particular positions to be filled by members of any group defined in terms of ethnic group identification, race, color, national origin, religion, age, gender, disability, ancestry or sexual orientation, or engage in any other practice which would result in discriminatory or preferential treatment prohibited by state or federal law. Nor may a district apply the district's equal employment opportunity plan in a rigid manner which has the purpose or effect of so discriminating.

(d) Seniority or length of service may be taken into consideration only to the extent it is job related, is not the sole criterion, and is included in the job announcement consistent with the requirements of section 53022.

(e) Selection testing for employees shall follow procedures as outlined in the Equal Employment Opportunity Commission's "Uniform Guidelines on Employee Selection Procedures."

(f) Whenever possible, screening committees shall include a diverse membership which will bring a variety of perspectives to the assessment of applicant qualifications.

(g) Notwithstanding any other provision of this division, the governing board or its designee shall have the authority to make all final hiring decisions based upon careful review of the candidate or candidates recommended by a screening committee. This includes the right to reject all candidates and to order further review by the screening committee or to reopen the position where necessary to further achievement of the objectives of the equal employment opportunity plan or to ensure equal employment opportunity. However, a consistent pattern of not hiring qualified candidates from a monitored group who are recommended by screening committees may give rise to an inference that the selections are not consistent with the objectives of equal employment opportunity that are required by this subchapter.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsections (a)(2)–(c), (e) and (g) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53025. Persons with Disabilities.

(a) Districts shall ensure that applicants and employees with disabilities receive reasonable accommodations consistent with the requirements of Government Code sections 11135 et seq. and 12940(m), section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. Such accommodations may include, but are not limited to, job site modifications, job restructuring, part–time work schedules, flexible scheduling, reassignment to a reasonably equivalent vacant position, adaptive equipment, and auxiliary aids such as readers, interpreters, and notetakers. Such accommodations may be paid for with funds provided pursuant to article 3 (commencing with section 53030) of this subchapter.

(b) If a district established a goal for persons with disabilities prior to the effective date of this subsection and if significant underrepresentation still exists, it shall update that goal, set a new target date for achieving projected representation in the category or categories in question, and concurrently comply with subsections (a)(1), (a)(2) and (b) of section 53006 with respect to persons with disabilities.

(c) Where persons with disabilities are found to be significantly underrepresented, measures required under subsections (a)(1) and (a)(2) of section 53006 shall be implemented concurrently with setting a goal with a target date for achieving projected representation for persons with a disability in each job category where the underrepresentation was found to exist. Goals shall remain in effect only until projected representation has been achieved for that group in the category or categories in question. Until the Chancellor's Office provides data regarding the availability of persons with disabilities by job category, an aggregate labor force availability rate shall be utilized for setting goals for hiring persons with disabilities with respect to the total district work force. The district may also concurrently take other additional steps which take disability into account, so long as such measures are discontinued when projected representation is achieved for persons with disabilities in the category or categories in question.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code; 29 U.S.C. 794, and 42 U.S.C. Sections 12101, et seq.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Repealer of subsections (a) and (b) and deletion of subsection designator filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53026. Complaints.

Each community college district shall establish a process permitting any person to file a complaint alleging that the requirements of this subchapter have been violated. A copy of the complaint shall immediately be forwarded to the Chancellor who may require that the district provide a written investigative report within ninety (90) days. Complaints which also allege discrimination prohibited by Government Code sections 11135 et seq. shall be processed according to the procedures set forth in subchapter 5 (commencing with section 59300) of chapter 10 of this division.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53027. Applicability to Districts Operating on the Merit System.

Nothing in this subchapter shall be construed to conflict with or be inconsistent with the provisions of article 3 (commencing with section 88060) of chapter 4 of part 51 of the Education Code which apply to districts operating a merit system for classified employees.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270, 87360 and 88060 et seq., Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53028. Affirmative Action Commitment.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53029. Handicapped.

NOTE: Authority cited: Sections 71020 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code; Section 11135, Government Code; 29 U.S.C. 705 and 706.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Article 3. Faculty and Staff Diversity Fund

§ 53030. Equal Employment Opportunity Fund Allocation.

Resources provided to the Board of Governors for the purpose of promoting equal employment opportunity in hiring and promotion within the system shall be placed in an Equal Employment Opportunity Fund and shall be allocated consistent with the following:

(a) A portion of the fund, but not more than 25 percent, shall be set aside to provide technical assistance, service, monitoring, and compliance functions.

(b) That portion of the funds not allocated pursuant to subsection (a) may be allocated to the districts in the following categories:

(1) an amount proportional to the full-time equivalent students of each district to the total full-time equivalent students for all districts;

(2) an equal dollar amount to each district;

(3) an amount related to success in promoting equal employment opportunity. Multiple methods of measuring success shall be identified by the Chancellor working through the established Consultation Process.

(c) funds provided pursuant to this section may be used for:

(1) outreach and recruitment;

(2) in-service training on equal employment opportunity;

(3) accommodations for applicants and employees with disabilities pursuant to section 53025; and

(4) other activities to promote equal employment opportunity.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. Repealer and new section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Amendment of subsections (b) and (b)(3) and repealer of subsections (b)(4) and (b)(5) filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
4. Amendment of section heading, section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53031. Success.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Repealer of section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53032. Point Factors.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Repealer of section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).

§ 53033. Failure to Report.

Any district failing to provide the data required under Section 53004 is not in compliance with this subchapter. Equal Employment Opportunity funds for any given fiscal year, other than those under section 53030(a), shall not be granted unless the district provides the data no later than March 31st of the preceding fiscal year or receives an extension of the deadline from the Chancellor.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section filed 5–31–96; operative 6–30–96. Submitted to OAL for printing only (Register 96, No. 23).
3. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53034. Required Report.

Districts shall submit a report on the use of Equal Employment Opportunity funds to the Chancellor's Office no later than September 30th of the fiscal year following the use of the funds. Until such time as a data set to calculate the staffing rate of persons with disabilities has been integrated into the report required under section 53004, districts will report that rate by a separate survey conducted, as directed by the Chancellor's Office.

NOTE: Authority cited: Sections 66271.1, 66700 and 70901, Education Code; and Section 11138, Government Code. Reference: Statutes of 1988, Chapter 923, Section 4; and Sections 66010.2, 66030, 66071, 66270 and 87360, Education Code; and Sections 11135–11139.5, Government Code.

HISTORY

1. New section filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Amendment of section and NOTE filed 7–12–2002; operative 8–11–2002. Submitted to OAL for printing only (Register 2002, No. 35).

§ 53040. Governing Board's Affirmative Action Employment Policy Statement.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Section 87101, Education Code; Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980); 20 U.S.C. 793; 41 C.F.R. 60–741.1–.9, et seq. (1980); 38 U.S.C. 2012; 41 C.F.R. 60–250.1–.9, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53041. Affirmative Action Responsibilities and Duties.

NOTE: Authority cited: Sections 71020, 71025, 71068, and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53042. Affirmative Action Officer.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53043. Internal Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53044. External Dissemination.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53045. Complaint Procedure.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Sections 87100 and 87101, Education Code.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53046. Work Force Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: 29 C.F.R. 1602.48 (1981).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
2. Editorial correction of section heading (Register 94, No. 38).

§ 53049. Utilization Analysis.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53050. Corrective Action.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp. 320; 41 C.F.R. 60–2.1–3.2, et seq. (1980).

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53051. Goals and Timetables.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Executive Order 11246, 3 C.F.R. 1964–1965 comp. 339, as amended by Executive Order 11375, 3 C.F.R. 1967 comp.

HISTORY

1. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

§ 53052. Affirmative Action Advisory Committee.

NOTE: Authority cited: Sections 71020, 71025, 71068 and 87105, Education Code. Reference: Section 87100, Education Code.

HISTORY

1. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53060. Fund Allocation.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53061. Success.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Editorial correction of printing error in subsection (c) (Register 91, No. 31).
3. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53062. Point Factors.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53063. Failure to Report.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

§ 53064. Required Report.

NOTE: Authority cited: Sections 70901 and 87107, Education Code. Reference: Section 87107, Education Code.

HISTORY

1. New section filed 9-10-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 10-10-90 (Register 90, No. 45). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
2. Repealer filed 3-26-92; operative 4-24-92 (Register 92, No. 17).

Subchapter 2. Certificated Positions

Article 1. Special Non-Credentialed Employees

§ 53100. Prerequisites for Employment Under Education Code Section 87401.

NOTE: Authority cited: Sections 71020, 71064, and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Renumbering of chapter 1 (sections 53100-53205) to chapter 2 (sections 53100-53205) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 53101. Processing of Fingerprint Cards.

NOTE: Authority cited: Sections 71020, 71064, 87220 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 53102. Cause for Dismissal.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 53103. Report of Persons Employed.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

Article 1.5. Sick Leave Transfer

§ 53125. Transfer of Accumulated Sick Leave.

This Section prescribes the manner in which the amount of accumulated sick leave is certified for transfer under Sections 87782, 87783, and 87785 of the Education Code.

(a) As used in this Section, accumulated siek leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) Transfer shall be certified as follows:

(1) The person who accumulated the sick leave or the new employing agency requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave,

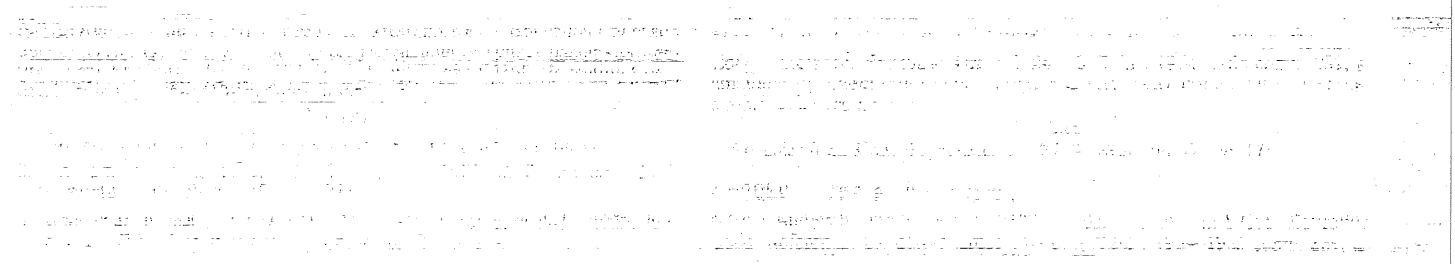
(2) Upon receipt of the request, the former employing agency transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is charged with maintaining employee attendance records,

(3) The new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785.

NOTE: Authority cited: Sections 70901, 71024 and 87782, Education Code. Reference: Sections 87781, 87782, 87783 and 87785, Education Code.

HISTORY

1. New subchapter 1.5 (section 53125) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Editorial correction of HISTORY 4 (Register 95, No. 19).



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 06: Student Fees

History Index for
Title 5, California Code of Regulations

Section 51012

Register 83-29 Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000-51021, not consecutive).

Register 91-23 § 51012: Amendment by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

Register 95-15 § 51012: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1983-29

§ 51012

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55025) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

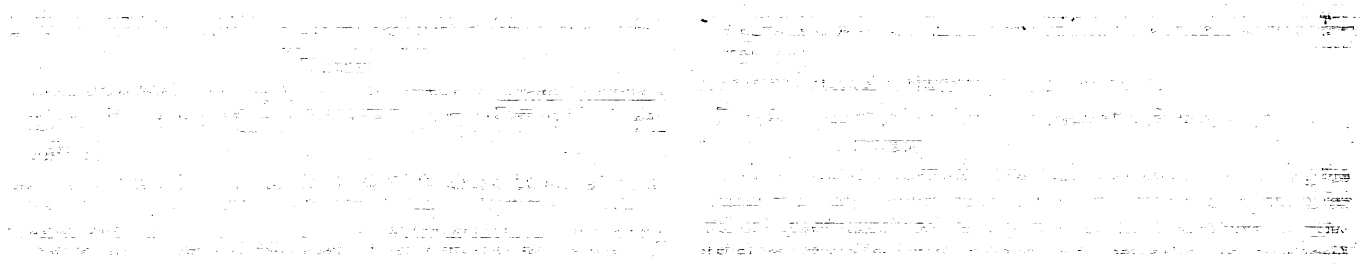
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 07: Approval of New Colleges & Ed Centers

History Index for
Title 5, California Code of Regulations

Section 51014
Section 55825
Section 55827
Section 55828
Section 55829
Section 55830
Section 55831

Register 83-29 Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000-51021, not consecutive).

New Chapter 11 (sections 55825-55831, not consecutive).

Register 91-23 § 51014: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55825: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55827: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

§ 55828: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55829: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55830: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55831: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-43 § 55825: Editorial correction of printing error.

Register 94-38 § 51014: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55827: Amendment of subsections (a), (a)(3) and (b). Submitted

to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51014: Editorial correction of HISTORY 1.

Register 95-22 § 55825: Editorial correction of HISTORY 2.

§ 55827: Editorial correction of HISTORY 1.

§ 55828: Editorial correction of HISTORY 1.

§ 55829: Editorial correction of HISTORY 1.

§ 55830: Editorial correction of HISTORY 1.

§ 55831: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

CHAPTER 11. NEW COLLEGES AND EDUCATION CENTERS

55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in Section 51827 shall employ and comply with the standards contained in Sections 51829, 51830 and 51831 of this chapter.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY:

1. New Chapter 11 (Sections 55825–55831, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

55827. Definitions.

(a) College. As used in this chapter, "college" means a degree-granting institution intended to provide instruction through the second year of college, including but not limited to one or more of the following categories: (1) standard collegiate courses for transfer to higher institutions; (2) vocational and technical fields leading to employment; or (3) general or liberal arts courses and for which institution the district intends to obtain accreditation.

(b) Education Center. As used in this chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 ADA by the third year of operation. The center typically has an on-site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Section 66700, Education Code.

55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off-campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community college district and the Postsecondary Education Commission for use in planning activities.

(b) The Chancellor's Office shall develop procedures to identify and review plans for new colleges and new educational centers within the district's Five-Year Academic and Capital Outlay Master Plans.

(c) Community college districts shall prepare and submit to the Chancellor's Office proposals for new colleges and new educational centers as defined in this chapter. These proposals should contain at least the following elements: (1) Assessment of Needs and Preferences (Section 55829), (2) Definition of Objectives (Section 55830), and (3) Analysis of Alternative Delivery Systems (Section 55831).

(d) The Chancellor's Office shall review each proposed new college and new educational center and shall recommend approval or disapproval to the Board of Governors. The Chancellor's Office analysis of these proposals shall stress inter-district concerns and evaluation of the delivery system proposed.

(e) The Board of Governors shall approve or disapprove each new college or educational center and transmit its findings to the community college district initiating the proposal and to the California Postsecondary Education Commission.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 66700 and 81810, Education Code.

55829. Assessment of Needs and Preferences.

(a) The community area and characteristics of individuals to be served must be identified adequately.

(b) Projections of potential enrollment demand in the service area must demonstrate significant unmet need, taking into account plans of nearby secondary and postsecondary institutions.

(c) Significant community support must be evident and possible community opposition must be identified.

(d) Preferences for community college programs and services on the part of individuals in the service area must be identified.

(e) Insofar as possible, present and future labor market requirements must be identified for the proposed service area, a broader adjacent region, and the state.

(f) Projected labor market requirements and community program preferences must be reconciled, if possible.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 66700 and 81810, Education Code.

55830. Identification of Objectives.

(a) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served.

(b) Objectives of the proposed programs and services must be sufficiently specific that the district board may evaluate the success with which needs and preferences are met.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 66700 and 81810, Education Code.

55831. Analysis of Alternative Delivery Systems.

(a) The proposed operation must be the most effective and equitable of feasible delivery system alternatives for providing intended programs and services.

(b) Criteria for selecting the proposed delivery system must include:

(1) accessibility of programs and services to individuals in the service area,

(2) content and quality of programs and services, and

(3) cost of programs and services.

(c) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include, but need not be limited to:

(1) increased utilization of existing district resources,

(2) forming a new college, educational center, and/or outreach locations, and

(3) use of media such as television, computer-assisted instruction or programmed learning packages.

Alternative delivery systems considered must be adequately described, generally mutually exclusive, and limited to a manageable number to facilitate analysis and review.

(d) Proposed sources of funding for needed resources must be identified for both short and long-term operations.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 66700 and 81810, Education Code.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

selves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70902 and 70902, Education Code.

HISTORY

1. Editorial correction of subsection (b)(1)(A) filed 7–19–83; designated effective 8–12–83 (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55807. Conversion to Credit.

Upon student petition to and certification by a governing board of credit–level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 78405, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (sections 55805 and 55806).

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 51827 shall employ and comply with the standards contained in sections 51829, 51830 and 51831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. New chapter 11 (sections 55825–55831, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55827. Definitions.

(a) College. As used in this chapter, "college" means a degree–granting institution intended to provide instruction through the second year of college, including but not limited to one or more of the following categories:

(1) standard collegiate courses for transfer to higher institutions;

(2) vocational and technical fields leading to employment; or

(3) general or liberal arts courses and for which institution the district intends to obtain accreditation.

(b) Education Center. As used in this chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 ADA by the third year of operation. The center typically has an on–site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 66700, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off–campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community

ollege district and the Postsecondary Education Commission for use in anning activities.

(b) The Chancellor's Office shall develop procedures to identify and review plans for new colleges and new educational centers within the district's Five–Year Academic and Capital Outlay Master Plans.

(c) Community college districts shall prepare and submit to the Chancellor's Office proposals for new colleges and new educational centers as defined in this chapter. These proposals should contain at least the following elements:

(1) Assessment of Needs and Preferences (section 55829),

(2) Identification of Objectives (section 55830), and

(3) Analysis of Alternative Delivery Systems (section 55831).

(d) The Chancellor's Office shall review each proposed new college and new educational center and shall recommend approval or disapproval to the Board of Governors. The Chancellor's Office analysis of these proposals shall stress inter–district concerns and evaluation of the delivery system proposed.

(e) The Board of Governors shall approve or disapprove each new college or educational center and transmit its findings to the community college district initiating the proposal and to the California Postsecondary Education Commission.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55829. Assessment of Needs and Preferences.

(a) The community area and characteristics of individuals to be served must be identified adequately.

(b) Projections of potential enrollment demand in the service area must nonstrate significant unmet need, taking into account plans of nearby ondary and postsecondary institutions.

(c) Significant community support must be evident and possible community opposition must be identified.

(d) Preferences for community college programs and services on the part of individuals in the service area must be identified.

(e) Insofar as possible, present and future labor market requirements must be identified for the proposed service area, a broader adjacent region, and the state.

(f) Projected labor market requirements and community program preferences must be reconciled, if possible.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55830. Identification of Objectives.

(a) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served.

(b) Objectives of the proposed programs and services must be sufficiently specific that the district board may evaluate the success with which needs and preferences are met.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55831. Analysis of Alternative Delivery Systems.

(a) The proposed operation must be the most effective and equitable feasible delivery system alternatives for providing intended programs id services.

(b) Criteria for selecting the proposed delivery system must include:

(1) accessibility of programs and services to individuals in the service area,

(2) content and quality of programs and services, and

(3) cost of programs and services.

(c) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include, but need not be limited to:

(1) increased utilization of existing district resources,

(2) forming a new college, educational center, and/or outreach locations, and

(3) use of media such as television, computer–assisted instruction or programmed learning packages.

Alternative delivery systems considered must be adequately described, generally mutually exclusive, and limited to a manageable number to facilitate analysis and review.

(d) Proposed sources of funding for needed resources must be identified for both short and long–term operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55840. Appointment and Qualification of District Librarian.

The governing board of a community college district maintaining its own library or libraries may appoint a librarian who shall meet minimum qualifications established pursuant to chapter 4 (commencing with section 53400) of division 4 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55841. Annual Report by Governing Board to Department of Education.

The governing board of a district shall, on or before August 31st, in each year, report to the Chancellor on the condition of district libraries, for the year ending June 30th preceding. The report shall, in addition to other matters deemed expedient by the governing board or the librarians, contain such statistical and other information as is deemed desirable by the Chancellor. For this purpose the Chancellor may send to the districts instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Chapter 7. Special Programs

Subchapter 1. Disabled Student Programs and Services

Article 1. General Provisions and Definitions

§ 56000. Scope of Chapter.

This chapter applies to community college districts offering educational programs and support services, on and/or off campus, to students with disabilities pursuant to Education Code Sections 78600 and 84850.

Programs receiving funds apportioned pursuant to Education Code Section 84850 shall meet the requirements of this chapter. Any expenditures under the authority of this chapter must meet the following conditions:

evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Editorial correction of subsection (b)(1)(A) filed 7–19–83; designated effective 8–12–83 (Register 83, No. 29).
2. New section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
3. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
4. Editorial correction of printing error in NOTE (Register 91, No. 43).

§ 55807. Conversion to Credit.

Upon student petition to and certification by a governing board of credit–level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 78405, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (sections 55805 and 55806).

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. New chapter 11 (sections 55825–55831, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
3. Editorial correction of printing error (Register 91, No. 43).

§ 55827. Definitions.

(a) College. As used in this chapter, "college" means a degree–granting institution intended to provide instruction through the second year of college, including but not limited to one or more of the following categories:

(1) standard collegiate courses for transfer to higher institutions;

(2) vocational and technical fields leading to employment; or

(3) general or liberal arts courses and for which institution the district intends to obtain accreditation.

(b) Education Center. As used in this chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 ADA by the third year of operation. The center typically has an on–site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 66700, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off–campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community college district and the Postsecondary Education Commission for use in planning activities.

(b) The Chancellor's Office shall develop procedures to identify and review plans for new colleges and new educational centers within the district's Five–Year Academic and Capital Outlay Master Plans.

(c) Community college districts shall prepare and submit to the Chancellor's Office proposals for new colleges and new educational centers as defined in this chapter. These proposals should contain at least the following elements:

(1) Assessment of Needs and Preferences (section 55829),

(2) Identification of Objectives (section 55830), and

(3) Analysis of Alternative Delivery Systems (section 55831).

(d) The Chancellor's Office shall review each proposed new college and new educational center and shall recommend approval or disapproval to the Board of Governors. The Chancellor's Office analysis of these proposals shall stress inter–district concerns and evaluation of the delivery system proposed.

(e) The Board of Governors shall approve or disapprove each new college or educational center and transmit its findings to the community college district initiating the proposal and to the California Postsecondary Education Commission.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55829. Assessment of Needs and Preferences.

(a) The community area and characteristics of individuals to be served must be identified adequately.

(b) Projections of potential enrollment demand in the service area must demonstrate significant unmet need, taking into account plans of nearby secondary and postsecondary institutions.

(c) Significant community support must be evident and possible community opposition must be identified.

(d) Preferences for community college programs and services on the part of individuals in the service area must be identified.

(e) Insofar as possible, present and future labor market requirements must be identified for the proposed service area, a broader adjacent region, and the state.

(f) Projected labor market requirements and community program preferences must be reconciled, if possible.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55830. Identification of Objectives.

(a) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served.

(b) Objectives of the proposed programs and services must be sufficiently specific that the district board may evaluate the success with which needs and preferences are met.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55831. Analysis of Alternative Delivery Systems.

(a) The proposed operation must be the most effective and equitable of feasible delivery system alternatives for providing intended programs and services.

(b) Criteria for selecting the proposed delivery system must include:

(1) accessibility of programs and services to individuals in the service area,

(2) content and quality of programs and services, and

(3) cost of programs and services.

(c) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include, but need not be limited to:

(1) increased utilization of existing district resources,

(2) forming a new college, educational center, and/or outreach locations, and

(3) use of media such as television, computer–assisted instruction or programmed learning packages.

Alternative delivery systems considered must be adequately described, generally mutually exclusive, and limited to a manageable number to facilitate analysis and review.

(d) Proposed sources of funding for needed resources must be identified for both short and long–term operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55840. Appointment and Qualification of District Librarian.

The governing board of a community college district maintaining its own library or libraries may appoint a librarian who shall meet minimum qualifications established pursuant to chapter 4 (commencing with section 53400) of division 4 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55841. Annual Report by Governing Board to Department of Education.

The governing board of a district shall, on or before August 31st, in each year, report to the Chancellor on the condition of district libraries, for the year ending June 30th preceding. The report shall, in addition to other matters deemed expedient by the governing board or the librarians, contain such statistical and other information as is deemed desirable by

[The next page is 358.7.]

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000-53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sec-

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. New chapter 11 (sections 55825–55831, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
3. Editorial correction of printing error (Register 91, No. 43).

§ 55827. Definitions.

(a) College. As used in this Chapter, "college" means a degree-granting institution intended to provide instruction through the second year of college, including but not limited, to one or more of the following categories:

(1) standard collegiate courses for transfer to higher institutions;

(2) vocational and technical fields leading to employment; or

(3) general or liberal arts courses for which institution the district intends to obtain accreditation.

(b) Educational Center. As used in this Chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 FTES by the third year of operation. The center typically has an on-site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 66700, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of subsections (a), (a)(3) and (b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off-campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community college district and the Postsecondary Education Commission for use in planning activities.

(b) The Chancellor's Office shall develop procedures to identify and review plans for new colleges and new educational centers within the district's Five-Year Academic and Capital Outlay Master Plans.

(c) Community college districts shall prepare and submit to the Chancellor's Office proposals for new colleges and new educational centers as defined in this chapter. These proposals should contain at least the following elements:

(1) Assessment of Needs and Preferences (section 55829),

(2) Identification of Objectives (section 55830), and

(3) Analysis of Alternative Delivery Systems (section 55831).

(d) The Chancellor's Office shall review each proposed new college and new educational center and shall recommend approval or disapproval to the Board of Governors. The Chancellor's Office analysis of these proposals shall stress inter-district concerns and evaluation of the delivery system proposed.

(e) The Board of Governors shall approve or disapprove each new college or educational center and transmit its findings to the community college district initiating the proposal and to the California Postsecondary Education Commission.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55829. Assessment of Needs and Preferences.

(a) The community area and characteristics of individuals to be served must be identified adequately.

(b) Projections of potential enrollment demand in the service area must demonstrate significant unmet need, taking into account plans of nearby secondary and postsecondary institutions.

(c) Significant community support must be evident and possible community opposition must be identified.

(d) Preferences for community college programs and services on the part of individuals in the service area must be identified.

(e) Insofar as possible, present and future labor market requirements must be identified for the proposed service area, a broader adjacent region, and the state.

(f) Projected labor market requirements and community program preferences must be reconciled, if possible.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55830. Identification of Objectives.

(a) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served.

(b) Objectives of the proposed programs and services must be sufficiently specific that the district board may evaluate the success with which needs and preferences are met.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55831. Analysis of Alternative Delivery Systems.

(a) The proposed operation must be the most effective and equitable of feasible delivery system alternatives for providing intended programs and services.

(b) Criteria for selecting the proposed delivery system must include,

(1) accessibility of programs and services to individuals in the service area,

(2) content and quality of programs and services, and

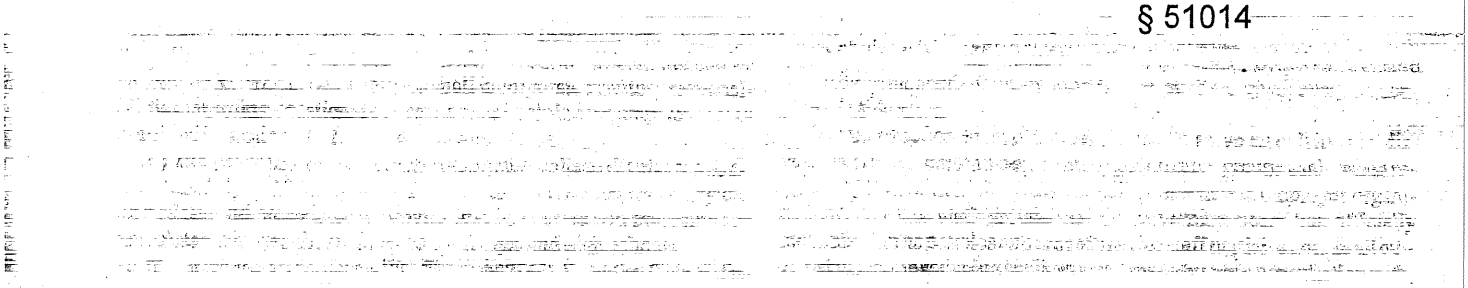
(3) cost of programs and services.

(c) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include, but need not be limited to:

(1) increased utilization of existing district resources,

(2) forming a new college, educational center, and/or outreach locations, and

(3) use of media such as television, computer-assisted instruction or programmed learning packages.



Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

4. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

5. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

Register 1995-22

§ 55825
§ 55827
§ 55828
§ 55829
§ 55830
§ 55831

category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences. Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the method of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

(C) Humanities. Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign languages, literature, philosophy, and religion.

(D) Language and Rationality. Courses in language and rationality are those which develop for the student the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition. Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking. Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While a course might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas.

(c) The provisions of this section shall be applicable to all students who enter a community college on or after July 1, 1983, provided that a governing board may specify an earlier implementation date pursuant to subsection (b) of Section 55810.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Editorial correction of subsection (b)(1)(A) filed 7–19–83; designated effective 8–12–83 (Register 83, No. 29).
2. New section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of printing error in NOTE (Register 91, No. 43).
5. Editorial correction of HISTORY 3 (Register 95, No. 22).

§ 55807. Conversion to Credit.

Upon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 78405, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55808. Certificate of Achievement.

The governing board of a community college district shall issue a certificate of achievement to any student whom the governing board determines has completed successfully any course of study or curriculum for which a certificate of achievement is offered.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55809. Duty to Grant Diploma.

The governing board of a community college district shall award the appropriate diploma, degree or certificate whenever a student has completed all requirements for the degree, diploma or certificate without regard to the length of time actually taken by the student to complete such requirements. The governing board shall grant to any student, who has satisfactorily completed the requirements of any course of study in less than the prescribed time, credit for the full number of semester hours scheduled for such course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55810. Implementation by Governing Boards.

(a) The governing board of a community college district shall adopt necessary policies and procedures to implement the transition between degree requirements applicable until July 1, 1983 (sections 55802 and 55803) and requirements applicable on or after July 1, 1983 (sections 55805 and 55806).

(b) The governing board of a community college may implement sections 55805 and 55806 prior to July 1, 1983, provided that it develops the necessary policies and procedures to implement the transition and notifies the Chancellor as to when the implementation will commence.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701, 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

Subchapter 11. New Colleges and Education Centers

§ 55825. Responsibilities of District Governing Boards.

The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831 of this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

History

1. New chapter 11 (sections 55825–55831, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of printing error (Register 91, No. 43).
4. Editorial correction of History 2 (Register 95, No. 22).

§ 55827. Definitions.

(a) College. As used in this Chapter, "college" means a degree–granting institution intended to provide instruction through the second year of college, including but not limited, to one or more of the following categories:

(1) standard collegiate courses for transfer to higher institutions;

(2) vocational and technical fields leading to employment; or

(3) general or liberal arts courses for which institution the district intends to obtain accreditation.

(b) Educational Center. As used in this Chapter, "educational center" means a postsecondary operation established and administered by an existing college or district at a location away from the campus of the parent institution. An educational center is an operation planned to continue for three or more years and expected to enroll over 500 FTES by the third year of operation. The center typically has an on–site administrator and may offer programs leading to certificates and/or degrees conferred by the parent institution.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 66700, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of subsections (a), (a)(3) and (b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of History 1 (Register 95, No. 22).

§ 55828. Responsibilities of the Chancellor's Office, Community College Districts and the Board of Governors.

(a) The Chancellor's Office shall maintain an inventory of all off–campus programs and facilities in the community colleges. This inventory shall be updated annually, and shall be distributed to each community college district and the Postsecondary Education Commission for use in planning activities.

(b) The Chancellor's Office shall develop procedures to identify and review plans for new colleges and new educational centers within the district's Five–Year Academic and Capital Outlay Master Plans.

(c) Community college districts shall prepare and submit to the Chancellor's Office proposals for new colleges and new educational centers as defined in this chapter. These proposals should contain at least the following elements:

(1) Assessment of Needs and Preferences (section 55829),

(2) Identification of Objectives (section 55830), and

(3) Analysis of Alternative Delivery Systems (section 55831).

(d) The Chancellor's Office shall review each proposed new college and new educational center and shall recommend approval or disapproval to the Board of Governors. The Chancellor's Office analysis of these proposals shall stress inter–district concerns and evaluation of the delivery system proposed.

(e) The Board of Governors shall approve or disapprove each new college or educational center and transmit its findings to the community college district initiating the proposal and to the California Postsecondary Education Commission.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700, 81800 and 81805, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

§ 55829. Assessment of Needs and Preferences.

(a) The community area and characteristics of individuals to be served must be identified adequately.

(b) Projections of potential enrollment demand in the service area must demonstrate significant unmet need, taking into account plans of nearby secondary and postsecondary institutions.

(c) Significant community support must be evident and possible community opposition must be identified.

(d) Preferences for community college programs and services on the part of individuals in the service area must be identified.

(e) Insofar as possible, present and future labor market requirements must be identified for the proposed service area, a broader adjacent region, and the state.

(f) Projected labor market requirements and community program preferences must be reconciled, if possible.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

§ 55830. Identification of Objectives.

(a) Proposed college or educational center programs and services must be directed to the identified educational needs and preferences of the community to be served.

(b) Objectives of the proposed programs and services must be sufficiently specific that the district board may evaluate the success with which needs and preferences are met.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

§ 55831. Analysis of Alternative Delivery Systems.

(a) The proposed operation must be the most effective and equitable of feasible delivery system alternatives for providing intended programs and services.

(b) Criteria for selecting the proposed delivery system must include:

(1) accessibility of programs and services to individuals in the service area,

(2) content and quality of programs and services, and

(3) cost of programs and services.

(c) Depending on the delivery system proposed, alternatives for providing the proposed programs and services must include, but need not be limited to:

(1) increased utilization of existing district resources,

(2) forming a new college, educational center, and/or outreach locations, and

(3) use of media such as television, computer–assisted instruction or programmed learning packages.

Alternative delivery systems considered must be adequately described, generally mutually exclusive, and limited to a manageable number to facilitate analysis and review.

(d) Proposed sources of funding for needed resources must be identified for both short and long–term operations.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 81810, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

Subchapter 12. Libraries

§ 55840. Appointment and Qualification of District Librarian.

The governing board of a community college district maintaining its own library or libraries may appoint a librarian who shall meet minimum qualifications established pursuant to chapter 4 (commencing with section 53400) of division 4 of this part.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. New subchapter 12 heading filed 5–15–93; operative 6–14–93 (Register 93, No. 25).
3. Editorial correction of History 1 (Register 95, No. 22).

§ 55841. Annual Report by Governing Board to Department of Education.

The governing board of a district shall, on or before August 31st, in each year, report to the Chancellor on the condition of district libraries for the year ending June 30th preceding. The report shall, in addition to other matters deemed expedient by the governing board or the librarians, contain such statistical and other information as is deemed desirable by the Chancellor. For this purpose the Chancellor may send to the districts instructions or question blanks so as to obtain the material for a comparative study of library conditions in the state.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 22).

Chapter 7. Special Programs

Subchapter 1. Disabled Student Programs and Services

Article 1. General Provisions and Definitions

§ 56000. Scope of Chapter.

This subchapter applies to community college districts offering support services, or instruction through Disabled Student Programs and Services (DSPS), on and/or off campus, to students with disabilities pursuant to Education Code Sections 67310–12 and 84850.

Programs receiving funds allocated pursuant to Education Code Section 84850 shall meet the requirements of this subchapter. Any support services or instruction funded, in whole or in part, under the authority of this subchapter must:

(a) not duplicate services or instruction which are otherwise available to all students;

(b) be directly related to the educational limitations of the verified disabilities of the students to be served;

(c) be directly related to the students' participation in the educational process;

(d) promote the maximum independence and integration of students with disabilities; and

(e) support participation of students with disabilities in educational activities consistent with the mission of the community colleges as set forth in Education Code Section 66701.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 66701, 67310–12 and 84850, Education Code.

History

1. Repealer of chapter 1 (sections 56000–56062) and new chapter 1 (sections 56000–56088, not consecutive) filed 12–17–76 as an emergency; effective upon filing. Designated inoperative 90 days after filing (Register 76, No. 51). For prior history, see Register 73, No. 44.
2. Repealer of chapter 1 (sections 56000–56088, not consecutive) and new chapter 1 (sections 56000–56088) filed 3–15–77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment of section and Note filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
4. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
5. Repealer of chapter 1 (sections 56000–56088, not consecutive) and new chapter 1 (sections 56000–56088, not consecutive) filed 3–29–88; operative 4–28–99 (Register 88, No. 16).
6. Amendment of first and second paragraphs, repealer of subsections (a) and (f), amendment of newly designated subsections (a)–(d), new subsection (e), and amendment of Note filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56002. Student with a Disability.

A "student with a disability" or "disabled student" is a person enrolled at a community college who has a verified impairment which limits one or more major life activities, as defined in 28 C.F.R. 35.104, and which imposes an educational limitation as defined in Section 56004. For purposes of reporting to the Chancellor under Section 56030, students with disabilities shall be reported in the categories described in Sections 56032–44.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310–12 and 84850, Education Code.

History

1. Repealer and new section filed 3–29–88; operative 4–28–88 (Register 88, No. 16). For prior history, see Register 83, No. 18.
2. Repealer and new section filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56004. Educational Limitation.

As used in this subchapter, "educational limitation" means disability related functional limitation in the educational setting. This occurs when the limitation prevents the student from fully benefiting from classes, activities, or services offered by the college to nondisabled students, without specific additional support services or instruction as defined in Section 56005.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310–12 and 84850, Education Code.

History

1. Repealer and new section filed 3–29–88; operative 4–28–88 (Register 88, No. 16). For prior history, see Register 83, No. 18.
2. Repealer and new section filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56005. Support Services or Instruction.

As used in this subchapter, "support services or instruction" means any one or more of the services listed in Section 56026, special class instruction authorized under Section 56028, or both.

Note: Authority cited: Sections 67312, 70901 and 84850, Education Code. Reference: Sections 67310–12 and 84850, Education Code.

History

1. Repealer and new section filed 3–29–88; operative 4–28–88 (Register 88, No. 16). For prior history, see Register 83, No. 18.
2. New section filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 56006. Determination of Eligibility.

(a) In order to be eligible for support services or instruction authorized under this chapter, a student with a disability must have an impairment which is verified pursuant to subdivision (b) which results in an educational limitation identified pursuant to subdivision (c) of this section.

(b) The existence of an impairment may be verified, using procedures prescribed by the Chancellor, by one of the following means:

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 08: Accreditation

History Index for
Title 5, California Code of Regulations

Section 51016

Register 83-29 Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000-51021, not consecutive).

Register 91-23 § 51016: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 94-38 § 51016: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51016: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1983-29

§ 51016

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51006. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

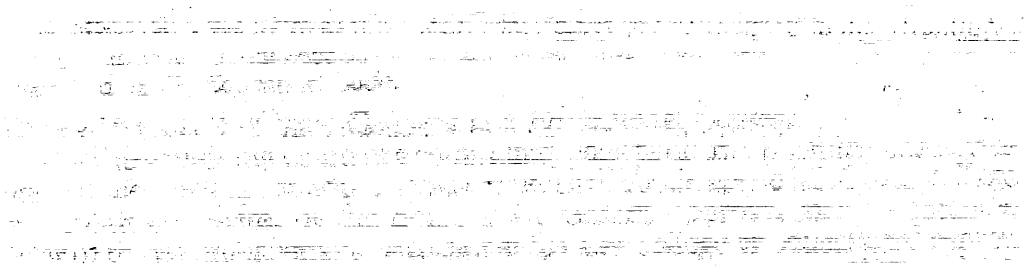
51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

Register 1991-23

§ 51016



4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(e) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

Register 1994-38

§ 51016

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000-53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sec-

Register 1995-15

§ 51016

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

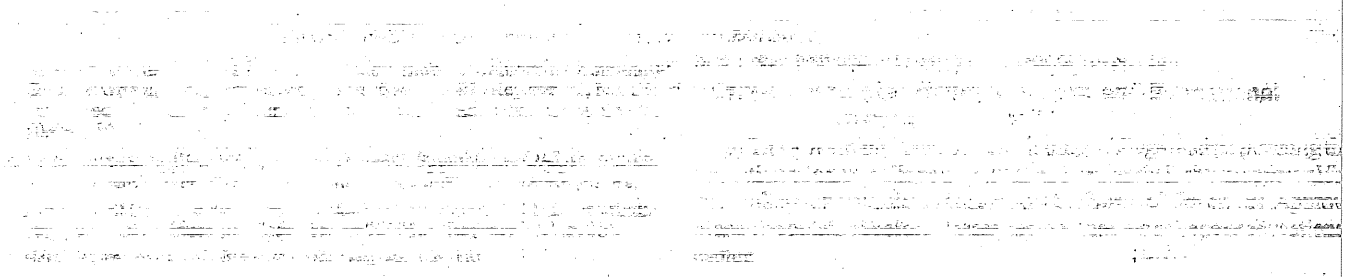
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 09: Counseling

History Index for
Title 5, California Code of Regulations

Section 51018

Register 83-29 Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000-51021, not consecutive).

Register 91-23 § 51018: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 94-38 § 51018: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51018: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

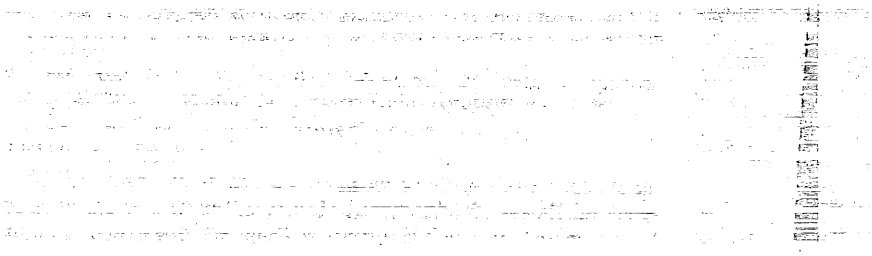
51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

Register 1991-23

§ 51018



4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each

college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000-53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sec-

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

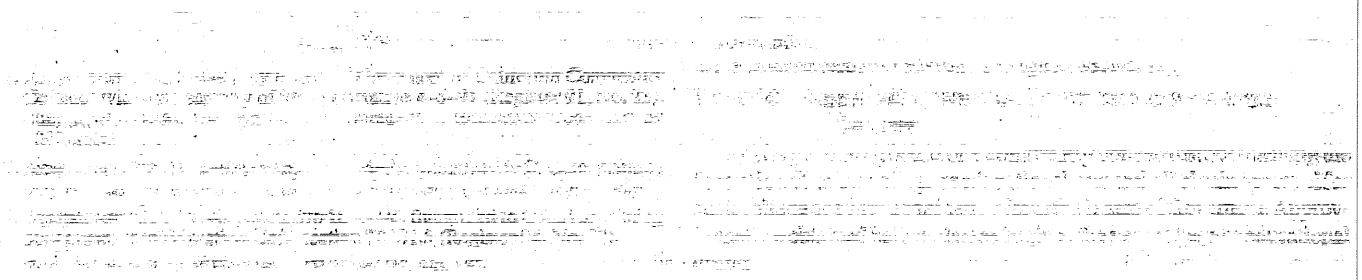
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 10: Objectives

History Index for
Title 5, California Code of Regulations

Section 51020

Register 83-29 Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000-51021, not consecutive).

Register 91-23 § 51020: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 95-15 § 51020: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

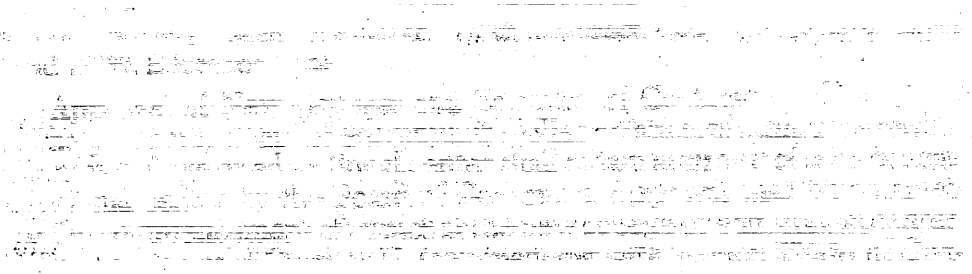
51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

Register 1991-23

§ 51020



4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

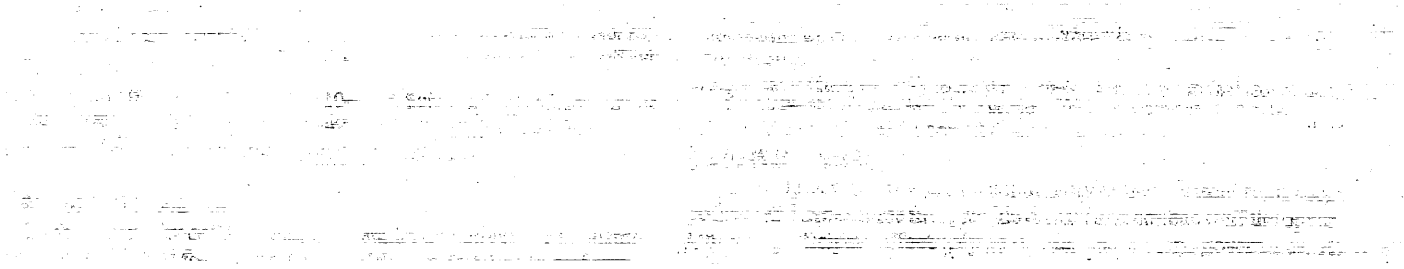
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.



No. CSM. 02-TC-31

RECEIVED
MAR 18 2008
COMMISSION ON
STATE MANDATES

Minimum Conditions for State Aid:
Part 11: Curriculum

History Index for
Title 5, California Code of Regulations

Section 51021	Section 55160	Section 55217
Section 55000	Section 55170	Section 55219
Section 55000.5	Section 55182	Section 55300
Section 55001	Section 55200	Section 55310
Section 55002	Section 55201	Section 55316
Section 55002.5	Section 55202	Section 55316.5
Section 55004	Section 55205	Section 55320
Section 55005	Section 55207	Section 55321
Section 55006	Section 55209	Section 55322
Section 55100	Section 55211	Section 55340
Section 55130	Section 55213	Section 55350
Section 55150	Section 55215	

Register 78-51	Repealer of chapter 4 (sections 55300 - 55344, not consecutive) and new chapter 4 (articles 1-5; sections 55300 - 55360, not consecutive).
Register 79-46	§ 55300: Amendment of section. § 55310: Amendment of section.
Register 81-52	Repealer of chapter 1 (subchapters 1-3, sections 55000 - 55144, not consecutive) and new chapter 1 (articles 1-2, sections 55000-55180, not consecutive).
Register 83-18	§ 55300: Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section. § 55310: Repealer of Article 2 heading.

§ 55312: Repealed.

§ 55314: Amendment of section.

§ 55316: Amendment of section.

§ 55318: Amendment of NOTE.

§ 55320: Repealer of article 3 heading.

§ 55321: Amendment of section.

§ 55322: Amendment of NOTE.

§ 55323: Amendment of NOTE.

§ 55340: Repealer of article 4 heading and amendment of section.

§ 55342: Repealed.

§ 55343: Repealed.

§ 55344: Repealed.

§ 55346: Repealed.

§ 55348: Repealed.

§ 55350: Amendment of section.

§ 55352: Amendment of NOTE.

§ 55360: Repealed.

Register 83-29 Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000-51021, not consecutive).

Register 83-53 § 55002: Amendment of subsection (a).

§ 55182: Added new section.

Register 84-20 § 55002: Amendment of section.

Register 84-51 § 55323: Repealed.

Register 88-42 § 55002: Repealer and new section.

Register 91-23 § 51021: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55000: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55000.5: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55001: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55002: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55002.5: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55004: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55005: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55006: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55008: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education

Code section 70901.5(b).

§ 55100: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55130: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55150: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55160: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55170: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55180: Repealer filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55182: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55300: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55310: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55314: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55316: Amendment filed by Board of Governors of California

Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55318: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55320: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55321: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55322: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.
Submitted to OAL for printing only pursuant to
Education Code section 70901.5(b).
§ 55340: Amendment filed by Board of Governors of California
Community Colleges with the Secretary of State.

	Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
	§ 55350: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
Register 91-43	§ 55008: Editorial correction of printing error in second paragraph.
Register 92-07	§ 55002: Amendment of section.
Register 92-15	§ 55300: New article heading.
Register 93-25	§ 55008: Section repealed.
Register 93-42	§ 55002: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
	§ 55200: New article 2.5 and section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
	§ 55201: Added new section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
	§ 55202: Added new section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
Register 94-18	§ 55314: Repealed. Submitted to OAL for printing only.
	§ 55316: Amendment of opening statement, subsection (b) and NOTE.

§ 55316.5: New section filed; submitted to OAL for printing only.

§ 55317: New section filed, submitted to OAL for printing only.

§ 55318: Repealed. Submitted to OAL for printing only.

§ 55340: Amendment of section and NOTE. Submitted to OAL for printing only.

§ 55352: Repealer and new section. Submitted to OAL for printing only.

Register 94-38 § 51021: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 55001: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51021: Editorial correction of HISTORY 1.

Register 95-20 § 55000: Editorial correction of HISTORY 2.

§ 55000.5: Editorial correction of HISTORY 1.

§ 55001: Editorial correction of HISTORY 1.

§ 55002: Editorial correction of HISTORY 4.

§ 55002.5: Editorial correction of HISTORY 1.

§ 55004: Editorial correction of HISTORY 1.

§ 55005: Editorial correction of HISTORY 1.

§ 55006: Editorial correction of HISTORY 1.

§ 55008: Editorial correction of HISTORY 1.

§ 55100: Editorial correction of HISTORY 1.

§ 55130: Editorial correction of HISTORY 1.

§ 55150: Editorial correction of HISTORY 1.

§ 55160: Editorial correction of HISTORY 1.

§ 55170: Editorial correction of HISTORY 1.

§ 55180: Editorial correction of HISTORY 2.

§ 55182: Editorial correction of HISTORY 2.

§ 55200: Editorial correction of Article heading.

§ 55300: Editorial correction of HISTORY 4.

§ 55310: Editorial correction of HISTORY 3.

§ 55314: Editorial correction of HISTORY 2.

§ 55316: Editorial correction of HISTORY 2.

§ 55318: Editorial correction of HISTORY 2.

§ 55320: Editorial correction of HISTORY 2.

§ 55321: Editorial correction of HISTORY 2.

§ 55322: Editorial correction of HISTORY 2.

§ 55340: Editorial correction of HISTORY 2.

§ 55350: Editorial correction of HISTORY 2.

Register 98-07 § 55201: Amendment of subsection (c), new subsections (e)(1)-(e)(2)(B) and amendment of NOTE. Submitted to OAL for printing only.

Register 98-36 § 55316.5: Amendment of last paragraph and NOTE. Submitted to OAL for printing only.

§ 55317: Amendment of subsection (b), last paragraph and NOTE. Submitted to OAL for printing only.

Register 2001-50 § 55316.5: Amendment of subsection (b). Submitted to OAL for printing only.

§ 55317: Amendment of subsections (b)-(c). Submitted to OAL for printing only.

Register 2002-26 § 55205: New article 3 (sections 55205 - 55219) and section. Submitted to OAL for printing only.

§ 55207: Added new section. Submitted to OAL for printing only.

§ 55209: Added new section. Submitted to OAL for printing only.

§ 55211: Added new section. Submitted to OAL for printing only.

§ 55213: Added new section. Submitted to OAL for printing only.

§ 55215: Added new section. Submitted to OAL for printing only.

§ 55217: Added new section. Submitted to OAL for printing only.

§ 55219: Added new section. Submitted to OAL for printing only.

§ 55316.5: Repealed.

§ 55317: Repealed.

§ 55352: Repealed. Submitted to OAL for printing only.

Subsequent Registers: There may be changes to the regulations after the date the

1 test claim was filed, which are not included.

Register 1978-51

§ 55300
§ 55302
§ 55310
§ 55312
§ 55314
§ 55316
§ 55320
§ 55321
§ 55322
§ 55323
§ 55340
§ 55342
§ 55343
§ 55344
§ 55346
§ 55348
§ 55350
§ 55352
§ 55360

CHAPTER 4. REGULATIONS FOR COURSES AND PROGRAMS CONDUCTED AS INDEPENDENT STUDY

Article 1. General Provisions

55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 84500 and 84520 of the Education Code in relation to attendance in approved courses and programs designed and conducted as independent study.

Courses or programs designed and conducted as independent study shall be approved by the Chancellor under conditions contained in Chapter 1, Course of Study, subchapters 1 and 2 of California Administrative Code, Title 5, except that all conditions in sections 55001 (a), 55001 (c) and 55132 shall apply, for study by students who are under the supervision, control, and evaluation, but not necessarily in the immediate presence of the assigned instructor.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this subchapter.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY:

1. Repealer of Chapter 4 (Sections 55300–55344, not consecutive) and new Chapter 4 (Articles 1–5; Sections 55300–55360, not consecutive) filed 12-18-78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.

55302. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) College level course. For the purposes of this Chapter, a college level course shall be an organized pattern of instruction on a postsecondary lower division level which is accepted for completion of an appropriate educational sequence leading to an associate degree and which is recognized upon transfer by an institution of the Univerity of California or the California State University and Colleges as meeting either elective or major requirements for a baccalaureate degree.

(b) Credit. Credits are the number of units specified by a college for a course as approved by the Chancellor.

(c) Credit Course. A credit course is a course which carries certification of specified learning accomplishments, the successful completion of which are recognized by the granting of units and the awarding of a grade in the context of a particular program of study and which is recognized upon transfer by an institution of the University of California or the California State University and Colleges.

(d) Independent Study. Independent study is learning undertaken by a student enrolled in a course without the immediate presence of the assigned instructor, to be completed in accordance with prescribed objectives, for the number of credits to be awarded on satisfactory completion of the specified learning accomplishments.

(e) Program of Independent Study. An educational program of independent study is an organized sequence of courses of instruction conducted as independent studies and meeting all the requirements of this chapter.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

Article 2. Approval of Independent Study Courses and Programs

55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by him.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55312. Transfer.

Evidence of transferability to California State University and Colleges or to the University of California shall be deemed to exist when the Community College certifies that the course is recognized upon transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55314. Faculty and Student Participation.

In the development and evaluation of courses and programs subject to the requirements of this chapter, the district shall include input from, and participation by, faculty who are selected by academic senates or faculty councils, and students.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55316. Criteria.

Courses offered pursuant to this chapter shall:

(a) be accepted by the college for completion of an appropriate educational sequence leading to an associate degree, and

(b) shall be recognized by an institution of the University of California or the California State University and Colleges upon transfer to that institution.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55318. Written Record.

In submitting a report for each course offered pursuant to this chapter, a college shall certify that the components of each course are set out in a written record for each student enrolled, and have been developed and evaluated with the participation of faculty and students as noted in this chapter.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

Article 3. Standards and Criteria

55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the faculty and college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55323. Learning Assistance.

Learning assistance, when provided by the college, shall be considered a component of the course and shall not authorize or constitute credit increments for the course or for the sequence of such courses applicable to the college degree or certificate.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

Article 4. Eligibility for State Apportionment

55340. Eligibility for State Funds.

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55342. Average Daily Attendance.

For purposes of computing the average daily attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled in a course conducted during any census period.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55343. Grades Awarded.

Units of credit earned and grades awarded shall be based on the number of units in which the student is enrolled in each census week.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55344. Enrollment.

A student for whom attendance will be recorded for state apportionment pursuant to this chapter must be enrolled in an approved course. Enrollment shall be in the manner prescribed by the college in the catalog and/or schedule of classes.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55346. Records.

Enrollment, evaluations, and credit for courses conducted pursuant to this chapter shall be entered on the student's record in the same manner and with the same provisions governing such records for all other courses.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55348. Supervision.

The college shall provide appropriate supervision of instruction in courses conducted pursuant to this chapter as with other courses and programs.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Possess a valid teaching certificate, registered as required by law, authorizing service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55352. Number of Students.

The number of students assigned to any one instructor of courses offered pursuant to this section shall not exceed 125 students per instructor unless exempted by the Chancellor.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

Article 5. Assessment of Effects

55360. Evaluation Reports.

Each college conducting courses of independent study shall develop and maintain information required for the report to be rendered to the Legislature prior to June 30, 1981, on the educational and fiscal effects of such courses. Recording, preparation, and forwarding of information relative to these reports shall be conducted in a manner and format established by the Chancellor.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

(Next page is 646.4.3)

Register 1979-46

§ 55300
§ 55310

CHAPTER 4. REGULATIONS FOR COURSES AND PROGRAMS CONDUCTED AS INDEPENDENT STUDY

Article 1. General Provisions

55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 84500 and 84520 of the Education Code in relation to attendance in approved courses and programs designed and conducted as independent study.

Courses or programs designed and conducted as independent study shall be approved by the Chancellor under conditions contained in Chapter 1, Course of Study, subchapters 1 and 2 of California Administrative Code, Title 5, except that all conditions in sections 55001 (a), 55001 (c) and 55132 shall apply, for study by students who are under the supervision, control, and evaluation, but not necessarily in the immediate presence of the assigned instructor.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500 and 84520, Education Code.

HISTORY:

1. Repealer of Chapter 4 (Sections 55300–55344, not consecutive) and new Chapter 4 (Articles 1–5; Sections 55300–55360, not consecutive) filed 12-18-78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).

55302. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) College level course. For the purposes of this Chapter, a college level course shall be an organized pattern of instruction on a postsecondary lower division level which is accepted for completion of an appropriate educational sequence leading to an associate degree and which is recognized upon transfer by an institution of the Univerity of California or the California State University and Colleges as meeting either elective or major requirements for a baccalaureate degree.

(b) Credit. Credits are the number of units specified by a college for a course as approved by the Chancellor.

(c) Credit Course. A credit course is a course which carries certification of specified learning accomplishments, the successful completion of which are recognized by the granting of units and the awarding of a grade in the context of a particular program of study and which is recognized upon transfer by an institution of the University of California or the California State University and Colleges.

(d) Independent Study. Independent study is learning undertaken by a student enrolled in a course without the immediate presence of the assigned instructor, to be completed in accordance with prescribed objectives, for the number of credits to be awarded on satisfactory completion of the specified learning accomplishments.

(e) Program of Independent Study. An educational program of independent study is an organized sequence of courses of instruction conducted as independent studies and meeting all the requirements of this chapter.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

Article 2. Approval of Independent Study Courses and Programs

55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500 and 84520, Education Code.

HISTORY:

1. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).

55312. Transfer.

Evidence of transferability to California State University and Colleges or to the University of California shall be deemed to exist when the Community College certifies that the course is recognized upon transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55314. Faculty and Student Participation.

In the development and evaluation of courses and programs subject to the requirements of this chapter, the district shall include input from, and participation by, faculty who are selected by academic senates or faculty councils, and students.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55316. Criteria.

Courses offered pursuant to this chapter shall:

(a) be accepted by the college for completion of an appropriate educational sequence leading to an associate degree, and

(b) shall be recognized by an institution of the University of California or the California State University and Colleges upon transfer to that institution.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

55318. Written Record.

In submitting a report for each course offered pursuant to this chapter, a college shall certify that the components of each course are set out in a written record for each student enrolled, and have been developed and evaluated with the participation of faculty and students as noted in this chapter.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

Article 3. Standards and Criteria

55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

Register 1981-52

§ 55000
§ 55001
§ 55002
§ 55005
§ 55006
§ 55100
§ 55130
§ 55150
§ 55160
§ 55170
§ 55180

CHAPTER 1. PROGRAMS, COURSES AND CLASSES

Article 1. Program, Course and Class Classification and Standards

55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 71020 and 71062, Education Code. Reference: Sections 78200 and 78201, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Subchapters 1–3, Sections 55000–55144, not consecutive) and new Chapter 1 (Articles 1–2, Sections 55000–55180, not consecutive) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.

55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) Liberal Arts and Sciences Education

(A) Baccalaureate Oriented/Transfer Programs and Courses

(B) Associate Degree Programs and Courses

(C) Developmental Programs and Courses

1. Compensatory Programs and Courses

2. Adult Elementary and Secondary Basic Skills Programs and Courses

(D) Community Education Programs and Courses

1. Personal Development and Survival Courses

2. Parenting and Family Support Courses

3. Community and Civic Development Courses

4. General and Cultural Courses

(2) Occupational Education

(A) Vocational/Technical Transfer Programs and Courses

(B) Vocational/Technical Associate Degree and Certificate Programs and Courses

(C) Continuing Education Vocational/Technical Certificates, Programs and Courses

(b) The community services (Non ADA generating) of community colleges include:

(1) Community Services Classes

(A) Avocational Classes

(B) Recreational Classes

(C) Seminars, Lecture Series, Forum Series, Workshops, and Conferences

(D) Professional and Occupational Inservice Classes

(2) Community Services Activities

(A) Civic Center Act Activities

(B) Cultural Activities

(C) Community Development Activities

(D) Recreational Activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in subsections (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:

(1) The unique static course identifier and the course title for all credit and noncredit courses.

(2) The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor.

(3) Whether the course is offered as credit or noncredit.

(4) Whether the course transfers to CSUC or UC or both.

(5) The number of community services classes in each category, and the number of participants.

(6) The number of community services activities in each category and the number of participants.

(d) Not later than January 21, 1982, the chief executive officer of each community college district, in consultation with the academic senate or other appropriate faculty body and other appropriate persons or groups, shall report in the manner required by subsection (c) on the initial classification of all existing courses, classes and activities. The Chancellor shall review and comment upon, as necessary, this initial classification of courses, classes, and activities by districts. Not later than June 30, 1982, the governing board of each district, after a public hearing, shall adopt and report to the Chancellor on the classification of all existing courses, classes and activities.

(e) For courses, classes and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes and activities.

NOTE: Authority cited: Sections 66700, 71020, 71027, 71062, and 78405, Education Code. Reference: Sections 66701, 71027, 78200, 78201, 78300, 78401, 78405, 84603, and 84621, Education Code.

55002. Standards and Criteria for Courses and Classes.

(a) A credit course is a course which, at a minimum:

(1) Is recommended by the responsible college officials and the academic senate or other appropriate faculty body as being of appropriate rigor and has been approved by the local district governing board as a collegiate course meeting the needs of the students eligible for admission.

(2) Is taught by a credentialed instructor.

(3) Is offered as described in an outline and/or curriculum guide in official college files. That outline and/or curriculum guide shall specify the unit value, scope, objectives, content instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Is taught in accordance with a set of instructional objectives common to all students.

(5) Provides for measurement of student performance in terms of the stated course objectives and culminates in a formal recorded grade based upon uniform standards which is permanently recorded and is available as an official student evaluation.

(6) Grants units of credit based upon a specified relationship between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

(7) Only those students who have met the prerequisites for the course are enrolled.

(8) Allows repeated enrollment only as permitted by provisions of Division 2 (commencing with Section 51000 of this part).

(b) A noncredit course is a course which, at a minimum:

(1) Is approved by the local district governing board as a course meeting the educational needs of the enrolled students.

(2) Is taught by a credentialed instructor. A supplementary lecturer need not hold a credential if he or she lectures fewer than four times in a semester or quarter.

(3) Treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement appropriate for the enrolled students.

(4) Is conducted in accordance with a course outline and/or curriculum guide in official college files. That outline and/or curriculum guide shall specify the scope, objectives, content, instructional methodology, and methods of evaluation for determining whether the course objectives have been met.

(c) A community services class at a minimum:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) Attendance in community services classes may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700, 71020, 71027, and 78405, Education Code. Reference: Sections 71027, 78200, and 78405, Education Code.

55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of Section 51302 is applicable.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 66700 and 71020, Education Code.

55006. Records and Reports.

Authorities of each community college maintaining credit and non-credit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 78200, 78401, 78405, and 84603, Education Code.

Article 2. Approval of Courses, Programs and Classes

55100. Course Approval.

Except as provided in subsection (b) and Section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not Chancellor's Office approval is required, the district shall designate the appropriate classification of the course or activity in accordance with Section 55001.

NOTE: Authority cited: Sections 66700, 71020, 71062, and 71091, Education Code. Reference: Sections 71091, 78200, 78401, and 78405, Education Code.

55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with Section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

NOTE: Authority cited: Sections 71020, 71027, 71062, and 71091, Education Code. Reference: Sections 71027, 71091, 78200, and 78405, Education Code.

55150. Approval of Noncredit Courses and Programs.

(a) Courses or programs offered for noncredit shall be approved by the Chancellor in accordance with Section 55100 on forms provided by the Chancellor's Office.

(b) Course outlines for all noncredit courses shall be on file in the community college offering the course.

(c) Authorities of each community college maintaining noncredit courses shall keep such current records and reports as may be required by the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 71062, and 71091, Education Code. Reference: Sections 71091, 78200, 78401, and 78405, Education Code.

55160. Approval of Community Service Classes.

(a) Districts are authorized in accordance with the provisions of Article 7 (commencing with Section 78300) of Chapter 2, Part 48 of the Education Code to approve and conduct community services classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with Section 55001.

(b) Community services classes shall not be referred to as noncredit classes.

NOTE: Authority cited: Sections 8092, 71020, 71062, and 71091, Education Code. Reference: Sections 71091 and 78300, Education Code.

55170. Contract Classes.

(a) Notwithstanding subdivision (c) of Section 55000, "contract classes" means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association, or other body or person.

(b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law.

NOTE: Authority cited: Sections 8092, 66700, 71020, 71062, and 71091, Education Code. Reference: Sections 8092, 71091, 78200, and 78401, Education Code.

55180. Chancellor's Report.

The Chancellor shall report to the Board at a fall meeting, the actions which have been taken in approving courses and programs submitted to the Chancellor pursuant to the provisions of this chapter.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 71091, 78200, and 78401, Education Code.

Register 1983-18

§ 55300
§ 55310
§ 55312
§ 55314
§ 55316
§ 55318
§ 55320
§ 55321
§ 55322
§ 55323
§ 55340
§ 55342
§ 55343
§ 55344
§ 55346
§ 55348
§ 55350
§ 55360

CHAPTER 4. COURSES AND PROGRAMS CONDUCTED AS INDEPENDENT STUDY

55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 84500 and 84520 of the Education Code in relation to attendance in approved courses and programs designed and conducted as independent study.

Approved courses conducted as independent study shall be reported to the Chancellor in accordance with specified procedures as required by law.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 71020, 84500 and 84520, Education Code. Reference: Article 8 (commencing with Section 78310), Chapter 2, Part 48, Education Code.

HISTORY:

1. Repealer of Chapter 4 (Sections 55300–55344, not consecutive) and new Chapter 4 (Articles 1–5; Sections 55300–55360, not consecutive) filed 12-18-78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
3. Amendment of Chapter 4 heading, repealer of Article 1 heading, and amendment of Section 55300 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55302. Definitions.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500 and 84520, Education Code.

HISTORY:

1. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
2. Repealer of Article 2 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55312. Transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55314. Faculty and Student Participation.

In the development and evaluation of courses and programs subject to the requirements of this chapter, the district shall include input from, and participation by, faculty who are selected by academic senates or appropriate faculty bodies, and students.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55316. Criteria.

Courses offered pursuant to this chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Shall be recognized by an institution of the University of California or the California State University upon transfer to that institution.

Evidence of transferability to California State University or to the University of California shall be deemed to exist when the community college certifies that the course is recognized upon transfer.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55318. Written Record.

In submitting a report for each course offered pursuant to this chapter, a college shall certify that the components of each course are set out in a written record for each student enrolled, and have been developed and evaluated with the participation of faculty and students as noted in this chapter.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer of Article 3 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55323. Learning Assistance.

Learning assistance, when provided by the college, shall be considered a component of the course and shall not authorize or constitute credit increments for the course or for the sequence of such courses applicable to the college degree or certificate.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55340. Eligibility for State Funds.

(a) In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

(b) For purposes of computing the average daily attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled in a course conducted during any census period.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Repealer of Article 4 heading and amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Possess a valid teaching certificate authorizing service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55352. Number of Students.

The number of students assigned to any one instructor of courses offered pursuant to this section shall not exceed 125 students per instructor unless exempted by the Chancellor.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:

1. Repealer of Article 5 heading and Section 55360 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700, 71025 and 84500.1, Education Code. Reference: Sections 71025 and 84500.1, Education Code.

51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 71028 of the Education Code and regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 71025 and 81805, Education Code. Reference: Sections 71025, 71028, 71091, 72231.5, 81820, 81821 and 81822, Education Code.

51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of Section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of Section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by Section 53004 of this part;

(d) Undertake a program of recruitment as required by Section 53021 of this part; and

(e) Substantially comply with the provisions of Chapter 1 (commencing with Section 53000) of Division 4 of this part.

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

Register 1983-53

§ 55002
§ 55182

CHAPTER 1. PROGRAMS, COURSES AND CLASSES

Article 1. Program, Course and Class Classification and Standards

55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 71020 and 71062, Education Code. Reference: Sections 78300 and 78301, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Subchapters 1–3, Sections 55000–55144, not consecutive) and new Chapter 1 (Articles 1–2, Sections 55000–55180, not consecutive) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.

55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) Liberal Arts and Sciences Education

(A) Baccalaureate Oriented/Transfer Programs and Courses

(B) Associate Degree Programs and Courses

(C) Developmental Programs and Courses

1. Compensatory Programs and Courses

2. Adult Elementary and Secondary Basic Skills Programs and Courses

(D) Community Education Programs and Courses

1. Personal Development and Survival Courses

2. Parenting and Family Support Courses

3. Community and Civic Development Courses

4. General and Cultural Courses

(2) Occupational Education

(A) Vocational/Technical Transfer Programs and Courses

(B) Vocational/Technical Associate Degree and Certificate Programs and Courses

(C) Continuing Education Vocational/Technical Certificates, Programs and Courses

(b) The community services (Non ADA generating) of community colleges include:

(1) Community Services Classes

(A) Avocational Classes

(B) Recreational Classes

(C) Seminars, Lecture Series, Forum Series, Workshops, and Conferences

(D) Professional and Occupational Inservice Classes

(2) Community Services Activities

(A) Civic Center Act Activities

(B) Cultural Activities

(C) Community Development Activities

(D) Recreational Activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in subsections (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:

(1) The unique static course identifier and the course title for all credit and noncredit courses.

(2) The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor.

(3) Whether the course is offered as credit or noncredit.

(4) Whether the course transfers to CSUC or UC or both.

(5) The number of community services classes in each category, and the number of participants.

(6) The number of community services activities in each category and the number of participants.

(d) Not later than January 21, 1982, the chief executive officer of each community college district, in consultation with the academic senate or other appropriate faculty body and other appropriate persons or groups, shall report in the manner required by subsection (c) on the initial classification of all existing courses, classes and activities. The Chancellor shall review and comment upon, as necessary, this initial classification of courses, classes, and activities by districts. Not later than June 30, 1982, the governing board of each district, after a public hearing, shall adopt and report to the Chancellor on the classification of all existing courses, classes and activities.

(e) For courses, classes and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes and activities.

NOTE: Authority cited: Sections 66700, 71020, 71027, 71062, and 78405, Education Code. Reference: Sections 66701, 71027, 78200, 78201, 78300, 78401, 78405, 84603, and 84621, Education Code.

55002. Standards and Criteria for Courses and Classes.

(a) A credit course is a course which, at a minimum:

(1) Is recommended by the responsible college officials and the academic senate or other appropriate faculty body as being of appropriate academic rigor and has been approved by the local district governing board as a collegiate course meeting the needs of the students eligible for admission.

(2) Is taught by a credentialed instructor.

(3) Is offered as described in an outline and/or curriculum guide in official college files. That outline and/or curriculum guide shall specify the unit value, scope, objectives, content in terms of a specific body of knowledge, appropriate readings and writing, and outside assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Is taught in accordance with a set of instructional objectives common to all students.

(5) Provides for measurement of student performance in terms of the stated course objectives and culminates in a formal recorded grade based upon uniform standards in accordance with Section 55758 of this part and which is permanently recorded as an evaluation of student performance.

(6) Grants units of credit based upon a specified relationship between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

(7) Shall require the completion of appropriate prerequisites for the course before students are enrolled.

(8) Allows repeated enrollment only as permitted by provisions of Division 2 (commencing with Section 51000 of this part).

(b) A noncredit course is a course which, at a minimum:

(1) Is approved by the local district governing board as a course meeting the educational needs of the enrolled students.

(2) Is taught by a credentialed instructor. A supplementary lecturer need not hold a credential if he or she lectures fewer than four times in a semester or quarter.

(3) Treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement appropriate for the enrolled students.

(4) Is conducted in accordance with a course outline and/or curriculum guide in official college files. That outline and/or curriculum guide shall specify the scope, objectives, content, instructional methodology, and methods of evaluation for determining whether the course objectives have been met.

(c) A community services class at a minimum:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) Attendance in community services classes may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700, 71020, 71027 and 78405 Education Code. Reference: Sections 71027, 78900 and 78405, Education Code.

HISTORY:

1. Amendment of subsection (a) filed 12-28-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 53).

55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of Section 51302 is applicable.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 66700 and 71020, Education Code.

55006. Records and Reports.

Authorities of each community college maintaining credit and non-credit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 78200, 78401, 78405, and 84603, Education Code.

Article 2. Approval of Courses, Programs and Classes

55100. Course Approval.

Except as provided in subsection (b) and Section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not Chancellor's Office approval is required, the district shall designate the appropriate classification of the course or activity in accordance with Section 55001.

NOTE: Authority cited: Sections 66700, 71020, 71062, and 71091, Education Code. Reference: Sections 71091, 78200, 78401, and 78405, Education Code.

55101. Chancellor's Report.

The Chancellor shall report to the board at a fall and a spring meeting the actions which the Chancellor has taken in approving courses submitted to the Chancellor pursuant to the provisions of this chapter.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with Section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

NOTE: Authority cited: Sections 71020, 71027, 71062, and 71091, Education Code. Reference: Sections 71027, 71091, 78200, and 78405, Education Code.

55150. Approval of Noncredit Courses and Programs.

(a) Courses or programs offered for noncredit shall be approved by the Chancellor in accordance with Section 55100 on forms provided by the Chancellor's Office.

(b) Course outlines for all noncredit courses shall be on file in the community college offering the course.

(c) Authorities of each community college maintaining noncredit courses shall keep such current records and reports as may be required by the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 71062, and 71091, Education Code. Reference: Sections 71091, 78200, 78401, and 78405, Education Code.

55160. Approval of Community Service Classes.

(a) Districts are authorized in accordance with the provisions of Article 7 (commencing with Section 78300) of Chapter 2, Part 48 of the Education Code to approve and conduct community services classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with Section 55001.

(b) Community services classes shall not be referred to as noncredit classes.

NOTE: Authority cited: Sections 8092, 71020, 71062, and 71091, Education Code. Reference: Sections 71091 and 78300, Education Code.

55170. Contract Classes.

(a) Notwithstanding subdivision (c) of Section 55000, "contract classes" means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association, or other body or person.

(b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law.

NOTE: Authority cited: Sections 8092, 66700, 71020, 71062, and 71091, Education Code. Reference: Sections 8092, 71091, 78200, and 78401, Education Code.

55180. Chancellor's Report.

The Chancellor shall report to the Board at a fall meeting, the actions which have been taken in approving courses and programs submitted to the Chancellor pursuant to the provisions of this chapter.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 71091, 78200, and 78401, Education Code.

55182. Reinstatement of Deleted Courses.

The governing board of a community college district may reinstate any course which was deleted from the credit or noncredit curriculum during the 1982–83 fiscal year, in response to provision Number 11 of Item 6870-101-001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982); provided that the following criteria and procedures shall be applied in conjunction with such reinstatement:

(a) The governing board of the district shall only reinstate such courses in a manner which is consistent with the policy of the Board of Governors that offerings which are primarily avocational, or recreational shall be offered as community services classes, and not as credit or noncredit courses;

(b) The governing board of the district shall determine that the course meets the criteria and standards for courses specified in Section 55002;

(c) The governing board may act to reinstate a course only after it has been reviewed through the college's or district's established procedure for the approval of new courses;

(d) The governing board must submit the course to the Chancellor for approval, or report approval of the course, depending on the requirements of Section 55100. A separate designation shall be used to distinguish reinstated courses from new courses; and

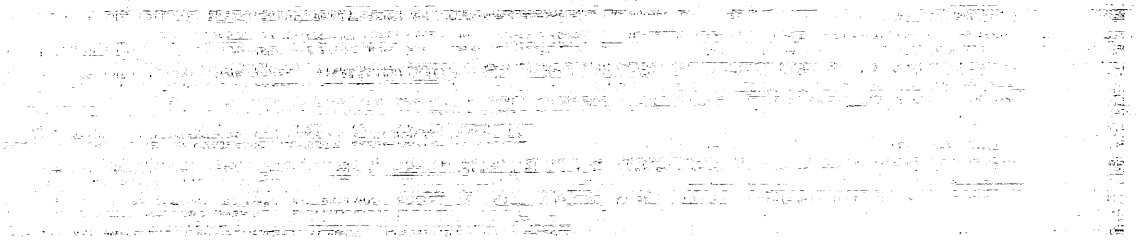
(e) The governing board must determine that reinstatement of the course maintains or improves the curriculum balance of the district in accordance with the mission of the community college and local needs.

(f) Any category of courses restored to the curriculum pursuant to a separate authorization of the Board of Governors shall be exempt from the requirements of this section.

NOTE: Authority cited: Sections 66700, 71020, 71027, 71027.5 and 78405, Education Code. Reference: Sections 71027, 71027.5, 78200 and 78405, Education Code.

HISTORY:

1. New Section filed 12-29-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 53).



(6) Grants units of credit based upon a specified relationship between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

(7) Shall require, when so designated; the completion of appropriate prerequisites for the course before students are enrolled.

(8) Allows repeated enrollment only as permitted by provisions of Division 2 (commencing with Section 51000 of this part).

(b) A noncredit course is a course which, at a minimum:

(1) Is approved by the local district governing board as a course meeting the educational needs of the enrolled students.

(2) Is taught by a credentialed instructor. A supplementary lecturer need not hold a credential if he or she lectures fewer than four times in a semester or quarter.

(3) Treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement appropriate for the enrolled students.

(4) Is conducted in accordance with a course outline and/or curriculum guide in official college files. That outline and/or curriculum guide shall specify the scope, objectives, content, instructional methodology, and methods of evaluation for determining whether the course objectives have been met.

(c) A community services class at a minimum:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) Attendance in community services classes may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700, 71020, 71027 and 78405 Education Code. Reference: Sections 71027, 78200 and 78405, Education Code.

HISTORY:

1. Amendment of subsection (a) filed 12-28-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5-18-84; effective thirtieth day thereafter (Register 84, No. 20).

55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of Section 51302 is applicable.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 66700 and 71020, Education Code.

55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:
1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12-17-84; effective thirtieth day thereafter (Register 84, No. 51).

55340. Eligibility for State Funds.

(a) In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

(b) For purposes of computing the average daily attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled in a course conducted during any census period.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY:
1. Repealer of Article 4 heading and amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:
1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:
1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:
1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a) (2) and 84520, Education Code.

HISTORY:
1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Register 1988-42

§ 55002

CHAPTER 1. PROGRAMS, COURSES AND CLASSES

Article 1. Program, Course and Class Classification and Standards

55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 71020 and 71062, Education Code. Reference: Sections 78200 and 78201, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Subchapters 1–3, Sections 55000–55144, not consecutive) and new Chapter 1 (Articles 1–2, Sections 55000–55180, not consecutive) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.

55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) Liberal Arts and Sciences Education

(A) Baccalaureate Oriented/Transfer Programs and Courses

(B) Associate Degree Programs and Courses

(C) Developmental Programs and Courses

1. Compensatory Programs and Courses

2. Adult Elementary and Secondary Basic Skills Programs and Courses

(D) Community Education Programs and Courses

1. Personal Development and Survival Courses

2. Parenting and Family Support Courses

3. Community and Civic Development Courses

4. General and Cultural Courses

(2) Occupational Education

(A) Vocational/Technical Transfer Programs and Courses

(B) Vocational/Technical Associate Degree and Certificate Programs and Courses

(C) Continuing Education Vocational/Technical Certificates, Programs and Courses

(b) The community services (Non ADA generating) of community colleges include:

(1) Community Services Classes

(A) Avocational Classes

(B) Recreational Classes

(C) Seminars, Lecture Series, Forum Series, Workshops, and Conferences

(D) Professional and Occupational Inservice Classes

(2) Community Services Activities

(A) Civic Center Act Activities

(B) Cultural Activities

(C) Community Development Activities

(D) Recreational Activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in subsections (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:

(1) The unique static course identifier and the course title for all credit and noncredit courses.

(2) The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor.

(3) Whether the course is offered as credit or noncredit.

(4) Whether the course transfers to CSUC or UC or both.

(5) The number of community services classes in each category, and the number of participants.

(6) The number of community services activities in each category and the number of participants.

(d) Not later than January 21, 1982, the chief executive officer of each community college district, in consultation with the academic senate or other appropriate faculty body and other appropriate persons or groups, shall report in the manner required by subsection (c) on the initial classification of all existing courses, classes and activities. The Chancellor shall review and comment upon, as necessary, this initial classification of courses, classes, and activities by districts. Not later than June 30, 1982, the governing board of each district, after a public hearing, shall adopt and report to the Chancellor on the classification of all existing courses, classes and activities.

(e) For courses, classes and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes and activities.

NOTE: Authority cited: Sections 66700, 71020, 71027, 71062, and 78405, Education Code. Reference: Sections 66701, 71027, 78200, 78201, 78300, 78401, 78405, 84603, and 84621, Education Code.

55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of Section 55805.5, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

(1) Curriculum Committee. The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall either be a committee of the academic senate or a committee which includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with

Section 55758 of this part. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays, or, in courses where the curriculum committee deems them to be appropriate, problem solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline; and requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity which requires students to study independently outside of class time.

(D) Entrance Requirements. When the college and/or district curriculum committee deems appropriate, the course shall require entrance skills and consequent prerequisites for the course before students are enrolled.

(E) Basic Skills Requirements. If success in the course is deemed by the curriculum committee to be sufficiently dependent upon communication or computation skills, then the course shall require as pre- or co-requisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The coursework calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary which the curriculum committee deems appropriate for a college course.

(3) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside of class assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Conduct of Course. All sections of the course are to be taught by a credentialed instructor in accordance with a set of objectives and other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Division 2 (commencing with Section 51000), Sections 55761–55763 and 58161 of this part.

(b) Non-degree Credit Course. A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under subdivision (a) (1) of this section) and approved by the district governing board as a course meeting the needs of the students eligible for admission.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal,

permanently recorded grade based upon uniform standards in accordance with Section 55758 of this part.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

(C) Entrance Requirements. When the college and/or district curriculum committee deems appropriate, the course shall require entrance skills and consequent prerequisites for the course before students are enrolled.

(2) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside of class assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(3) Conduct of Course. All sections of the course are to be taught by a credentialed instructor in accordance with a set of objectives and other specifications defined in the course outline of record.

(4) Repetition. Repeated enrollment is allowed only in accordance with provisions of Division 2 (commencing with Section 51000), Sections 55761–55763 and 58161 of this part.

(c) Noncredit Course. A noncredit course is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under subdivision (a) (1) of this section) and approved by the district governing board as a course meeting the needs of enrolled students.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement which the committee deems appropriate for the enrolled students.

(2) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a credentialed instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class which meets the following minimum requirements:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) May not be claimed for apportionment purposes.

(c) Not later than the initial day of registration for fall 1990, district governing boards shall have completed necessary steps for implementation of subsections (a), (b) and (c) of this section, such that by this date, each district shall have published in its college catalogues or in an addendum to be available to all students at fall 1990 registration, a statement, symbol, numbering system or the equivalent that clearly indicates whether each course is degree applicable, non-degree applicable, or noncredit.

NOTE: Authority cited: Sections 66700, 71020, 71027, 71066 and 71079, Education Code. Reference: Sections 66701, 71027, 71066 and 72285, Education Code.

HISTORY:

1. Amendment of subsection (a) filed 12-28-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5-18-84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10-7-88; operative 11-6-88 (Register 88, No. 42).

55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of Section 51302 is applicable.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 66700 and 71020, Education Code.

55006. Records and Reports.

Authorities of each community college maintaining credit and non-credit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700, 71020, and 71062, Education Code. Reference: Sections 78200, 78401, 78405, and 84603, Education Code.

Article 2. Approval of Courses, Programs and Classes

55100. Course Approval.

Except as provided in subsection (b) and Section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

§ 51021
§ 55000
§ 55000.5
§ 55001
§ 55002
§ 55002.5
§ 55004
§ 55005
§ 55006
§ 55008
§ 55100
§ 55130
§ 55150
§ 55160
§55170
§ 55182
§ 55300
§ 55310
§ 55314
§ 55316
§ 55318
§ 55320
§ 55321
§ 55322
§ 55340
§ 55350

(e) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Chapter 6. Curriculum and Instruction

Subchapter 1. Programs, Courses and Classes

Article 1. Program, Course and Class Classification and Standards

§ 55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Repealer of chapter 1 (subchapters 1–3, sections 55000–55144, not consecutive) and new chapter 1 (articles 1–2, sections 55000–55180, not consecutive) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.

Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55000.5. Handbook; Monitoring and Review of Approved Courses and Programs.

(a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) Liberal Arts and Sciences Education

(A) Baccalaureate Oriented/Transfer Programs and Courses

(B) Associate Degree Programs and Courses

(C) Developmental Programs and Courses

1. Compensatory Programs and Courses

2. Adult Elementary and Secondary Basic Skills Programs and Courses

(D) Community Education Programs and Courses

1. Personal Development and Survival Courses

2. Parenting and Family Support Courses

3. Community and Civic Development Courses

4. General and Cultural Courses

(2) Occupational Education

(A) Vocational/Technical Transfer Programs and Courses

(B) Vocational/Technical Associate Degree and Certificate Programs and Courses

(C) Continuing Education Vocational/Technical Certificates, Programs and Courses

(b) The community services (Non ADA generating) of community colleges include:

(1) Community Services Classes

(A) Avocational Classes

(B) Recreational Classes

(C) Seminars, Lecture Series, Forum Series, Workshops, and Conferences

(D) Professional and Occupational Inservice Classes

(2) Community Services Activities

(A) Civic Center Act Activities

(B) Cultural Activities

(C) Community Development Activities

(D) Recreational Activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in subsections (a) and (b) and the standards in section 55002 by transmitting the following information to the Chancellor's Office:

(1) The unique static course identifier and the course title for all credit and noncredit courses.

(2) The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor.

(3) Whether the course is offered as credit or noncredit.

(4) Whether the course transfers to the California State University or the University of California or both.

(5) The number of community services classes in each category, and the number of participants.

(6) The number of community services activities in each category and the number of participants.

(d) For courses, classes and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes and activities.

Note: Authority cited: Sections 66700, 70901, and 78401, Education Code. Reference: Sections 66701, 70901, 70902, 78300, and 78401, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of section 55805.5, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

(1) Curriculum Committee. The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall either be a committee of the academic senate or a committee which includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this part. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays, or, in courses where the curriculum committee deems them to be appropriate, problem solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline; and requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity which requires students to study independently outside of class time.

(D) Entrance Requirements. When the college and/or district curriculum committee deems appropriate, the course shall require entrance skills and consequent prerequisites for the course before students are enrolled.

(E) Basic Skills Requirements. If success in the course is deemed by the curriculum committee to be sufficiently dependent upon communication or computation skills, then the course shall require as pre– or co–requisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The coursework calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary which the curriculum committee deems appropriate for a college course.

(3) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide reading and writing assignments, other outside of class examples of required assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with a set of objectives and other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of division 2 (commencing with section 51000), sections 55761–55763 and 58161 of this part.

(b) Non–degree Credit Course. A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under subdivision (a)(1) of this section) and approved by the district governing board as a course meeting the needs of the students eligible for admission.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this part.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

(C) Entrance Requirements. When the college and/or district curriculum committee deems appropriate, the course shall require entrance skills and consequent prerequisites for the course before students are enrolled.

(2) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside class assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with a set of objectives and other specifications defined in the course outline of record.

(4) Repetition. Repeated enrollment is allowed only in accordance with provisions of division 2 (commencing with section 51000), sections 55761–55763 and 58161 of this part.

(c) Noncredit Course. A noncredit course is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under subdivision (a)(1) of this section) and approved by the district governing board as a course meeting the needs of enrolled students.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement which the committee deems appropriate for the enrolled students.

(2) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class which meets the following minimum requirements:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) May not be claimed for apportionment purposes.

(e) Not later than the initial day of registration for fall 1990, district governing boards shall have completed necessary steps for implementation of subsections (a), (b) and (c) of this section, such that by this date, each district shall have published in its college catalogues or in an addendum to be available to all students at fall 1990 registration, a statement, symbol, numbering system or the equivalent that clearly indicates whether each course is degree applicable, non–degree applicable, or noncredit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5–18–84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four–year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit–no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representatives of the general public knowledgeable about the disadvantage, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55101. Chancellor's Report.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55061.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five–year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55150. Approval of Noncredit Courses and Programs.

(a) Courses or programs offered for noncredit shall be approved by the Chancellor in accordance with section 55100 on forms provided by the Chancellor's Office.

(b) Course outlines for all noncredit courses shall be on file in the community college offering the course.

(c) Authorities of each community college maintaining noncredit courses shall keep such current records and reports as may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55160. Approval of Community Service Classes.

(a) Districts are authorized in accordance with the provisions of article 7 (commencing with section 78300) of chapter 2, part 48 of the Education Code to approve and conduct community services classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with section 55001.

(b) Community services classes shall not be referred to as noncredit classes.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Sections 70901 and 78300, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55170. Contract Classes.

(a) Notwithstanding subdivision (c) of section 55000, "contract classes" means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association, or other body or person.

(b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 8092, 70902 and Article 1.5 (commencing with Section 78020) of Chapter 1, Part 48, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55180. Chancellor's Report.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 71091, 78200, and 78401, Education Code.

HISTORY

1. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55182. Reinstatement of Deleted Courses.

The governing board of a community college district may reinstate any course which was deleted from the credit or noncredit curriculum during the 1982–83 fiscal year, in response to provision Number 11 of Item 6870–101–001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982); provided that the following criteria and procedures shall be applied in conjunction with such reinstatement:

(a) The governing board of the district shall only reinstate such courses in a manner which is consistent with the policy of the Board of Governors that offerings which are primarily avocational, or recreational shall be offered as community services classes, and not as credit or noncredit courses;

(b) The governing board of the district shall determine that the course meets the criteria and standards for courses specified in section 55002;

(c) The governing board may act to reinstate a course only after it has been reviewed through the college's or district's established procedure for the approval of new courses;

(d) The governing board must submit the course to the Chancellor for approval, or report approval of the course, depending on the requirements of section 55100. A separate designation shall be used to distinguish reinstated courses from new courses; and

(e) The governing board must determine that reinstatement of the course maintains or improves the curriculum balance of the district in accordance with the mission of the community college and local needs.

(f) Any category of courses restored to the curriculum pursuant to a separate authorization of the Board of Governors shall be exempt from the requirements of this section.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

HISTORY

1. New section filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 3. Bilingual Crosscultural Programs and Courses

§ 55225. Annual Articulation Agreement Plans.

(a) Each community college district which participates in the Bilingual Teacher Grant Program, established pursuant to Education Code section 52150 et seq., shall develop and update annually a written articulation program plan with each four–year public college, university or independent college to which 25% or more of its students are expected to transfer.

(b) These plans shall be negotiated between the personnel on the respective campuses who are designated, under section 52156 of the Education Code, to coordinate the Bilingual Teacher Grant Program and to provide supplementary services to grant recipients.

(c) The articulation program plan shall, at a minimum, contain:

(1) a course–by–course list specifying each community college bilingual education program course and its four–year college or university equivalent. The course description shall include: the number and title of the course; the number of units; the general education requirements met by the course; and the Commission for Teacher Preparation and Licensing requirements met by the course.

(2) the name, title, telephone number and campus address of the persons designated as negotiators for articulation on behalf of the community college district and the four–year institution.

(3) a brief description of the process that the institutions will use to update articulation program plans on an annual basis, to include the date by which all plans shall be reviewed.

(4) a statement of the dissemination process which the institutions will use to ensure that students who identify themselves as candidates for the four–year career ladder program know: those courses that are transferable and those that are not; entry and exit requirements at the four–year institutions; and the name of their student advisor.

(5) a description of the language and cultural assessment process as determined by the Commission for Teacher Preparation and Licensing.

(6) the name, title, telephone number, and campus address of the person designated as student advisor. If this person is not the same as the Bilingual Teacher Grant Program coordinator, the responsibilities of the two persons shall be clearly distinguished.

(d) The governing board of the community college district and the chief executive officer of the four–year institution shall also sign and date a formal cooperation agreement, updated annually, stating their specific plans for fully implementing the provisions of the Bilingual Teacher

(c) Employers or designated representatives agree to provide adequate supervision, facilities, equipment, and materials at the learning stations to achieve on-the-job learning objectives.

(d) Employers as required by law agree to comply with all appropriate federal and state employment regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78249, Education Code.

HISTORY

1. Amendment filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment filed 9-29-78; designated effective 1-2-79 (Register 78, No. 39).
3. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 4. Courses and Programs Conducted As Independent Study

§ 55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 58051 and 58003.1 in relation to attendance in approved courses and programs designed and conducted as independent study.

Approved courses conducted as independent study shall be reported to the Chancellor in accordance with specified procedures as required by law.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: ction 78310, Education Code.

HISTORY

1. Repealer of chapter 4 (sections 55300-55344, not consecutive) and new chapter 4 (articles 1-5; sections 55300-55360, not consecutive) filed 12-18-78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
3. Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section 55300 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55302. Definitions.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
2. Repealer of article 2 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55312. Transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55314. Faculty and Student Participation.

In the development and evaluation of courses and programs subject to the requirements of this chapter, the district shall include input from, and participation by, faculty who are selected by academic senates or appropriate faculty bodies, and students.

NOTE: Authority cited: Sections 66700, 70901 and 78301, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55316. Criteria.

Courses offered pursuant to this chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Shall be recognized by an institution of the University of California or the California State University upon transfer to that institution.

Evidence of transferability to California State University or to the University of California shall be deemed to exist when the community college certifies that the course is recognized upon transfer.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55318. Written Record.

In submitting a report for each course offered pursuant to this chapter, a college shall certify that the components of each course are set out in a written record for each student enrolled, and have been developed and evaluated with the participation of faculty and students as noted in this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 3 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other

instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

(a) In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

(b) For purposes of computing attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55352. Number of Students.

The number of students assigned to any one instructor of courses offered pursuant to this section shall not exceed 125 students per instructor unless exempted by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer of Article 5 heading and Section 55360 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Subchapter 5. Educational Master Plans

§ 55400. Definitions.

The definitions provided in the Student Attendance Accounting Manual issued by the Chancellor shall apply to the provisions of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New chapter 5 (sections 55400 through 55405) filed 7–1–71; effective thirtieth day thereafter (Register 71, No. 27).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55401. Current and Long Range Plans.

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

§ 55402. Educational Master Plans.

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

§ 55403. Form.

Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

§ 55404. Contents.

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services,

Register 1991-43

§ 55008

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representatives of the general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in second paragraph (Register 91, No.43).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55101. Chancellor's Report.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).

§ 55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Register 1992-07

§ 55002

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Chapter 6. Curriculum and Instruction

Subchapter 1. Programs, Courses and Classes

Article 1. Program, Course and Class Classification and Standards

§ 55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History
1. Repealer of chapter 1 (subchapters 1–3, sections 55000–55144, not consecutive) and new chapter 1 (articles 1–2, sections 55000–55180, not consecutive) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55000.5. Handbook; Monitoring and Review of Approved Courses and Programs.

(a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History
1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) Liberal Arts and Sciences Education

(A) Baccalaureate Oriented/Transfer Programs and Courses

(B) Associate Degree Programs and Courses

(C) Developmental Programs and Courses

1. Compensatory Programs and Courses

2. Adult Elementary and Secondary Basic Skills Programs and Courses

(D) Community Education Programs and Courses

1. Personal Development and Survival Courses

2. Parenting and Family Support Courses

3. Community and Civic Development Courses

4. General and Cultural Courses

(2) Occupational Education

(A) Vocational/Technical Transfer Programs and Courses

(B) Vocational/Technical Associate Degree and Certificate Programs and Courses

(C) Continuing Education Vocational/Technical Certificates, Programs and Courses

(b) The community services (Non ADA generating) of community colleges include:

(1) Community Services Classes

(A) Avocational Classes

(B) Recreational Classes

(C) Seminars, Lecture Series, Forum Series, Workshops, and Conferences

(D) Professional and Occupational Inservice Classes

(2) Community Services Activities

(A) Civic Center Act Activities

(B) Cultural Activities

(C) Community Development Activities

(D) Recreational Activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in subsections (a) and (b) and the standards in section 55002 by transmitting the following information to the Chancellor's Office:

(1) The unique static course identifier and the course title for all credit and noncredit courses.

(2) The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor.

(3) Whether the course is offered as credit or noncredit.

(4) Whether the course transfers to the California State University or the University of California or both.

(5) The number of community services classes in each category, and the number of participants.

(6) The number of community services activities in each category and the number of participants.

(d) For courses, classes and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes and activities.

NOTE: Authority cited: Sections 66700, 70901, and 78401, Education Code. Reference: Sections 66701, 70901, 70902, 78300, and 78401, Education Code.

History
1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of section 55805.5, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

(1) Curriculum Committee. The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall either be a committee of the academic senate or a committee which includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays, or, in courses where the curriculum committee deems them to be appropriate, problem solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline; and requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity which requires students to study independently outside of class time.

(D) Entrance Requirements. When the college and/or district curriculum committee deems appropriate, the course may require entrance skills and consequent prerequisites or corequisites for the course pursuant to Section 58106 of this Division.

(E) Basic Skills Requirements. If success in the course is dependent upon communication or computation skills, then the course shall require, consistent with the provisions of Section 58106 of this Division, as pre- or co-requisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The coursework calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary which the curriculum committee deems appropriate for a college course.

(3) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide reading and writing assignments, other outside of class examples of required assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Conduct of Course. Each section of the course is to be taught by a qualified instructor in accordance with a set of objectives and other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of division 2 (commencing with section 51000), sections 55761–55763 and 58161 of this Division.

(b) Non-degree Credit Course. A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under subdivision (a)(1) of this section) and is approved by the district governing board and falls within one of the categories described in subdivision (1) of this subsection.

(1) Types of Courses. Nondegree applicable credit courses are:

(A) Precollegiate basic skills courses as defined in Section 55502(d) of this Division;

(B) Courses designed to enable students to suceed in college level work which integrate basic skills instruction throughout and assign grades partly upon the demonstrated mastery of those skills;

(C) Precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college level occupational courses or programs;

(D) Essential occupational instruction for which meeting the standards of 55502(a) is neither necessary nor required.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the standards which follow. In order to be eligible for state apportionment, such courses must be approved (as courses not part of programs) by the Chancellor's Office as provided by Section 55100 of this Division.

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in the subject matter and the ability to demonstrate that proficiency, at least in part, by means of written expression which may include essays, or, in courses where the curriculum committee deems them to be appropriate, problem solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline; and requires a minimum of three hours of student work per week, per unit, including class time and/or demonstrated competency, for each unit of credit, prorated for short-term, laboratory and activity courses.

(C) Intensity. The course provides instruction in critical thinking and generally treats subject matter with a scope and intensity which prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will, upon completion of the required sequence of such courses, have acquired the skills necessary to successfully complete college level work.

(D) Entrance Requirements. When the college and/or district curriculum committee deems appropriate, the course may require entrance skills and consequent prerequisites or corequisites for the course pursuant to Section 58106 of this Division.

(3) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside class assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students. Taken together, these course specifications shall be such as to typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives.

(4) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with a set of objectives and other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of division 2 (commencing with section 51000), sections 55761–55763 and 58161 of this Division.

(c) Noncredit Course. A noncredit course is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under subdivision (a)(1) of this section) and approved by the district governing board as a course meeting the needs of enrolled students.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement which the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in Education Code Section 84711, and must be approved by the Chancellor's Office as noted in Title 5, Section 55150.

(2) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class which meets the following minimum requirements:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) May not be claimed for apportionment purposes.

(e) Not later than the initial day of registration for fall 1990, district governing boards shall have completed necessary steps for implementation of subsections (a), (b) and (c) of this section, such that by this date, each district shall have published in its college catalogues or in an addendum to be available to all students at fall 1990 registration, a statement, symbol, numbering system or the equivalent that clearly indicates whether each course is degree applicable, non-degree applicable, or noncredit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12-28-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5-18-84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10-7-88; operative 11-6-88 (Register 88, No. 42).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representatives of the general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in second paragraph (Register 91, No.43).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55101. Chancellor's Report.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).

§ 55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

[The next page is 345.]

Register 1992-15

§ 55300

(c) Employers or designated representatives agree to provide adequate supervision, facilities, equipment, and materials at the learning stations to achieve on-the-job learning objectives.

(d) Employers as required by law agree to comply with all appropriate federal and state employment regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78249, Education Code.

HISTORY

1. Amendment filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment filed 9-29-78; designated effective 1-2-79 (Register 78, No. 39).
3. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 4. Courses and Programs Conducted As Independent Study

Article 1. General Provision and Requirements

§ 55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 58051 and 58003.1 in relation to attendance in approved courses and programs designed and conducted as independent study.

Approved courses conducted as independent study shall be reported to the Chancellor in accordance with specified procedures as required by law.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78310, Education Code.

HISTORY

1. Repealer of chapter 4 (sections 55300-55344, not consecutive) and new chapter 4 (articles 1-5; sections 55300-55360, not consecutive) filed 12-18-78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
3. Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section 55300 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. New article heading filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 55302. Definitions.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
2. Repealer of article 2 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55312. Transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55314. Faculty and Student Participation.

In the development and evaluation of courses and programs subject to the requirements of this chapter, the district shall include input from, and participation by, faculty who are selected by academic senates or appropriate faculty bodies, and students.

NOTE: Authority cited: Sections 66700, 70901 and 78301, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55316. Criteria.

Courses offered pursuant to this chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Shall be recognized by an institution of the University of California or the California State University upon transfer to that institution.

Evidence of transferability to California State University or to the University of California shall be deemed to exist when the community college certifies that the course is recognized upon transfer.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55318. Written Record.

In submitting a report for each course offered pursuant to this chapter, a college shall certify that the components of each course are set out in a written record for each student enrolled, and have been developed and evaluated with the participation of faculty and students as noted in this chapter.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 3 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

(a) In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this chapter, the course must be reported as required by this chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

(b) For purposes of computing attendance, one weekly student contact hour shall be counted for each unit of independent study credit for which a student is enrolled.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55352. Number of Students.

The number of students assigned to any one instructor of courses offered pursuant to this section shall not exceed 125 students per instructor unless exempted by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer of Article 5 heading and Section 55360 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Telecourses

§ 55370. Definition and Application.

Telecourses are courses or sections in which instruction is delivered over distance, and in which a significant portion of instruction is delivered through electronic technology, such as one of the following:

(a) open broadcast, cable, or low power television;
(b) instructional television fixed service;
(c) radio;
(d) computers, when linked over distance;
(e) integrated broad band communications; and
(f) video and/or audio cassettes.

All telecourses are independent study courses, and are subject to the general requirements of Article 1 as well as the specific requirements of this Article.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 55372. Course Quality Standards.

The same standards of course quality shall be applied to telecourses as are applied to traditional classroom courses, in regard to the course quality judgments made pursuant to the requirements of Section 55002 of this Part, and in regard to any local course quality determination or review process.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 55374. Course Quality Determinations.

Determinations and judgments about the quality of telecourses, under the course quality standards referred to in Section 55372, shall be made with the full involvement of faculty in accordance with the provisions of Subchapter 2 (commencing with Section 53200) of Chapter 2 of Division 4 of this Part.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement which the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in Education Code Section 84711, and must be approved by the Chancellor's Office as noted in Title 5, Section 55150.

(2) Course Outline of Record. The course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class which meets the following minimum requirements:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) May not be claimed for apportionment purposes.

(e) Not later than the initial day of registration for fall 1990, district governing boards shall have completed necessary steps for implementation of subsections (a), (b) and (c) of this section, such that by this date, each district shall have published in its college catalogues or in an addendum to be available to all students at fall 1990 registration, a statement, symbol, numbering system or the equivalent that clearly indicates whether each course is degree applicable, non-degree applicable, or noncredit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66701 and 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12-28-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5-18-84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10-7-88; operative 11-6-88 (Register 88, No. 42).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 7).

§ 55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four-year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit-no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in second paragraph (Register 91, No.43).
3. Repealer filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55101. Chancellor's Report.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

Register 1993-42

§ 55002
§ 55200
§ 55201
§ 55202

The form used by a college for the purpose of collecting the fee shall contain, at a minimum, the following:

(a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;

(b) the amount of the fee;

(c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

NOTE: Authority cited: Sections 66700, 70901 and 76060.5, Education Code. References: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54912. Residence Questionnaires.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Chapter 6. Curriculum and Instruction

Subchapter 1. Programs, Courses and Classes

Article 1. Program, Course and Class Classification and Standards

§ 55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer of chapter 1 (subchapters 1–3, sections 55000–55144, not consecutive) and new chapter 1 (articles 1–2, sections 55000–55180, not consecutive) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55000.5. Handbook; Monitoring and Review of Approved Courses and Programs.

(a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) Liberal Arts and Sciences Education

(A) Baccalaureate Oriented/Transfer Programs and Courses

(B) Associate Degree Programs and Courses

(C) Developmental Programs and Courses

1. Compensatory Programs and Courses

2. Adult Elementary and Secondary Basic Skills Programs and Courses

(D) Community Education Programs and Courses

1. Personal Development and Survival Courses

2. Parenting and Family Support Courses

3. Community and Civic Development Courses

4. General and Cultural Courses

(2) Occupational Education

(A) Vocational/Technical Transfer Programs and Courses

(B) Vocational/Technical Associate Degree and Certificate Programs and Courses

(C) Continuing Education Vocational/Technical Certificates, Programs and Courses

(b) The community services (Non ADA generating) of community colleges include:

(1) Community Services Classes

(A) Avocational Classes

(B) Recreational Classes

(C) Seminars, Lecture Series, Forum Series, Workshops, and Conferences

(D) Professional and Occupational Inservice Classes

(2) Community Services Activities

(A) Civic Center Act Activities

(B) Cultural Activities

(C) Community Development Activities

(D) Recreational Activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in subsections (a) and (b) and the standards in section 55002 by transmitting the following information to the Chancellor's Office:

(1) The unique static course identifier and the course title for all credit and noncredit courses.

(2) The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor.

(3) Whether the course is offered as credit or noncredit.

(4) Whether the course transfers to the California State University or the University of California or both.

(5) The number of community services classes in each category, and the number of participants.

(6) The number of community services activities in each category and the number of participants.

(d) For courses, classes and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes and activities.

NOTE: Authority cited: Sections 66700, 70901, and 78401, Education Code. Reference: Sections 66701, 70901, 70902, 78300, and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of Section 55805.5, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

(1) Curriculum Committee. The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course for associate degree credit if it meets the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays, or, in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course also requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short-term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity that requires students to study independently outside of class time.

(D) Prerequisites and Corequisites. When the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course, then the course shall require prerequisites or corequisites that are established, reviewed, and applied in accordance with the requirements of Article 2.5 (commencing with Section 55200) of this Subchapter.

(E) Basic Skills Requirements. If success in the course is dependent upon communication or computation skills, then the course shall require, consistent with the provisions of Article 2.5 (commencing with Section 55200) of this Subchapter, as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary that the curriculum committee deems appropriate for a college course.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Conduct of Course. Each section of the course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Chapter 2 (commencing with Section 51000), sections 55761-55763 and 58161 of this Division.

(b) Nondegree Credit Course. A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this Section) and is approved by the district governing board and falls within one of the categories described in Subdivision (1) of this Subsection.

(1) Types of Courses. Nondegree applicable credit courses are:

(A) precollegiate basic skills courses as defined in Section 55502(d) of this Division;

(B) courses designed to enable students to succeed in college-level work (including, but not limited to, college orientation and guidance courses, and discipline-specific preparatory courses such as biology, history, or electronics) that integrate basic skills instruction throughout and assign grades partly upon the demonstrated mastery of those skills;

(C) precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college-level occupational courses or programs;

(D) essential occupational instruction for which meeting the standards of Section 55002(a) is neither necessary nor required.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the standards which follow. In order to be eligible for state apportionment, such courses must be approved (as courses not part of programs) by the Chancellor's Office as provided by Section 55100 of this Division.

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in the subject matter and the ability to demonstrate that proficiency, at least in part, by means of written expression that may include essays, or, in courses where the curriculum committee deems them to be appropriate, by problemsolving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course requires a minimum of three hours of student work per week, per unit, including class time and/or demonstrated competency, for each unit of credit, prorated for short-term, laboratory, and activity courses.

(C) Intensity. The course provides instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses.

(D) Prerequisites and corequisites. When the college and/or district curriculum committee deems appropriate, the course may require prerequisites or corequisites for the course that are established, reviewed, and applied in accordance with Article 2.5 (commencing with Section 55200) of this Subchapter.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students. Taken together, these course specifications shall be such as to typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives.

(4) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Division 2 (commencing with Section 51000), Sections 55761-55763 and 58161 of this Division.

(c) Noncredit Course. A noncredit course is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this Section) and approved by the district governing board as a course meeting the needs of enrolled students.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement that the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in Education Code Section 84711 and must be approved by the Chancellor's Office as noted in Title 5, Section 55150.

(2) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class that meets the following minimum requirements:

(1) is approved by the local district governing board;

(2) is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein;

(3) provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students;

(4) is conducted in accordance with a predetermined strategy or plan;

(5) is open to all members of the community; and

(6) may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5–18–84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
6. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four–year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit–no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in second paragraph (Register 91, No.43).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55101. Chancellor's Report.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55150. Approval of Noncredit Courses and Programs.

(a) Courses or programs offered for noncredit shall be approved by the Chancellor in accordance with section 55100 on forms provided by the Chancellor's Office.

(b) Course outlines for all noncredit courses shall be on file in the community college offering the course.

(c) Authorities of each community college maintaining noncredit courses shall keep such current records and reports as may be required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55160. Approval of Community Service Classes.

(a) Districts are authorized in accordance with the provisions of article 7 (commencing with section 78300) of chapter 2, part 48 of the Education Code to approve and conduct community services classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with section 55001.

(b) Community services classes shall not be referred to as noncredit classes.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Sections 70901 and 78300, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55170. Contract Classes.

(a) Notwithstanding subdivision (c) of section 55000, "contract classes" means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association, or other body or person.

(b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 8092, 70902 and Article 1.5 (commencing with Section 78020) of Chapter 1, Part 48, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55180. Chancellor's Report.

NOTE: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 71091, 78200, and 78401, Education Code.

HISTORY

1. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55182. Reinstatement of Deleted Courses.

The governing board of a community college district may reinstate any course which was deleted from the credit or noncredit curriculum during the 1982–83 fiscal year, in response to provision Number 11 of Item 6870–101–001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982); provided that the following criteria and procedures shall be applied in conjunction with such reinstatement:

(a) The governing board of the district shall only reinstate such courses in a manner which is consistent with the policy of the Board of Governors that offerings which are primarily avocational, or recreational shall be offered as community services classes, and not as credit or noncredit courses;

(b) The governing board of the district shall determine that the course meets the criteria and standards for courses specified in section 55002;

(c) The governing board may act to reinstate a course only after it has been reviewed through the college's or district's established procedure for the approval of new courses;

(d) The governing board must submit the course to the Chancellor for approval, or report approval of the course, depending on the requirements of section 55100. A separate designation shall be used to distinguish reinstated courses from new courses; and

(e) The governing board must determine that reinstatement of the course maintains or improves the curriculum balance of the district in accordance with the mission of the community college and local needs.

(f) Any category of courses restored to the curriculum pursuant to a separate authorization of the Board of Governors shall be exempt from the requirements of this section.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

History
. New section filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 2.5 Prerequisites, Corequisites, and Recommended Preparation

§ 55200. Definitions.

For the purposes of this Division, the following definitions apply:

(a) "Prerequisite" means a condition of enrollment that a student is required to meet in order to demonstrate current readiness for enrollment in a course or educational program.

(b) "Corequisite" means a condition of enrollment consisting of a course that a student is required to simultaneously take in order to enroll in another course.

(c) "Advisory on recommended preparation" means a condition of enrollment that a student is advised, but not required, to meet before or in conjunction with enrollment in a course or educational program.

(d) "Satisfactory grade" means that, for the course in question, the student's academic record has been annotated with the symbol A, B, C or "CR" as those symbols are defined in Section 55758 of this Division.

(e) "Necessary and appropriate" means that a strong rational basis exists for concluding that a prerequisite or corequisite is reasonably needed to achieve the purpose that it purports to serve. This standard does not require absolute necessity.

(f) "content review" means a rigorous, systematic process developed in accordance with Sections 53200 to 53204, approved by the Chancellor as part of the district matriculation plan required under Section 55510, and is conducted by faculty to identify the necessary and appropriate body of knowledge or skills students need to possess prior to enrolling a course, or which students need to acquire through concurrent enrollment in a corequisite course.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History
1. New article 2.5 and section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55201. Policies for Prerequisites, Corequisites, and Advisories on Recommended Preparation.

(a) The governing board of a community college district may establish prerequisites, corequisites, and advisories on recommended preparation, but must do so in accordance with the provisions of this Article. Nothing in this subchapter shall be construed to require a district to establish prerequisites, corequisites, or advisories on recommended preparation; provided however, that a prerequisite or corequisite shall be required if the course is to be offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E).

(b) A governing board choosing to establish prerequisites, corequisites, or advisories on recommended preparation shall, in accordance with the provisions of Sections 53200–53204 of this Division, adopt policies for the following:

(1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation. Such policies shall provide that in order to establish a prerequisite or corequisite, the prerequisite or corequisite must be determined to be necessary and appropriate for achieving the purpose for which it is being established. District policies shall also specify the level of scrutiny that shall be required in order to establish different types of prerequisites, corequisites, and advisories on recommended preparation. At a minimum, prerequisites, corequisites, and advisories on recommended preparation shall be based on content review, with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite being established. The policy shall provide that the types of prerequisites described in Subsection (e) may be established only on the basis of data collected using sound research practices. Determinations about prerequisites and corequisites shall be made on a course–by–course or program–by–program basis.

(2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline particularly those aspects of the course outline that are the basis for justifying the establishment of the prerequisite or corequisite.

(3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. These processes shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. These processes shall also provide for the periodic review of advisories on recommended preparation.

(4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite.

(c) Prerequisites or corequisites may be established only for any of the following purposes:

(1) the prerequisite or corequisite is expressly required or expressly authorized by statute or regulation; or

(2) the prerequisite will assure, consistent with Section 55002(a)(2)(D), that a student has the skills, concepts, and/or information that is presupposed in terms of the course or program for which it is being established, such that a student who has not met the prerequisite is highly unlikely to receive a satisfactory grade in the course (or at least one course within the program) for which the prerequisite is being established; or

(3) the corequisite course will assure, consistent with Section 55002(a)(2)(D), that a student acquires the necessary skills, concepts, and/or information, such that a student who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established; or

(4) the prerequisite or corequisite is necessary to protect the health and safety of a student or the health and safety of others.

(d) Except as provided in this Subsection, no prerequisite or corequisite may be established or renewed pursuant to Subsection (b)(3) unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established. A prerequisite or corequisite need not be so scrutinized until it is reviewed pursuant to Subsection (b)(3) if:

(1) it was established prior to July 6, 1990, and is part of a sequence of degree–applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of this regulation, in accordance with regulations in effect during this period of time; or

(3) it is required by statute or regulation; or

(4) it is part of a closely–related lecture–laboratory course pairing within a discipline; or

(5) it is required by four–year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 55002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then, despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or corequisite have been met.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall

be resolved in a timely manner and, if the challenge is upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55202. Additional Rules.

The following additional rules apply to the establishment of prerequisites and corequisites:

(a) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established.

(b) Prerequisites establishing communication or computational skill requirements may not be established across the entire curriculum unless established on a course–by–course basis.

(c) The determination of whether a student meets a prerequisite shall be based on successful completion of an appropriate course or on an assessment using multiple measures. Any assessment instrument used shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

(d) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district shall ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course.

(e) Whenever a corequisite course is established, sufficient sections shall be offered to reasonably accommodate all students who are required to take the corequisite. A Corequisite shall be waived as to any student for whom space in the corequisite course is not available.

(f) No exit test may be required to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring the prerequisite, provided, however, that enrollment may be permitted pending verification that the student has met the prerequisite or corequisite. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or to the student code of conduct.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Article 3. Bilingual Crosscultural Programs and Courses

§ 55225. Annual Articulation Agreement Plans.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 52150–52158, Education Code.

HISTORY

1. New article 3 (section 55225) filed 6–8–83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Subchapter 2. Programs and Classes Outside of District

NOTE: Authority cited: Section 72012, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 55200–55204) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Register 77, No. 45.
2. Amendment of subchapter 2 heading filed 5–15–93; operative 6–14–93 (Register 93, No. 25).

§ 55230. Classes, Property and Buildings Outside of District.

The governing board of a community college district may conduct community college classes and acquire the necessary property and erect the necessary buildings therefor, outside of the boundaries of the district if all of the following conditions exist:

(a) The proposed location is within the state.

(b) the activities, trades, businesses, or work to be carried on at the proposed location is such as to offer educational opportunities to students who are residents of the district in the subject or all of the subjects proposed to be taught at that location, and facilities for such instruction are not available either at the location of the principal buildings of the community college, or elsewhere within the district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55231. Establishment of Classes Outside of District.

The governing board of a community college district may establish courses outside the district primarily for students who are nonresidents of the district, providing the following conditions are fulfilled:

(a) The governing board of a high school district or another community college district, requests that community college classes be offered in the high school district or community college district.

(b) The community college district annually reports to the Board of Governors, in advance of their offering, on the classes to be established or continued pursuant to this authorization.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Register 1994-18

§ 55314
§ 55316
§ 55316.5
§ 55317
§ 55318
§ 55340
§ 55352

§ 55257. Job Learning Stations.

Job learning stations shall meet the following criteria:

(a) Employers or designated representatives agree with the intent and purposes of Cooperative Work Experience Education for students and are given a copy of each student's approved on-the-job learning objectives.

(b) Job learning stations offer a reasonable probability of continuous work experience for students during the current work experience enrollment term.

(c) Employers or designated representatives agree to provide adequate supervision, facilities, equipment, and materials at the learning stations to achieve on-the-job learning objectives.

(d) Employers as required by law agree to comply with all appropriate federal and state employment regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78249, Education Code.

HISTORY

1. Amendment filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment filed 9-29-78; designated effective 1-2-79 (Register 78, No. 39).
3. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 4. Courses and Programs Conducted As Independent Study

Article 1. General Provision and Requirements

§ 55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 58051 and 58003.1 in relation to attendance in approved courses and programs designed and conducted as independent study.

Approved courses conducted as independent study shall be reported to the Chancellor in accordance with specified procedures as required by law.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78310, Education Code.

HISTORY

1. Repealer of chapter 4 (sections 55300-55344, not consecutive) and new chapter 4 (articles 1-5; sections 55300-55360, not consecutive) filed 12-18-78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46)
3. Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section 55300 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. New article heading filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 55302. Definitions.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
2. Repealer of article 2 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55312. Transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55314. Faculty and Student Participation.

NOTE: Authority cited: Sections 66700, 70901 and 78301, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Repealer filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55316. Criteria.

Courses offered pursuant to this Chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Be recognized by an institution of the University of California or the California State University upon transfer to that institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment of opening statement, subsection (b) and NOTE filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55316.5. Additional Courses.

Notwithstanding any other provision of law, after June 1, 1994, the following additional types of courses may be offered pursuant to this Chapter, consistent with guidelines developed by the Chancellor:

(a) Nontransferable courses designed to meet the requirements of Sections 55805.5, 55806, and 55002(a) or (b);

(b) Noncredit courses conducted as distance education independent study.

This Section shall become inoperative on July 1, 2000, unless a later-adopted regulation deletes or extends this date.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55317. Ongoing Responsibilities of Districts.

Any district conducting courses under Section 55316 or 55316.5 shall:

(a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses;

(b) Provide to the local governing board no later than July 1, 1995, and annually thereafter, a report on all distance education activity.

(c) Provide other information consistent with reporting guidelines which shall be developed by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors.

This Section shall become inoperative on July 1, 2000, unless a later-adopted regulation deletes or extends this date.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

History
1. New section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55318. Written Record.

Note: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

History
1. Amendment of Note filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Repealer filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

Note: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

History
1. Repealer of article 3 heading filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

Note: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

History
1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

Note: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

History
1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55323. Learning Assistance.

Note: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

History
1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this Chapter, the course must be reported as required by this Chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

History
1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment of section and Note filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55342. Average Daily Attendance.

Note: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

History
1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

Note: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

History
1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

Note: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

History
1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

Note: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

History
1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

Note: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

History
1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period in which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

Note: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

History
1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55352. Number of Students.

The number of students assigned to any one course section offered by distance education shall be determined by and be consistent with other district procedures related to faculty assignment. Procedures for determining the number of students assigned to a course section offered by distance education may include a review by the curriculum committee established pursuant to Section 55002(a)(1).

Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

History
1. Repealer and new section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18). For prior history, see Register 91, No. 23.

§ 55360. Evaluation Reports.

Note: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

Register 1994-38

§ 51021
§ 55001

college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000-53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sec-

tions 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under Section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer–employee relations. Nothing in this Section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

(c) Nothing in this Section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to Sections 53200–53204, and Section 51023.7, respectively.

(d) The governing board of a community college district shall comply substantially with the provisions of this Section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).
3. Amendment of subsections (a)(1), (a)(3), (a)(5), (a)(7), (b), (c) and (d) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations, the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this Section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this Section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this Section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to the regulations on academic senates contained in Sections 53200–53206.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this Section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1 (Register 91, No. 43).
3. Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 51025. Full–Time/Part–Time Faculty.

This Section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) Community college districts which have less than 75 percent of their hours of credit instruction taught by full–time instructors, as determined from their base data calculated pursuant to Section 53311, shall apply the growth revenues received related to increases in credit FTES in accordance with Section 58774 and a portion of the program improvement allocation received in accordance with Section 58775, as follows:

The form used by a college for the purpose of collecting the fee shall contain, at a minimum, the following:

(a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;

(b) the amount of the fee;

(c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral or financial reasons.

NOTE: Authority cited: Sections 66700, 70901 and 76060.5, Education Code. References: Sections 76060 and 76060.5, Education Code.

HISTORY

1. New section filed 5–12–88; operative 5–12–88 (Register 88, No. 20).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54912. Residence Questionnaires.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Repealer filed 5–19–93; operative 6–4–93 (Register 93, No. 25).

Chapter 6. Curriculum and Instruction

Subchapter 1. Programs, Courses and Classes

Article 1. Program, Course and Class Classification and Standards

§ 55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer of chapter 1 (subchapters 1–3, sections 55000–55144, not consecutive) and new chapter 1 (articles 1–2, sections 55000–55180, not consecutive) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55000.5. Handbook; Monitoring and Review of Approved Courses and Programs.

(a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) liberal arts and sciences education:

(A) baccalaureate oriented/transfer programs and courses

(B) associate degree programs and courses

(C) developmental programs and courses

1. compensatory programs and courses

2. adult elementary and secondary basic skills programs and courses

(D) community education programs and courses

1. personal development and survival courses

2. parenting and family support courses

3. community and civic development courses

4. general and cultural courses

(2) occupational education:

(A) vocational/technical transfer programs and courses

(B) vocational/technical associate degree and certificate programs and courses

(C) continuing education vocational/technical certificates, programs and courses

(b) The community services (Non FTES generating) of community colleges include:

(1) community services classes:

(A) avocational classes

(B) recreational classes

(C) seminars, lecture series, forum series, workshops, and conferences

(D) professional and occupational in–service classes

(2) community services activities:

(A) Civic Center Act activities

(B) cultural activities

(C) community development activities

(D) recreational activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in Subsections (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:

(1) the unique static course identifier and the course title for all credit and noncredit courses;

(2) the classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor;

(3) whether the course is offered as credit or noncredit;

(4) whether the course transfers to the California State University or the University of California or both;

(5) the number of community services classes in each category, and the number of participants; and

(6) the number of community services activities in each category and the number of participants.

(d) For courses, classes, and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by Subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes, and activities.

NOTE: Authority cited: Sections 66700, 70901, and 78401, Education Code. Reference: Sections 66701, 70901, 70902, 78300, and 78401, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of Section 55805.5, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) adopt regulations consistent with regulations contained in Subchapter 10 (commencing with Section 55800) of Chapter 6;

(b) file a copy of its regulations and any amendments thereto with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "The policy of this district is that, unless specifically exempted by statute or regulation, every course, course section, or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of Division 6 of Title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to Subsection (a) shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which full–time equivalent student (FTES) is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for, and approve, comprehensive or master plans which include academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that the plans shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with Section 70901(b)(9) of the Education Code and with regulations of the Board of Governors pertaining to such plans.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51010. Affirmative Action.

The governing board of a community college district shall:

(a) adopt a district policy which describes its affirmative action employment program and meets the requirements of Section 53002;

(b) develop and adopt a district faculty and staff diversity plan which meets the requirements of Section 53003;

(c) ensure that its employment patterns are annually surveyed in the manner required by Section 53004;

(d) ensure that a program of recruitment is carried out as required by Section 53021; and

(e) ensure that screening and selection procedures are developed and used in accordance with Section 53024;

(f) ensure that the pattern of hiring decisions, when viewed over time, furthers the goals established in the district's faculty and staff diversity plan; and

(g) substantially comply with the other provisions of Subchapter 1 (commencing with Section 53000) Chapter 4.

NOTE: Authority cited: Sections 70901 and 87105, Education Code. Reference: Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 3–26–92; operative 4–24–92 (Register 92, No. 17).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval for such college or educational center from the Board of Governors. Approval shall be obtained before classes begin at the new college or educational center.

(b) The provisions of Subchapter 11 (commencing with Section 55825) of Chapter 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

Register 1995-20

§ 55000
§ 55000.5
§ 55001
§ 55002
§ 55002.5
§ 55004
§ 55005
§ 55006
§ 55008
§ 55100
§ 55130
§ 55150
§ 55160
§ 55170
§ 55182
§ 55200
§ 55300
§ 55314
§ 55316
§ 55318
§ 55320
§ 55321
§ 55322
§ 55340
§ 55350

§ 54912. Residence Questionnaires.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Chapter 6. Curriculum and Instruction

Subchapter 1. Programs, Courses and Classes

Article 1. Program, Course and Class Classification and Standards

§ 55000. Definitions.

For the purpose of this chapter, the following definitions shall apply:

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer of chapter 1 (subchapters 1–3, sections 55000–55144, not consecutive) and new chapter 1 (articles 1–2, sections 55000–55180, not consecutive) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Registers 80, No. 11; 77, No. 45; and 71, No. 9.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55000.5. Handbook; Monitoring and Review of Approved Courses and Programs.

(a) The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55001. Community College Educational Program.

(a) The instructional services of community colleges include:

(1) liberal arts and sciences education:

(A) baccalaureate oriented/transfer programs and courses

(B) associate degree programs and courses

(C) developmental programs and courses

1. compensatory programs and courses
2. adult elementary and secondary basic skills programs and courses

(D) community education programs and courses

1. personal development and survival courses
2. parenting and family support courses
3. community and civic development courses
4. general and cultural courses

(2) occupational education:

(A) vocational/technical transfer programs and courses

(B) vocational/technical associate degree and certificate programs and courses

(C) continuing education vocational/technical certificates, programs and courses

(b) The community services (Non FTES generating) of community colleges include:

(1) community services classes:

(A) avocational classes

(B) recreational classes

(C) seminars, lecture series, forum series, workshops, and conferences

(D) professional and occupational in–service classes

(2) community services activities:

(A) Civic Center Act activities

(B) cultural activities

(C) community development activities

(D) recreational activities

(c) All districts shall report the classification of all courses, classes, and activities offered in accordance with the system contained in Subsections (a) and (b) and the standards in Section 55002 by transmitting the following information to the Chancellor's Office:

(1) the unique static course identifier and the course title for all credit and noncredit courses;

(2) the classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor;

(3) whether the course is offered as credit or noncredit;

(4) whether the course transfers to the California State University or the University of California or both;

(5) the number of community services classes in each category, and the number of participants; and

(6) the number of community services activities in each category and the number of participants.

(d) For courses, classes, and activities which are added after June 30, 1982, the district shall report the classification of all courses, classes and activities in the manner provided by Subsection (c). The Chancellor shall review and comment upon, as necessary, the classification of such courses, classes, and activities.

NOTE: Authority cited: Sections 66700, 70901, and 78401, Education Code. Reference: Sections 66701, 70901, 70902, 78300, and 78401, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55002. Standards and Criteria for Courses and Classes.

(a) Associate Degree Credit Course. An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of Section 55805.5, and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

(1) Curriculum Committee. The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course for associate degree credit if it meets the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays, or, in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course also requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short-term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity that requires students to study independently outside of class time.

(D) Prerequisites and Corequisites. When the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course, then the course shall require prerequisites or corequisites that are established, reviewed, and applied in accordance with the requirements of Article 2.5 (commencing with Section 55200) of this Subchapter.

(E) Basic Skills Requirements. If success in the course is dependent upon communication or computation skills, then the course shall require, consistent with the provisions of Article 2.5 (commencing with Section 55200) of this Subchapter, as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary that the curriculum committee deems appropriate for a college course.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

(4) Conduct of Course. Each section of the course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Chapter 2 (commencing with Section 51000), sections 55761-55763 and 58161 of this Division.

(b) Nondegree Credit Course. A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this Section) and is approved by the district governing board and falls within one of the categories described in Subdivision (1) of this Subsection.

(1) Types of Courses. Nondegree applicable credit courses are:

(A) precollegiate basic skills courses as defined in Section 55502(d) of this Division;

(B) courses designed to enable students to succeed in college-level work (including, but not limited to, college orientation and guidance courses, and discipline-specific preparatory courses such as biology, history, or electronics) that integrate basic skills instruction throughout and assign grades partly upon the demonstrated mastery of those skills;

(C) precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college-level occupational courses or programs;

(D) essential occupational instruction for which meeting the standards of Section 55002(a) is neither necessary nor required.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the standards which follow. In order to be eligible for state apportionment, such courses must be approved (as courses not part of programs) by the Chancellor's Office as provided by Section 55100 of this Division.

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in the subject matter and the ability to demonstrate that proficiency, at least in part, by means of written expression that may include essays, or, in courses where the curriculum committee deems them to be appropriate, by problemsolving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course requires a minimum of three hours of student work per week, per unit, including class time and/or demonstrated competency, for each unit of credit, prorated for short-term, laboratory, and activity courses.

(C) Intensity. The course provides instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses.

(D) Prerequisites and corequisites. When the college and/or district curriculum committee deems appropriate, the course may require prerequisites or corequisites for the course that are established, reviewed, and applied in accordance with Article 2.5 (commencing with Section 55200) of this Subchapter.

(3) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students. Taken together, these course specifications shall be such as to typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives.

(4) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record.

(5) Repetition. Repeated enrollment is allowed only in accordance with provisions of Division 2 (commencing with Section 51000), Sections 55761-55763 and 58161 of this Division.

(c) Noncredit Course. A noncredit course is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this Section) and approved by the district governing board as a course meeting the needs of enrolled students.

(1) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and stan-

dards of attendance and achievement that the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in Education Code Section 84711 and must be approved by the Chancellor's Office as noted in Title 5, Section 55150.

(2) Course Outline of Record. The course is described in a course outline of record that shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met.

(3) Conduct of Course. All sections of the course are to be taught by a qualified instructor in accordance with the set of objectives and other specifications defined in the course outline of record.

(d) Community Services Class. A community services class is a class that meets the following minimum requirements:

(1) is approved by the local district governing board;

(2) is designed for the physical, mental, moral, economic, or civic development of persons enrolled therein;

(3) provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students;

(4) is conducted in accordance with a predetermined strategy or plan;

(5) is open to all members of the community; and

(6) may not be claimed for apportionment purposes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of subsection (a) filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 5–18–84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer and new section filed 10–7–88; operative 11–6–88 (Register 88, No. 42).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 7).
6. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
7. Editorial correction of HISTORY 4 (Register 95, No. 20).

§ 55002.5. Credit Hour; Allowance for Shorter Term.

One credit hour of community college work is approximately three hours of recitation, study, or laboratory work per week throughout a term of 16 weeks. Where a term is more or less than 16 weeks, more or less than one credit hour shall be allowed in the same ratio that the length of the term is to 16 weeks.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55004. Social Science Courses.

The course of instruction in social sciences shall include a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States of America.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55005. Publication of Course Standards.

For each course offered, a community college shall make available to students through college publications all of the following facts before they enroll in the course:

(a) Whether the course is offered as a credit or noncredit course, or a community services class.

(b) Whether the course is transferable to four–year colleges and universities.

(c) Whether the course fulfills a major or general education requirement.

(d) Whether the course is offered on the basis of credit–no credit, and if so, which provision of subsection (a) of section 51302 is applicable.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55006. Records and Reports.

Authorities of each community college maintaining credit and noncredit courses and community services classes and activities shall keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 20).

§ 55008. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in second paragraph (Register 91, No. 43).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
4. Editorial correction of HISTORY 1 (Register 95, No. 20).

Article 2. Approval of Courses, Programs and Classes

§ 55100. Course Approval.

Except as provided in subsection (b) and section 55160, each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the college. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection (c).

(c) For each course approved by a district, whether or not approval by the Chancellor is required, the district shall designate the appropriate classification of the course or activity in accordance with section 55001.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78401, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55101. Chancellor's Report.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 3–7–85; effective thirtieth day thereafter (Register 85, No. 10).

§ 55130. Approval of Credit Programs.

(a) Before offering any course as part of an educational program at a college, the governing board of a district shall obtain approval of the educational program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor.

(b) The application for approval shall contain at least the following:

(1) The name of the proposed program.

(2) The description of the proposed program.

(3) The purposes and specific objectives of the proposed program.

(4) The place of the proposed program in the district master plan.

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college.

(C) Relation of the proposed program to job market analysis.

(D) Enrollment projection for the proposed program.

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with section 55001.

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library and media center resources.

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support.

(D) Availability of faculty.

(c) The development, establishment and evaluation of an education program shall include representative faculty involvement.

(d) An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination.

(e) In multicollege districts, program approval is granted for a specific college.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55150. Approval of Noncredit Courses and Programs.

(a) Courses or programs offered for noncredit shall be approved by the Chancellor in accordance with section 55100 on forms provided by the Chancellor's Office.

(b) Course outlines for all noncredit courses shall be on file in the community college offering the course.

(c) Authorities of each community college maintaining noncredit courses shall keep such current records and reports as may be required by the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55160. Approval of Community Service Classes.

(a) Districts are authorized in accordance with the provisions of article 7 (commencing with section 78300) of chapter 2, part 48 of the Education Code to approve and conduct community services classes without the approval of the Chancellor. The classification of all such classes shall be reported to the Chancellor in accordance with section 55001.

(b) Community services classes shall not be referred to as noncredit classes.

Note: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Sections 70901 and 78300, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55170. Contract Classes.

(a) Notwithstanding subdivision (c) of section 55000, "contract classes" means those classes which a community college district offers in fulfillment of a contract with a public or private agency, corporation, association, or other body or person.

(b) No approval of a contract class is required if the district does not claim state support for the class and if the legislation which authorizes that class does not require approval. If the district claims state support for a contract class, approval of the class shall be obtained in the manner provided for classes of the same type, as provided in this article. Approval of the contract shall be obtained in the manner provided for by law.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 8092, 70902 and Article 1.5 (commencing with Section 78020) of Chapter 1, Part 48, Education Code.

History

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55180. Chancellor's Report.

Note: Authority cited: Sections 66700 and 71020, Education Code. Reference: Sections 71091, 78200, and 78401, Education Code.

History

1. Repealer filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of History 1 (Register 95, No. 20).

§ 55182. Reinstatement of Deleted Courses.

The governing board of a community college district may reinstate any course which was deleted from the credit or noncredit curriculum during the 1982–83 fiscal year, in response to provision Number 11 of Item 6870–101–001 of the Budget Act of 1982 (Chapter 326, Statutes of 1982); provided that the following criteria and procedures shall be applied in conjunction with such reinstatement:

(a) The governing board of the district shall only reinstate such courses in a manner which is consistent with the policy of the Board of Governors that offerings which are primarily avocational, or recreational shall be offered as community services classes, and not as credit or noncredit courses;

(b) The governing board of the district shall determine that the course meets the criteria and standards for courses specified in section 55002;

(c) The governing board may act to reinstate a course only after it has been reviewed through the college's or district's established procedure for the approval of new courses;

(d) The governing board must submit the course to the Chancellor for approval, or report approval of the course, depending on the requirements of section 55100. A separate designation shall be used to distinguish reinstated courses from new courses; and

(e) The governing board must determine that reinstatement of the course maintains or improves the curriculum balance of the district in accordance with the mission of the community college and local needs.

(f) Any category of courses restored to the curriculum pursuant to a separate authorization of the Board of Governors shall be exempt from the requirements of this section.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

HISTORY

1. New section filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

Article 2.5. Prerequisites, Corequisites, and Recommended Preparation

§ 55200. Definitions.

For the purposes of this Division, the following definitions apply:

(a) "Prerequisite" means a condition of enrollment that a student is required to meet in order to demonstrate current readiness for enrollment in a course or educational program.

(b) "Corequisite" means a condition of enrollment consisting of a course that a student is required to simultaneously take in order to enroll in another course.

(c) "Advisory on recommended preparation" means a condition of enrollment that a student is advised, but not required, to meet before or in conjunction with enrollment in a course or educational program.

(d) "Satisfactory grade" means that, for the course in question, the student's academic record has been annotated with the symbol A, B, C or "CR" as those symbols are defined in Section 55758 of this Division.

(e) "Necessary and appropriate" means that a strong rational basis exists for concluding that a prerequisite or corequisite is reasonably needed to achieve the purpose that it purports to serve. This standard does not require absolute necessity.

(f) "content review" means a rigorous, systematic process developed in accordance with Sections 53200 to 53204, approved by the Chancellor as part of the district matriculation plan required under Section 55510, and is conducted by faculty to identify the necessary and appropriate body of knowledge or skills students need to possess prior to enrolling in a course, or which students need to acquire through concurrent enrollment in a corequisite course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New article 2.5 and section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
2. Editorial correction of Article heading (Register 95, No. 20).

§ 55201. Policies for Prerequisites, Corequisites, and Advisories on Recommended Preparation.

(a) The governing board of a community college district may establish prerequisites, corequisites, and advisories on recommended preparation, but must do so in accordance with the provisions of this Article. Nothing in this subchapter shall be construed to require a district to establish prerequisites, corequisites, or advisories on recommended preparation; provided however, that a prerequisite or corequisite shall be required if the course is to be offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E).

(b) A governing board choosing to establish prerequisites, corequisites, or advisories on recommended preparation shall, in accordance with the provisions of Sections 53200–53204 of this Division, adopt policies for the following:

(1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation. Such policies shall provide that in order to establish a prerequisite or corequisite, the prerequisite or corequisite must be determined to be necessary and appropriate for achieving the purpose for which it is being established. District policies shall also specify the level of scrutiny that shall be required in order to establish different types of prerequisites, corequisites, and advisories on recommended preparation. At a minimum, prerequisites, corequisites, and advisories on recommended preparation shall be based on content review, with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite being established. The policy shall provide that the types of prerequisites described in Subsection (e) may be established only on the basis of data collected using sound research practices. Determinations about prerequisites and corequisites shall be made on a course–by–course or program–by–program basis.

(2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline particularly those aspects of the course outline that are the basis for justifying the establishment of the prerequisite or corequisite.

(3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. These processes shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. These processes shall also provide for the periodic review of advisories on recommended preparation.

(4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite.

(c) Prerequisites or corequisites may be established only for any of the following purposes:

(1) the prerequisite or corequisite is expressly required or expressly authorized by statute or regulation; or

(2) the prerequisite will assure, consistent with Section 55002(a)(2)(D), that a student has the skills, concepts, and/or information that is presupposed in terms of the course or program for which it is being established, such that a student who has not met the prerequisite is highly unlikely to receive a satisfactory grade in the course (or at least one course within the program) for which the prerequisite is being established; or

(3) the corequisite course will assure, consistent with Section 55002(a)(2)(D), that a student acquires the necessary skills, concepts, and/or information, such that a student who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established; or

(4) the prerequisite or corequisite is necessary to protect the health and safety of a student or the health and safety of others.

(d) Except as provided in this Subsection, no prerequisite or corequisite may be established or renewed pursuant to Subsection (b)(3) unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established. A prerequisite or corequisite need not be so scrutinized until it is reviewed pursuant to Subsection (b)(3) if:

(1) it was established prior to July 6, 1990, and is part of a sequence of degree-applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of this regulation, in accordance with regulations in effect during this period of time; or

(3) it is required by statute or regulation; or

(4) it is part of a closely-related lecture-laboratory course pairing within a discipline; or

(5) it is required by four-year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 55002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then, despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or corequisite have been met.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall be resolved in a timely manner and, if the challenge is upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55202. Additional Rules.

The following additional rules apply to the establishment of prerequisites and corequisites:

(a) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established.

(b) Prerequisites establishing communication or computational skill requirements may not be established across the entire curriculum unless established on a course-by-course basis.

(c) The determination of whether a student meets a prerequisite shall be based on successful completion of an appropriate course or on an assessment using multiple measures. Any assessment instrument used shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

(d) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district shall ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course.

(e) Whenever a corequisite course is established, sufficient sections shall be offered to reasonably accommodate all students who are required to take the corequisite. A Corequisite shall be waived as to any student for whom space in the corequisite course is not available.

(f) No exit test may be required to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring the prerequisite, provided, however, that enrollment may be permitted pending verification that the student has met the prerequisite or corequisite. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or to the student code of conduct.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Article 3. Bilingual Crosscultural Programs and Courses

§ 55225. Annual Articulation Agreement Plans.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 52150-52158, Education Code.

HISTORY

1. New article 3 (section 55225) filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

Subchapter 2. Programs and Classes Outside of District

NOTE: Authority cited: Section 72012, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 55200-55204) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Register 77, No. 45.
2. Amendment of subchapter 2 heading filed 5-15-93; operative 6-14-93 (Register 93, No. 25).

§ 55230. Classes, Property and Buildings Outside of District.

The governing board of a community college district may conduct community college classes and acquire the necessary property and erect

3. New subsection (a)(4) filed 9–29–78; designated effective 7–1–80 (Register 78, No. 39).

4. Amendment of subsection (a) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).

5. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

6. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

7. Editorial correction of HISTORY 6 (Register 95, No. 20).

§ 55256.5. Work Experience Credit.

(a) One student contact hour is counted for each unit of work experience credit in which a student is enrolled during any census period. In no case shall duplicate student contact hours be counted for any classroom instruction and Cooperative Work Experience Education. The maximum contact hours counted for a student shall not exceed the maximum number of Cooperative Work Experience Education units for which the student may be granted credit as described in section 55253.

(b) The learning experience and the identified on–the–job learning objectives shall be sufficient to support the units to be awarded.

(c) The following formula will be used to determine the number of units to be awarded:

(1) Each 75 hours of paid work equals one semester credit or 50 hours equals one quarter credit.

(2) Each 60 hours of non–paid work equals one semester credit or 40 hours equals one quarter credit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 9–29–78; designated effective 1–2–79 (Register 78, No. 39).

2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

4. Editorial correction of HISTORY 3 (Register 95, No. 20).

§ 55257. Job Learning Stations.

Job learning stations shall meet the following criteria:

(a) Employers or designated representatives agree with the intent and purposes of Cooperative Work Experience Education for students and are given a copy of each student's approved on–the–job learning objectives.

(b) Job learning stations offer a reasonable probability of continuous work experience for students during the current work experience enrollment term.

(c) Employers or designated representatives agree to provide adequate supervision, facilities, equipment, and materials at the learning stations to achieve on–the–job learning objectives.

(d) Employers as required by law agree to comply with all appropriate federal and state employment regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78249, Education Code.

HISTORY

1. Amendment filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).

2. Amendment filed 9–29–78; designated effective 1–2–79 (Register 78, No. 39).

3. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

5. Editorial correction of HISTORY 4 (Register 95, No. 20).

Subchapter 4. Courses and Programs Conducted As Independent Study

Article 1. General Provision and Requirements

§ 55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 58051 and 58003.1 in relation to attendance in approved courses and programs designed and conducted as independent study.

Approved courses conducted as independent study shall be reported to the Chancellor in accordance with specified procedures as required by law.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78310, Education Code.

HISTORY

1. Repealer of chapter 4 (sections 55300–55344, not consecutive) and new chapter 4 (articles 1–5; sections 55300–55360, not consecutive) filed 12–18–78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.

2. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).

3. Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section 55300 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

5. New article heading filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

6. Editorial correction of HISTORY 4 (Register 95, No. 20).

§ 55302. Definitions.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).

2. Repealer of article 2 heading filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

4. Editorial correction of HISTORY 3 (Register 95, No. 20).

§ 55312. Transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55314. Faculty and Student Participation.

NOTE: Authority cited: Sections 66700, 70901 and 78301, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316. Criteria.

Courses offered pursuant to this Chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Be recognized by an institution of the University of California or the California State University upon transfer to that institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of opening statement, subsection (b) and NOTE filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316.5. Additional Courses.

Notwithstanding any other provision of law, after June 1, 1994, the following additional types of courses may be offered pursuant to this Chapter, consistent with guidelines developed by the Chancellor:

(a) Nontransferable courses designed to meet the requirements of Sections 55805.5, 55806, and 55002(a) or (b);

(b) Noncredit courses conducted as distance education independent study.

This Section shall become inoperative on July 1, 2000, unless a later–adopted regulation deletes or extends this date.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55317. Ongoing Responsibilities of Districts.

Any district conducting courses under Section 55316 or 55316.5 shall:

(a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses;

(b) Provide to the local governing board no later than July 1, 1995, and annually thereafter, a report on all distance education activity.

(c) Provide other information consistent with reporting guidelines which shall be developed by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors.

This Section shall become inoperative on July 1, 2000, unless a later–adopted regulation deletes or extends this date.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55318. Written Record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 3 heading filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this Chapter, the course must be reported as required by this Chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of section and NOTE filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55348. Supervision.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55350. Instruction.

The instructor assigned to a course conducted pursuant to this chapter shall:

(a) Be qualified to provide service in that capacity during the period which that service is rendered;

(b) Be responsible for the supervision, control, and evaluation of the course and the enrolled students;

(c) Provide orientation, guidance, and information regarding course content materials and services for each student as soon as possible subsequent to the student's official enrollment by the college; and

(d) Provide each student with the instructor's consultation schedule for the semester, quarter, or other prescribed term of the course, this schedule to be included in the written record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55352. Number of Students.

The number of students assigned to any one course section offered by distance education shall be determined by and be consistent with other district procedures related to faculty assignment. Procedures for determining the number of students assigned to a course section offered by distance education may include a review by the curriculum committee established pursuant to Section 55002(a)(1).

Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

Repealer and new section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18). For prior history, see Register 91, No. 23.

§ 55360. Evaluation Reports.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer of Article 5 heading and Section 55360 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Distance Education

§ 55370. Definition and Application.

Distance education means instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology.

All distance education is independent study, and subject to the general requirements of Article 1 as well as the specific requirements of this Article. Provided however, that fully interactive distance education courses, as defined in guidelines adopted by the Chancellor, shall not be considered independent study for purposes of calculating state apportionment pursuant to Section 58003.1. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the Americans with Disabilities Act (42 U.S.C. Sec. 12100 et seq).

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment of article heading and section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55372. Course Quality Standards.

The same standards of course quality shall be applied to distance education as are applied to traditional classroom courses, in regard to the course quality judgments made pursuant to the requirements of Section 55002 of this Part, and in regard to any local course quality determination or review process.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

§ 55374. Course Quality Determinations.

Determinations and judgments about the quality of distance education, under the course quality standards referred to in Section 55372, shall be made with the full involvement of faculty in accordance with the provisions of Subchapter 2 (commencing with Section 53200) of Chapter 2 of Division 4 of this Part.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.

HISTORY

1. New section filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
2. Amendment filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).

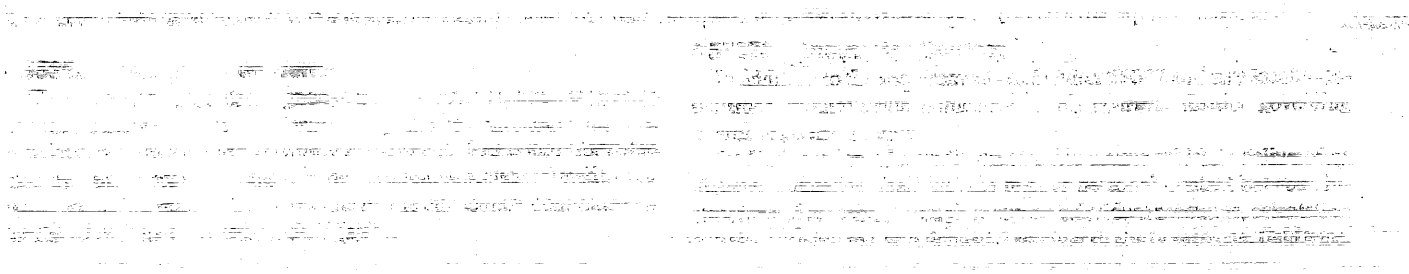
§ 55376. Instructor Contact.

In addition to the requirements of Section 55002 and any locally-established requirements applicable to all courses, district governing boards shall ensure that:

(a) Each section of a credit transferable course which is delivered as distance education shall include regular personal contact between instructor and students, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, or other in-person activities. Personal contact may be supplemented by telephone contact and correspondence.

(b) All other approved courses offered by distance education shall include regular contact between instructors and students consistent with guidelines issued by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901–70902, Education Code.



(a) The governing board of the district shall only reinstate such courses in a manner which is consistent with the policy of the Board of Governors that offerings which are primarily avocational, or recreational shall be offered as community services classes, and not as credit or noncredit courses;

(b) The governing board of the district shall determine that the course meets the criteria and standards for courses specified in section 55002;

(c) The governing board may act to reinstate a course only after it has been reviewed through the college's or district's established procedure for the approval of new courses;

(d) The governing board must submit the course to the Chancellor for approval, or report approval of the course, depending on the requirements of section 55100. A separate designation shall be used to distinguish reinstated courses from new courses; and

(e) The governing board must determine that reinstatement of the course maintains or improves the curriculum balance of the district in accordance with the mission of the community college and local needs.

(f) Any category of courses restored to the curriculum pursuant to a separate authorization of the Board of Governors shall be exempt from the requirements of this section.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 70902 and 78401, Education Code.

HISTORY

1. New section filed 12–28–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 53).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

Article 2.5. Prerequisites, Corequisites, and Recommended Preparation

§ 55200. Definitions.

For the purposes of this Division, the following definitions apply:

(a) "Prerequisite" means a condition of enrollment that a student is required to meet in order to demonstrate current readiness for enrollment in a course or educational program.

(b) "Corequisite" means a condition of enrollment consisting of a course that a student is required to simultaneously take in order to enroll in another course.

(c) "Advisory on recommended preparation" means a condition of enrollment that a student is advised, but not required, to meet before or in conjunction with enrollment in a course or educational program.

(d) "Satisfactory grade" means that, for the course in question, the student's academic record has been annotated with the symbol A, B, C or "CR" as those symbols are defined in Section 55758 of this Division.

(e) "Necessary and appropriate" means that a strong rational basis exists for concluding that a prerequisite or corequisite is reasonably needed to achieve the purpose that it purports to serve. This standard does not require absolute necessity.

(f) "content review" means a rigorous, systematic process developed in accordance with Sections 53200 to 53204, approved by the Chancellor as part of the district matriculation plan required under Section 55510, and is conducted by faculty to identify the necessary and appropriate body of knowledge or skills students need to possess prior to enrolling in a course, or which students need to acquire through concurrent enrollment in a corequisite course.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New article 2.5 and section filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
2. Editorial correction of Article heading (Register 95, No. 20).

§ 55201. Policies for Prerequisites, Corequisites, and Advisories on Recommended Preparation.

(a) The governing board of a community college district may establish prerequisites, corequisites, and advisories on recommended preparation, but must do so in accordance with the provisions of this Article. Nothing in this subchapter shall be construed to require a district to establish prerequisites, corequisites, or advisories on recommended preparation; provided however, that a prerequisite or corequisite shall be required if the course is to be offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E).

(b) A governing board choosing to establish prerequisites, corequisites, or advisories on recommended preparation shall, in accordance with the provisions of Sections 53200–53204 of this Division, adopt policies for the following:

(1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation. Such policies shall provide that in order to establish a prerequisite or corequisite, the prerequisite or corequisite must be determined to be necessary and appropriate for achieving the purpose for which it is being established. District policies shall also specify the level of scrutiny that shall be required in order to establish different types of prerequisites, corequisites, and advisories on recommended preparation. At a minimum, prerequisites, corequisites, and advisories on recommended preparation shall be based on content review, with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite being established. The policy shall provide that the types of prerequisites described in Subsection (e) may be established only on the basis of data collected using sound research practices. Determinations about prerequisites and corequisites shall be made on a course–by–course or program–by–program basis.

(2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline particularly those aspects of the course outline that are the basis for justifying the establishment of the prerequisite or corequisite.

(3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. These processes shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. These processes shall also provide for the periodic review of advisories on recommended preparation.

(4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite.

(c) Prerequisites or corequisites may be established only for any of the following purposes:

(1) the prerequisite or corequisite is expressly required or expressly authorized by statute or regulation; or

(2) the prerequisite will assure, consistent with Section 55002(a)(2)(D), that a student has the skills, concepts, and/or information that is presupposed in terms of the course or program for which it is being established, such that a student who has not met the prerequisite is highly unlikely to receive a satisfactory grade in the course (or at least one course within the program) for which the prerequisite is being established; or

(3) the corequisite course will assure, consistent with Section 55002(a)(2)(D), that a student acquires the necessary skills, concepts, and/or information, such that a student who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established; or

(4) the prerequisite or corequisite is necessary to protect the health and safety of a student or the health and safety of others.

(d) Except as provided in this Subsection, no prerequisite or corequisite may be established or renewed pursuant to Subsection (b)(3) unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established. A prerequisite or corequisite need not be so scrutinized until it is reviewed pursuant to Subsection (b)(3) if:

(1) it was established prior to July 6, 1990, and is part of a sequence of degree-applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of this regulation, in accordance with regulations in effect during this period of time; or

(3) it is required by statute or regulation; or

(4) it is part of a closely-related lecture-laboratory course pairing within a discipline; or

(5) it is required by four-year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 55002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then, despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or corequisite have been met. The requirements of this subdivision related to collection of data shall not apply when:

(1) four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

(2) the prerequisite or corequisite is required for enrollment in a program, that program is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

(A) colleges in at least six different districts have previously satisfied the data collection requirements of this subdivision with respect to the same prerequisite or corequisite for the same program; and

(B) the district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall be resolved in a timely manner and, if the challenge is upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

NOTE: Authority cited: Section 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
2. Amendment of subsection (e), new subsections (e)(1)-(e)(2)(B) and amendment of NOTE filed 2-9-98; operative 3-11-98. Submitted to OAL for printing only (Register 98, No. 7).

§ 55202. Additional Rules.

The following additional rules apply to the establishment of prerequisites and corequisites:

(a) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established.

(b) Prerequisites establishing communication or computational skill requirements may not be established across the entire curriculum unless established on a course-by-course basis.

(c) The determination of whether a student meets a prerequisite shall be based on successful completion of an appropriate course or on an assessment using multiple measures. Any assessment instrument used shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

(d) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district shall ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course.

(e) Whenever a corequisite course is established, sufficient sections shall be offered to reasonably accommodate all students who are required to take the corequisite. A Corequisite shall be waived as to any student for whom space in the corequisite course is not available.

(f) No exit test may be required to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring the prerequisite, provided, however, that enrollment may be permitted pending verification that the student has met the prerequisite or corequisite. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or to the student code of conduct.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Article 3. Bilingual Crosscultural Programs and Courses

§ 55225. Annual Articulation Agreement Plans.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 52150-52158, Education Code.

HISTORY

1. New article 3 (section 55225) filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).

Register 1998-36

§ 55316.5
§ 55317

2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316. Criteria.

Courses offered pursuant to this Chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Be recognized by an institution of the University of California or the California State University upon transfer to that institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of opening statement, subsection (b) and NOTE filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316.5. Additional Courses.

Notwithstanding any other provision of law, after June 1, 1994, the following additional types of courses may be offered pursuant to this Chapter, consistent with guidelines developed by the Chancellor:

(a) Nontransferable courses designed to meet the requirements of Sections 55805.5, 55806, and 55002(a) or (b);

(b) Noncredit courses conducted as distance education independent study.

This Section shall become inoperative on January 1, 2002 unless a later-adopted regulation deletes or extends this date.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of last paragraph and NOTE filed 8-31-98; operative 9-30-98. Submitted to OAL for printing only (Register 98, No. 36).

§ 55317. Ongoing Responsibilities of Districts.

Any district conducting courses under Section 55316 or 55316.5 shall:

(a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses;

(b) Provide to the local governing board no later than August 31, 1998, and annually thereafter, a report on all distance education activity.

(c) Provide other information consistent with reporting guidelines which shall be developed by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors.

This Section shall become inoperative on January 1, 2002, unless a later-adopted regulation deletes or extends this date.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of subsection (b), last paragraph and NOTE filed 8-31-98; operative 9-30-98. Submitted to OAL for printing only (Register 98, No. 36).

§ 55318. Written Record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 3 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12-17-84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this Chapter, the course must be reported as required by this Chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23).

Register 2001-50

§ 55316.5
§ 55317

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316. Criteria.

Courses offered pursuant to this Chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Be recognized by an institution of the University of California or the California State University upon transfer to that institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of opening statement, subsection (b) and NOTE filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316.5. Additional Courses.

Notwithstanding any other provision of law, after June 1, 1994, the following additional types of courses may be offered pursuant to this Chapter, consistent with guidelines developed by the Chancellor:

(a) Nontransferable courses designed to meet the requirements of Sections 55805.5, 55806, and 55002(a) or (b);

(b) Noncredit courses conducted as distance education independent study.

This Section shall become inoperative on July 1, 2002 unless a later-adopted regulation deletes or extends this date.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of last paragraph and NOTE filed 8–31–98; operative 9–30–98. Submitted to OAL for printing only (Register 98, No. 36).
3. Amendment of subsection (b) filed 12–3–2001; operative 1–2–2002. Submitted to OAL for printing only (Register 2001, No. 50).

§ 55317. Ongoing Responsibilities of Districts.

Any district conducting courses under Section 55316 or 55316.5 shall:

(a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses;

(b) Provide a report on all distance education activity to the local governing board no later than August 31 of each year.

(c) Provide other information consistent with reporting guidelines which shall be developed by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors.

This Section shall become inoperative on July 1, 2002, unless a later-adopted regulation deletes or extends this date.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of subsection (b), last paragraph and NOTE filed 8–31–98; operative 9–30–98. Submitted to OAL for printing only (Register 98, No. 36).
3. Amendment of subsections (b)–(c) filed 12–3–2001; operative 1–2–2002. Submitted to OAL for printing only (Register 2001, No. 50).

§ 55318. Written Record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4–29–94; operative 5–29–94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 3 heading filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12–17–84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this Chapter, the course must be reported as required by this Chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55205
§ 55207
§ 55209
§ 55211
§ 55213
§ 55215
§ 55217
§ 55219
§ 55316.5
§ 55317
§ 55352

(1) it was established prior to July 6, 1990, and is part of a sequence of degree-applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of this regulation, in accordance with regulations in effect during this period of time; or

(3) it is required by statute or regulation; or

(4) it is part of a closely-related lecture-laboratory course pairing within a discipline; or

(5) it is required by four-year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 55002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then, despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or corequisite have been met. The requirements of this subdivision related to collection of data shall not apply when:

(1) four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

(2) the prerequisite or corequisite is required for enrollment in a program, that program is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

(A) colleges in at least six different districts have previously satisfied the data collection requirements of this subdivision with respect to the same prerequisite or corequisite for the same program; and

(B) the district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall be resolved in a timely manner and, if the challenge is upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites and corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

NOTE: Authority cited: Section 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
2. Amendment of subsection (e), new subsections (e)(1)-(e)(2)(B) and amendment of NOTE filed 2-9-98; operative 3-11-98. Submitted to OAL for printing only (Register 98, No. 7).

§ 55202. Additional Rules.

The following additional rules apply to the establishment of prerequisites and corequisites:

(a) Prerequisites, corequisites, and advisories on recommended preparation must be identified in college publications available to students as well as the course outline of any course for which they are established.

(b) Prerequisites establishing communication or computational skill requirements may not be established across the entire curriculum unless established on a course-by-course basis.

(c) The determination of whether a student meets a prerequisite shall be based on successful completion of an appropriate course or on an assessment using multiple measures. Any assessment instrument used shall be selected and used in accordance with the provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

(d) If a prerequisite requires precollegiate skills in reading, written expression, or mathematics, the governing board of a district shall ensure that precollegiate basic skills courses designed to teach the required skills are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course.

(e) Whenever a corequisite course is established, sufficient sections shall be offered to reasonably accommodate all students who are required to take the corequisite. A Corequisite shall be waived as to any student for whom space in the corequisite course is not available.

(f) No exit test may be required to satisfy a prerequisite or corequisite unless it is incorporated into the grading for the prerequisite or corequisite course.

(g) The determination of whether a student meets a prerequisite shall be made prior to his or her enrollment in the course requiring the prerequisite, provided, however, that enrollment may be permitted pending verification that the student has met the prerequisite or corequisite. If the verification shows that the student has failed to meet the prerequisite, the student may be involuntarily dropped from the course if the applicable enrollment fees are promptly refunded. Otherwise a student may only be involuntarily removed from a course due to excessive absences or as a result of disciplinary action taken pursuant to law or to the student code of conduct.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Article 3. Distance Education

§ 55205. Definition and Application.

Distance education means instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology. All distance education is subject to the general requirements of this chapter as well as the specific requirements of this article. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the Americans with Disabili-

ties Act (42 U.S.C. Sec. 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 794d).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New article 3 (sections 55205-55219) and section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26). For prior history of article 3 (section 55225), see Register 95, No. 20.

§ 55207. Course Quality Standards.

The same standards of course quality shall be applied to distance education as are applied to traditional classroom courses, in regard to the course quality judgments made pursuant to the requirements of section 55002 of this part, and in regard to any local course quality determination or review process.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55209. Course Quality Determinations.

Determinations and judgments about the quality of distance education under the course quality standards referred to in section 55207, shall be made with the full involvement of faculty in accordance with the provisions of subchapter 2 (commencing with section 53200) of chapter 2 of division 4 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55211. Instructor Contact.

In addition to the requirements of section 55002 and any locally established requirements applicable to all courses, district governing boards shall ensure that:

(a) All approved courses offered as distance education include regular effective contact between instructor and students, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, telephone contact, correspondence, voice mail, e-mail, or other activities.

(b) All distance education courses are delivered consistent with guidelines issued by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors. Regular effective contact is an academic and professional matter pursuant to title 5, section 53200.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55213. Separate Course Approval.

Each proposed or existing course, if delivered by distance education, shall be separately reviewed and approved according to the district's certified course approval procedures.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55215. Faculty Selection.

Instructors of sections delivered via distance education technology shall be selected by the same procedures used to determine all instructional assignments. Instructors shall possess the minimum qualifications in the discipline into which the course's subject matter most appropriately falls, in accordance with article 2 of chapter 4 of division 4 of this part (commencing with section 53410), and with the list of disciplinary definitions and requirements adopted by the Board of Governors to implement that article, as such list may be amended from time to time.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55217. Number of Students.

The number of students assigned to any one course section offered by distance education shall be determined by and be consistent with other district procedures related to faculty assignment. Procedures for determining the number of students assigned to a course section offered by distance education may include a review by the curriculum committee established pursuant to section 55002(a)(1).

Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55219. Ongoing Responsibility of Districts.

Any district conducting courses under section 55316.5 shall:

(a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses,

(b) Provide to the local governing board, no later than August 31st of each year, a report on all distance education activity,

(c) Provide other information consistent with reporting guidelines developed by the Chancellor pursuant to section 409 of the Procedures and Standing Orders of the Board of Governors.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

Subchapter 2. Programs and Classes Outside of District

NOTE: Authority cited: Section 72012, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 55200-55204) filed 12-21-81; effective thirtieth day thereafter (Register 81, No. 52). For prior history, see Register 77, No. 45.
2. Amendment of subchapter 2 heading filed 5-15-93; operative 6-14-93 (Register 93, No. 25).

§ 55230. Classes, Property and Buildings Outside of District.

The governing board of a community college district may conduct community college classes and acquire the necessary property and erect the necessary buildings therefor, outside of the boundaries of the district if all of the following conditions exist:

(a) The proposed location is within the state.

(b) the activities, trades, businesses, or work to be carried on at the proposed location is such as to offer educational opportunities to students who are residents of the district in the subject or all of the subjects proposed to be taught at that location, and facilities for such instruction are not available either at the location of the principal buildings of the community college, or elsewhere within the district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

contact hours counted for a student shall not exceed the maximum number of Cooperative Work Experience Education units for which the student may be granted credit as described in section 55253.

(b) The learning experience and the identified on-the-job learning objectives shall be sufficient to support the units to be awarded.

(c) The following formula will be used to determine the number of units to be awarded:

(1) Each 75 hours of paid work equals one semester credit or 50 hours equals one quarter credit.

(2) Each 60 hours of non-paid work equals one semester credit or 40 hours equals one quarter credit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 9-29-78; designated effective 1-2-79 (Register 78, No. 39).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 20).

§ 55257. Job Learning Stations.

Job learning stations shall meet the following criteria:

(a) Employers or designated representatives agree with the intent and purposes of Cooperative Work Experience Education for students and are given a copy of each student's approved on-the-job learning objectives.

(b) Job learning stations offer a reasonable probability of continuous work experience for students during the current work experience enrollment term.

(c) Employers or designated representatives agree to provide adequate supervision, facilities, equipment, and materials at the learning stations to achieve on-the-job learning objectives.

(d) Employers as required by law agree to comply with all appropriate federal and state employment regulations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78249, Education Code.

HISTORY

1. Amendment filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment filed 9-29-78; designated effective 1-2-79 (Register 78, No. 39).
3. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 20).

Subchapter 4. Courses and Programs Conducted As Independent Study

Article 1. General Provision and Requirements

§ 55300. Application of Chapter.

The provisions of this chapter apply to and implement the provisions of sections 58051 and 58003.1 in relation to attendance in approved courses and programs designed and conducted as independent study.

Approved courses conducted as independent study shall be reported to the Chancellor in accordance with specified procedures as required by law.

All heretofore approved credit courses offered in whatever mode meeting the above requirements shall remain approved provided such courses meet the requirements of this chapter.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78310, Education Code.

HISTORY

1. Repealer of chapter 4 (sections 55300-55344, not consecutive) and new chapter 4 (articles 1-5; sections 55300-55360, not consecutive) filed 12-18-78; effective thirtieth day thereafter (Register 78, No. 51). For prior history, see Registers 77, No. 45 and 71, No. 9.
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
3. Amendment of chapter 4 heading, repealer of article 1 heading, and amendment of section 55300 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. New article heading filed 4-3-92; operative 5-4-92 (Register 92, No. 15).
6. Editorial correction of HISTORY 4 (Register 95, No. 20).

§ 55302. Definitions.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55310. Reporting.

Each independent study course, whether or not it is part of an approved program, must be reported to the Chancellor in a manner and form required by the Chancellor.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
2. Repealer of article 2 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 20).

§ 55312. Transfer.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55314. Faculty and Student Participation.

NOTE: Authority cited: Sections 66700, 70901 and 78301, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20)

§ 55316. Criteria.

Courses offered pursuant to this Chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Be recognized by an institution of the University of California or the California State University upon transfer to that institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment of opening statement, subsection (b) and NOTE filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55316.5. Additional Courses.

Notwithstanding any other provision of law, after June 1, 1994, the following additional types of courses may be offered as independent study if conducted by distance education consistent with the requirements of article 3 of subchapter 1 (commencing with section 55205) of this chapter and the guidelines developed by the Chancellor:

(a) Nontransferable courses designed to meet the requirements of sections 55805.5, 55806, and 55002(a) or (b);

(b) Noncredit courses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of last paragraph and NOTE filed 8-31-98; operative 9-30-98. Submitted to OAL for printing only (Register 98, No. 36).
3. Amendment of subsection (b) filed 12-3-2001; operative 1-2-2002. Submitted to OAL for printing only (Register 2001, No. 50).
4. Amendment of section and NOTE filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55317. Ongoing Responsibilities of Districts.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. New section filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
2. Amendment of subsection (b), last paragraph and NOTE filed 8-31-98; operative 9-30-98. Submitted to OAL for printing only (Register 98, No. 36).
3. Amendment of subsections (b)-(c) filed 12-3-2001; operative 1-2-2002. Submitted to OAL for printing only (Register 2001, No. 50).
4. Repealer filed 5-20-2002; operative 6-19-2002. Submitted to OAL for printing only (Register 2002, No. 26).

§ 55318. Written Record.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902, and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Repealer filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55320. Academic Standards.

Academic standards applicable to courses of independent study shall be the same as those applied to other credit courses in the college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 3 heading filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55321. Student Progress.

Procedures for evaluation of student progress shall be in accordance with regulations set by the college. A report by an instructor on appropriate records bearing the student's name for purposes of state apportionment shall certify that adequate and proper progress toward accomplishment of the course objectives is being maintained by the student.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55322. Availability of Instructor.

The college shall provide access to the instructor for the students enrolled in courses offered pursuant to this chapter at least equivalent to that commonly available to students enrolled in courses conducted by other instructional methods in addition to regularly scheduled office hours as practiced at that college.

NOTE: Authority cited: Sections 66700, 70901 and 78310, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55323. Learning Assistance.

NOTE: Authority cited: Sections 71020, 78310, 84500 and 84520, Education Code. Reference: Sections 78310, 84500 and 84520, Education Code.

HISTORY

1. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Repealer filed 12-17-84; effective thirtieth day thereafter (Register 84, No. 51).

§ 55340. Eligibility for State Funds.

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this Chapter, the course must be reported as required by this Chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 78310, Education Code.

HISTORY

1. Repealer of article 4 heading and amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of section and NOTE filed 4-29-94; operative 5-29-94. Submitted to OAL for printing only (Register 94, No. 18).
4. Editorial correction of HISTORY 2 (Register 95, No. 20).

§ 55342. Average Daily Attendance.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55343. Grades Awarded.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55344. Enrollment.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55346. Records.

NOTE: Authority cited: Sections 71020, 84500, and 84520, Education Code. Reference: Sections 84500(a)(2) and 84520, Education Code.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 12: Instructional Programs

History Index for
Title 5, California Code of Regulations

Section 51022
Section 55600
Section 55601
Section 55602
Section 55602.5
Section 55603
Section 55605
Section 55607
Section 55620
Section 55630

Register 74-17	New chapter 7 (sections 55600-55631, not consecutive).
Register 77-45	§ 55600: Amendment of section and NOTE.
	§ 55601: Amendment of section.
	§ 55602: Amendment of section.
	§ 55604: Amendment of section.
	§ 55605: Amendment of section.
	§ 55607: Amendment of section.
	§ 55620: Amendment of section.
	§ 55631: Amendment of section.
Register 79-46	§ 55604: Amendment of section.
Register 83-18	§ 55600: Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600.

§ 55601: Repealed.

§ 55602: Repealed.

§ 55603: Added new NOTE.

§ 55604: Repealed.

§ 55605: Repealed, new section filed.

§ 55606: Repealed.

§ 55607: Amendment of section.

§ 55608: Repealed.

§ 55620: Repealer, new section added.

§ 55630: Repealer, new section added.

Register 84-26 § 51022: Added new section.

Register 91-23 § 51022: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55600: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55602: Adoption of section filed by Board of Governors of California Community Colleges with the Secretary of

State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55602.5: Adoption of section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55603: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55605: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55607: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55620: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

§ 55630: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-43 § 55602.5: Editorial correction of printing error.

Register 93-25 § 55600: Amendment of section.

Register 94-38 § 55602.5: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51022: Editorial correction of HISTORY 2.

Register 95-22 § 55600: Editorial correction of HISTORY 4.

§ 55602: Editorial correction of HISTORY 1.

§ 55602.5: Editorial correction of HISTORY 1.

§ 55603: Editorial correction of HISTORY 2.

§ 55605: Editorial correction of HISTORY 3.

§ 55607: Editorial correction of HISTORY 3.

§ 55620: Editorial correction of HISTORY 3.

§ 55630: Editorial correction of HISTORY 2.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

§ 55600
§ 55601
§ 55602
§ 55603
§ 55604
§ 55605
§ 55606
§ 55607
§ 55608
§ 55620
§ 55630
§ 55631

CHAPTER 7. OCCUPATIONAL EDUCATION
SUBCHAPTER 1. VOCATIONAL EDUCATION CONTRACTS
Article 1. General Provisions

55600. Scope. Provisions of this chapter apply to all Vocational Education contracts established and maintained under the authority of Education Code Section 30133.

NOTE: Authority cited: Sections 193, 197 and 30133, Education Code. Reference: Chapter 5 (commencing with Section 30133), Division 21, Education Code.

History: 1. New Chapter 7 (Sections 55600 through 55631, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).

55601. Definitions. For the purposes of this chapter the following definitions apply:

(a) Vocational education contract means a written agreement between any Community College district and a private postsecondary school which meets standards prescribed herein to provide vocational instruction to students enrolled in Community Colleges.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education. Part 1 of the California State Plan for Vocational Education provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Vocational Education Amendments of 1968 (Public Law 90-576) or any subsequent federal legislation.

(c) A course means an organized pattern of instruction in a specific subject offered by a Community College. The course meets the provisions of Administrative Code Title 5, Sections 55001 and 55002 or Sections 58000 to 58192 and 58250 to 58253.

(d) An educational program means an organized sequence of courses of instruction leading to a defined objective, degree, certificate, diploma, or license. All new programs must be approved according to Administrative Code Section 55130–55144.

(e) A school unit means any Community College district.

(f) Public entity as used in Education Code Section 30133 for Community Colleges means any Community College district governing board.

(g) Contractor means any private postsecondary school which, prior to the effective date of a contract, has received final approval or has been operational for a period of 2 years pursuant to the provisions of Education Code Division 21, Chapter 5 (commencing with Section 29001), to provide vocational education authorized by the Code. Provided, however, that any private postsecondary school that holds a contract with a Community College on the effective date of this article is exempt from the 2 year requirement.

(h) Eligible costs means all related instructional costs but does not include expenditures for capital outlay (600 category in the California Community College Budget and Accounting Manual) and shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its students, whichever is lower.

(i) Accounting manual means California Community Colleges Budget and Accounting Manual (October 30, 1973) and all similar subsequent documents.

(j) Teacher or instructor means an individual who holds a valid California Teaching credential authorizing the holder to teach applicable vocational education subjects in a Community College.

(k) Student means any individual enrolled in and under the control of a Community College.

55602. Occupational Purposes. The purpose of vocational education contracts is to provide a means whereby vocational, technical, and occupational preparation opportunities can be extended through private postsecondary schools approved pursuant to the provisions of Education Code Division 21, Chapter 1 (commencing with Section 29001).

55603. Instructional Purpose. Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

55604. Application for Approval. The contract shall include such details to explain and justify intended offerings, including compliance with Education Code Sections 29001 through 30205. All contracts between Community College districts and private postsecondary schools will be submitted to the Chancellor for approval.

55605. Contract Approval and Limitations. Vocational education contracts pursuant to Education Code Section 30133 shall: (1) not exceed one year, (2) be approved by the Chancellor, and (3) all programs, courses, and classes of instruction shall meet standards set forth in the California State Plan for Vocational Education.

55606. Administration. Vocational education contracts shall be maintained in conformity with applicable provisions of the Education Code, Title 5 of the Administrative Code, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education.

55607. Reporting. Each Community College district that has entered into a contract with a private postsecondary school, pursuant to Education Code Section 30133, shall submit annually to the Chancellor statistical and evaluative reports as provided for and described in the California State Plan for Vocational Education.

55608. Accounting Procedure. Vocational education contracts shall be organized and administered by Community College districts in such a manner there will be separate accounts for all income and expenditures applicable to the contract. These records will be retained for five (5) years or one year after audited by state auditors, whichever comes first, and shall be made available for audit by the federal government.

Article 2. Contracting Standards

55620. Standards. The following conditions shall be used to determine the appropriateness of vocational education contracts with private postsecondary schools:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) Each student eligible for enrollment under a contract between a Community College district and a private postsecondary school must: (1) have reached his sixteenth birthday and (2) be enrolled in a Community College.

(e) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(f) The Community College district may contract with respect to the use of any building which, if applicable thereto, does not conform to provisions of the Field Act (Education Code Section 15356).

(g) The private postsecondary school must be accredited by an accrediting agency recognized by the United States Office of Education or conforms to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the Community College.

Article 3. Contract Provisions

55630. Support. The private postsecondary school and the Community College district will insure that ancillary and supportive services, such as counseling and guidance, and placement assistance are provided for the students.

55631. Terms and Conditions. Each contract shall expressly include but not be limited to, the following provisions:

(a) Methods for identifying costs and payment procedures for compliance with Education Code Section 30133 subdivisions (2) and (3).

(b) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(c) Designation of responsibility for maintaining records of student attendance and achievement. Such records shall be available for review at all times.

(d) After July 1, 1976, instruction under contract shall be provided under the immediate supervision and control of teachers who hold a valid credential to teach the vocational subject in a California Community College.

(e) That the contractor provide indemnity and defense for the state and the Community College district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

(f) Where required by law, the contractor provides, at his own expense, workmen's compensation insurance coverage for any student.

(g) That the contractor is in compliance with the Civil Rights Act of 1964, Title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable) and the intent of the Board of Governors of the California Community Colleges affirmative action resolution adopted April 12, 1973, and all applicable local, state and federal health and safety regulations.

(h) Procedures relating to: transfer of students between the Community College district and contractor, number of class hours sufficient to meet the stated performance objectives, and withdrawal of students prior to completion of a course or program.

(i) Terms and conditions relating to enrollment period, cancellation and termination of the contract, and supervision and evaluation of students attending private postsecondary schools.

(j) That the contractor be responsible for keeping records on student attendance and achievements and for submitting these records on a schedule developed by the Community College district.

§ 55600
§ 55601
§ 55602
§ 55604
§ 55605
§ 55607
§ 55620
§ 55631

CHAPTER 7. OCCUPATIONAL EDUCATION

SUBCHAPTER 1. VOCATIONAL EDUCATION CONTRACTS

Article 1. General Provisions

55600. Scope. Provisions of this chapter apply to all Vocational Education contracts established and maintained under the authority of Education Code Section 8092.

NOTE: Authority cited for Chapter 7: Sections 71020, 71024 and 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

History: 1. New Chapter 7 (Sections 55600 through 55631, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55601. Definitions. For the purposes of this chapter the following definitions apply:

(a) Vocational education contract means a written agreement between any Community College district and a private postsecondary school which meets standards prescribed herein to provide vocational instruction to students enrolled in Community Colleges.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education. Part 1 of the California State Plan for Vocational Education provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Vocational Education Amendments of 1968 (Public Law 90-576) or any subsequent federal legislation.

(c) A course means an organized pattern of instruction in a specific subject offered by a Community College. The course meets the provisions of Administrative Code Title 5, Sections 55001 and 55002 or Sections 58000 to 58192 and 58250 to 58253.

(d) An educational program means an organized sequence of courses of instruction leading to a defined objective, degree, certificate, diploma, or license. All new programs must be approved according to Administrative Code Section 55130–55144.

(e) A school unit means any Community College district.

(f) Public entity as used in Education Code Section 8092 for Community Colleges means any Community College district governing board.

(g) Contractor means any private postsecondary school which, prior to the effective date of a contract, has received final approval or has been operational for a period of 2 years pursuant to the provisions of Education Code Division 10, Chapter 3 (commencing with Section 94300), to provide vocational education authorized by the Code. Provided, however, that any private postsecondary school that holds a contract with a Community College on the effective date of this article is exempt from the 2 year requirement.

(h) Eligible costs means all related instructional costs but does not include expenditures for capital outlay (600 category in the *California Community College Budget and Accounting Manual*) and shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its students, whichever is lower.

(i) Accounting manual means *California Community Colleges Budget and Accounting Manual* (Revised, April 22, 1977) and all similar subsequent documents.

(j) Teacher or instructor means an individual who holds a valid California Teaching credential authorizing the holder to teach applicable vocational education subjects in a Community College.

(k) Student means any individual enrolled in and under the control of a Community College.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55602. Occupational Purposes. The purpose of vocational education contracts is to provide a means whereby vocational, technical, and occupational preparation opportunities can be extended through private postsecondary schools approved pursuant to the provisions of Education Code Division 10, Chapter 3 (commencing with Section 94300).

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55603. Instructional Purpose. Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

55604. Application for Approval. The contract shall include such details to explain and justify intended offerings, including compliance with Education Code Sections 94300 through 9084. All contracts between Community College districts and private postsecondary schools will be submitted to the Chancellor for approval.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55605. Contract Approval and Limitations. Vocational education contracts pursuant to Education Code Section 8092 shall: (1) not exceed one year, (2) be approved by the Chancellor, and (3) all programs, courses, and classes of instruction shall meet standards set forth in the California State Plan for Vocational Education.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55606. **Administration.** Vocational education contracts shall be maintained in conformity with applicable provisions of the Education Code, Title 5 of the Administrative Code, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education.

55607. **Reporting.** Each Community College district that has entered into a contract with a private postsecondary school, pursuant to Education Code Section 8092, shall submit annually to the Chancellor statistical and evaluative reports as provided for and described in the California State Plan for Vocational Education.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55608. **Accounting Procedure.** Vocational education contracts shall be organized and administered by Community College districts in such a manner there will be separate accounts for all income and expenditures applicable to the contract. These records will be retained for five (5) years or one year after audited by state auditors, whichever comes first, and shall be made available for audit by the federal government.

Article 2. Contracting Standards

55620. **Standards.** The following conditions shall be used to determine the appropriateness of vocational education contracts with private postsecondary schools:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) Each student eligible for enrollment under a contract between a Community College district and a private postsecondary school must: (1) have reached his sixteenth birthday and (2) be enrolled in a Community College.

(e) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(f) The Community College district may contract with respect to the use of any building which, if applicable thereto, does not conform to provisions of the Field Act (Education Code Section 81064).

(g) The private postsecondary school must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the Community College.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

Article 3. Contract Provisions

55630. **Support.** The private postsecondary school and the Community College district will insure that ancillary and supportive services, such as counseling and guidance, and placement assistance are provided for the students.

55631. **Terms and Conditions.** Each contract shall expressly include but not be limited to, the following provisions:

(a) Methods for identifying costs and payment procedures for compliance with Education Code Section 8092 subdivisions 2 and 3.

(b) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(c) Designation of responsibility for maintaining records of student attendance and achievement. Such records shall be available for review at all times.

(d) After July 1, 1976, instruction under contract shall be provided under the immediate supervision and control of teachers who hold a valid credential to teach the vocational subject in a California Community College.

(e) That the contractor provide indemnity and defense for the state and the Community College district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

(f) Where required by law, the contractor provides, at the contractor's own expense, workmen's compensation insurance coverage for any student.

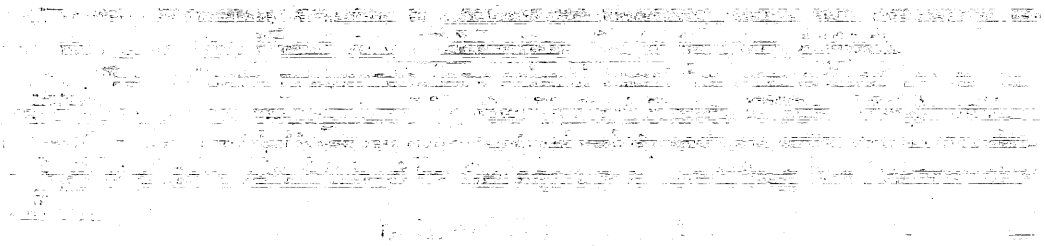
(g) That the contractor is in compliance with the Civil Rights Act of 1964, Title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable) and the intent of the Board of Governors of the California Community Colleges affirmative action resolution adopted April 12, 1973, and all applicable local, state and federal health and safety regulations.

(h) Procedures relating to: transfer of students between the Community College district and contractor, number of class hours sufficient to meet the stated performance objectives, and withdrawal of students prior to completion of a course or program.

(i) Terms and conditions relating to enrollment period, cancellation and termination of the contract, and supervision and evaluation of students attending private postsecondary schools.

(j) That the contractor be responsible for keeping records on student attendance and achievements and for submitting these records on a schedule developed by the Community College district.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).



CHAPTER 7. OCCUPATIONAL EDUCATION

SUBCHAPTER 1. VOCATIONAL EDUCATION CONTRACTS

Article 1. General Provisions

55600. Scope.

Provisions of this chapter apply to all Vocational Education contracts established and maintained under the authority of Education Code Section 8092.

NOTE: Authority cited for Chapter 7: Sections 71020, 71024 and 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY:

1. New Chapter 7 (Sections 55600 through 55631, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55601. Definitions.

For the purposes of this chapter the following definitions apply:

(a) Vocational education contract means a written agreement between any Community College district and a private postsecondary school which meets standards prescribed herein to provide vocational instruction to students enrolled in Community Colleges.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education. Part 1 of the California State Plan for Vocational Education provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Vocational Education Amendments of 1968 (Public Law 90-576) or any subsequent federal legislation.

(c) A course means an organized pattern of instruction in a specific subject offered by a Community College. The course meets the provisions of Administrative Code Title 5, Sections 55001 and 55002 or Sections 58000 to 58192 and 58250 to 58253.

(d) An educational program means an organized sequence of courses of instruction leading to a defined objective, degree, certificate, diploma, or license. All new programs must be approved according to Administrative Code Section 55130-55144.

(e) A school unit means any Community College district.

(f) Public entity as used in Education Code Section 8092 for Community Colleges means any Community College district governing board.

(g) Contractor means any private postsecondary school which, prior to the effective date of a contract, has received final approval or has been operational for a period of 2 years pursuant to the provisions of Education Code Division 10, Chapter 3 (commencing with Section 94300), to provide vocational education authorized by the Code. Provided, however, that any private postsecondary school that holds a contract with a Community College on the effective date of this article is exempt from the 2 year requirement.

(h) Eligible costs means all related instructional costs but does not include expenditures for capital outlay (600 category in the *California Community College Budget and Accounting Manual*) and shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its students, whichever is lower.

(i) Accounting manual means *California Community Colleges Budget and Accounting Manual* (Revised, April 22, 1977) and all similar subsequent documents.

(j) Teacher or instructor means an individual who holds a valid California Teaching credential authorizing the holder to teach applicable vocational education subjects in a Community College.

(k) Student means any individual enrolled in and under the control of a Community College.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55602. Occupational Purposes.

The purpose of vocational education contracts is to provide a means whereby vocational, technical, and occupational preparation opportunities can be extended through private postsecondary schools approved pursuant to the provisions of Education Code Division 10, Chapter 3 (commencing with Section 94300).

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

55604. Application for Approval.

The contract shall include such details to explain and justify intended offerings, including compliance with Education Code Sections 8080 through 8084. All contracts between Community College districts and private postsecondary schools will be submitted to the Chancellor for approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).

55605. Contract Approval and Limitations.

Vocational education contracts pursuant to Education Code Section 8092 shall: (1) not exceed one year, (2) be approved by the Chancellor, and (3) all programs, courses, and classes of instruction shall meet standards set forth in the California State Plan for Vocational Education.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

Register 1983-18

§ 55600
§ 55601
§ 55603
§ 55604
§ 55605
§ 55607
§ 55608
§ 55620
§ 55630

CHAPTER 7. OCCUPATIONAL EDUCATION

Article 1. Vocational Education Contracts

55600. Definitions.

For the purposes of this article the following definitions apply:

(a) Vocational education contract means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of Article 5 (commencing with Section 8090) of Chapter 1, Part 6 of the Education Code.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94-482 and 95-40), Part A, Vocational Education, or any subsequent federal legislation.

(c) Contractor as used in Education Code Section 8092 means any private postsecondary school authorized or approved pursuant to the provisions of Chapter 3 (commencing with Section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) Eligible costs means all direct and indirect related instructional costs but does not include expenditures for capital outlay (600 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY:

1. New Chapter 7 (Sections 55600 through 55631, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading, amendment of Article 1 heading, and repealer and new Section 55600 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55601. Definitions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (g) filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55602. Occupational Purposes.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1, Education Code.

HISTORY:

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55605. Contract Approval and Limitations.

Vocational education contracts entered into pursuant to Education Code Section 8092 shall:

(a) Not exceed one year;

(b) Be approved by the Chancellor;

(c) Include such details to explain and justify intended offerings, including compliance with Education Code Sections 8080 through 8084;

(d) Be maintained in conformity with applicable provisions of the Education Code, Title 5 of the Administrative Code, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education; and

(e) Be organized and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

NOTE: Authority cited: Sections 8092, 71020 and 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55606. Administration.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55607. Reporting.

Each Community College district that has entered into a contract with a contractor pursuant to Education Code Section 8092, shall submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract shall be made available for audit by the state or federal government and will be retained for five (5) years or one year after audited, whichever comes first.

NOTE: Authority cited: Sections 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55608. Accounting Procedure.

HISTORY:

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Contracting Standards

55620. Standards.

The following conditions shall be used to determine the appropriateness of vocational education contracts with contractors:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(e) Eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private students, whichever is lower.

(f) The community college student may not be charged additional tuition for any training included in the contract.

(g) Each student eligible for enrollment under a contract between a community college district and a contractor must: (1) have reached his or her sixteenth birthday and (2) be enrolled in a community college.

(h) The community college district may contract with respect to the use of any building which, if applicable thereto, does not conform to provisions of the Field Act (Education Code Section 81064).

(i) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

NOTE: Authority cited: Sections 8090, 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 3. Contract Provisions

55630. Terms and Conditions.

Each contract shall expressly include but not be limited to, the following provisions:

(a) The governing board of the community college district has determined, by resolution, the appropriateness of offering the program through a contract with a contractor pursuant to Education Code Section 78015.

(b) Methods for identifying eligible costs and payment procedures for compliance with Education Code Section 8092 subdivisions 2 and 3.

(c) Procedures, terms and conditions relating to (1) enrollment period; (2) transfer of students between the community college district and contractor; (3) number of class hours sufficient to meet the stated performance objectives; (4) supervision and evaluation of students; and (5) withdrawal of students prior to completion of a course or program.

(d) The contractor and the community college district will insure that ancillary and support services are provided for the students including, but not limited to (1) counseling and guidance, and (2) placement assistance.

(e) Instruction provided under the immediate supervision and control of an employee of the district as defined in Section 58056 of this part who holds a valid credential authorizing instruction in the vocational subject in a California community college.

(f) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(g) Designation of responsibility to the contractor for maintaining records of student attendance and achievement. Such records shall be available for review at all times and submitted on a schedule developed by the community college district.

(h) Terms and conditions relating to cancellation and termination of the contract.

(i) The contractor is in compliance with the Civil Rights Act of 1964, Title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable), and all applicable state and federal health and safety regulations.

(j) The contractor provides, when required by law and at the contractor's own expense, workers' compensation insurance coverage for any student.

(k) The contractor provides indemnity and defense for the state and the community college district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

NOTE: Authority cited: Sections 8090, 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

55631. Terms and Conditions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY:

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (d) filed 1-16-81; effective thirtieth day therafter (Register 81, No. 3).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 4. Regional Adult and Vocational Education Councils

55650. Regulations Reference.

Pursuant to the authority vested by Sections 8023, 8024, 8029 and 8034 of the Education Code, the Superintendent of Public Instruction and the Chancellor of the California Community Colleges have jointly adopted Administrative Code regulations on the establishment and operation of Regional Adult and Vocational Education Councils. These regulations are set forth in Chapter 13 (commencing with Section 11610) of Division 11, Part 1 of Title 5, California Administrative Code, and shall govern the establishment and operation of Regional Adult and Vocational Educational Councils with respect to Community Colleges.

NOTE: Authority cited: Section 8023, Education Code. Reference: Article 2, Chapter 1 (commencing with Section 8020), Division 1, Education Code.

HISTORY:

1. New Subchapter 2 (Section 55650) filed 4-22-76; effective thirtieth day thereafter (Register 76, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Redesignation of Subchapter 2 (Section 55650) to Article 4 (Section 55650) filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 5. Calculation and Payment of Excess Costs of Apprenticeship Classes

55675. Regulations Reference.

Pursuant to the authority vested by Section 3074 of the Labor Code, the State Board of Education, the Board of Governors of the California Community Colleges and the Division of Apprenticeship Standards have jointly issued regulations regarding excess costs to be borne by local apprenticeship program sponsors. These regulations are set forth in Article 11 (commencing with Section 235) of Chapter 2, Part 1 of Title 8, California Administrative Code, and shall govern the calculation and payment of excess costs of apprenticeship classes which are maintained in connection with Community Colleges.

NOTE: Authority cited: Section 71020, Education Code. Reference: Section 3074, Labor Code.

HISTORY:

1. New Subchapter 3 (Section 55675) filed 7-8-76; effective thirtieth day thereafter (Register 76, No. 28).
2. Editorial correction replacing text inadvertently omitted during printing (Register 80, No. 9).
3. Redesignation of Subchapter 3 (Section 55675) to Article 5 (Section 55675) and amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Register 1984-26

§ 51022

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding program review as specified in Section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 71025 and 78405, Education Code. Reference: Sections 71025, 71070, 78016, 78200 and 78405, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of Sections 53200–53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700, 71025 and 71068, Education Code. Reference: Sections 71025, 71068 and 72292, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

Register 1991-23

§ 51022
§ 55600
§ 55602
§ 55602.5
§ 55603
§ 55605
§ 55607
§ 55620
§ 55630

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) Vocational education contract means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), part A, Vocational Education, or any subsequent federal legislation.

(c) Contractor as used in Education Code section 8092 means any private postsecondary school authorized or approved pursuant to the provisions of Chapter 3 (commencing with section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) Eligible costs means all direct and indirect related instructional costs but does not include expenditures for capital outlay (600 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New chapter 7 (sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55601. Definitions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (g) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55602. Authority to Contract.

Any community college district or districts may contract with a private post secondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300) of part 59 of the Education Code and which has been in operation not less than two full calendar years prior to the effective date of such contract to provide vocational skill training authorized by the Education Code. Any community college district may contract with an activity center, work activity center, or sheltered work shop to provide vocational skill training authorized by the Education Code in any adult education program for substantially handicapped persons operated pursuant to subdivision (e) of section 41976 of the Education Code.

All contracts between a community college district and a private postsecondary school entered into pursuant to this section, or an activity center, work center, or sheltered workshop shall do all of the following:

(1) Be approved by the Chancellor.

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the community colleges or the tuition the private postsecondary school charges its private students, whichever is lower.

(3) Provide that the community college students receiving training in a private postsecondary school, or an activity center, work activity center, or sheltered workshop pursuant to that contract may not be charged additional tuition for any training included in the contract. The attendance of those students pursuant to a contract authorized by this section shall be credited to the community college district for the purposes of apportionments from the State School Fund.

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education, or is a course of study for adult schools approved by the Department of Education under section 51056 of the Education Code.

The students who attend a private postsecondary school or an activity center, work activity center or sheltered workshop pursuant to a contract under this section shall be enrollees of the community college and the vocational instruction provided pursuant to that contract shall be under the exclusive control and management of the governing body of the contracting community college district. The Chancellor may audit the accounts of both the district and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55602.5. Contracts for Vocational Education for Students with Impaired Physical Capacity.

Notwithstanding any provision in the Education Code to the contrary, the governing board of a community college district and a proprietary or nonprofit organization, a public entity, or a proprietary or nonprofit private corporation may enter into a contract for the education of community college students whose capacity to function is impaired by physical deficiency or injury, in vocational education classes to be conducted for such students by the proprietary or nonprofit organization, the public entity, or the proprietary or nonprofit private corporation maintaining the vocational education classes. All instruction pursuant to this section shall be approved of and supervised by the governing board of the community college district and shall be conducted by academic employees. The average daily attendance of such community college students attending classes, under the provisions of this section, shall be credited to the community college district and college credit may be granted students who satisfactorily complete the course of instructions in such classes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

History

. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55604. Application for Approval.

Note: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).

3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55605. Contract Approval and Limitations.

Vocational education contracts entered into pursuant to section 55602 shall:

(a) Not exceed one year;

(b) Be approved by the Chancellor;

(c) Include such details to explain and justify intended offerings.

(d) Be maintained in conformity with applicable provisions of the Education Code, Title 5 of the California Code of Regulations, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education; and

(e) Be organized and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

Note: Authority cited: Sections 8092, 66700, 70901, 70902 and 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55606. Administration.

History

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55607. Reporting.

Each Community College district that has entered into a contract with a contractor pursuant to Education Code section 55602, shall submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract shall be made available for audit by the state or federal government and will be retained for five (5) years or one year after audited, whichever comes first.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55608. Accounting Procedure.

History

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Contracting Standards

§ 55620. Standards.

The following conditions shall be used to determine the appropriateness of vocational education contracts with contractors:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(e) Eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private students, whichever is lower.

(f) The community college student may not be charged additional tuition for any training included in the contract.

(g) Each student eligible for enrollment under a contract between a community college district and a contractor must: (1) have reached his or her sixteenth birthday and (2) be enrolled in a community college.

(h) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 3. Contract Provisions

§ 55630. Terms and Conditions.

Each contract shall expressly include but not be limited to, the following provisions:

(a) The governing board of the community college district has determined, by resolution, the appropriateness of offering the program through a contract with a contractor pursuant to Education Code section 78015.

(b) Methods for identifying eligible costs and payment procedures for compliance with section 55602 subdivisions 2 and 3.

(c) Procedures, terms and conditions relating to (1) enrollment period; (2) transfer of students between the community college district and contractor; (3) number of class hours sufficient to meet the stated performance objectives; (4) supervision and evaluation of students; and (5) withdrawal of students prior to completion of a course or program.

(d) The contractor and the community college district will insure that ancillary and support services are provided for the students including, but not limited to (1) counseling and guidance, and (2) placement assistance.

(e) Instruction provided under the immediate supervision and control of qualified faculty of the district.

(f) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(g) Designation of responsibility to the contractor for maintaining records of student attendance and achievement. Such records shall be available for review at all times and submitted on a schedule developed by the community college district.

(h) Terms and conditions relating to cancellation and termination of the contract.

(i) The contractor is in compliance with the Civil Rights Act of 1964, title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable), and all applicable state and federal health and safety regulations.

(j) The contractor provides, when required by law and at the contractor's own expense, workers' compensation insurance coverage for any student.

(k) The contractor provides indemnity and defense for the state and the community college district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

NOTE: Authority cited: Sections 8090, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55631. Terms and Conditions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (d) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 4. Regional Adult and Vocational Education Councils

§ 55650. Regulations Reference.

NOTE: Authority cited: Section 8023, Education Code. Reference: Article 2, Chapter 1 (commencing with Section 8020), Division 1, Education Code.

HISTORY

1. New subchapter 2 (section 55650) filed 4–22–76; effective thirtieth day thereafter (Register 76, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Redesignation of subchapter 2 (section 55650) to article 4 (section 55650) filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 5. Calculation and Payment of Excess Costs of Apprenticeship Classes

§ 55675. Regulations Reference.

Pursuant to the authority vested by section 3074 of the Labor Code, the State Board of Education, the Board of Governors of the California Community Colleges and the Division of Apprenticeship Standards have jointly issued regulations regarding excess costs to be borne by program sponsors. These regulations are set forth in article 11 (commencing with section 235) of chapter 2, part 1 of title 8, California Administrative Code, and shall govern the calculation and payment of excess costs of apprenticeship classes which are maintained in connection with Community Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 3074, Labor Code.

HISTORY

1. New subchapter 3 (section 55675) filed 7–8–76; effective thirtieth day thereafter (Register 76, No. 28).
2. Editorial correction replacing text inadvertently omitted during printing (Register 80, No. 9).
3. Redesignation of subchapter 3 (section 55675) to article 5 (section 55675) and amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 8. Academic Calendar

Article 1. 175–Day Minimum Academic Calendar

§ 55700. Scope.

The provisions of this article pertain to changes made on or after July 1, 1982, to any traditional academic year calendar consisting of at least 175 days of instruction and evaluation. The conversion to a flexible calendar operation is not addressed by the provisions of this article; rather, the provisions of article 2 (commencing with section 55720) govern the flexible calendar option.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New chapter 8, articles 1–4 (sections 55700–55731, not consecutive) filed 5–7–76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment of NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 8 (articles 1–4, sections 55700–55731, not consecutive) and new chapter 8 (articles 1 and 2, sections 55700–55732, not consecutive) filed 7–26–82; designated effective 7–30–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 31). For prior history, see Register 80, No. 11.
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55700.1. Studies on a Quarter System, Trimester Basis or Flexible Calendar.

At the request of a community college district, the Chancellor may approve a program of studies on a quarter system or a trimester basis, or a flexible calendar.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55702. Approval of Changes.

(a) Prior to any change in academic year configuration, including the addition, deletion, shortening or lengthening of any term, the governing board of a district shall obtain the approval of the Chancellor.

(b) Requests for approval shall be made on a form provided by the Chancellor, and shall address:

(1) A complete description of the calendar configuration;

(2) The district's ability to comply with the 175–Day Rule as provided in section 58142; and

(3) The educational implications, positive and negative, of the proposed change.

(c) The Chancellor shall approve a requested change in academic year terms if it is found that:

(1) The state aid implications of the requested change have been addressed; and

(2) The district will be able to comply with the 175–Day Rule; and

(3) The change in configuration is consistent with the continued delivery of quality education.

NOTE: Authority cited: Sections 66700, 70901, 84890 and 84890, Education Code. Reference: Section 84890, Education Code.

Register 1991-43

§ 55602.5

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this chapter shall be construed to interfere with the right of a student, if admitted to a community college in accord with district admission policies adopted pursuant to Education Code section 76000 et seq., from enrolling in any course for which he or she can meet necessary and valid prerequisites, if any, which have been established pursuant to the requirements of section 58106 of division 9 of this part.

(b) Community college districts shall take steps to ensure that information, in written form, is available to all students, in class schedules, catalogues, or other appropriate publications, describing their rights and responsibilities under this chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests which correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission, declare a specific educational objective within a reasonable period after admission, participate in counseling or advisement pursuant to section 55523(a)(1),(2), and (3), diligently attend class and complete assigned coursework, and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of chapter 9 (commencing with section 55750) of division 6 of this part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree applicable credit coursework, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to section 55525. If a student fails to fulfill the responsibilities listed in this subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his/her specific educational goal, or fails to abide by the terms of his/her student educational plan, the district may, subject to the requirements of this chapter, suspended or terminate the provision of services authorized in section 55520; provided however, the nothing in this section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of chapter 6 (commencing with section 54600) of Division 5 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Where students are required by a community college district to meet prerequisites under section 58106(b)(2) or (b)(3), a student may object to such requirement on the grounds that the necessary course is not available. The district shall promptly (within 5 working days) determine whether, the required course was available and if not, the district shall waive the prerequisite for that term.

(b) An allegation that a community college district has violated the provisions of subsection (f) of section 55521 or has established a discriminatory prerequisite subject to challenge under subsection (d)(3) of section 58106 shall be considered a complaint of unlawful discrimination and shall be filed, investigated and resolved pursuant to chapter 5 (commencing with section 59300) of Division 10 of this part.

(c) Each community college district shall establish written procedures by which students may challenge any other alleged violation of the provisions of this chapter or of section 58106. Districts shall investigate and attempt to resolve any such complaints. Such complaint procedures may, by action of the governing board, be consolidated with existing student grievance procedures. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under section 55512(c).

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211, and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) Vocational education contract means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled

in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), part A, Vocational Education, or any subsequent federal legislation.

(c) Contractor as used in Education Code section 8092 means any private postsecondary school authorized or approved pursuant to the provisions of Chapter 3 (commencing with section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) Eligible costs means all direct and indirect related instructional costs but does not include expenditures for capital outlay (600 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New chapter 7 (sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55601. Definitions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (g) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55602. Authority to Contract.

Any community college district or districts may contract with a private post secondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300) of part 59 of the Education Code and which has been in operation not less than two full calendar years prior to the effective date of such contract to provide vocational skill training authorized by the Education Code. Any community college district may contract with an activity center, work activity center, or sheltered work shop to provide vocational skill training authorized by the Education Code in any adult education program for substantially handicapped persons operated pursuant to subdivision (e) of section 41976 of the Education Code.

All contracts between a community college district and a private postsecondary school entered into pursuant to this section, or an activity center, work center, or sheltered workshop shall do all of the following:

(1) Be approved by the Chancellor.

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the community colleges or the tuition the private postsecondary school charges its private students, whichever is lower.

(3) Provide that the community college students receiving training in a private postsecondary school, or an activity center, work activity center, or sheltered workshop pursuant to that contract may not be charged additional tuition for any training included in the contract. The attendance of those students pursuant to a contract authorized by this section shall be credited to the community college district for the purposes of apportionments from the State School Fund.

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education, or is a course of study for adult schools approved by the Department of Education under section 51056 of the Education Code.

The students who attend a private postsecondary school or an activity center, work activity center or sheltered workshop pursuant to a contract under this section shall be enrollees of the community college and the vocational instruction provided pursuant to that contract shall be under the exclusive control and management of the governing body of the contracting community college district. The Chancellor may audit the accounts of both the district and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55602.5. Contracts for Vocational Education for Students with Impaired Physical Capacity.

Notwithstanding any provision in the Education Code to the contrary, the governing board of a community college district and a proprietary or nonprofit organization, a public entity, or a proprietary or nonprofit private corporation may enter into a contract for the education of community college students whose capacity to function is impaired by physical deficiency or injury, in vocational education classes to be conducted for such students by the proprietary or nonprofit organization, the public entity, or the proprietary or nonprofit private corporation maintaining the vocational education classes. All instruction pursuant to this section shall be approved of and supervised by the governing board of the community college district and shall be conducted by academic employees. The average daily attendance of such community college students attending classes, under the provisions of this section, shall be credited to the community college district and college credit may be granted students who satisfactorily complete the course of instruction in such classes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55605. Contract Approval and Limitations.

Vocational education contracts entered into pursuant to section 55602 shall:

(a) Not exceed one year;

(b) Be approved by the Chancellor;

(c) Include such details to explain and justify intended offerings.

(d) Be maintained in conformity with applicable provisions of the Education Code, Title 5 of the California Code of Regulations, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education; and

(e) Be organized and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

NOTE: Authority cited: Sections 8092, 66700, 70901, 70902 and 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55606. Administration.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55607. Reporting.

Each Community College district that has entered into a contract with a contractor pursuant to Education Code section 55602, shall submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract shall be made available for audit by the state or federal government and will be retained for five (5) years or one year after audited, whichever comes first.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55608. Accounting Procedure.

HISTORY

1. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Contracting Standards

§ 55620. Standards.

The following conditions shall be used to determine the appropriateness of vocational education contracts with contractors:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(e) Eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private students, whichever is lower.

(f) The community college student may not be charged additional tuition for any training included in the contract.

(g) Each student eligible for enrollment under a contract between a community college district and a contractor must: (1) have reached his or her sixteenth birthday and (2) be enrolled in a community college.

(h) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 3. Contract Provisions

§ 55630. Terms and Conditions.

Each contract shall expressly include but not be limited to, the following provisions:

(a) The governing board of the community college district has determined, by resolution, the appropriateness of offering the program through a contract with a contractor pursuant to Education Code section 78015.

(b) Methods for identifying eligible costs and payment procedures for compliance with section 55602 subdivisions 2 and 3.

(c) Procedures, terms and conditions relating to (1) enrollment period; (2) transfer of students between the community college district and contractor; (3) number of class hours sufficient to meet the stated performance objectives; (4) supervision and evaluation of students; and (5) withdrawal of students prior to completion of a course or program.

(d) The contractor and the community college district will insure that ancillary and support services are provided for the students including, but not limited to (1) counseling and guidance, and (2) placement assistance.

(e) Instruction provided under the immediate supervision and control of qualified faculty of the district.

(f) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(g) Designation of responsibility to the contractor for maintaining records of student attendance and achievement. Such records shall be available for review at all times and submitted on a schedule developed by the community college district.

(h) Terms and conditions relating to cancellation and termination of the contract.

(i) The contractor is in compliance with the Civil Rights Act of 1964, title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable), and all applicable state and federal health and safety regulations.

(j) The contractor provides, when required by law and at the contractor's own expense, workers' compensation insurance coverage for any student.

(k) The contractor provides indemnity and defense for the state and the community college district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and

public entity, along with their respective officers and employees as additional insureds.

NOTE: Authority cited: Sections 8090, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55631. Terms and Conditions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (d) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 4. Regional Adult and Vocational Education Councils

§ 55650. Regulations Reference.

NOTE: Authority cited: Section 8023, Education Code. Reference: Article 2, Chapter 1 (commencing with Section 8020), Division 1, Education Code.

HISTORY

1. New subchapter 2 (section 55650) filed 4–22–76; effective thirtieth day thereafter (Register 76, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Redesignation of subchapter 2 (section 55650) to article 4 (section 55650) filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 5. Calculation and Payment of Excess Costs of Apprenticeship Classes

§ 55675. Regulations Reference.

Pursuant to the authority vested by section 3074 of the Labor Code, the State Board of Education, the Board of Governors of the California Community Colleges and the Division of Apprenticeship Standards have jointly issued regulations regarding excess costs to be borne by program sponsors. These regulations are set forth in article 11 (commencing with section 235) of chapter 2, part 1 of title 8, California Administrative Code, and shall govern the calculation and payment of excess costs of apprenticeship classes which are maintained in connection with Community Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 3074, Labor Code.

HISTORY

1. New subchapter 3 (section 55675) filed 7–8–76; effective thirtieth day thereafter (Register 76, No. 28).
2. Editorial correction replacing text inadvertently omitted during printing (Register 80, No. 9).
3. Redesignation of subchapter 3 (section 55675) to article 5 (section 55675) and amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Editorial correction of first paragraph (Register 91, No. 31).

Subchapter 8. Academic Calendar

Article 1. 175–Day Minimum Academic Calendar

§ 55700. Scope.

The provisions of this article pertain to changes made on or after July 1, 1982, to any traditional academic year calendar consisting of at least 175 days of instruction and evaluation. The conversion to a flexible calendar operation is not addressed by the provisions of this article; rather, the provisions of article 2 (commencing with section 55720) govern the flexible calendar option.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New chapter 8, articles 1–4 (sections 55700–55731, not consecutive) filed 5–7–76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment of NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 8 (articles 1–4, sections 55700–55731, not consecutive) and new chapter 8 (articles 1 and 2, sections 55700–55732, not consecutive) filed 7–26–82; designated effective 7–30–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 31). For prior history, see Register 80, No. 11.
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55700.1. Studies on a Quarter System, Trimester Basis or Flexible Calendar.

At the request of a community college district, the Chancellor may approve a program of studies on a quarter system or a trimester basis, or a flexible calendar.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55702. Approval of Changes.

(a) Prior to any change in academic year configuration, including the addition, deletion, shortening or lengthening of any term, the governing board of a district shall obtain the approval of the Chancellor.

(b) Requests for approval shall be made on a form provided by the Chancellor, and shall address:

(1) A complete description of the calendar configuration;

(2) The district's ability to comply with the 175–Day Rule as provided in section 58142; and

(3) The educational implications, positive and negative, of the proposed change.

(c) The Chancellor shall approve a requested change in academic year terms if it is found that:

(1) The state aid implications of the requested change have been addressed; and

(2) The district will be able to comply with the 175–Day Rule; and

(3) The change in configuration is consistent with the continued delivery of quality education.

NOTE: Authority cited: Sections 66700, 70901, and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Article 2. Flexible Calendar Operations

§ 55720. Existing Flexible Calendar Pilot Operations.

(a) Districts with flexible calendar pilot operations approved by the Board of Governors prior to December 31, 1981, may continue such op-

sonable period after admission, participate in counseling or advisement pursuant to Section 55523(a)(1), (2) and (3), diligently attend class and complete assigned coursework, and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit coursework, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his/her specific educational goal, or fails to abide by the terms of his/her student educational plan, the district may, subject to the requirements of this chapter, suspend or terminate the provision of services authorized in Section 55520; provided however, that nothing in this section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: ections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

2. Amendment of subsection (b) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Where students are required by a community college district to meet prerequisites under section 58106(b)(2) or (b)(3), a student may object to such requirement on the grounds that the necessary course is not available. The district shall promptly (within 5 working days) determine whether, the required course was available and if not, the district shall waive the prerequisite for that term.

(b) An allegation that a community college district has violated the provisions of subsection (f) of section 55521 or has established a discriminatory prerequisite subject to challenge under subsection (d)(3) of section 58106 shall be considered a complaint of unlawful discrimination and shall be filed, investigated and resolved pursuant to chapter 5 (commencing with section 59300) of Division 10 of this part.

(c) Each community college district shall establish written procedures by which students may challenge any other alleged violation of the provisions of this chapter or of section 58106. Districts shall investigate and attempt to resolve any such complaints. Such complaint procedures may, by action of the governing board, be consolidated with existing student grievance procedures. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under section 55512(c).

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135-11139.5, Government Code; Sections 78211, and 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94-482 and 95-40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) "Eligible costs" means all direct and indirect related instructional costs but does not include expenditures for capital outlay (6000 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

History

1. New chapter 7 (sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Amendment filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 55601. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representative of the general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25). For prior history, see Register 83, No. 18.

§ 55602. Authority to Contract.

Any community college district or districts may contract with a private post secondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300) of part 59 of the Education Code and which has been in operation not less than two full calendar years prior to the effective date of such contract to provide vocational skill training authorized by the Education Code. Any community college district may contract with an activity center, work activity center, or sheltered work shop to provide vocational skill training authorized by the Education Code in any adult education program for substantially handicapped persons operated pursuant to subdivision (e) of section 41976 of the Education Code.

All contracts between a community college district and a private postsecondary school entered into pursuant to this section, or an activity center, work center, or sheltered workshop shall do all of the following:

(1) Be approved by the Chancellor.

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the community colleges or the tuition the private postsecondary school charges its private students, whichever is lower.

(3) Provide that the community college students receiving training in a private postsecondary school, or an activity center, work activity center, or sheltered workshop pursuant to that contract may not be charged additional tuition for any training included in the contract. The attendance of those students pursuant to a contract authorized by this section shall be credited to the community college district for the purposes of apportionments from the State School Fund.

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education, or is a course of study for adult schools approved by the Department of Education under section 51056 of the Education Code.

The students who attend a private postsecondary school or an activity center, work activity center or sheltered workshop pursuant to a contract under this section shall be enrollees of the community college and the vocational instruction provided pursuant to that contract shall be under the exclusive control and management of the governing body of the contracting community college district. The Chancellor may audit the accounts of both the district and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55602.5. Contracts for Vocational Education for Students with Impaired Physical Capacity.

Notwithstanding any provision in the Education Code to the contrary, the governing board of a community college district and a proprietary or nonprofit organization, a public entity, or a proprietary or nonprofit private corporation may enter into a contract for the education of community college students whose capacity to function is impaired by physical deficiency or injury, in vocational education classes to be conducted for such students by the proprietary or nonprofit organization, the public entity, or the proprietary or nonprofit private corporation maintaining the vocational education classes. All instruction pursuant to this section shall be approved of and supervised by the governing board of the community college district and shall be conducted by academic employees. The average daily attendance of such community college students attending classes, under the provisions of this section, shall be credited to the community college district and college credit may be granted students who satisfactorily complete the course of instruction in such classes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

History

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55605. Contract Approval and Limitations.

Vocational education contracts entered into pursuant to section 55602 shall:

(a) Not exceed one year;

(b) Be approved by the Chancellor;

(c) Include such details to explain and justify intended offerings.

(d) Be maintained in conformity with applicable provisions of the Education Code, Title 5 of the California Code of Regulations, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education; and

(e) Be organized and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

NOTE: Authority cited: Sections 8092, 66700, 70901, 70902 and 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55606. Administration.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55607. Reporting.

Each Community College district that has entered into a contract with a contractor pursuant to Education Code section 55602, shall submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract shall be made available for audit by the state or federal government and will be retained for five (5) years or one year after audited, whichever comes first.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55608. Accounting Procedure.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Contracting Standards

§ 55620. Standards.

The following conditions shall be used to determine the appropriateness of vocational education contracts with contractors:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(e) Eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private students, whichever is lower.

(f) The community college student may not be charged additional tuition for any training included in the contract.

(g) Each student eligible for enrollment under a contract between a community college district and a contractor must: (1) have reached his or her sixteenth birthday and (2) be enrolled in a community college.

(h) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 3. Contract Provisions

§ 55630. Terms and Conditions.

Each contract shall expressly include but not be limited to, the following provisions:

(a) The governing board of the community college district has determined, by resolution, the appropriateness of offering the program through a contract with a contractor pursuant to Education Code section 78015.

(b) Methods for identifying eligible costs and payment procedures for compliance with section 55602 subdivisions 2 and 3.

(c) Procedures, terms and conditions relating to (1) enrollment period; (2) transfer of students between the community college district and contractor; (3) number of class hours sufficient to meet the stated performance objectives; (4) supervision and evaluation of students; and (5) withdrawal of students prior to completion of a course or program.

(d) The contractor and the community college district will insure that ancillary and support services are provided for the students including, but not limited to (1) counseling and guidance, and (2) placement assistance.

(e) Instruction provided under the immediate supervision and control of qualified faculty of the district.

(f) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(g) Designation of responsibility to the contractor for maintaining records of student attendance and achievement. Such records shall be available for review at all times and submitted on a schedule developed by the community college district.

(h) Terms and conditions relating to cancellation and termination of the contract.

(i) The contractor is in compliance with the Civil Rights Act of 1964, title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable), and all applicable state and federal health and safety regulations.

(j) The contractor provides, when required by law and at the contractor's own expense, workers' compensation insurance coverage for any student.

(k) The contractor provides indemnity and defense for the state and the community college district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

NOTE: Authority cited: Sections 8090, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55631. Terms and Conditions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment of subsection (d) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).

Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 4. Regional Adult and Vocational Education Councils

§ 55650. Regulations Reference.

NOTE: Authority cited: Section 8023, Education Code. Reference: Article 2, Chapter 1 (commencing with Section 8020), Division 1, Education Code.

HISTORY

1. New subchapter 2 (section 55650) filed 4–22–76; effective thirtieth day thereafter (Register 76, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Redesignation of subchapter 2 (section 55650) to article 4 (section 55650) filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 5. Calculation and Payment of Excess Costs of Apprenticeship Classes

§ 55675. Regulations Reference.

Pursuant to the authority vested by section 3074 of the Labor Code, the State Board of Education, the Board of Governors of the California Community Colleges and the Division of Apprenticeship Standards have jointly issued regulations regarding excess costs to be borne by program sponsors. These regulations are set forth in article 11 (commencing with section 235) of chapter 2, part 1 of title 8, California Administrative Code, and shall govern the calculation and payment of excess costs of apprenticeship classes which are maintained in connection with Community Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 3074, Labor Code.

HISTORY

1. New subchapter 3 (section 55675) filed 7–8–76; effective thirtieth day thereafter (Register 76, No. 28).
2. Editorial correction replacing text inadvertently omitted during printing (Register 80, No. 9).
3. Redesignation of subchapter 3 (section 55675) to article 5 (section 55675) and amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Editorial correction of first paragraph (Register 91, No. 31).

Subchapter 8. Academic Calendar

Article 1. 175–Day Minimum Academic Calendar

§ 55700. Scope.

The provisions of this article pertain to changes made on or after July 1, 1982, to any traditional academic year calendar consisting of at least 175 days of instruction and evaluation. The conversion to a flexible calendar operation is not addressed by the provisions of this article; rather, the provisions of article 2 (commencing with section 55720) govern the flexible calendar option.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New chapter 8, articles 1–4 (sections 55700–55731, not consecutive) filed 5–7–76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment of NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 8 (articles 1–4, sections 55700–55731, not consecutive) and new chapter 8 (articles 1 and 2, sections 55700–55732, not consecutive) filed 7–26–82; designated effective 7–30–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 31). For prior history, see Register 80, No. 11.
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55700.1. Studies on a Quarter System, Trimester Basis or Flexible Calendar.

At the request of a community college district, the Chancellor may approve a program of studies on a quarter system or a trimester basis, or a flexible calendar.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55701. College and Academic Year.

The "college year" begins on the first day of July and ends on the last day of June. The "academic year" means that portion of the college year during which the community college is maintained, which period shall include not less than the number of days required by regulations adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 55702. Approval of Changes.

(a) Prior to any change in academic year configuration, including the addition, deletion, shortening or lengthening of any term, the governing board of a district shall obtain the approval of the Chancellor.

(b) Requests for approval shall be made on a form provided by the Chancellor, and shall address:

(1) A complete description of the calendar configuration;

(2) The district's ability to comply with the 175–Day Rule as provided in section 58142; and

(3) The educational implications, positive and negative, of the proposed change.

(c) The Chancellor shall approve a requested change in academic year terms if it is found that:

(1) The state aid implications of the requested change have been addressed; and

(2) The district will be able to comply with the 175–Day Rule; and

(3) The change in configuration is consistent with the continued delivery of quality education.

NOTE: Authority cited: Sections 66700, 70901, and 84890, Education Code. Reference: Section 84890, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Article 2. Flexible Calendar Operations

§ 55720. Offering Classes Under Flexible Calendar: Accountability of Employees Under Contract for 175 Days; Activities.

(a) Subject to the approval of the Chancellor pursuant to Section 55724, a community college district may designate an amount of time in each fiscal year for employees to conduct staff, student, and instructional improvement activities. These activities may be conducted at any time during the fiscal year. The tine designated for these activities shall be known as flexible time.

(b) A district with an approved flexible calendar may designate as flexible time for an employee not more than 8.57 percent of that employee's contractual obligation for hours of classroom instruction which are eligible for state apportionments in that academic year, exclusive of any intersessions.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Section 55521(a)(6), the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135-11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (b) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94-482 and 95-40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation

not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) "Eligible costs" means all direct and indirect related instructional costs but does not include expenditures for capital outlay (6000 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New chapter 7 (sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Amendment filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 55601. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representative of the general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25). For prior history, see Register 83, No. 18.

§ 55602. Authority to Contract.

Any community college district or districts may contract with a private post secondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300) of part 59 of the Education Code and which has been in operation not less than two full calendar years prior to the effective date of such contract to provide vocational skill training authorized by the Education Code. Any community college district may contract with an activity center, work activity center, or sheltered work shop to provide vocational skill training authorized by the Education Code in any adult education program for substantially handicapped persons operated pursuant to subdivision (e) of section 41976 of the Education Code.

All contracts between a community college district and a private postsecondary school entered into pursuant to this section, or an activity center, work center, or sheltered workshop shall do all of the following:

(1) Be approved by the Chancellor.

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the community colleges or the tuition the private postsecondary school charges its private students, whichever is lower.

(3) Provide that the community college students receiving training in a private postsecondary school, or an activity center, work activity center, or sheltered workshop pursuant to that contract may not be charged additional tuition for any training included in the contract. The attendance of those students pursuant to a contract authorized by this section shall be credited to the community college district for the purposes of apportionments from the State School Fund.

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education, or is a course of study for adult schools approved by the Department of Education under section 51056 of the Education Code.

The students who attend a private postsecondary school or an activity center, work activity center or sheltered workshop pursuant to a contract under this section shall be enrollees of the community college and the vocational instruction provided pursuant to that contract shall be under the exclusive control and management of the governing body of the contracting community college district. The Chancellor may audit the accounts of both the district and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55602.5. Contracts for Vocational Education for Students with Impaired Physical Capacity.

Notwithstanding any provision in the Education Code to the contrary, the governing board of a community college district and a proprietary or nonprofit organization, a public entity, or a proprietary or nonprofit private corporation may enter into a contract for the education of community college students whose capacity to function is impaired by physical deficiency or injury in vocational education classes to be conducted for such students by the proprietary or nonprofit organization, the public entity, or the proprietary or nonprofit private corporation maintaining the vocational education classes. All instruction pursuant to this Section shall be approved of and supervised by the governing board of the community college district and shall be conducted by academic employees. The full–time equivalent student of such community college students attending classes under the provisions of this Section shall be credited to the community college district, and college credit may be granted to students who satisfactorily complete the course of instruction in such classes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 11–15–79; effective thirtieth day thereafter (Register 79, No. 46).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55605. Contract Approval and Limitations.

Vocational education contracts entered into pursuant to section 55602 shall:

(a) Not exceed one year;

(b) Be approved by the Chancellor;

(c) Include such details to explain and justify intended offerings.

(d) Be maintained in conformity with applicable provisions of the Education Code, Title 5 of the California Code of Regulations, California

Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education; and

(e) Be organized and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

NOTE: Authority cited: Sections 8092, 66700, 70901, 70902 and 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55606. Administration.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55607. Reporting.

Each Community College district that has entered into a contract with a contractor pursuant to Education Code section 55602, shall submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract shall be made available for audit by the state or federal government and will be retained for five (5) years or one year after audited, whichever comes first.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55608. Accounting Procedure.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Contracting Standards

§ 55620. Standards.

The following conditions shall be used to determine the appropriateness of vocational education contracts with contractors:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(e) Eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private students, whichever is lower.

(f) The community college student may not be charged additional tuition for any training included in the contract.

(g) Each student eligible for enrollment under a contract between a community college district and a contractor must: (1) have reached his or her sixteenth birthday and (2) be enrolled in a community college.

(h) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 3. Contract Provisions

§ 55630. Terms and Conditions.

Each contract shall expressly include but not be limited to, the following provisions:

(a) The governing board of the community college district has determined, by resolution, the appropriateness of offering the program through a contract with a contractor pursuant to Education Code section 78015.

(b) Methods for identifying eligible costs and payment procedures for compliance with section 55602 subdivisions 2 and 3.

(c) Procedures, terms and conditions relating to (1) enrollment period; (2) transfer of students between the community college district and contractor; (3) number of class hours sufficient to meet the stated performance objectives; (4) supervision and evaluation of students; and (5) withdrawal of students prior to completion of a course or program.

(d) The contractor and the community college district will insure that ancillary and support services are provided for the students including, but not limited to (1) counseling and guidance, and (2) placement assistance.

(e) Instruction provided under the immediate supervision and control of qualified faculty of the district.

(f) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(g) Designation of responsibility to the contractor for maintaining records of student attendance and achievement. Such records shall be available for review at all times and submitted on a schedule developed by the community college district.

(h) Terms and conditions relating to cancellation and termination of the contract.

(i) The contractor is in compliance with the Civil Rights Act of 1964, title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable), and all applicable state and federal health and safety regulations.

(j) The contractor provides, when required by law and at the contractor's own expense, workers' compensation insurance coverage for any student.

(k) The contractor provides indemnity and defense for the state and the community college district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

NOTE: Authority cited: Sections 8090, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55631. Terms and Conditions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

History
1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (d) filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 4. Regional Adult and Vocational Education Councils

§ 55650. Regulations Reference.

NOTE: Authority cited: Section 8023, Education Code. Reference: Article 2, Chapter 1 (commencing with Section 8020), Division 1, Education Code.

History
1. New subchapter 2 (section 55650) filed 4-22-76; effective thirtieth day thereafter (Register 76, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Redesignation of subchapter 2 (section 55650) to article 4 (section 55650) filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 5. Calculation and Payment of Excess Costs of Apprenticeship Classes

§ 55675. Regulations Reference.

Pursuant to the authority vested by section 3074 of the Labor Code, the State Board of Education, the Board of Governors of the California Community Colleges and the Division of Apprenticeship Standards have jointly issued regulations regarding excess costs to be borne by program sponsors. These regulations are set forth in article 11 (commencing with section 235) of chapter 2, part 1 of title 8, California Administrative Code, and shall govern the calculation and payment of excess costs of apprenticeship classes which are maintained in connection with Community Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 3074, Labor Code.

History
1. New subchapter 3 (section 55675) filed 7-8-76; effective thirtieth day thereafter (Register 76, No. 28).
2. Editorial correction replacing text inadvertently omitted during printing (Register 80, No. 9).
3. Redesignation of subchapter 3 (section 55675) to article 5 (section 55675) and amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Editorial correction of first paragraph (Register 91, No. 31).

Subchapter 8. Academic Calendar

Article 1. 175-Day Minimum Academic Calendar

§ 55700. Scope.

The provisions of this article pertain to changes made on or after July 1, 1982, to any traditional academic year calendar consisting of at least 175 days of instruction and evaluation. The conversion to a flexible calendar operation is not addressed by the provisions of this article; rather, the provisions of article 2 (commencing with section 55720) govern the flexible calendar option.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History
1. New chapter 8, articles 1-4 (sections 55700-55731, not consecutive) filed 5-7-76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 8 (articles 1-4, sections 55700-55731, not consecutive) and new chapter 8 (articles 1 and 2, sections 55700-55732, not consecutive) filed 7-26-82; designated effective 7-30-82 pursuant to Government Code section 11346.2(d) (Register 82, No. 31). For prior history, see Register 80, No. 11.
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55700.1. Studies on a Quarter System, Trimester Basis or Flexible Calendar.

At the request of a community college district, the Chancellor may approve a program of studies on a quarter system or a trimester basis, or a flexible calendar.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History
1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 55701. College and Academic Year.

The "college year" begins on the first day of July and ends on the last day of June. The "academic year" means that portion of the college year during which the community college is maintained, which period shall include not less than the number of days required by regulations adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

History
1. New section filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 55702. Approval of Changes.

(a) Prior to any change in academic year configuration, including the addition, deletion, shortening or lengthening of any term, the governing board of a district shall obtain the approval of the Chancellor.

(b) Requests for approval shall be made on a form provided by the Chancellor, and shall address:

(1) A complete description of the calendar configuration;

(2) The district's ability to comply with the 175-Day Rule as provided in section 58142; and

(3) The educational implications, positive and negative, of the proposed change.

(c) The Chancellor shall approve a requested change in academic year terms if it is found that:

(1) The state aid implications of the requested change have been addressed; and

(2) The district will be able to comply with the 175-Day Rule; and

(3) The change in configuration is consistent with the continued delivery of quality education.

NOTE: Authority cited: Sections 66700, 70901, and 84890, Education Code. Reference: Section 84890, Education Code.

History
1. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in NOTE (Register 91, No. 43).

Article 2. Flexible Calendar Operations

§ 55720. Offering Classes Under Flexible Calendar: Accountability of Employees Under Contract for 175 Days; Activities.

(a) Subject to the approval of the Chancellor pursuant to Section 55724, a community college district may designate an amount of time in each fiscal year for employees to conduct staff, student, and instructional improvement activities. These activities may be conducted at any time during the fiscal year. The time designated for these activities shall be known as "flexible time."

(b) A district with an approved flexible calendar may designate as flexible time for an employee not more than 8.57 percent of that employee's contractual obligation for hours of classroom instruction which are eligible for state apportionments in that academic year, exclusive of any intersessions.

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

Register 1995-22

§ 55600
§ 55602
§ 55602.5
§ 55603
§ 55605
§ 55607
§ 55620
§ 55630

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Section 55521(a)(6), the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135-11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (b) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94-482 and 95-40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation

not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) "Eligible costs" means all direct and indirect related instructional costs but does not include expenditures for capital outlay (6000 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New chapter 7 (sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of subchapter 1 heading, amendment of article 1 heading, and repealer and new section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
6. Editorial correction of HISTORY 4 (Register 95, No. 22).

§ 55601. Appointment of Vocational Education Advisory Committee by School District Participating in Vocational Education Program.

The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representative of the general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25). For prior history, see Register 83, No. 18.

§ 55602. Authority to Contract.

Any community college district or districts may contract with a private post secondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300) of part 59 of the Education Code and which has been in operation not less than two full calendar years prior to the effective date of such contract to provide vocational skill training authorized by the Education Code. Any community college district may contract with an activity center, work activity center, or sheltered work shop to provide vocational skill training authorized by the Education Code in any adult education program for substantially handicapped persons operated pursuant to subdivision (e) of section 41976 of the Education Code.

All contracts between a community college district and a private postsecondary school entered into pursuant to this section, or an activity center, work center, or sheltered workshop shall do all of the following:

(1) Be approved by the Chancellor.

(2) Provide that the amount contracted for per student shall not exceed the total direct and indirect costs to provide the same training in the community colleges or the tuition the private postsecondary school charges its private students, whichever is lower.

(3) Provide that the community college students receiving training in a private postsecondary school, or an activity center, work activity center, or sheltered workshop pursuant to that contract may not be charged additional tuition for any training included in the contract. The attendance of those students pursuant to a contract authorized by this section shall be credited to the community college district for the purposes of apportionments from the State School Fund.

(4) Provide that all programs, courses, and classes of instruction shall meet the standards set forth in the California State Plan for Vocational Education, or is a course of study for adult schools approved by the Department of Education under section 51056 of the Education Code.

The students who attend a private postsecondary school or an activity center, work activity center or sheltered workshop pursuant to a contract under this section shall be enrollees of the community college and the vocational instruction provided pursuant to that contract shall be under the exclusive control and management of the governing body of the contracting community college district. The Chancellor may audit the accounts of both the district and the private party involved in these contracts to the extent necessary to assure the integrity of the public funds involved.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55602.5. Contracts for Vocational Education for Students with Impaired Physical Capacity.

Notwithstanding any provision in the Education Code to the contrary, the governing board of a community college district and a proprietary or nonprofit organization, a public entity, or a proprietary or nonprofit private corporation may enter into a contract for the education of community college students whose capacity to function is impaired by physical deficiency or injury in vocational education classes to be conducted for such students by the proprietary or nonprofit organization, the public entity, or the proprietary or nonprofit private corporation maintaining the vocational education classes. All instruction pursuant to this Section shall be approved of and supervised by the governing board of the community college district and shall be conducted by academic employees. The full-time equivalent student of such community college students attending classes under the provisions of this Section shall be credited to the community college district, and college credit may be granted to students who satisfactorily complete the course of instruction in such classes.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55605. Contract Approval and Limitations.

Vocational education contracts entered into pursuant to section 55602 shall:

(a) Not exceed one year;

(b) Be approved by the Chancellor;

(c) Include such details to explain and justify intended offerings.

(d) Be maintained in conformity with applicable provisions of the Education Code, Title 5 of the California Code of Regulations, California Community Colleges Budget and Accounting Manual, and the California State Plan for Vocational Education; and

(e) Be organized and administered by community college districts in such a manner that there will be separate accounts for all income and expenditures applicable to the contract.

NOTE: Authority cited: Sections 8092, 66700, 70901, 70902 and 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 22).

§ 55606. Administration.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55607. Reporting.

Each Community College district that has entered into a contract with a contractor pursuant to Education Code section 55602, shall submit annually to the Chancellor statistical and evaluative reports on forms provided by the Chancellor. All records related to income and expenditures applicable to the contract shall be made available for audit by the state or federal government and will be retained for five (5) years or one year after audited, whichever comes first.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 22).

§ 55608. Accounting Procedure.

HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Contracting Standards

§ 55620. Standards.

The following conditions shall be used to determine the appropriateness of vocational education contracts with contractors:

(a) Manpower needs and job opportunities are identified and established for the instruction program.

(b) The program or courses do not unnecessarily duplicate offerings available in the region served.

(c) The program or courses provide vocational education opportunities not otherwise available.

(d) The programs or courses shall not reduce or supplant the vocational education efforts of any district.

(e) Eligible costs shall not exceed the same cost to provide the same training in the public entity or the tuition the private postsecondary school charges its private students, whichever is lower.

(f) The community college student may not be charged additional tuition for any training included in the contract.

(g) Each student eligible for enrollment under a contract between a community college district and a contractor must: (1) have reached his or her sixteenth birthday and (2) be enrolled in a community college.

(h) The contractor must be accredited by an accrediting agency recognized by the United States Office of Education or conform to guidelines on contractual relationships with nonaccredited organizations established by the agency accrediting the community college.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer and new section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 22).

Article 3. Contract Provisions

§ 55630. Terms and Conditions.

Each contract shall expressly include but not be limited to, the following provisions:

(a) The governing board of the community college district has determined, by resolution, the appropriateness of offering the program through a contract with a contractor pursuant to Education Code section 78015.

(b) Methods for identifying eligible costs and payment procedures for compliance with section 55602 subdivisions 2 and 3.

(c) Procedures, terms and conditions relating to (1) enrollment period; (2) transfer of students between the community college district and contractor; (3) number of class hours sufficient to meet the stated performance objectives; (4) supervision and evaluation of students; and (5) withdrawal of students prior to completion of a course or program.

(d) The contractor and the community college district will insure that ancillary and support services are provided for the students including, but not limited to (1) counseling and guidance, and (2) placement assistance.

(e) Instruction provided under the immediate supervision and control of qualified faculty of the district.

(f) Performance objectives for each instructional area and a report regarding accomplishment of the objectives at the end of each contract period.

(g) Designation of responsibility to the contractor for maintaining records of student attendance and achievement. Such records shall be available for review at all times and submitted on a schedule developed by the community college district.

(h) Terms and conditions relating to cancellation and termination of the contract.

(i) The contractor is in compliance with the Civil Rights Act of 1964, title 9 of the Higher Education Act of 1972, the U.S. Presidential Executive Order 11246 and subsequent amendments (if applicable), and all applicable state and federal health and safety regulations.

(j) The contractor provides, when required by law and at the contractor's own expense, workers' compensation insurance coverage for any student.

(k) The contractor provides indemnity and defense for the state and the community college district and their respective officers and employees, against any and all claims and liability for death, injury, loss and damage

arising out of, or in any manner connected with, the performance of the contract. Such indemnity and defense shall be provided by an appropriate hold harmless clause and a policy of liability insurance coverage, the cost of which is to be borne by the contractor. Such policy shall name the Board of Governors of the California Community Colleges, the State and public entity, along with their respective officers and employees as additional insureds.

NOTE: Authority cited: Sections 8090, 66700 and 70901, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. Repealer and new section filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 22).

§ 55631. Terms and Conditions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (d) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 4. Regional Adult and Vocational Education Councils

§ 55650. Regulations Reference.

NOTE: Authority cited: Section 8023, Education Code. Reference: Article 2, Chapter 1 (commencing with Section 8020), Division 1, Education Code.

HISTORY

1. New subchapter 2 (section 55650) filed 4–22–76; effective thirtieth day thereafter (Register 76, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Redesignation of subchapter 2 (section 55650) to article 4 (section 55650) filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 22).

Article 5. Calculation and Payment of Excess Costs of Apprenticeship Classes

§ 55675. Regulations Reference.

Pursuant to the authority vested by section 3074 of the Labor Code, the State Board of Education, the Board of Governors of the California Community Colleges and the Division of Apprenticeship Standards have jointly issued regulations regarding excess costs to be borne by program sponsors. These regulations are set forth in article 11 (commencing with section 235) of chapter 2, part 1 of title 8, California Administrative Code, and shall govern the calculation and payment of excess costs of apprenticeship classes which are maintained in connection with Community Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 3074, Labor Code.

HISTORY

1. New subchapter 3 (section 55675) filed 7–8–76; effective thirtieth day thereafter (Register 76, No. 28).
2. Editorial correction replacing text inadvertently omitted during printing (Register 80, No. 9).
3. Redesignation of subchapter 3 (section 55675) to article 5 (section 55675) and amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Editorial correction of first paragraph (Register 91, No. 31).

Subchapter 8. Academic Calendar

Article 1. 175–Day Minimum Academic Calendar

§ 55700. Scope.

The provisions of this article pertain to changes made on or after July 1, 1982, to any traditional academic year calendar consisting of at least 175 days of instruction and evaluation. The conversion to a flexible calendar operation is not addressed by the provisions of this article; rather, the provisions of article 2 (commencing with section 55720) govern the flexible calendar option.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New chapter 8, articles 1–4 (sections 55700–55731, not consecutive) filed 5–7–76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment of NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 8 (articles 1–4, sections 55700–55731, not consecutive) and new chapter 8 (articles 1 and 2, sections 55700–55732, not consecutive) filed 7–26–82; designated effective 7–30–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 31). For prior history, see Register 80, No. 11.
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 22).

§ 55700.1. Studies on a Quarter System, Trimester Basis or Flexible Calendar.

At the request of a community college district, the Chancellor may approve a program of studies on a quarter system or a trimester basis, or a flexible calendar.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 22).

§ 55701. College and Academic Year.

The "college year" begins on the first day of July and ends on the last day of June. The "academic year" means that portion of the college year during which the community college is maintained, which period shall include not less than the number of days required by regulations adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 55702. Approval of Changes.

(a) Prior to any change in academic year configuration, including the addition, deletion, shortening or lengthening of any term, the governing board of a district shall obtain the approval of the Chancellor.

(b) Requests for approval shall be made on a form provided by the Chancellor, and shall address:

(1) A complete description of the calendar configuration;

(2) The district's ability to comply with the 175–Day Rule as provided in section 58142; and

(3) The educational implications, positive and negative, of the proposed change.

(c) The Chancellor shall approve a requested change in academic year terms if it is found that:

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 13: Course Articulation-Local

History Index for
Title 5, California Code of Regulations

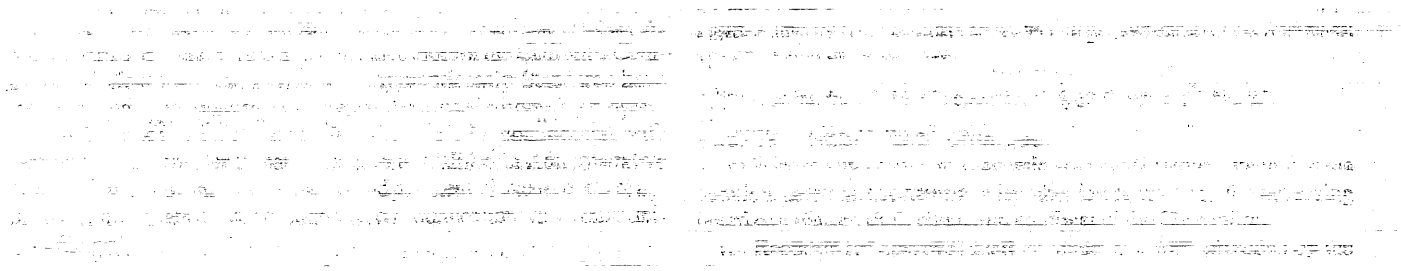
Section 51022

Register 84-26 § 51022: Added new section.

Register 91-23 § 51022: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 95-15 § 51022: Editorial correction of HISTORY 2.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.



51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding program review as specified in Section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 71025 and 78405, Education Code. Reference: Sections 71025, 71070, 78016, 78200 and 78405, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of Sections 53200–53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700, 71025 and 71068, Education Code. Reference: Sections 71025, 71068 and 72292, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

(e) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 14: Academic Freedom

History Index for
Title 5, California Code of Regulations

Section 51023

Register 84-26 § 51023: Added new section.

Register 91-23 § 51023: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 94-38 § 51023: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51023: Editorial correction of HISTORY 2.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1984-26

§ 51023

51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding program review as specified in Section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 71025 and 78405, Education Code. Reference: Sections 71025, 71070, 78016, 78200 and 78405, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of Sections 53200–53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700, 71025 and 71068, Education Code. Reference: Sections 71025, 71068 and 72292, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

Register 1991-23

§ 51023

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

Register 1994-38

§ 51023

college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000-53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sec-

Register 1995-15

§ 51023

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 15: Shared Governance

History Index for
Title 5, California Code of Regulations

Section 51023
Section 51023.5
Section 51023.7
Section 53200
Section 53202
Section 53203
Section 53204
Section 53206
Section 53207

Register 77-30	Renumbering of Chapter 1 (Sections 53100 - 53205) to Chapter 2 (Sections 53100 -53205).
Register 77-45	§ 53200: Amendment of NOTE.
Register 78-06	§ 53201: Amendment of section.
	§ 53202: Amendment of section.
Register 78-19	§ 53206: New section filed.
Register 81-03	§ 53203: Amendment of section.
	§ 53205: Amendment of section.
Register 83-18	§ 53200: Amendment of NOTE.
	§ 53201: Amendment of NOTE.
	§ 53202: Amendment of section.
	§ 53204: Amendment of section.

§ 53205: Amendment of NOTE.

§ 53206: Amendment of section.

Register 84-26 § 51023: Added new section.

Register 90-49 § 53200: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53201: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203: Repealer and new section filed with Secretary of State by Board of Governors, California Community Colleges; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53204: Repealer and new section filed with Secretary of State by Board of Governors, California Community Colleges;

submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53205: Repealer filed with Secretary of State by Board of Governors, California Community Colleges; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-23

§ 51023: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51203.5: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51203.7: New section filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to

Education Code section 70901.5(b).

Register 91-43 § 51203.5: Editorial correction of printing errors in subsection (b) and HISTORY 1.

§ 51203.7: Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1.

Register 93-25 § 53200: Relocation of article 2 heading.

Register 94-38 § 51023: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51203.5: Amendment of subsections (a)(1), (a)(3), (a)(5), (a)(7), (b), (c), and (d). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51203.7: Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53200: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53203: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53204: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53206: Amendment of subsection (a). Submitted to OAL for

printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51023: Editorial correction of HISTORY 2.

Register 95-19 § 53206: Editorial correction of HISTORY 3.

Register 2003-18 § 53207: New section filed. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1977-30

§ 53200
§ 53201
§ 53202
§ 53203
§ 53204
§ 53205

CHAPTER 2. CERTIFICATED POSITIONS

SUBCHAPTER 1. SPECIAL NON-CREDENTIALED EMPLOYEES

53100. Prerequisites for Employment Under Education Code Section 25423.5. Prior to the employment of any noncredentialed instruction pursuant to Education Code Section 25423.5, the employee candidate shall:

(a) Furnish reasonable evidence, and be, of good character and answer the following questions:

(1) Have you ever had a diploma, credential, permit, or certificate, denied, revoked, or suspended?

(2) Have you ever failed or refused to fulfill a contract of employment entered into by you with any school district?

(3) Have you ever left the service of any school district without the consent of the superintendent or the governing board of such district?

(4) Have you ever been found guilty of immoral conduct or dismissed from any teaching position for immoral or unprofessional conduct or for unfitness for service?

(5) Have you ever been found guilty of or dismissed from any teaching position for persistent defiance of or refusal to obey the laws regulating the duties of persons serving in the public school system?

(6) Have you ever (1) forfeited bail, or been (2) arrested, or (3) convicted, or (4) fined, or (5) jailed, or (6) placed on probation for any violation of law other than minor traffic offenses? (If any of these events have occurred, this question must be answered "yes" regardless of subsequent court action under Penal Code Section 1203.4 resulting in dismissal or "expungement.")

(7) Have you had military service? (Both men and women must answer this question.)

If yes, state type of discharge: _____

If other than honorable discharge, explain fully.

(b) Execute the oath prescribed in Education Code Section 13121.

(c) Meet the citizenship requirements prescribed in Education Code Section 13123.

(d) Be free from any contagious and communicable disease or other disabling disease or defect unfitting the applicant to instruct or associate with minors.

(e) Submit personal identification cards to the governing board of the district which is to employ him upon the special form provided by the Department of Education and in the manner prescribed in Section 6026 of this title.

(f) Not be disqualified to receive a teaching credential under the provisions of Education Code Sections 13129 and 13130.

The governing board of the prospective employee district shall determine whether these requirements have been satisfied.

NOTE: Authority cited: Sections 66700, 71020, 71025, 71062 and 71068, Education Code. Reference: Sections 66700, 71023, 71025 and 71068, Education Code.

History: 1. Renumbering of Chapter 1 (Sections 53100–53205) to Chapter 2 (Sections 53100–53205) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).

53101. Processing of Fingerprint Cards. The governing board shall submit the personal identification fingerprint cards of candidates for teaching positions under the provisions of this subchapter, in duplicate, to the Bureau of Criminal Identification and Investigation of the Department of Justice, Sacramento, California, with a request in writing that the Bureau render a report thereon for such governing board to the Credentials Office, Department of Education, Sacramento, California. At that time the governing board shall also notify the secretary of the Committee of Credentials for the State of California and the county superintendent of schools of the county in which the Community College is located that such request has been made. The governing board shall not employ any person pursuant to Education Code Section 25423.5 unless and until the board has received a report from the Committee of Credentials in connection therewith. Any processing charges shall be borne by the submitting governing board.

53102. Cause for Dismissal. No person employed pursuant to Education Code Section 25423.5 and this subchapter, who has engaged in any conduct which would constitute cause for denial of an application for teaching credential under Education Code Sections 13129 and 13130 or cause for dismissal under Education Code Section 13403 shall be retained in employment after discovery thereof by the employing governing board.

SUBCHAPTER 2. ACADEMIC SENATES

53200. Definitions. For the purpose of this subchapter:

(a) "Faculty" means those certificated persons who teach full time in a Community College or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(b) "Academic senate" and "faculty council" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters.

NOTE: Authority cited for Chap. 1, Subchap. 2: Sections 193, 197 and 22650, Education Code.

53201. Academic Senate or Faculty Council. In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and professional matters, an academic senate or faculty council may be established.

53202. Formation; Procedures; Membership. The following procedure shall be used to establish an academic senate or faculty council:

(a) The faculty of a Community College shall decide by secret ballot to have an academic senate or faculty council.

(b) The governing board of the district maintaining that Community College shall establish the academic senate or faculty council by authorizing the faculty to:

(1) Fix and amend by vote of the faculty the composition, structure, and procedures of the academic senate or faculty council.

(2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

53203. Powers. After consultation with the administration of its Community College, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

53204. "Meet and Confer." Upon the request of the academic senate or faculty council and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board member or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

53205. Duties Assigned by Administration and Governing Board. An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its Community College or the governing board of the district maintaining its Community College.

CHAPTER 3. CLASSIFIED POSITIONS
(No provisions)

History: 1. Renumbering of Chapter 2 (no provisions) to Chapter 3 (no provisions) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).

SUBCHAPTER 1.5. SICK LEAVE TRANSFER

53125. Transfer of Accumulated Sick Leave. The provisions of this section are to implement Section 87792 of the Education Code relative to the manner in which accumulated sick leave shall be certified by one employer to another when an employee changes employment from one employer to another.

(a) **Accumulated Sick Leave.** As used in this section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) **Transfer.** A transfer of accumulated sick leave from a school district or office of the county superintendent of schools to another school district or office of the county superintendent of schools or from either to the Chancellor's Office; or a transfer from the Chancellor's Office to a school district or county superintendent of schools is authorized by Education Code Section 87782, 87783, and 87785, provided the certificated employee meets the eligibility requirements stated therein.

Transfer shall be accomplished as follows: (1) the person who accumulated the sick leave or the new employing agency using a form prescribed by the Chancellor's Office requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave, (2) upon receipt of the request the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is in charge with maintaining employee attendance records, (3) the new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785, which provides that the accumulated sick leave transferred may not exceed that amount of accumulated sick leave that the person would have earned had he been an employee of the state.

NOTE: Authority cited: Sections 71020, 71024 and 87782, Education Code. Reference: Sections 87782, 87783, and 87785, Education Code.

History: 1. New Subchapter 1.5 (Section 53125) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 2. ACADEMIC SENATES

53200. Definitions. For the purpose of this subchapter:

(a) "Faculty" means those certificated persons who teach full time in a Community College or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(b) "Academic senate" and "faculty council" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters.

NOTE: Authority cited for Chap. 1, Subchap. 2: Sections 71020, 71024 and 66700, Education Code.

History: 1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

53201. Academic Senate or Faculty Council. In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and professional matters, an academic senate or faculty council may be established.

53202. Formation; Procedures; Membership. The following procedure shall be used to establish an academic senate or faculty council:

(a) The faculty of a Community College shall decide by secret ballot to have an academic senate or faculty council.

(b) The governing board of the district maintaining that Community College shall establish the academic senate or faculty council by authorizing the faculty to:

(1) Fix and amend by vote of the faculty the composition, structure, and procedures of the academic senate or faculty council.

(2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

53203. Powers. After consultation with the administration of its Community College, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

53204. "Meet and Confer." Upon the request of the academic senate or faculty council and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board member or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

53205. Duties Assigned by Administration and Governing Board. An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its Community College or the governing board of the district maintaining its Community College.

CHAPTER 3. CLASSIFIED POSITIONS
(No provisions)

History: 1. Renumbering of Chapter 2 (no provisions) to Chapter 3 (no provisions) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).

Register 1978-06

§ 53201
§ 53202

SUBCHAPTER 1.5. SICK LEAVE TRANSFER

53125. Transfer of Accumulated Sick Leave. The provisions of this section are to implement Section 87792 of the Education Code relative to the manner in which accumulated sick leave shall be certified by one employer to another when an employee changes employment from one employer to another.

(a) **Accumulated Sick Leave.** As used in this section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) **Transfer.** A transfer of accumulated sick leave from a school district or office of the county superintendent of schools to another school district or office of the county superintendent of schools or from either to the Chancellor's Office; or a transfer from the Chancellor's Office to a school district or county superintendent of schools is authorized by Education Code Section 87782, 87783, and 87785, provided the certificated employee meets the eligibility requirements stated therein.

Transfer shall be accomplished as follows: (1) the person who accumulated the sick leave or the new employing agency using a form prescribed by the Chancellor's Office requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave, (2) upon receipt of the request the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is in charge with maintaining employee attendance records, (3) the new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785, which provides that the accumulated sick leave transferred may not exceed that amount of accumulated sick leave that the person would have earned had he been an employee of the state.

NOTE: Authority cited: Sections 71020, 71024 and 87782, Education Code. Reference: Sections 87782, 87783, and 87785, Education Code.

History: 1. New Subchapter 1.5 (Section 53125) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 2. ACADEMIC SENATES

53200. Definitions. For the purpose of this subchapter:

(a) "Faculty" means those certificated persons who teach full time in a Community College or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(b) "Academic senate" and "faculty council" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters.

NOTE: Authority cited for Chap. 1, Subchap. 2: Sections 71020, 71024 and 66700, Education Code.

History: 1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

53201. Academic Senate or Faculty Council. In order that the faculty may have formal and effective procedure for participating in the formation of district policies on academic and professional matters, an academic senate or faculty council may be established at the college and/or district level.

NOTE: Additional Authority cited: Section 71079, Education Code.

History: 1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).

53202. Formation; Procedures; Membership. The following procedure shall be used to establish an academic senate or faculty council:

(a) The faculty of a community college shall vote by secret ballot to form an academic senate or faculty council.

(b) In multi-college districts, the faculty of the district colleges may vote whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of the district shall recognize the academic senate or faculty council and authorize the faculty to:

(1) Fix and amend by vote of the faculty the composition, structure, and procedures of the academic senate or faculty council.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(d) The faculty may provide for the membership of part-time faculty members in the academic senate or faculty council.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate or faculty council with the same functions as stated in 53200(b) and 53201.

NOTE: Additional Authority cited: Section 71079, Education Code.

History: 1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).

53203. Powers. After consultation with the administration of its Community College, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

53204. "Meet and Confer." Upon the request of the academic senate or faculty council and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board member or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

53205. Duties Assigned by Administration and Governing Board. An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its Community College or the governing board of the district maintaining its Community College.

CHAPTER 3. CLASSIFIED POSITIONS
(No provisions)

History: 1. Renumbering of Chapter 2 (no provisions) to Chapter 3 (no provisions) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).

53204. "Meet and Confer." Upon the request of the academic senate or faculty council and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board member or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

53205. Duties Assigned by Administration and Governing Board. An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its Community College or the governing board of the district maintaining its Community College.

53206. Academic Senate for California Community Colleges.
(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.
(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of Community College academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 71020 and 66700, Education Code. Reference: Section 66700, Education Code.

History: 1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).

CHAPTER 3. CLASSIFIED POSITIONS
(No provisions)

History: 1. Renumbering of Chapter 2 (no provisions) to Chapter 3 (no provisions) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).

Register 1981-03

§ 53203
§ 53205

SUBCHAPTER 1.5. SICK LEAVE TRANSFER

53125. Transfer of Accumulated Sick Leave.

The provisions of this section are to implement Section 87792 of the Education Code relative to the manner in which accumulated sick leave shall be certified by one employer to another when an employee changes employment from one employer to another.

(a) Accumulated Sick Leave. As used in this section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) Transfer. A transfer of accumulated sick leave from a school district or office of the county superintendent of schools to another school district or office of the county superintendent of schools or from either to the Chancellor's Office; or a transfer from the Chancellor's Office to a school district or county superintendent of schools is authorized by Education Code Section 87782, 87783, and 87785, provided the certificated employee meets the eligibility requirements stated therein.

Transfer shall be accomplished as follows: (1) the person who accumulated the sick leave or the new employing agency using a form prescribed by the Chancellor's Office requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave, (2) upon receipt of the request the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is in charge with maintaining employee attendance records, (3) the new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785, which provides that the accumulated sick leave transferred may not exceed that amount of accumulated sick leave that the person would have earned had he been an employee of the state.

NOTE: Authority cited: Sections 71020, 71024 and 87782, Education Code. Reference: Sections 87782, 87783, and 87785, Education Code.

HISTORY:

1. New Subchapter 1.5 (Section 53125) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 2. ACADEMIC SENATES

53200. Definitions.

For the purpose of this subchapter:

(a) "Faculty" means those certificated persons who teach full time in a Community College or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(b) "Academic senate" and "faculty council" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters.

NOTE: Authority cited for Chap. 1, Subchap. 2: Sections 71020, 71024 and 66700, Education Code.

HISTORY:

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

53201. Academic Senate or Faculty Council.

In order that the faculty may have formal and effective procedure for participating in the formation of district policies on academic and professional matters, an academic senate or faculty council may be established at the college and/or district level.

NOTE: Additional Authority cited: Section 71079, Education Code.

HISTORY:

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).

53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate or faculty council:

(a) The faculty of a community college shall vote by secret ballot to form an academic senate or faculty council.

(b) In multi-college districts, the faculty of the district colleges may vote whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of the district shall recognize the academic senate or faculty council and authorize the faculty to:

(1) Fix and amend by vote of the faculty the composition, structure, and procedures of the academic senate or faculty council.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(d) The faculty may provide for the membership of part-time faculty members in the academic senate or faculty council.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate or faculty council with the same functions as stated in 53200(b) and 53201.

NOTE: Additional Authority cited: Section 71079, Education Code.

HISTORY:

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).

53203. Powers.

After consultation with the administration of its community college, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

NOTE: Authority cited: Sections 71020, 71062, 71079, Education Code. Reference: Section 71079, Education Code.

HISTORY:

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).

53204. "Meet and Confer."

Upon the request of the academic senate or faculty council and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board member or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

53205. Duties Assigned by Administration and Governing Board.

An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its community college or the governing board of the district maintaining its community college.

NOTE: Authority cited: Sections 71020, 71062, 71079, Education Code. Reference: Section 71079, Education Code.

HISTORY:

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).

53206. Academic Senate for California Community Colleges.

(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of Community College academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 71020 and 66700, Education Code. Reference: Section 66700, Education Code.

HISTORY:

1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).

CHAPTER 3. CLASSIFIED POSITIONS
(No provisions)

HISTORY:

1. Renumbering of Chapter 2 (no provisions) to Chapter 3 (no provisions) filed 7-19-77; effective thirtieth day thereafter (Register 77, No. 30).

SUBCHAPTER 2. ACADEMIC SENATES

53200. Definitions.

For the purpose of this subchapter:

(a) "Faculty" means those certificated persons who teach full time in a Community College or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.

(b) "Academic senate" and "faculty council" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY:

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

53201. Academic Senate or Faculty Council.

In order that the faculty may have formal and effective procedure for participating in the formation of district policies on academic and professional matters, an academic senate or faculty council may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY:

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate or faculty council:

(a) The faculty of a community college shall vote by secret ballot to form an academic senate or faculty council.

(b) In multi-college districts, the faculty of the district colleges may vote whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of the district shall recognize the academic senate or faculty council and authorize the faculty to:

(1) Fix and amend by vote of the faculty the composition, structure, and procedures of the academic senate or faculty council.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(d) The faculty may provide for the membership of part-time faculty members in the academic senate or faculty council.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate or faculty council with the same functions as stated in subsection (b) of Section 53200 and Section 53201.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY:

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

53203. Powers.

After consultation with the administration of its community college, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

NOTE: Authority cited: Sections 71020, 71062, 71079, Education Code. Reference: Section 71079, Education Code.

HISTORY:

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).

53204. Meet and Confer.

Upon the request of the academic senate or faculty council and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY:

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

53205. Duties Assigned by Administration and Governing Board.

An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its community college or the governing board of the district maintaining its community college.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY:

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding program review as specified in Section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 71025 and 78405, Education Code. Reference: Sections 71025, 71070, 78016, 78200 and 78405, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of Sections 53200–53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700, 71025 and 71068, Education Code. Reference: Sections 71025, 71068 and 72292, Education Code.

HISTORY:

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

Register 1990-49

§ 53200
§ 53201
§ 53202
§ 53203
§ 53204
§ 53205

the preceding school year and certifying that in connection with each such employee all of the provisions of Education Code Section 87401 and this subchapter have been satisfied.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 1.5. Sick Leave Transfer

§ 53125. Transfer of Accumulated Sick Leave.

The provisions of this section are to implement Section 87782 of the Education Code relative to the manner in which accumulated sick leave shall be certified by one employer to another when an employee changes employment from one employer to another.

(a) Accumulated Sick Leave. As used in this section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) Transfer. A transfer of accumulated sick leave from a school district or office of the county superintendent of schools to another school district or office of the county superintendent of schools or from either to the Chancellor's Office; or a transfer from the Chancellor's Office to a school district or county superintendent of schools is authorized by Education Code Section 87782, 87783, and 87785, provided the certificated employee meets the eligibility requirements stated therein.

Transfer shall be accomplished as follows: (1) the person who accumulated the sick leave or the new employing agency using a form prescribed by the Chancellor's Office requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave, (2) upon receipt of the request the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is in charge with maintaining employee attendance records, (3) the new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785, which provides that the accumulated sick leave transferred may not exceed that amount of accumulated sick leave that the person would have earned had he been an employee of the state.

NOTE: Authority cited: Sections 71020, 71024 and 87782, Education Code. Reference: Sections 87782, 87783 and 87785, Education Code.

HISTORY

1. New Subchapter 1.5 (Section 53125) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Article 2. Academic Senates

§ 53200. Definitions.

For the purpose of this subchapter:

(a) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of article 5 (commencing with section 3540) of chapter 10.7 of division 4 of title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.

(b) "Academic senate," "faculty council," and "faculty senate" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this subchapter, reference to the term "academic senate" shall also constitute reference to "faculty council" or "faculty senate."

(c) "Academic and professional matters" means the following policy development and implementation matters:

(1) Curriculum, including establishing prerequisites and placing courses within disciplines

(2) Degree and certificate requirements

(3) Grading policies

(4) Educational program development

(5) Standards or policies regarding student preparation and success

(6) District and college governance structures, as related to faculty roles

(7) Faculty roles and involvement in accreditation processes, including selfstudy and annual reports

(8) Policies for faculty professional development activities

(9) Processes for program review

(10) Processes for institutional planning and budget development, and

(11) Other academic and professional matters as mutually agreed uponbetween the governing board and the academic senate.

(d) "Consult collegially" means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

(1) Relying primarily upon the advice and judgment of the academic senate; or

(2) That the district governing board, or such representatives as it may designate, and the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate:

(a) The full-time faculty of a community college shall vote by secret ballot to form an academic senate.

(b) In multi-college districts, the full-time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of a district shall recognize the academic senate and authorize the faculty to:

(1) Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate.

(d) The full-time faculty may provide for the membership and participation of part-time faculty members in the academic senate.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203. Powers.

(a) The governing board of a community college district shall adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other regulations contained in this part.

(b) In adopting the policies and procedures described in subsection (a), the governing board or its designees, shall consult collegially with representatives of the academic senate.

(c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to subsection (a) of this section.

(f) The appointment of faculty members to serve on college or district committees, task forces, or other grounds dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.

§ 53204. Scope of Regulations.

Nothing in this subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66730 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

Subchapter 3. Full-Time and Part-Time Facility

Article 1. Scope and Definitions

§ 53300. Scope.

This chapter implements and should be read in conjunction with the requirements of Education Code section 87482.6 concerning the proportion of full-time and part-time instructors on the faculty of community colleges. The requirements of this chapter apply only until the provisions of Education Code section 84750 regarding program-based funding are implemented by a standard adopted by the Board of Governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors.

Register 1991-23

§ 51023
§ 51023.5
§ 51023.7
§ 53206

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

For the purposes of this section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of subsections (1) and (2) of this section, the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code sections 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer–employee relations. Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

(c) Nothing in this section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to sections 53200–53205, and section 51023.7, respectively, of this division.

(d) The governing board of a community college district shall comply substantially with the provisions of this section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedure that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiate or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to the regulations on academic senates contained in sections 53200–53205 of chapter IV of this division.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901(b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3-12-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51024. Matriculation Services.

When matriculation services have been fully funded, as certified by the Chancellor in accord with policies adopted by the Board of Governors, the governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under section 55512(c);

(c) provide matriculation services to its students in accordance with sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with section 55534; and

(e) substantially comply with all other provisions of chapter 6 (commencing with section 55500) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210-78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) The Chancellor, at least once each seven years, and at such other times or as he or she deems necessary, shall review each community college to determine whether it has met the minimum conditions contained in chapter 1 (commencing with section 51000) of this division.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51102. Enforcement.

(a) If any review pursuant to section 51100 discloses that a college is not in compliance with the provisions of chapter 1 (commencing with section 51000) of this division, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) Accept in whole or part the district's response regarding noncompliance;

(2) Require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) Withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance, and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to subsection (b) of this section; provided that in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3[216z (Sections 51200 and 51201) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300-51319, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

Subchapter 5. Facilities

HISTORY

1. Repealer of Chapter 5 (Sections 51400 and 51401) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 6. Counseling Services

HISTORY

1. Repealer of Chapter 6 (Sections 51500-51503) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 7. Degrees and Certificates

HISTORY

1. Repealer of Chapter 7 (Sections 51600-51606) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 71, No. 40.

Subchapter 8. Degrees and Certificates

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY

1. New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter (Register 71, No. 40).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 6-9-82; designated effective 7-1-83 (Register 82, No. 24).
4. Repealer of Chapter 8 (Sections 51620-51629) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 9. Minimum Class Size

NOTE: Authority cited for Chapter 9: Section 71027, Education Code.

HISTORY

1. New Chapter (§§ 51700 through 51703) filed 11-12-71; effective thirtieth day thereafter (Register 71, No. 46).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 9 (Sections 51700-51703) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

the preceding school year and certifying that in connection with each such employee all of the provisions of Education Code Section 87401 and this subchapter have been satisfied.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Article 1.5. Sick Leave Transfer

§ 53125. Transfer of Accumulated Sick Leave.

The provisions of this section are to implement section 87782 of the Education Code relative to the manner in which accumulated sick leave shall be certified by one employer to another when an employee changes employment from one employer to another.

(a) Accumulated Sick Leave. As used in this section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code section 87781 but is unused.

(b) Transfer. A transfer of accumulated sick leave from a school district or office of the county superintendent of schools to another school district or office of the county superintendent of schools or from either to the Chancellor's Office; or a transfer from the Chancellor's Office to a school district or county superintendent of schools is authorized by Education Code section 87782, 87783, and 87785, provided the certificated or academic employee meets the eligibility requirements stated therein.

Transfer shall be accomplished as follows:

(1) the person who accumulated the sick leave or the new employing agency using a form prescribed by the Chancellor's Office requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave,

(2) upon receipt of the request the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is in charge with maintaining employee attendance records,

(3) the new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code section 87785, which provides that the accumulated sick leave transferred may not exceed that amount of accumulated sick leave that the person would have earned had he or she been an employee of the state.

NOTE: Authority cited: Sections 70901, 71024 and 87782, Education Code. Reference: Sections 87781, 87782, 87783 and 87785, Education Code.

HISTORY

1. New subchapter 1.5 (section 53125) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 2. Academic Senates

§ 53130. Availability of Rules and Regulations for Evaluation of Performance.

The governing board of a community college district shall adopt and cause to be printed and made available to each academic employee of the district reasonable rules and regulations providing for the evaluation of the performance of academic employees in their assigned duties.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 53200. Definitions.

For the purpose of this subchapter:

(a) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of article 5 (commencing with section 3540) of chapter 10.7 of division 4 of title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.

(b) "Academic senate," "faculty council," and "faculty senate" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this subchapter, reference to the term "academic senate" shall also constitute reference to "faculty council" or "faculty senate."

(c) "Academic and professional matters" means the following policy development and implementation matters:

(1) Curriculum, including establishing prerequisites and placing courses within disciplines

(2) Degree and certificate requirements

(3) Grading policies

(4) Educational program development

(5) Standards or policies regarding student preparation and success

(6) District and college governance structures, as related to faculty roles

(7) Faculty roles and involvement in accreditation processes, including selfstudy and annual reports

(8) Policies for faculty professional development activities

(9) Processes for program review

(10) Processes for institutional planning and budget development, and

(11) Other academic and professional matters as mutually agreed uponbetween the governing board and the academic senate.

(d) "Consult collegially" means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

(1) Relying primarily upon the advice and judgment of the academic senate; or

(2) That the district governing board, or such representatives as it may designate, and the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2–10–78; effective thirtieth day thereafter (Register 78, No. 6).

2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate:

(a) The full–time faculty of a community college shall vote by secret ballot to form an academic senate.

(b) In multi–college districts, the full–time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of a district shall recognize the academic senate and authorize the faculty to:

(1) Fix and amend by vote of the full–time faculty the composition, structure, and procedures of the academic senate.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate.

(d) The full–time faculty may provide for the membership and participation of part–time faculty members in the academic senate.

(e) In the absence of any full–time faculty members in a community college, the part–time faculty of such community college may form an academic senate.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2–10–78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203. Powers.

(a) The governing board of a community college district shall adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other regulations contained in this part.

(b) In adopting the policies and procedures described in subsection (a), the governing board or its designees, shall consult collegially with representatives of the academic senate.

(c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to subsection (a) of this section.

(f) The appointment of faculty members to serve on college or district committees, task forces, or other grounds dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.

§ 53204. Scope of Regulations.

Nothing in this subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).

2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Full-Time and Part-Time Facility

Article 1. Scope and Definitions

§ 53300. Scope.

This chapter implements and should be read in conjunction with the requirements of Education Code section 87482.6 concerning the proportion of full-time and part-time instructors on the faculty of community colleges. The requirements of this chapter apply only until the provisions of Education Code section 84750 regarding program-based funding are implemented by a standard adopted by the Board of Governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53302. Full-Time Instructor.

For purposes of this chapter only, a full-time instructor shall be defined as any regular and contact faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Proportions of Full-Time and Part-Time Facility, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full-time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(b) Sabbatical. The hours of a full-time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(c) Released/Reassigned Time. The hours of a full-time instructor on released or reassigned time shall be counted as if the instructor was teaching full-time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(d) Unpaid Leave. The hours of a full-time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment,

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53311. Base Year.

For purposes of this chapter, fiscal year 1988-89 shall be the base year from which improvement in the percentage of hours of credit instruction taught by full-time instructors shall be measured.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53312. Additional Full-Time Faculty Positions.

(a) The Chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part-time instructors times the statewide average full-time teaching load).

(c) If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code.Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53314. Report to Districts.

(a) By March 15th of each year, the Chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

Register 1991-43

§ 51023.5
§ 51023.7

(c) Substantially comply with the provisions of chapter 1 (commencing with section 53000) of division 4 of this part.

NOTE: Authority cited: Sections 66700, 70901, and 87105, Education Code. Reference: Sections 70901 and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of chapter 11 (commencing with section 55825) of division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 66700 and 70901, and Articles 1, 2, and 3 (commencing with Section 81800) of Chapter 4, Part 49, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in chapter 1 (commencing with section 55000) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that,

for the purposes of this section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of subsections (1) and (2) of this section, the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code sections 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Nothing in this section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

(c) Nothing in this section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to sections 53200–53205, and section 51023.7, respectively, of this division.

(d) The governing board of a community college district shall comply substantially with the provisions of this section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pur-

Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

4. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53101. Processing of Fingerprint Cards.

NOTE: Authority cited: Sections 71020, 71064, 87220 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53102. Cause for Dismissal.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53103. Report of Persons Employed.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 1.5. Sick Leave Transfer

§ 53125. Transfer of Accumulated Sick Leave.

The provisions of this section are to implement section 87782 of the Education Code relative to the manner in which accumulated sick leave shall be certified by one employer to another when an employee changes employment from one employer to another.

(a) Accumulated Sick Leave. As used in this section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code section 87781 but is unused.

(b) Transfer. A transfer of accumulated sick leave from a school district or office of the county superintendent of schools to another school district or office of the county superintendent of schools or from either to the Chancellor's Office; or a transfer from the Chancellor's Office to a school district or county superintendent of schools is authorized by Education Code section 87782, 87783, and 87785, provided the certificated or academic employee meets the eligibility requirements stated therein.

Transfer shall be accomplished as follows:

(1) the person who accumulated the sick leave or the new employing agency using a form prescribed by the Chancellor's Office requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave,

(2) upon receipt of the request the former employing agency forthwith transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is in charge with maintaining employee attendance records,

) the new employing agency credits the person with the accumulated leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code section 87785, which provides that the accumulated sick leave transferred may not exceed that amount of accumulated sick leave that the person would have earned had he or she been an employee of the state.

NOTE: Authority cited: Sections 70901, 71024 and 87782, Education Code. Reference: Sections 87781, 87782, 87783 and 87785, Education Code.

HISTORY

1. New subchapter 1.5 (section 53125) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).

2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Article 1.6. Evaluation of Academic Employees

§ 53130. Availability of Rules and Regulations for Evaluation of Performance.

The governing board of a community college district shall adopt and cause to be printed and made available to each academic employee of the district reasonable rules and regulations providing for the evaluation of the performance of academic employees in their assigned duties.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

2. New article 1.6 heading filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 2. Academic Senates

§ 53200. Definitions.

For the purpose of this subchapter:

(a) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of article 5 (commencing with section 3540) of chapter 10.7 of division 4 of title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.

(b) "Academic senate," "faculty council," and "faculty senate" means an organization formed in accordance with the provisions of this subchapter whose primary function is, as the representative of the faculty, to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this subchapter, reference to the term "academic senate" shall also constitute reference to "faculty council" or "faculty senate."

(c) "Academic and professional matters" means the following policy development and implementation matters:

(1) Curriculum, including establishing prerequisites and placing courses within disciplines

(2) Degree and certificate requirements

(3) Grading policies

(4) Educational program development

(5) Standards or policies regarding student preparation and success

(6) District and college governance structures, as related to faculty roles

(7) Faculty roles and involvement in accreditation processes, including selfstudy and annual reports

(8) Policies for faculty professional development activities

(9) Processes for program review

(10) Processes for institutional planning and budget development, and

(11) Other academic and professional matters as mutually agreed upon between the governing board and the academic senate.

(d) "Consult collegially" means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

(1) Relying primarily upon the advice and judgment of the academic senate; or

(2) That the district governing board, or such representatives as it may designate, and the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
4. Relocation of article 2 heading filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate:

(a) The full-time faculty of a community college shall vote by secret ballot to form an academic senate.

(b) In multi-college districts, the full-time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of a district shall recognize the academic senate and authorize the faculty to:

(1) Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate.

(d) The full-time faculty may provide for the membership and participation of part-time faculty members in the academic senate.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203. Powers.

(a) The governing board of a community college district shall adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other regulations contained in this part.

(b) In adopting the policies and procedures described in subsection (a), the governing board or its designees, shall consult collegially with representatives of the academic senate.

(c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to subsection (a) of this section.

(f) The appointment of faculty members to serve on college or district committees, task forces, or other grounds dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.

§ 53204. Scope of Regulations.

Nothing in this subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

History

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Full-Time and Part-Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This subchapter relates to and should be read in conjunction with the requirements of Section 51025 of Subchapter 1 of Chapter 2 of this Division concerning the proportion of full-time and part-time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

History

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

§ 53302. Full-Time Instructor.

For purposes of this chapter only, a full-time instructor shall be defined as any regular and contact faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.6, Education Code.

History

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

Article 2. Proportions of Full-Time and Part-Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full-time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(b) Sabbatical. The hours of a full-time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(c) Released/Reassigned Time. The hours of a full-time instructor on released or reassigned time shall be counted as if the instructor was teaching full-time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(d) Unpaid Leave. The hours of a full-time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(f) Outreach Locations. The hours of instruction taught by full-time and part-time instructors at any outreach location that is more than 25 miles from the main campus and generates less than 200 FTES, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(g) Late Retirement. The hours of a full-time instructor who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time instructor by the current Fall primary term, shall be included in both the total hours of credit instruction

Register 1994-38

§ 51023
§ 51023.5
§ 51023.7
§ 53200
§ 53203
§ 53204
§ 53206

college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long-range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000-53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, those policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

(2) Participation structures and procedures for the staff positions defined or categorized.

(3) In performing the requirements of Subsections (a)(1) and (2), the governing board or its designees shall consult with the representatives of existing staff councils, committees, employee organizations, and other such bodies. Where no groups or structures for participation exist that provide representation for the purposes of this Section for particular groups of staff, the governing board or its designees, shall broadly inform all staff of the policies and procedures being developed, invite the participation of staff, and provide opportunities for staff to express their views.

(4) Staff shall be provided with opportunities to participate in the formulation and development of district and college policies and procedures, and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff.

(5) Except in unforeseeable, emergency situations, the governing board shall not take action on matters significantly affecting staff until it has provided staff an opportunity to participate in the formulation and development of those matters through appropriate structures and procedures as determined by the governing board in accordance with the provisions of this Section.

(6) The policies and procedures of the governing board shall ensure that the recommendations and opinions of staff are given every reasonable consideration.

(7) The selection of staff representatives to serve on college and district task forces, committees, or other governance groups shall, when required by law, be made by those councils, committees, employee organizations, or other staff groups that the governing board has officially recognized in its policies and procedures for staff participation. In all other instances, the selection shall either be made by, or in consultation with, such staff groups. In all cases, representatives shall be selected from the category that they represent.

(b) In developing and carrying out policies and procedures pursuant to Subsection (a), the district governing board shall ensure that its actions do not dominate or interfere with the formation or administration of any employee organization, or contribute financial or other support to it, or in any way encourage employees to join any organization in preference to another. In addition, in order to comply with Government Code Sec-

tions 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under Section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer–employee relations. Nothing in this Section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

(c) Nothing in this Section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to Sections 53200–53204, and Section 51023.7, respectively.

(d) The governing board of a community college district shall comply substantially with the provisions of this Section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).
3. Amendment of subsections (a)(1), (a)(3), (a)(5), (a)(7), (b), (c) and (d) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations, the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this Section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this Section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this Section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to the regulations on academic senates contained in Sections 53200–53206.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this Section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1 (Register 91, No. 43).
3. Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 51025. Full–Time/Part–Time Faculty.

This Section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) Community college districts which have less than 75 percent of their hours of credit instruction taught by full–time instructors, as determined from their base data calculated pursuant to Section 53311, shall apply the growth revenues received related to increases in credit FTES in accordance with Section 58774 and a portion of the program improvement allocation received in accordance with Section 58775, as follows:

2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Subchapter 2. Certificated Positions

Article 1. Special Non–Credentialed Employees

§ 53100. Prerequisites for Employment Under Education Code Section 87401.

NOTE: Authority cited: Sections 71020, 71064, and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Renumbering of chapter 1 (sections 53100–53205) to chapter 2 (sections 53100–53205) filed 7–19–77; effective thirtieth day thereafter (Register 77, No. 30).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53101. Processing of Fingerprint Cards.

NOTE: Authority cited: Sections 71020, 71064, 87220 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53102. Cause for Dismissal.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53103. Report of Persons Employed.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 1.5. Sick Leave Transfer

§ 53125. Transfer of Accumulated Sick Leave.

This Section prescribes the manner in which the amount of accumulated sick leave is certified for transfer under Sections 87782, 87783, and 87785 of the Education Code.

(a) As used in this Section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) Transfer shall be certified as follows.

(1) The person who accumulated the sick leave or the new employing agency requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave,

(2) Upon receipt of the request, the former employing agency transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is charged with maintaining employee attendance records,

(3) The new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785.

NOTE: Authority cited: Sections 70901, 71024 and 87782, Education Code. Reference: Sections 87781, 87782, 87783 and 87785, Education Code.

HISTORY

1. New subchapter 1.5 (section 53125) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 1.6. Evaluation of Academic Employees

§ 53130. Availability of Rules and Regulations for Evaluation of Performance.

The governing board of a community college district shall adopt and cause to be printed and made available to each academic employee of the district reasonable rules and regulations providing for the evaluation of the performance of academic employees in their assigned duties.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. New article 1.6 heading filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 2. Academic Senates

§ 53200. Definitions.

For the purpose of this Subchapter:

(a) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.

(b) "Academic senate," "faculty council," and "faculty senate" means an organization formed in accordance with the provisions of this Subchapter whose primary function, as the representative of the faculty, is to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this Subchapter, reference to the term "academic senate" also constitutes reference to "faculty council" or "faculty senate."

(c) "Academic and professional matters" means the following policy development and implementation matters:

(1) curriculum, including establishing prerequisites and placing courses within disciplines;

(2) degree and certificate requirements;

(3) grading policies;

(4) educational program development;

(5) standards or policies regarding student preparation and success;

(6) district and college governance structures, as related to faculty roles;

(7) faculty roles and involvement in accreditation processes, including self–study and annual reports;

(8) policies for faculty professional development activities;

(9) processes for program review;

(10) processes for institutional planning and budget development; and

(11) other academic and professional matters as are mutually agreed upon between the governing board and the academic senate.

(d) "Consult collegially" means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

(1) relying primarily upon the advice and judgment of the academic senate; or

(2) agreeing that the district governing board, or such representatives as it may designate, and the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
4. Relocation of article 2 heading filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2–10–78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate:

(a) The full–time faculty of a community college shall vote by secret ballot to form an academic senate.

(b) In multi–college districts, the full–time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of a district shall recognize the academic senate and authorize the faculty to:

(1) Fix and amend by vote of the full–time faculty the composition, structure, and procedures of the academic senate.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate.

(d) The full–time faculty may provide for the membership and participation of part–time faculty members in the academic senate.

(e) In the absence of any full–time faculty members in a community college, the part–time faculty of such community college may form an academic senate.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2–10–78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203. Powers.

(a) The governing board of a community college district shall adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other Board of Governors regulations.

(b) In adopting the policies and procedures described in Subsection (a), the governing board or its designees shall consult collegially with representatives of the academic senate.

(c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or to appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) in instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) in instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to Subsection (a).

(f) The appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this Subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53204. Scope of Regulations.

Nothing in this Subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) An Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils so that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
4. Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51020 concerning the proportion of full–time and part–time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53302. Full–Time Instructor.

For purposes of this Chapter only, a full–time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 2. Proportions of Full–Time and Part–Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full–time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full–time instructors shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(b) Sabbatical. The hours of a full–time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(c) Released/Reassigned Time. The hours of a full–time instructor on released or reassigned time shall be counted as if the instructor was teaching full–time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

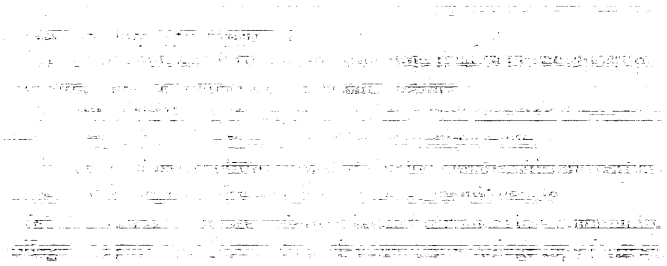
(d) Unpaid Leave. The hours of a full–time instructor on unpaid leave shall be counted as if the instructor was teaching full–time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

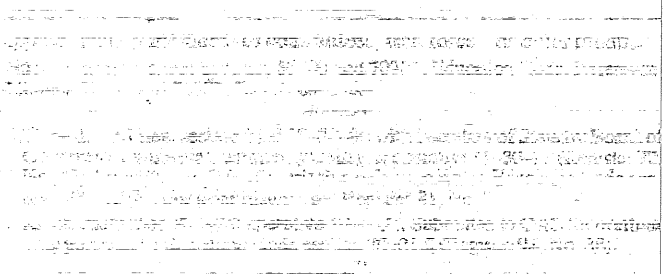
(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately qualified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(f) Outreach Locations. The hours of instruction taught by full–time and part–time instructors at any outreach location that is more than 25 miles from the main campus and generates less than 200 FTES, shall be





Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. The Accrediting Commission for Community and Junior Colleges shall determine accreditation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of district regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize an organized and functioning counseling program in each college within the district. Counseling programs shall include, but not be limited to, the following:

(1) academic counseling, in which the student is assisted in assessing, planning, and implementing his or her immediate and long–range academic goals;

(2) career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends;

(3) personal counseling, in which the student is assisted with personal, family, or other social concerns, when that assistance is related to the student's education; and

(4) coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those services provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in Subsection (b)(1), (2), and (3) shall be provided to first–time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 72620, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Subchapter 1 (commencing with Section 55000) of Chapter 6.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 71020.5, Education Code.

HISTORY

1. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

3. Editorial correction of HISTORY 1 (Register 95, No. 15).

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four–year colleges and high schools.

NOTE: Authority cited: Sections 66700, 70901 and 78401, Education Code. Reference: Sections 70901, 78016, and 70902, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) adopt a policy statement on academic freedom which shall be made available to faculty and be filed with the Chancellor;

(b) adopt procedures which are consistent with the provisions of Sections 53000–53206, regarding the role of academic senates and faculty councils and are filed with the Chancellor;

(c) substantially comply with district adopted policy and procedures adopted pursuant to Subsections (a) and (b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51023.5. Staff.

(a) The governing board of a community college district shall adopt policies and procedures that provide district and college staff the opportunity to participate effectively in district and college governance. At minimum, these policies and procedures shall include the following:

(1) Definitions or categories of positions or groups of positions other than faculty that compose the staff of the district and its college(s) that, for the purposes of this Section, the governing board is required by law to recognize or chooses to recognize pursuant to legal authority. In addition, for the purposes of this Section, management and nonmangement positions or groups of positions shall be separately defined or categorized.

2. Repealer filed 3–26–92; operative 4–24–92 (Register 92, No. 17).

Subchapter 2. Certificated Positions

Article 1. Special Non–Credentialed Employees

§ 53100. Prerequisites for Employment Under Education Code Section 87401.

NOTE: Authority cited: Sections 71020, 71064, and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Renumbering of chapter 1 (sections 53100–53205) to chapter 2 (sections 53100–53205) filed 7–19–77; effective thirtieth day thereafter (Register 77, No. 30).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53101. Processing of Fingerprint Cards.

NOTE: Authority cited: Sections 71020, 71064, 87220 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53102. Cause for Dismissal.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 53103. Report of Persons Employed.

NOTE: Authority cited: Sections 71020, 71068 and 87401, Education Code. Reference: Sections 71020 and 87401, Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Article 1.5. Sick Leave Transfer

§ 53125. Transfer of Accumulated Sick Leave.

This Section prescribes the manner in which the amount of accumulated sick leave is certified for transfer under Sections 87782, 87783, and 87785 of the Education Code.

(a) As used in this Section, accumulated sick leave means a leave of absence for illness or injury that is earned under Education Code Section 87781 but is unused.

(b) Transfer shall be certified as follows:

(1) The person who accumulated the sick leave or the new employing agency requests the former employing agency to send the new employing agency a written statement of the employee's accumulated sick leave,

(2) Upon receipt of the request, the former employing agency transmits to the new employing agency a statement of the person's accumulated sick leave certified to be true and correct by the officer or employee of the former employing agency who is charged with maintaining employee attendance records,

(3) The new employing agency credits the person with the accumulated sick leave set forth in the certified statement. Any transfer of sick leave to the Chancellor's Office shall be subject to the limitations specified by Education Code Section 87785.

NOTE: Authority cited: Sections 70901, 71024 and 87782, Education Code. Reference: Sections 87781, 87782, 87783 and 87785, Education Code.

HISTORY

1. New subchapter 1.5 (section 53125) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Editorial correction of HISTORY 4 (Register 95, No. 19).

Article 1.6. Evaluation of Academic Employees

§ 53130. Availability of Rules and Regulations for Evaluation of Performance.

The governing board of a community college district shall adopt and cause to be printed and made available to each academic employee of the district reasonable rules and regulations providing for the evaluation of the performance of academic employees in their assigned duties.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3–4–91 by the Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. New article 1.6 heading filed 5–15–93; operative 6–4–93 (Register 93, No. 25).
3. Editorial correction of HISTORY 1 (Register 95, No. 19).

Article 2. Academic Senates

§ 53200. Definitions.

For the purpose of this Subchapter:

(a) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code, and for which minimum qualifications for hire are specified by the Board of Governors.

(b) "Academic senate," "faculty council," and "faculty senate" means an organization formed in accordance with the provisions of this Subchapter whose primary function, as the representative of the faculty, is to make recommendations to the administration of a college and to the governing board of a district with respect to academic and professional matters. For purposes of this Subchapter, reference to the term "academic senate" also constitutes reference to "faculty council" or "faculty senate."

(c) "Academic and professional matters" means the following policy development and implementation matters:

(1) curriculum, including establishing prerequisites and placing courses within disciplines;

(2) degree and certificate requirements;

(3) grading policies;

(4) educational program development;

(5) standards or policies regarding student preparation and success;

(6) district and college governance structures, as related to faculty roles;

(7) faculty roles and involvement in accreditation processes, including self-study and annual reports;

(8) policies for faculty professional development activities;

(9) processes for program review;

(10) processes for institutional planning and budget development; and

(11) other academic and professional matters as are mutually agreed upon between the governing board and the academic senate.

(d) "Consult collegially" means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

(1) relying primarily upon the advice and judgment of the academic senate; or

(2) agreeing that the district governing board, or such representatives as it may designate, and the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
4. Relocation of article 2 heading filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
5. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate:

(a) The full-time faculty of a community college shall vote by secret ballot to form an academic senate.

(b) In multi-college districts, the full-time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of a district shall recognize the academic senate and authorize the faculty to:

(1) Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate.

(d) The full-time faculty may provide for the membership and participation of part-time faculty members in the academic senate.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203. Powers.

(a) The governing board of a community college district shall adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other Board of Governors regulations.

(b) In adopting the policies and procedures described in Subsection (a), the governing board or its designees shall consult collegially with representatives of the academic senate.

(c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or to appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) in instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) in instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to Subsection (a).

(f) The appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this Subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53204. Scope of Regulations.

Nothing in this Subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements

between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) An Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils so that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
5. Editorial correction of HISTORY 3 (Register 95, No. 19).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51020 concerning the proportion of full–time and part–time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53302. Full–Time Instructor.

For purposes of this Chapter only, a full–time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 2. Proportions of Full–Time and Part–Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full–time instructors, the following rules shall be applied:

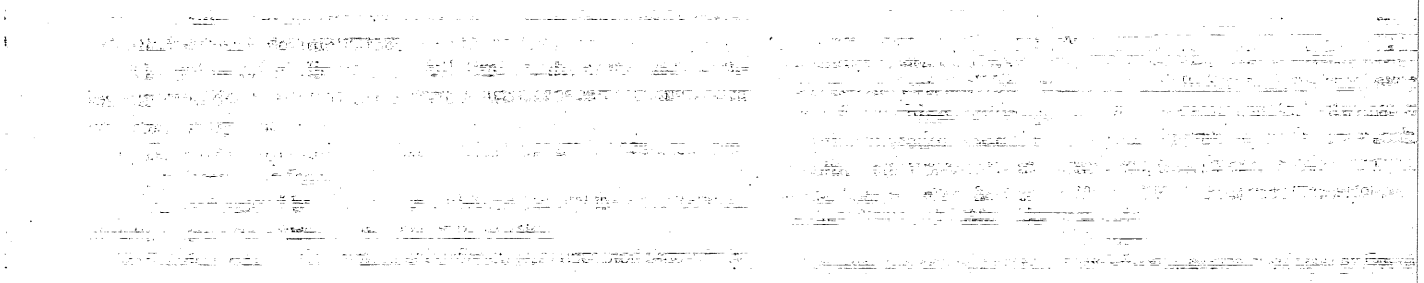
(a) Overload. The hours of overload teaching by full–time instructors shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(b) Sabbatical. The hours of a full–time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(c) Released/Reassigned Time. The hours of a full–time instructor on released or reassigned time shall be counted as if the instructor was teaching full–time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(d) Unpaid Leave. The hours of a full–time instructor on unpaid leave shall be counted as if the instructor was teaching full–time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately quali-



(7) faculty roles and involvement in accreditation processes, including self-study and annual reports;

(8) policies for faculty professional development activities;

(9) processes for program review;

(10) processes for institutional planning and budget development; and

(11) other academic and professional matters as are mutually agreed upon between the governing board and the academic senate.

(d) "Consult collegially" means that the district governing board shall develop policies on academic and professional matters through either or both of the following methods, according to its own discretion:

(1) relying primarily upon the advice and judgment of the academic senate; or

(2) agreeing that the district governing board, or such representatives as it may designate, and the representatives of the academic senate shall have the obligation to reach mutual agreement by written resolution, regulation, or policy of the governing board effectuating such recommendations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
4. Relocation of article 2 heading filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
5. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53201. Academic Senate or Faculty Council.

In order that the faculty may have a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, an academic senate may be established at the college and/or district level.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53202. Formation; Procedures; Membership.

The following procedure shall be used to establish an academic senate:

(a) The full-time faculty of a community college shall vote by secret ballot to form an academic senate.

(b) In multi-college districts, the full-time faculty of the district colleges may vote on whether or not to form a district academic senate. Such vote shall be by secret ballot.

(c) The governing board of a district shall recognize the academic senate and authorize the faculty to:

(1) Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate.

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate.

(d) The full-time faculty may provide for the membership and participation of part-time faculty members in the academic senate.

(e) In the absence of any full-time faculty members in a community college, the part-time faculty of such community college may form an academic senate.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Amendment filed 2-10-78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53203. Powers.

(a) The governing board of a community college district shall adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate. Among other matters, said policies, at a minimum, shall provide that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. This requirement to consult collegially shall not limit other rights and responsibilities of the academic senate which are specifically provided in statute or other Board of Governors regulations.

(b) In adopting the policies and procedures described in Subsection (a), the governing board or its designees shall consult collegially with representatives of the academic senate.

(c) While in the process of consulting collegially, the academic senate shall retain the right to meet with or to appear before the governing board with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) in instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) in instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to Subsection (a).

(f) The appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this Subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53204. Scope of Regulations.

Nothing in this Subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing

boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) An Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils so that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
5. Editorial correction of HISTORY 3 (Register 95, No. 19).

§ 53207. Reimbursement for Release or Reassigned Time.

(a) Except as provided in subdivisions (d) and (e), the faculty members elected to serve as president and vice president of the Academic Senate of the California Community Colleges (ASCCC) shall be granted release or reassigned time from their local responsibilities by the districts by which they are employed during their terms of office.

(b) The amount of release or reassigned time required will be determined by the ASCCC and reported to the district employing the person elected ASCCC president by May 1st and to the district employing the person elected ASCC vice president by June 1st of the year in which these individuals will assume office, unless the election has not been conducted by those dates, in which case the information will be reported immediately upon completion of the election.

(c) The districts employing the president and the vice president of the ASCCC will be reimbursed by February 1 from the state appropriation for the ASCCC for the release or reassigned time at the part-time replacement cost identified by the district prior to September of each year. If the release or reassigned time need identified is 100 percent and the position to be filled is in a hard to replace discipline area, the district shall so certify to the Chancellor of the California Community Colleges by August 1. If the Chancellor confirms the district certification, the district shall be reimbursed at the full-time temporary replacement cost. In addition, districts shall be reimbursed by the ASCCC for reasonable and documented administrative costs associated with hiring faculty to replace the faculty serving as president and vice president of the ASCCC.

(d) A local district will not be required to grant release or reassigned time for the president or vice president of the ASCCC if it certifies by August 1 to the Chancellor, and he or she confirms, that the faculty member is in a position for which a qualified part-time or full-time temporary replacement cannot be found to meet the needs of the students.

(e) No district shall be required to grant release or reassigned time for an individual serving as president or vice president of the ASCCC for a period exceeding four years.

(f) This section shall only be operative during any fiscal year in which sufficient funds are provided therefore to the ASCCC in the annual Budget Act for that fiscal year or other legislation.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3-12-2003; operative 4-11-2003. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 2003, No. 18).

Subchapter 3. Full-Time and Part-Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51025 concerning the proportion of full-time and part-time faculty to be employed by community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
5. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 53301. Part-Time Faculty.

The term "part-time faculty" includes any faculty member, as defined in Section 53402(c), who is not a regular employee or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5, or 87609 of the Education Code.

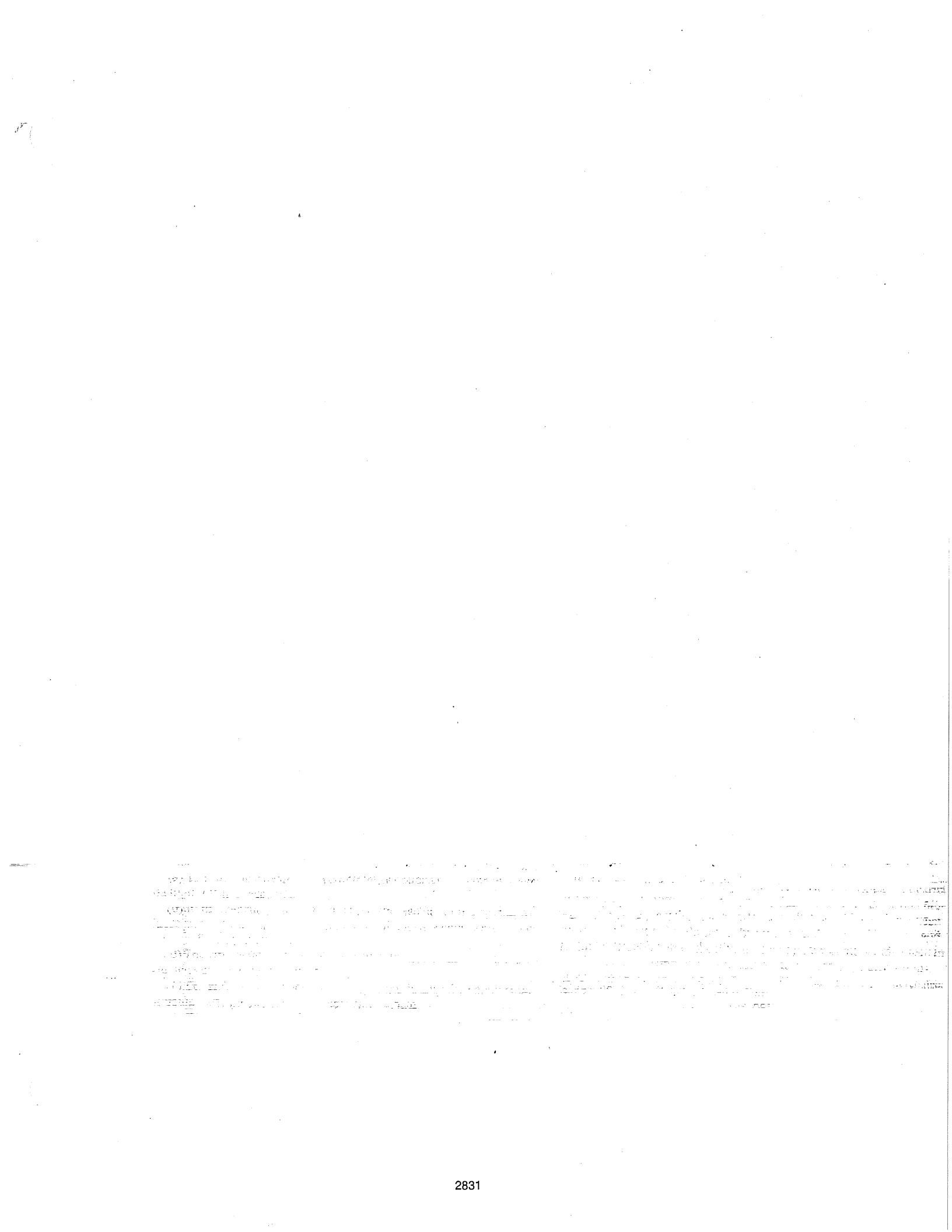
NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750, 87482.7, 87601, 87605, 87608, 87608.5 and 87609, Education Code.

HISTORY

1. New section filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53302. Full-Time Faculty.

For purposes of this Chapter the term "full-time faculty" means any faculty member, as defined in Section 53402(c), who is a regular or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5 or 87609 of the Education Code.



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 16: Matriculation

History Index for
Title 5, California Code of Regulations

Section 51024
Section 55500
Section 55502
Section 55510
Section 55512
Section 55514
Section 55516
Section 55518
Section 55520
Section 55521
Section 55522
Section 55523
Section 55524
Section 55525
Section 55526
Section 55530
Section 55532
Section 55534

Register 90-37 § 51024: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55500: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55502: Amendment of subsection (a) and (b) and new subsections (g), (h), (i), (j) and (k) filed by the Board of Governors, California Community Colleges, with the Secretary of State; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55510: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55512: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55514: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55516: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55518: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55520: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55521: Amendment of subsection (d), (e), and (f) filed by the Board of Governors, California Community Colleges, with the Secretary of State; submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55522: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55523: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55524: New section by the Board of Governors, California

Community Colleges, with the Secretary of State.
Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55525: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55526: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55530: Amendment filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55532: New section by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55534: New section by the Board of Governors, California Community Colleges, with the Secretary of State.

Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 92-15 § 51024: Amendment of first paragraph and subsection (e).

§ 55521: Amendment of subsection (a) and redesignating following subsections (1)-(6), adoption of subsection (b) and amendment of NOTE.

§ 55530: Amendment of subsection (b).

Register 92-17 § 55500: Amendment of subsection (a) and repealer of subsection (c).

Register 93-42 § 55510: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 55530: Amendment of subsections (a), (b) and (d). Submitted to OAL only pursuant to Education Code section 70901.5(b).

§ 55534: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 94-38 § 55502: Amendment of first paragraph and subsections (a) and (c)-(k). Submitted to OAL for printing only pursuant to Education Code Section 70901.5.

§ 55510: Amendment of subsection (a)(6), new subsection (a)(7) and subsection renumbering. Submitted to OAL for printing only pursuant to Education Code Section

70901.5.

§ 55525: Amendment of subsections (a), (c) and (d). Submitted to OAL for printing only pursuant to Education Code 70901.5.

§ 55534: Amendment of subsection (b). Submitted to OAL for printing only pursuant to Education Code 70901.5.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

§ 51024
§ 55500
§ 55502
§ 55510
§ 55512
§ 55514
§ 55516
§ 55518
§ 55520
§ 55521
§ 55522
§ 55523
§ 55524
§ 55525
§ 55526
§ 55530
§ 55532
§ 55534

NOTE: Authority cited: Sections 66700, 71025, 71068 and 87105, Education Code. Reference: Sections 71025, 71068, and Article 4 (commencing with Section 87100) of Chapter 1, Part 51, Education Code.

§ 51012. Student Fees.

The governing board of a community college district may only establish such mandatory student fees as it is expressly authorized to establish by law.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72289, Education Code.

§ 51014. Approval of New Colleges and Educational Centers.

(a) The governing board of a community college district planning the formation of a new college or educational center shall obtain approval of such college or educational center by the Board of Governors. Approval shall be obtained prior to the commencement of classes at the new college or educational center.

(b) The provisions of Chapter 11 (commencing with Section 55825) of Division 6 shall govern the approval of new colleges and educational centers.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

§ 51016. Accreditation.

Each community college within a district shall be an accredited institution. Accreditation shall be determined by the Accrediting Commission for Community and Junior Colleges.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 78050, Education Code.

§ 51018. Counseling Programs.

(a) The governing board of a community college district shall adopt regulations and procedures consistent with the provisions of this section. A copy of these regulations and procedures, as well as any amendments, shall be filed with the Chancellor's Office.

(b) The governing board of a community college district shall provide and publicize in each college within the district, an organized and functioning counseling program. Counseling programs shall include, but not be limited to, the following:

(1) Academic counseling, in which the student is assisted in assessing, planning and implementing his or her immediate and long-range academic goals.

(2) Career counseling, in which the student is assisted in assessing his or her aptitudes, abilities, and interests, and is advised concerning the current and future employment trends.

(3) Personal counseling in which the student is assisted with personal, family or other social concerns, when that assistance is related to the student's education.

(4) Coordination with the counseling aspects of other services to students which may exist on the campus, including, but not limited to, those provided in programs for students with special needs, skills testing programs, financial assistance programs, and job placement services.

(c) Counseling services as specified in subparagraphs (1) through (3) of subsection (b) shall be provided to first-time students enrolled for more than six units, students enrolled provisionally and students on academic or progress probation.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 72620, Education Code.

§ 51020. Objectives.

Each community college shall have stated objectives for its instructional program and for the functions which it undertakes to perform.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71028 and 72231.5, Education Code.

§ 51021. Curriculum.

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025 and 78200, Education Code.

§ 51022. Instructional Programs.

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding program review as specified in Section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

NOTE: Authority cited: Sections 66700, 71025 and 78405, Education Code. Reference: Sections 71025, 71070, 78016, 78200 and 78405, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

§ 51023. Faculty.

The governing board of a community college district shall:

(a) Adopt a policy statement on academic freedom, which shall be made available to faculty and filed with the Chancellor.

(b) Adopt procedures which are consistent with the provisions of Sections 53200-53205 of this part, regarding the role of academic senates and faculty councils. Such procedures shall be filed with the Chancellor.

(c) Substantially comply with district adopted policy and procedures adopted pursuant to subsections (a) and (b).

NOTE: Authority cited: Sections 66700, 71025 and 71068, Education Code. Reference: Sections 71025, 71068 and 72292, Education Code.

HISTORY

1. New section filed 6-27-84; effective thirtieth day thereafter (Register 84, No. 26).

§ 51024. Matriculation Services.

When matriculation services have been fully funded, as certified by the Chancellor in accord with policies adopted by the Board of Governors, the governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under section 55512(c);

(c) provide matriculation services to its students in accordance with sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with section 55534; and

(e) substantially comply with all other provisions of chapter 6 (commencing with section 55500) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210-78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 2. Investigation and Enforcement of Minimum Standards

§ 51100. Review of Colleges.

(a) The Chancellor, at least once each seven years, and at such other times as he or she deems necessary, shall review each community college to determine whether it has met the minimum standards contained in Chapter 1 (commencing with Section 51000) of this Division.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief

§ 55401. Current and Long Range Plans.

The governing board of each Community College district shall establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole.

§ 55402. Educational Master Plans.

On or before January 1, 1972, the governing board of each Community College district shall submit to the Chancellor an educational master plan for each Community College which it maintains and for the district as a whole. Each plan shall be modified and brought up to date annually and shall be submitted to the Chancellor on or before November 1 of each year thereafter.

§ 55403. Form.

Each plan shall be submitted on a form provided by the Chancellor and shall contain such information as the Chancellor shall require.

§ 55404. Contents.

Each plan shall contain the educational objectives of the Community College or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. On the basis of current and future enrollment, it shall contain plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aids.

§ 55405. Review and Approval.

The Chancellor shall review each master plan. On or before February 1 following the submission of each plan, the Chancellor shall send a copy of the approval of it to the superintendent of each district.

History

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).

Subchapter 6. Matriculation Programs

Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour–Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code section 78210 et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges. This chapter sets forth minimum standards for district matriculation programs and further elaborates requirements for the assessment component of matriculation.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code section 71020.5.

(c) Minimum standards for the enforcement of this chapter, as set forth in section 51024, shall not become effective until the Chancellor certifies, in accordance with established policies of the Board of Governors, that matriculation has been fully funded. Until that time, the Chancellor shall ensure that funds allocated to community college districts pursuant to Education Code section 78216 are used in accordance with district matriculation plans developed as provided in section 55510.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 71020.5, 78210–78218, Education Code.

History

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55502. Definitions.

For purposes of this chapter, the following definitions shall apply:

(a) "Matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements. This agreement is to be implemented by means of the student's individual educational plan developed pursuant to section 55525.

(b) "Assessment" means the process of gathering information about individual students to facilitate student success. Assessment shall include, but is not limited to, information regarding the student's study skills, English language proficiency, computational skills, aptitudes, goals, learning skills, career aspirations, academic performance, and need for special services. Assessment involves the collection of such information at any time before or after enrollment, except that the process of assigning a grade by an instructor shall not be considered part of the assessment process. Once a grade has been assigned and recorded in a student's transcript, it can be used in the assessment process.

(c) "Assessment instruments, methods or procedures" means one or more assessment instruments, assessment methods, or assessment procedures, or any combination thereof. These include, but are not limited to, interviews, standardized tests, holistic scoring processes, attitude surveys, vocational or career aptitude and interest inventories, high school or college transcripts, specialized certificates or licenses, educational histories and other measures of performance. The term "assessment instruments, methods or procedures" also includes assessment procedures such as the identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment sessions are conducted, manner in which assessment results are made available and the length of time required before such results are available.

(d) "Pre–collegiate basic skills courses" are those courses in reading, writing, computation, learning skills, study skills, and English as a Second Language which are designated by the community college district as non–degree credit courses pursuant to section 55002(b) of this part.

(e) "Disproportionate impact" occurs when the percentage of persons from a particular racial, ethnic, gender, age or disability group who are directed to a particular service or placement based on an assessment instrument, method or procedure is significantly different than the representation of that group in the population of persons being assessed and that discrepancy is not justified by empirical evidence demonstrating that the assessment instrument, method or procedure is a valid and reliable predictor of performance in the relevant educational setting.

(f) "Exemption" means waiving or deferring a student's participation in orientation, assessment, counseling or advisement required pursuant to subsections (b),(c), and (f) of section 55520.

(g) "matriculation services" are those services listed in section 55520.

(h) "matriculation practices: means one or more instruments, methods or procedures, or any combination thereof, used in providing any of the matriculation services listed in section 55520.

(i) "student" means a person enrolled in at lease one credit course.

(j) "orientation" is a process which acquaints students and potential students with college programs, service, facilities and grounds, academic expectations, and institutional procedures.

(k) "student follow–up" is the process of monitoring a student's progress toward his or her educational goals and providing the student with appropriate advice based on the results of such monitoring.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78212 and 78213, Education Code.

History

1. Amendment of subsection (a) and (b) and new subsections (g), (h), (i), (j) and (k) filed 6–5–90 by the Board of Governors, California Community Colleges,

with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Planning and Administration

§ 55510. Matriculation Plans.

(a) Each community college district shall adopt a matriculation plan describing the services to be provided to its students. The plan shall include, but not be limited to, a description of the methods by which required services will be delivered, the district's budget for matriculation, plans for faculty and staff development, computerized information services and institutional research and evaluation necessary to implement this chapter, criteria for exempting students from participation in the matriculation process, procedures for establishing and validating prerequisites pursuant to section 58106, and, in districts with more than one college, arrangements for coordination by the district of the matriculation plans of its various colleges.

(b) The plan shall be developed in consultation with representatives of faculty, students, and staff with appropriate expertise.

(c) Such plans shall conform to the requirements of this chapter and shall be submitted to the Chancellor for review an approval. Plans submitted prior to the effective date of this section need not be revised or resubmitted, if the Chancellor finds that they meet the requirements of this Chapter. Regardless of when plans are initially submitted, the Chancellor may require periodic updates of such plans.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55512. Evaluation and Audits.

(a) Each community college district shall establish a program of institutional research for ongoing evaluation of its matriculation process to ensure compliance with the requirements of this chapter.

As part of this evaluation, all assessment instruments, methods or procedures shall be evaluated to ensure that they minimize or eliminate cultural or linguistic bias and are being used in a valid manner. Based on this evaluation, districts shall determine whether any assessment instrument, method or procedure has a disproportionate impact on particular groups of students described in terms of ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact. The evaluation shall include, but not be limited to, an analysis of the degree to which the matriculation program:

(1) impacts on particular courses, programs, and facilities;

(2) helps students to define their educational goals;

(3) promotes student success, as evidenced by outcome and retention data such as student persistence, goal attainment, skill improvement, and grades;

(4) assists the district in the assessment of students' educational needs;

(5) matches district resources with students' educational needs; and

(6) provides students with the support services described in section 545520(g).

(b) Each district shall also, as part of its annual financial audit, provide for a review of the revenue and expenditures of the matriculation program.

(c) The Chancellor shall establish a system for evaluation of the matriculation program on a statewide basis, including procedures for monitoring compliance with the requirements of this chapter.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: section 78214 and 78217, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55514. Data Collection.

Each community college district shall submit an annual report describing the district's efforts to implement its matriculation plan and expenditures made for that purpose. In this report, or through the established management information system or otherwise, the data to be collected for evaluation purposes pursuant to Education Code section 78214 and section 55512 of this part. Such data shall specifically include, but is not limited to, the information necessary to permit the Chancellor to determine the following:

(a) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who are placed in pre–collegiate, associate–degree applicable, or transfer level courses in reading, writing, computation or English as a Second Language.

(b) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who enter and complete pre–collegiate basic skills courses.

(c) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, completing pre–collegiate basic skills courses who subsequently enter and complete courses applicable to the associate degree;

(d) outcome and retention data, as described in section 55512(a), indicating the effectiveness of matriculation;

(e) the basis on which the use of particular assessment instruments, methods or procedures was validated by a district;

(f) the numbers of students exempted, pursuant to section 55532, from participation in the district's matriculation program, by category of exemption;

(g) the number of students filing complaints pursuant to 55534 and the bases of those complaints;

(h) the particular matriculation services, as listed in section 55520, which each student received; and

(i) any other matter the Chancellor, after consultation with community college districts, deems necessary for the effective evaluation of matriculation programs.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78214, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55516. Training and Staff Development.

Each community college district shall develop and implement a program for providing all faculty and staff with training appropriate to their needs on the provision of matriculation services, including but not limited to, the proper purpose, design, evaluation, and use of assessment instruments, methods or procedures, as well as their limitations and possible misuse.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55518. Funding.

(a) The Chancellor shall adopt a funding formula, consistent with the requirements of this section, for allocating matriculation funds to community college districts complying with the requirements of this chapter.(b) Each dollar of state matriculation funding shall be matched by three dollars of other district resources devoted to the matriculation program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 3. Matriculation Services

§ 55520. Required Services.

At a minimum, each community college district shall provide students, except as exempted pursuant to section 55532, with all of the following matriculation services:

(a) the processing of applications for admission;

(b) orientation and pre–orientation services designed to provide nonexempt students and potential students, on a timely basis, information concerning college procedures and course scheduling, academic expectations, financial assistance, and any other matters the college or district finds appropriate;

(c) assessment for all nonexempt students pursuant to section 55524;

(d) counseling or advisement for nonexempt students pursuant to section 55523;

(e) assistance in developing a student educational plan pursuant to section 55525, which identifies the student's educational objectives and the courses, services, and programs to be used to achieve them;

(f) post enrollment evaluation, pursuant to section 55526, of each student's progress; and

(g) referral of students to:

(1) support services which may be available, including, but not limited to, counseling, financial aid, health services, campus employment placement services, Extended Opportunity Programs and Services, campus child care services, tutorial services, and Disabled Students Programs and Services; and

(2) specialized curriculum offerings including but not limited to, pre–collegiate basic skills courses and programs in English as a Second Language.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55521. Prohibited Practices.

In implementing matriculation services, community college districts shall not do any of the following:

(a) use an assessment instrument which has not been approved by the Chancellor pursuant to section 55524, except that the Chancellor may permit limited field–testing, under specified conditions, of new or alternative assessment instruments where such instruments are not used for placement and are evaluated only in order to determine whether they should be added to the list of approved instruments;

(b) use any assessment instrument in a manner or for a purpose other than that for which it was developed or has been otherwise validated;

(c) use any single assessment instrument, method or procedure, by itself, for placement, required referral to appropriate services, or subsequent evaluation of any student; provided however that in the case of assessment instruments, the use of two or more highly correlated instruments does not satisfy the requirement for use of multiple measures;

(d) use any assessment instrument, method or procedure to exclude any person from admission to a community college;

(e) use any assessment instrument, method or procedure for mandatory placement of a student in or exclusion from any particular course or educational program, except that districts may establish appropriate prerequisites pursuant to sections 55002, and 58106 of Division 9 of this Part; or

(f) use any matriculation practice which has the purpose or effect of subjecting any person to unlawful discrimination prohibited by Chapter 5 (commencing with section 59300) of division 10 of this part.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. Amendment of subsections (d), (e) and (f) filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55522. Special Accommodations.

Matriculation services for ethnic and language minority students and students with disabilities, shall be appropriate to their needs, and community college districts shall, where necessary, make modifications in the matriculation process or use alternative instruments, methods or procedures to accommodate the needs of such students. Districts may require students requesting such accommodations to provide proof of need. Extended Opportunity Programs and Services (EOPS) and Disabled Students Programs and Services (DSPS) are authorized, consistent with the provisions of chapter 1 (commencing with section 56000) and chapter 2.5 (commencing with section 56200) of division 7 of this part, to provide specialized matriculation services and modified or alternative matriculation services to their respective student populations. Notwithstanding this authorization, participation in the EOPS and DSPS programs is voluntary and no student may be denied necessary accommodations in the assessment process because he or she chooses not to use specialized matriculation services provided by these programs. Modified or alternative matriculation services for limited or non–English–speaking students may be provided in English as a Second Language programs.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55523. Counseling and Advisement.

(a) If not already required to do so by the minimum standards for counseling services set forth in section 51018 of division 1 of this Part, each community college district shall do all of the following:

(1) make reasonable efforts to ensure that all nonexempt students who are on probation participate in counseling as provided in section 55759 of this Part;

(2) make reasonable efforts to ensure that all nonexempt students who have not declared a specific educational goal participate in counseling to assist them in the process of selecting a specified educational goal pursuant to section 55525;

(3) make reasonable efforts to ensure that all nonexempt students who are enrolled in pre–collegiate basic skills courses participate in counseling or advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational plan as required by section 55525.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for

printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to subsection (b) shall be recorded in written or electronic form. The plan, and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this section, the student may file a complaint pursuant to section 55534 (c).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55526. Student Follow–up.

Each community college district shall establish a student follow–up process to assist the student in achieving his/her educational goal. The follow–up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre–collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this chapter shall be construed to interfere with the right of a student, if admitted to a community college in accord with district admission policies adopted pursuant to Education Code section 76000 et seq., from enrolling in any course for which he or she can meet necessary and valid prerequisites, if any, which have been established pursuant to the requirements of section 58106 of division 9 of this part.

(b) Community college districts shall take steps to ensure that information, in written form, is available to all students, in class schedules, catalogues, or other appropriate publications, describing their rights and responsibilities under this chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests which correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission, declare a specific educational objective within a reasonable period after admission, participate in counseling or advisement pursuant to section 55523(a)(1),(2), and (3), diligently attend class and complete assigned coursework, and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of chapter 9 (commencing with section 55750) of division 6 of this part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree applicable credit coursework, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to section 55525. If a student fails to fulfill the responsibilities listed in this subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his/her specific educational goal, or fails to abide by the terms of his/her student educational plan, the district may, subject to the requirements of this chapter, suspended or terminate the provision of services authorized in section 55520; provided however, the nothing in this section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of chapter 6 (commencing with section 54600) of Division 5 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such

policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Where students are required by a community college district to meet prerequisites under section 58106(b)(2) or (b)(3), a student may object to such requirement on the grounds that the necessary course is not available. The district shall promptly (within 5 working days) determine whether, the required course was available and if not, the district shall waive the prerequisite for that term.

(b) An allegation that a community college district has violated the provisions of subsection (f) of section 55521 or has established a discriminatory prerequisite subject to challenge under subsection (d)(3) of section 58106 shall be considered a complaint of unlawful discrimination and shall be filed, investigated and resolved pursuant to chapter 5 (commencing with section 59300) of Division 10 of this part.

(c) Each community college district shall establish written procedures by which students may challenge any other alleged violation of the provisions of this chapter or of section 58106. Districts shall investigate and attempt to resolve any such complaints. Such complaint procedures may, by action of the governing board, be consolidated with existing student grievance procedures. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under section 55512(c).

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211, and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) Vocational education contract means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of Article 5 (commencing with Section 8090) of Chapter 1, Part 6 of the Education Code.

(b) The California State Plan for Vocational Education means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), Part A, Vocational Education, or any subsequent federal legislation.

(c) Contractor as used in Education Code Section 8092 means any private postsecondary school authorized or approved pursuant to the provisions of Chapter 3 (commencing with Section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) Eligible costs means all direct and indirect related instructional costs but does not include expenditures for capital outlay (600 category in the California Community Colleges Budget and Accounting Manual).

NOTE: Authority cited: Sections 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090), Division 1, Education Code.

HISTORY

1. New Chapter 7 (Sections 55600 through 55631, not consecutive) filed 4–26–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of section and NOTE filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading, amendment of Article 1 heading, and repealer and new Section 55600 filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55601. Definitions.

NOTE: Authority cited: Sections 71020, 8092, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment of subsection (g) filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55602. Occupational Purposes.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55603. Instructional Purpose.

Contractors shall provide vocational, technical, and occupational instruction related to attainment of skills, knowledge, and attitudes so that students may be prepared for:

(a) Gainful employment in the occupational area for which training was provided, or

(b) Occupational upgrading so students will have higher level skills required by new and changing technology and employment practices, or

(c) Enrollment in more advanced training programs.

NOTE: Authority cited: Sections 8092 and 71020, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1, Education Code.

HISTORY

1. New NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 55604. Application for Approval.

NOTE: Authority cited: Sections 8092, 71020, 71024, Education Code. Reference: Chapter 1, Article 5 (commencing with Section 8090) of Division 1 of the Education Code.

(c) Nothing in this section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to sections 53200–53205, and section 51023.7, respectively, of this division.

(d) The governing board of a community college district shall comply substantially with the provisions of this section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to the regulations on academic senates contained in sections 53200–53205 of chapter IV of this division.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1. (Register 91, No. 43). (Subchapter 15, section 51950, and chapter 3, section 52000)

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 51025. Full-time/Part-time Faculty.

(a) Community College districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors, in the prior fiscal year, shall apply the growth revenues received related to increases in credit FTES in accordance with section 58774 of this division and a portion of the program improvement allocation received in accordance with section 58775 of this division, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to section 58774 of this division, the districts shall increase the number of full-time instructors, by September 30 of the succeeding fiscal year, by the product of their base number of full-time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, in the prior fiscal year, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(3) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(4) Of the program improvement funds identified in paragraph (2) or (3), as appropriate, the district shall increase the number of full-time instructors, by September of the succeeding fiscal year, by the quotient of

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

(e) Nothing in this section shall be construed to require the governing board to pay the costs of meals, lodging, and other incidental expenses for students participating in field trips and excursions. The costs of meals and lodging are incidental in nature and shall not be applied in determining the funds necessary for a student to participate in a field trip or excursion.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in section heading and subsection (e) (Register 91, No. 43).

§ 55451. Provision for Medical or Hospital Service for Pupils; Duration of Section.

The governing board of any community college district conducting excursions and field trips pursuant to this article shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from authorized insurer, for students of the district injured while participating in the excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership shall be paid from the funds of the district.

The insurance may be purchased from, or the membership may be taken in, only companies or corporations that are authorized to do business in this state.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 6. Matriculation Programs

Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour–Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code Sections 78210, et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code Section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code Section 71020.5.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 71020.5 and 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (a) and repealer of subsection (c) filed 4–3–92; operative 5–4–92 (Register 92, No. 17).

§ 55502. Definitions.

For purposes of this chapter, the following definitions shall apply:

(a) "Matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements. This agreement is to be implemented by means of the student's individual educational plan developed pursuant to section 55525.

(b) "Assessment" means the process of gathering information about individual students to facilitate student success. Assessment shall include, but is not limited to, information regarding the student's study skills, English language proficiency, computational skills, aptitudes, goals, learning skills, career aspirations, academic performance, and need for special services. Assessment involves the collection of such information at any time before or after enrollment, except that the process of assigning a grade by an instructor shall not be considered part of the assessment process. Once a grade has been assigned and recorded in a student's transcript, it can be used in the assessment process.

(c) "Assessment instruments, methods or procedures" means one or more assessment instruments, assessment methods, or assessment procedures, or any combination thereof. These include, but are not limited to, interviews, standardized tests, holistic scoring processes, attitude surveys, vocational or career aptitude and interest inventories, high school or college transcripts, specialized certificates or licenses, educational histories and other measures of performance. The term "assessment instruments, methods or procedures" also includes assessment procedures such as the identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment sessions are conducted, manner in which assessment results are made available and the length of time required before such results are available.

(d) "Pre-collegiate basic skills courses" are those courses in reading, writing, computation, learning skills, study skills, and English as a Second Language which are designated by the community college district as non-degree credit courses pursuant to section 55002(b) of this part.

(e) "Disproportionate impact" occurs when the percentage of persons from a particular racial, ethnic, gender, age or disability group who are directed to a particular service or placement based on an assessment instrument, method or procedure is significantly different than the representation of that group in the population of persons being assessed and that discrepancy is not justified by empirical evidence demonstrating that the assessment instrument, method or procedure is a valid and reliable predictor of performance in the relevant educational setting.

(f) "Exemption" means waiving or deferring a student's participation in orientation, assessment, counseling or advisement required pursuant to subsections (b),(c), and (f) of section 55520.

(g) "matriculation services" are those services listed in section 55520.

(h) "matriculation practices: means one or more instruments, methods or procedures, or any combination thereof, used in providing any of the matriculation services listed in section 55520.

(i) "student" means a person enrolled in at lease one credit course.

(j) "orientation" is a process which acquaints students and potential students with college programs, service, facilities and grounds, academic expectations, and institutional procedures.

(k) "student follow-up" is the process of monitoring a student's progress toward his or her educational goals and providing the student with appropriate advice based on the results of such monitoring.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78212 and 78213, Education Code.

HISTORY

1. Amendment of subsection (a) and (b) and new subsections (g), (h), (i), (j) and (k) filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Planning and Administration

§ 55510. Matriculation Plans.

(a) Each community college district shall adopt a matriculation plan describing the services to be provided to its students. The plan shall include, but not be limited to, a description of the methods by which required services will be delivered, the district's budget for matriculation, plans for faculty and staff development, computerized information services and institutional research and evaluation necessary to implement this chapter, criteria for exempting students from participation in the matriculation process, procedures for establishing and validating prerequisites pursuant to section 58106, and, in districts with more than one college, arrangements for coordination by the district of the matriculation plans of its various colleges.

(b) The plan shall be developed in consultation with representatives of faculty, students, and staff with appropriate expertise.

(c) Such plans shall conform to the requirements of this chapter and shall be submitted to the Chancellor for review an approval. Plans submitted prior to the effective date of this section need not be revised or resubmitted, if the Chancellor finds that they meet the requirements of this Chapter. Regardless of when plans are initially submitted, the Chancellor may require periodic updates of such plans.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55512. Evaluation and Audits.

(a) Each community college district shall establish a program of institutional research for ongoing evaluation of its matriculation process to ensure compliance with the requirements of this chapter.

As part of this evaluation, all assessment instruments, methods or procedures shall be evaluated to ensure that they minimize or eliminate cultural or linguistic bias and are being used in a valid manner. Based on this evaluation, districts shall determine whether any assessment instrument, method or procedure has a disproportionate impact on particular groups of students described in terms of ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact. The evaluation shall include, but not be limited to, an analysis of the degree to which the matriculation program:

(1) impacts on particular courses, programs, and facilities;

(2) helps students to define their educational goals;

(3) promotes student success, as evidenced by outcome and retention data such as student persistence, goal attainment, skill improvement, and grades;

(4) assists the district in the assessment of students' educational needs;

(5) matches district resources with students' educational needs; and

(6) provides students with the support services described in section 545520(g).

(b) Each district shall also, as part of its annual financial audit, provide for a review of the revenue and expenditures of the matriculation program.

(c) The Chancellor shall establish a system for evaluation of the matriculation program on a statewide basis, including procedures for monitoring compliance with the requirements of this chapter.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: section 78214 and 78217, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55514. Data Collection.

Each community college district shall submit an annual report describing the district's efforts to implement its matriculation plan and expenditures made for that purpose. In this report, or through the established management information system or otherwise, the data to be collected for evaluation purposes pursuant to Education Code section 78214 and section 55512 of this part. Such data shall specifically include, but is not limited to, the information necessary to permit the Chancellor to determine the following:

(a) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who are placed in pre–collegiate, associate–degree applicable, or transfer level courses in reading, writing, computation or English as a Second Language.

(b) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who enter and complete pre–collegiate basic skills courses.

(c) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, completing pre–collegiate basic skills courses who subsequently enter and complete courses applicable to the associate degree;

(d) outcome and retention data, as described in section 55512(a), indicating the effectiveness of matriculation;

(e) the basis on which the use of particular assessment instruments, methods or procedures was validated by a district;

(f) the numbers of students exempted, pursuant to section 55532, from participation in the district's matriculation program, by category of exemption;

(g) the number of students filing complaints pursuant to 55534 and the bases of those complaints;

(h) the particular matriculation services, as listed in section 55520, which each student received; and

(i) any other matter the Chancellor, after consultation with community college districts, deems necessary for the effective evaluation of matriculation programs.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78214, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55516. Training and Staff Development.

Each community college district shall develop and implement a program for providing all faculty and staff with training appropriate to their needs on the provision of matriculation services, including but not limited to, the proper purpose, design, evaluation, and use of assessment instruments, methods or procedures, as well as their limitations and possible misuse.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55518. Funding.

(a) The Chancellor shall adopt a funding formula, consistent with the requirements of this section, for allocating matriculation funds to community college districts complying with the requirements of this chapter.(b) Each dollar of state matriculation funding shall be matched by three dollars of other district resources devoted to the matriculation program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 3. Matriculation Services

§ 55520. Required Services.

At a minimum, each community college district shall provide students, except as exempted pursuant to section 55532, with all of the following matriculation services:

(a) the processing of applications for admission;

(b) orientation and pre–orientation services designed to provide nonexempt students and potential students, on a timely basis, information concerning college procedures and course scheduling, academic expectations, financial assistance, and any other matters the college or district finds appropriate;

(c) assessment for all nonexempt students pursuant to section 55524;

(d) counseling or advisement for nonexempt students pursuant to section 55523;

(e) assistance in developing a student educational plan pursuant to section 55525, which identifies the student's educational objectives and the courses, services, and programs to be used to achieve them;

(f) post enrollment evaluation, pursuant to section 55526, of each student's progress; and

(g) referral of students to:

(1) support services which may be available, including, but not limited to, counseling, financial aid, health services, campus employment placement services, Extended Opportunity Programs and Services, campus child care services, tutorial services, and Disabled Students Programs and Services; and

(2) specialized curriculum offerings including but not limited to, pre–collegiate basic skills courses and programs in English as a Second Language.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55521. Prohibited Practices.

(a) In implementing matriculation services, community college districts shall not, except as provided in subdivision (b), do any of the following:

(1) use an assessment instrument which has not been approved by the Chancellor pursuant to Section 55524, except that the Chancellor may permit limited field–testing, under specified conditions, of new or alternative assessment instruments, where such instruments are not used for placement and are evaluated only in order to determine whether they should be added to the list of approved instruments;

(2) use any assessment instrument in a manner or for a purpose other than that for which it was developed or has been otherwise validated;

(3) use any single assessment instrument, method or procedure, by itself, for placement, required referral to appropriate services, or subsequent evaluation of any student; provided however that, in the case of assessment instruments, the use of two or more highly correlated instruments does not satisfy the requirement for use of multiple measures;

(4) use any assessment instrument, method or procedure to exclude any person from admission to a community college;

(5) use any assessment instrument, method or procedure for mandatory placement of a student in or exclusion from any particular course or educational program, except that districts may establish appropriate prerequisites pursuant to Sections 55002 and 58106 of Division 9 of this Part; or

(6) use any matriculation practice which has the purpose or effect of subjecting any person to unlawful discrimination prohibited by Chapter 5 (commencing with Section 59300) of Division 10 of this Part.

(b) Notwithstanding the provisions of subdivisions (a)(1) and (2), assessment instruments approved by the Secretary of the United States Department of Education may be used to determine "ability to benefit" in the process of establishing a student's eligibility for federal financial aid pursuant to subdivision (d) of Section 1091 of Title 20 of the United States Code.

NOTE: Authority cited: Section 11138, Government Code; and Sections 66700 and 70901, Education Code. Reference: Section 11135, Government Code; and Sections 72011, 78211 and 78213, Education Code.

HISTORY

1. Amendment of subsections (d), (e) and (f) filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (a) and redesignating following subsections (1)–(6), adoption of subsection (b) and amendment of NOTE filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 55522. Special Accommodations.

Matriculation services for ethnic and language minority students and students with disabilities, shall be appropriate to their needs, and community college districts shall, where necessary, make modifications in the matriculation process or use alternative instruments, methods or procedures to accommodate the needs of such students. Districts may require students requesting such accommodations to provide proof of need. Extended Opportunity Programs and Services (EOPS) and Disabled Students Programs and Services (DSPS) are authorized, consistent with the provisions of chapter 1 (commencing with section 56000) and chapter 2.5 (commencing with section 56200) of division 7 of this part, to provide specialized matriculation services and modified or alternative matriculation services to their respective student populations. Notwithstanding this authorization, participation in the EOPS and DSPS programs is voluntary and no student may be denied necessary accommodations in the assessment process because he or she chooses not to use specialized matriculation services provided by these programs. Modified or alternative matriculation services for limited or non–English–speaking students may be provided in English as a Second Language programs.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55523. Counseling and Advisement.

(a) If not already required to do so by the minimum standards for counseling services set forth in section 51018 of division 1 of this Part, each community college district shall do all of the following:

(1) make reasonable efforts to ensure that all nonexempt students who are on probation participate in counseling as provided in section 55759 of this Part;

(2) make reasonable efforts to ensure that all nonexempt students who have not declared a specific educational goal participate in counseling to assist them in the process of selecting a specified educational goal pursuant to section 55525;

(3) make reasonable efforts to ensure that all nonexempt students who are enrolled in pre–collegiate basic skills courses participate in counseling or advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational plan as required by section 55525.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to subsection (b) shall be recorded in written or electronic form. The plan, and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this section, the student may file a complaint pursuant to section 55534 (c).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55526. Student Follow–up.

Each community college district shall establish a student follow–up process to assist the student in achieving his/her educational goal. The follow–up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre–collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this chapter shall be construed to interfere with the right of a student, if admitted to a community college in accord with district admission policies adopted pursuant to Education Code Sections 76000, et seq., from enrolling in any course for which he or she can meet necessary and valid prerequisites, if any, which have been established pursuant to the requirements of Section 58106 of Division 9 of this Part.

(b) Community college districts shall take steps to ensure that information, in written form, is available to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under this chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests which correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission, declare a specific educational goal within a reasonable period after admission, participate in counseling or advisement pursuant to Section 55523(a)(1), (2) and (3), diligently attend class and complete assigned coursework, and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree–applicable credit coursework, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring

his/her specific educational goal, or fails to abide by the terms of his/her tudent educational plan, the district may, subject to the requirements of this chapter, suspend or terminate the provision of services authorized in Section 55520; provided however, that nothing in this section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(c) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation rocess.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Where students are required by a community college district to meet prerequisites under section 58106(b)(2) or (b)(3), a student may object to such requirement on the grounds that the necessary course is not available. The district shall promptly (within 5 working days) determine whether, the required course was available and if not, the district shall waive the prerequisite for that term.

(b) An allegation that a community college district has violated the provisions of subsection (f) of section 55521 or has established a discriminatory prerequisite subject to challenge under subsection (d)(3) of section 58106 shall be considered a complaint of unlawful discrimination and shall be filed, investigated and resolved pursuant to chapter 5 (commencing with section 59300) of Division 10 of this part.

(c) Each community college district shall establish written procedures by which students may challenge any other alleged violation of the provisions of this chapter or of section 58106. Districts shall investigate and attempt to resolve any such complaints. Such complaint procedures may, by action of the governing board, be consolidated with existing student grievance procedures. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under section 55512(c).

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135-11139.5, Government Code; Sections 78211, and 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) Vocational education contract means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled

[The next page is 357.]

§ 55510
§ 55530
§ 55534

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in section heading and subsection (e) (Register 91, No. 43).
3. Amendment of subsection (d) and repealer of subsection (e) filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

§ 55451. Provision for Medical or Hospital Service for Students.

The governing board of any community college district conducting excursions and field trips pursuant to these regulations shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from an authorized insurer, for students of the district injured while participating in the excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership may be paid from the funds of the district, or by the insured student, or his or her parent or guardian.

The insurance may be purchased from, or the membership may be taken in, only companies or corporations that are authorized to do business in this state.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of section heading and text filed 5-15-93; operative 6-4-93 (Register 93, No. 25).

Subchapter 6. Matriculation Programs

Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour–Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code Sections 78210, et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code Section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code Section 71020.5.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 71020.5 and 78210–78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (a) and repealer of subsection (c) filed 4-3-92; operative 5-4-92 (Register 92, No. 17).

§ 55502. Definitions.

For purposes of this chapter, the following definitions shall apply:

(a) "Matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements. This agreement is to be implemented by means of the student's individual educational plan developed pursuant to section 55525.

(b) "Assessment" means the process of gathering information about individual students to facilitate student success. Assessment shall include, but is not limited to, information regarding the student's study skills, English language proficiency, computational skills, aptitudes, goals, learning skills, career aspirations, academic performance, and need for special services. Assessment involves the collection of such information at any time before or after enrollment, except that the process of assigning a grade by an instructor shall not be considered part of the assessment process. Once a grade has been assigned and recorded in a student's transcript, it can be used in the assessment process.

(c) "Assessment instruments, methods or procedures" means one or more assessment instruments, assessment methods, or assessment procedures, or any combination thereof. These include, but are not limited to, interviews, standardized tests, holistic scoring processes, attitude surveys, vocational or career aptitude and interest inventories, high school or college transcripts, specialized certificates or licenses, educational histories and other measures of performance. The term "assessment instruments, methods or procedures" also includes assessment procedures such as the identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment sessions are conducted, manner in which assessment results are made available and the length of time required before such results are available.

(d) "Pre-collegiate basic skills courses" are those courses in reading, writing, computation, learning skills, study skills, and English as a Second Language which are designated by the community college district as non-degree credit courses pursuant to section 55002(b) of this part.

(e) "Disproportionate impact" occurs when the percentage of persons from a particular racial, ethnic, gender, age or disability group who are directed to a particular service or placement based on an assessment instrument, method or procedure is significantly different than the representation of that group in the population of persons being assessed and that discrepancy is not justified by empirical evidence demonstrating that the assessment instrument, method or procedure is a valid and reliable predictor of performance in the relevant educational setting.

(f) "Exemption" means waiving or deferring a student's participation in orientation, assessment, counseling or advisement required pursuant to subsections (b),(c), and (f) of section 55520.

(g) "matriculation services" are those services listed in section 55520.

(h) "matriculation practices: means one or more instruments, methods or procedures, or any combination thereof, used in providing any of the matriculation services listed in section 55520.

(i) "student" means a person enrolled in at lease one credit course.

(j) "orientation" is a process which acquaints students and potential students with college programs, service, facilities and grounds, academic expectations, and institutional procedures.

(k) "student follow-up" is the process of monitoring a student's progress toward his or her educational goals and providing the student with appropriate advice based on the results of such monitoring.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78212 and 78213, Education Code.

HISTORY

1. Amendment of subsection (a) and (b) and new subsections (g), (h), (i), (j) and (k) filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Planning and Administration

§ 55510. Matriculation Plans.

(a) Each community college district shall adopt a matriculation plan describing the services to be provided to its students. The plan shall include, but not be limited to:

(1) a description of the methods by which required services will be delivered;

(2) the district's budget for matriculation;

(3) plans for faculty and staff development;

(4) computerized information services and institutional research and evaluation necessary to implement this Chapter;

(5) criteria for exempting students from participation in the matriculation process;

(6) procedures for establishing and validating prerequisites pursuant to Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division; and

(7) in districts with more than one college, arrangements for coordination by the district of the matriculation plans of its various colleges.

(b) The plan shall be developed through consultation with representatives of the academic senate, students, and staff with appropriate expertise, pursuant to Section 51023 et seq.

(c) Such plans shall conform to the requirements of this Chapter and shall be submitted to the Chancellor for review and approval. Plans submitted prior to the effective date of this Section need not be revised or resubmitted if the Chancellor finds that they meet the requirements of this Chapter. Regardless of when plans are initially submitted, the Chancellor may require periodic updates of such plans.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55512. Evaluation and Audits.

(a) Each community college district shall establish a program of institutional research for ongoing evaluation of its matriculation process to ensure compliance with the requirements of this chapter.

As part of this evaluation, all assessment instruments, methods or procedures shall be evaluated to ensure that they minimize or eliminate cultural or linguistic bias and are being used in a valid manner. Based on this evaluation, districts shall determine whether any assessment instrument, method or procedure has a disproportionate impact on particular groups of students described in terms of ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact. The evaluation shall include, but not be limited to, an analysis of the degree to which the matriculation program:

(1) impacts on particular courses, programs, and facilities;

(2) helps students to define their educational goals;

(3) promotes student success, as evidenced by outcome and retention data such as student persistence, goal attainment, skill improvement, and grades;

(4) assists the district in the assessment of students' educational needs;

(5) matches district resources with students' educational needs; and

(6) provides students with the support services described in section 55520(g).

(b) Each district shall also, as part of its annual financial audit, provide for a review of the revenue and expenditures of the matriculation program.

(c) The Chancellor shall establish a system for evaluation of the matriculation program on a statewide basis, including procedures for monitoring compliance with the requirements of this chapter.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: section 78214 and 78217, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55514. Data Collection.

Each community college district shall submit an annual report describing the district's efforts to implement its matriculation plan and expenditures made for that purpose. In this report, or through the established management information system or otherwise, the data to be collected for evaluation purposes pursuant to Education Code section 78214 and section 55512 of this part. Such data shall specifically include, but is not limited to, the information necessary to permit the Chancellor to determine the following:

(a) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who are placed in pre-collegiate, associate-degree applicable, or transfer level courses in reading, writing, computation or English as a Second Language.

(b) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who enter and complete pre-collegiate basic skills courses.

(c) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, completing pre-collegiate basic skills courses who subsequently enter and complete courses applicable to the associate degree;

(d) outcome and retention data, as described in section 55512(a), indicating the effectiveness of matriculation;

(e) the basis on which the use of particular assessment instruments, methods or procedures was validated by a district;

(f) the numbers of students exempted, pursuant to section 55532, from participation in the district's matriculation program, by category of exemption;

(g) the number of students filing complaints pursuant to 55534 and the bases of those complaints;

(h) the particular matriculation services, as listed in section 55520, which each student received; and

(i) any other matter the Chancellor, after consultation with community college districts, deems necessary for the effective evaluation of matriculation programs.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78214, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55516. Training and Staff Development.

Each community college district shall develop and implement a program for providing all faculty and staff with training appropriate to their needs on the provision of matriculation services, including but not limited to, the proper purpose, design, evaluation, and use of assessment instruments, methods or procedures, as well as their limitations and possible misuse.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55518. Funding.

(a) The Chancellor shall adopt a funding formula, consistent with the requirements of this section, for allocating matriculation funds to community college districts complying with the requirements of this chapter.(b) Each dollar of state matriculation funding shall be matched by three dollars of other district resources devoted to the matriculation program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 3. Matriculation Services

§ 55520. Required Services.

At a minimum, each community college district shall provide students, except as exempted pursuant to section 55532, with all of the following matriculation services:

(a) the processing of applications for admission;

(b) orientation and pre–orientation services designed to provide nonexempt students and potential students, on a timely basis, information concerning college procedures and course scheduling, academic expectations, financial assistance, and any other matters the college or district finds appropriate;

(c) assessment for all nonexempt students pursuant to section 55524;

(d) counseling or advisement for nonexempt students pursuant to section 55523;

(e) assistance in developing a student educational plan pursuant to section 55525, which identifies the student's educational objectives and the courses, services, and programs to be used to achieve them;

(f) post enrollment evaluation, pursuant to section 55526, of each student's progress; and

(g) referral of students to:

(1) support services which may be available, including, but not limited to, counseling, financial aid, health services, campus employment placement services, Extended Opportunity Programs and Services, campus child care services, tutorial services, and Disabled Students Programs and Services; and

(2) specialized curriculum offerings including but not limited to, precollegiate basic skills courses and programs in English as a Second Language.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55521. Prohibited Practices.

(a) In implementing matriculation services, community college districts shall not, except as provided in subdivision (b), do any of the following:

(1) use an assessment instrument which has not been approved by the Chancellor pursuant to Section 55524, except that the Chancellor may permit limited field–testing, under specified conditions, of new or alternative assessment instruments, where such instruments are not used for placement and are evaluated only in order to determine whether they should be added to the list of approved instruments;

(2) use any assessment instrument in a manner or for a purpose other than that for which it was developed or has been otherwise validated;

(3) use any single assessment instrument, method or procedure, by itself, for placement, required referral to appropriate services, or subsequent evaluation of any student; provided however that, in the case of assessment instruments, the use of two or more highly correlated instruments does not satisfy the requirement for use of multiple measures;

(4) use any assessment instrument, method or procedure to exclude any person from admission to a community college;

(5) use any assessment instrument, method or procedure for mandatory placement of a student in or exclusion from any particular course or educational program, except that districts may establish appropriate prerequisites pursuant to Sections 55002 and 58106 of Division 9 of this Part; or

(6) use any matriculation practice which has the purpose or effect of subjecting any person to unlawful discrimination prohibited by Chapter 5 (commencing with Section 59300) of Division 10 of this Part.

(b) Notwithstanding the provisions of subdivisions (a)(1) and (2), assessment instruments approved by the Secretary of the United States Department of Education may be used to determine "ability to benefit" in the process of establishing a student's eligibility for federal financial aid pursuant to subdivision (d) of Section 1091 of Title 20 of the United States Code.

NOTE: Authority cited: Section 11138, Government Code; and Sections 66700 and 70901, Education Code. Reference: Section 11135, Government Code; and Sections 72011, 78211 and 78213, Education Code.

HISTORY

1. Amendment of subsections (d), (e) and (f) filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (a) and redesignating following subsections (1)–(6), adoption of subsection (b) and amendment of NOTE filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 55522. Special Accommodations.

Matriculation services for ethnic and language minority students and students with disabilities, shall be appropriate to their needs, and community college districts shall, where necessary, make modifications in the matriculation process or use alternative instruments, methods or procedures to accommodate the needs of such students. Districts may require students requesting such accommodations to provide proof of need. Extended Opportunity Programs and Services (EOPS) and Disabled Students Programs and Services (DSPS) are authorized, consistent with the provisions of chapter 1 (commencing with section 56000) and chapter 2.5

(commencing with section 56200) of division 7 of this part, to provide specialized matriculation services and modified or alternative matriculation services to their respective student populations. Notwithstanding this authorization, participation in the EOPS and DSPS programs is voluntary and no student may be denied necessary accommodations in the assessment process because he or she chooses not to use specialized matriculation services provided by these programs. Modified or alternative matriculation services for limited or non-English-speaking students may be provided in English as a Second Language programs.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55523. Counseling and Advisement.

(a) If not already required to do so by the minimum standards for counseling services set forth in section 51018 of division 1 of this Part, each community college district shall do all of the following:

(1) make reasonable efforts to ensure that all nonexempt students who are on probation participate in counseling as provided in section 55759 of this Part;

(2) make reasonable efforts to ensure that all nonexempt students who have not declared a specific educational goal participate in counseling to assist them in the process of selecting a specified educational goal pursuant to section 55525;

(3) make reasonable efforts to ensure that all nonexempt students who are enrolled in pre-collegiate basic skills courses participate in counseling or advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational plan as required by section 55525.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to subsection (b) shall be recorded in written or electronic form. The plan, and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this section, the student may file a complaint pursuant to section 55534 (c).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55526. Student Follow-up.

Each community college district shall establish a student follow-up process to assist the student in achieving his/her educational goal. The follow-up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre-collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this Subchapter shall be construed to interfere with the right of a student admitted to a community college in accord with district admission policies adopted pursuant to Education Code Section 76000, et seq. to enroll in any course for which he or she can meet necessary and appropriate prerequisites, if any, which have been established pursuant to the requirements of Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division.

(b) Community college districts shall take steps to ensure that information is available in written form to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under this Chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to

avoid additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Subsection (f) of Section 55521, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135-11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94-482 and 95-40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation not less than two (2) full calendar years prior to the effective date of the contract, to provide vocational skill training authorized by this Code.

(d) "Eligible costs" means all direct and indirect related instructional costs but does not include expenditures for capital outlay (6000 category in the California Community Colleges Budget and Accounting Manual).

§ 55502
§ 55510
§ 55525
§ 55534

No student shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end the governing board shall coordinate efforts of community service groups to supply funds for students in need of them.

No group shall be authorized to take a field trip or excursion authorized by this section if any student who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

No expenses of students participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with district funds. Expenses of instructors, chaperons, and other personnel participating in a field trip or excursion authorized by this section may be paid from district funds, and the district may pay from district funds all incidental expenses for the use of district equipment during a field trip or excursion authorized by this section.

The attendance or participation of a student in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance that would have accrued had the students not been engaged in the field trip or excursion. No more contact hours shall be generated by a field trip or excursion than if the class were held on campus.

All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking out-of-state field trips or excursions and all parents or guardians of students taking out-of-state field trips or excursions shall sign a statement waiving such claims.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in section heading and subsection (e) (Register 91, No. 43).
3. Amendment of subsection (d) and repealer of subsection (e) filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

§ 55451. Provision for Medical or Hospital Service for Students.

The governing board of any community college district conducting excursions and field trips pursuant to these regulations shall provide, or make available, medical or hospital service, or both, through nonprofit membership corporations defraying the cost of medical service or hospital service, or both, or through group, blanket or individual policies of accident insurance from an authorized insurer, for students of the district injured while participating in the excursions and field trips under the jurisdiction of, or sponsored or controlled by, the district or the authorities of any college of the district. The cost of the insurance or membership may be paid from the funds of the district, or by the insured student, or his or her parent or guardian.

The insurance may be purchased from, or the membership may be taken in, only companies or corporations that are authorized to do business in this state.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of section heading and text filed 5–15–93; operative 6–4–93 (Register 93, No. 25).

Subchapter 6. Matriculation Programs

Article 1. Scope and Definitions

§ 55500. Scope and Implementation.

(a) This chapter implements and should be read in conjunction with the provisions of the Seymour–Campbell Matriculation Act of 1986, c. 1467, Stats. 1986, codified as Education Code Sections 78210, et seq. The purpose of this chapter is to further equality of educational opportunity and success for all students in the California Community Colleges.

(b) The requirements of this chapter apply only to districts receiving funds pursuant to Education Code Section 78216 for the period of time during which such funds are received. The Chancellor shall, in consultation with districts and other interested parties, adopt a schedule for implementing the provisions of this chapter as expeditiously as possible within the constraints of available funding. The schedule shall be coordinated with the implementation and funding of the systemwide management information system and the accountability mechanisms established pursuant to Education Code Section 71020.5.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 71020.5 and 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (a) and repealer of subsection (c) filed 4–3–92; operative 5–4–92 (Register 92, No. 17).

§ 55502. Definitions.

For purposes of this Chapter, the following definitions shall apply:

(a) "Matriculation" means a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements. This agreement is to be implemented by means of the student's individual educational plan developed pursuant to Section 55525.

(b) "Assessment" means the process of gathering information about individual students to facilitate student success. Assessment shall include, but is not limited to, information regarding the student's study skills, English language proficiency, computational skills, aptitudes, goals, learning skills, career aspirations, academic performance, and need for special services. Assessment involves the collection of such information at any time before or after enrollment, except that the process of assigning a grade by an instructor shall not be considered part of the assessment process. Once a grade has been assigned and recorded in a student's transcript, it can be used in the assessment process.

(c) "Assessment instruments, methods, or procedures" means one or more assessment instruments, assessment methods, or assessment procedures, or any combination thereof. These include, but are not limited to, interviews, standardized tests, holistic scoring processes, attitude surveys, vocational or career aptitude and interest inventories, high school or college transcripts, specialized certificates or licenses, educational histories and other measures of performance. The term "assessment instruments, methods, or procedures" also includes assessment procedures such as the identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment sessions are conducted, manner in which assessment results are made available, and the length of time required before such results are available.

(d) "Pre-collegiate basic skills courses" are those courses in reading, writing, computation, and English as a Second Language which are designated by the community college district as nondegree credit courses pursuant to Section 55002(b).

(e) "Disproportionate impact" occurs when the percentage of persons from a particular racial, ethnic, gender, age or disability group who are directed to a particular service or placement based on an assessment instrument, method, or procedure is significantly different from the representation of that group in the population of persons being assessed, and that discrepancy is not justified by empirical evidence demonstrating that the assessment instrument, method or procedure is a valid and reliable predictor of performance in the relevant educational setting.

(f) "Exemption" means waiving or deferring a student's participation in orientation, assessment, counseling, or advisement required pursuant to Subsections (b),(c), and (f) of Section 55520.

(g) "Matriculation services" are those services listed in Section 55520.

(h) "Matriculation practices" means one or more instruments, methods, or procedures, or any combination thereof, used in providing any of the matriculation services listed in Section 55520.

(i) "Student" means a person enrolled in at lease one credit course.

(j) "Orientation" is a process which acquaints students and potential students with college programs, services, facilities and grounds, academic expectations, and institutional procedures.

(k) "Student follow-up" is the process of monitoring a student's progress toward his or her educational goals and providing the student with appropriate advice based on the results of such monitoring.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78212 and 78213, Education Code.

HISTORY

1. Amendment of subsection (a) and (b) and new subsections (g), (h), (i), (j) and (k) filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsections (a) and (c)–(k) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 2. Planning and Administration

§ 55510. Matriculation Plans.

(a) Each community college district shall adopt a matriculation plan describing the services to be provided to its students. The plan shall include, but not be limited to:

(1) a description of the methods by which required services will be delivered;

(2) the district's budget for matriculation;

(3) plans for faculty and staff development;

(4) computerized information services and institutional research and evaluation necessary to implement this Chapter;

(5) criteria for exempting students from participation in the matriculation process;

(6) procedures for establishing and periodically reviewing prerequisites pursuant to Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division;

(7) procedures for considering student challenges to prerequisites established pursuant to Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division; and

(8) in districts with more than one college, arrangements for coordination by the district of the matriculation plans of its various colleges.

(b) The plan shall be developed through consultation with representatives of the academic senate, students, and staff with appropriate expertise, pursuant to Section 51023 et seq.

(c) Such plans shall conform to the requirements of this Chapter and shall be submitted to the Chancellor for review and approval. Plans submitted prior to the effective date of this Section need not be revised or resubmitted if the Chancellor finds that they meet the requirements of this Chapter. Regardless of when plans are initially submitted, the Chancellor may require periodic updates of such plans.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (a)(6), new subsection (a)(7) and subsection renumbering filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55512. Evaluation and Audits.

(a) Each community college district shall establish a program of institutional research for ongoing evaluation of its matriculation process to ensure compliance with the requirements of this chapter.

As part of this evaluation, all assessment instruments, methods or procedures shall be evaluated to ensure that they minimize or eliminate cultural or linguistic bias and are being used in a valid manner. Based on this evaluation, districts shall determine whether any assessment instrument, method or procedure has a disproportionate impact on particular groups of students described in terms of ethnicity, gender, age or disability, as defined by the Chancellor. When there is a disproportionate impact on any such group of students, the district shall, in consultation with the Chancellor, develop and implement a plan setting forth the steps the district will take to correct the disproportionate impact. The evaluation shall include, but not be limited to, an analysis of the degree to which the matriculation program:

(1) impacts on particular courses, programs, and facilities;

(2) helps students to define their educational goals;

(3) promotes student success, as evidenced by outcome and retention data such as student persistence, goal attainment, skill improvement, and grades;

(4) assists the district in the assessment of students' educational needs;

(5) matches district resources with students' educational needs; and

(6) provides students with the support services described in section 545520(g).

(b) Each district shall also, as part of its annual financial audit, provide for a review of the revenue and expenditures of the matriculation program.

(c) The Chancellor shall establish a system for evaluation of the matriculation program on a statewide basis, including procedures for monitoring compliance with the requirements of this chapter.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: section 78214 and 78217, Education Code.

HISTORY

1. Amendment filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55514. Data Collection.

Each community college district shall submit an annual report describing the district's efforts to implement its matriculation plan and expenditures made for that purpose. In this report, or through the established management information system or otherwise, the data to be collected for evaluation purposes pursuant to Education Code section 78214 and section 55512 of this part. Such data shall specifically include, but is not limited to, the information necessary to permit the Chancellor to determine the following:

(a) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who are placed in pre-collegiate, associate-degree applicable, or transfer level courses in reading, writing, computation or English as a Second Language.

(b) the proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, who enter and complete pre-collegiate basic skills courses.

(c) The proportion of students from various ethnic, gender, age or disability groups, as defined by the Chancellor, completing pre-collegiate basic skills courses who subsequently enter and complete courses applicable to the associate degree;

(d) outcome and retention data, as described in section 55512(a), indicating the effectiveness of matriculation;

(e) the basis on which the use of particular assessment instruments, methods or procedures was validated by a district;

(f) the numbers of students exempted, pursuant to section 55532, from participation in the district's matriculation program, by category of exemption;

(g) the number of students filing complaints pursuant to 55534 and the bases of those complaints;

(h) the particular matriculation services, as listed in section 55520, which each student received; and

(i) any other matter the Chancellor, after consultation with community college districts, deems necessary for the effective evaluation of matriculation programs.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78214, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55516. Training and Staff Development.

Each community college district shall develop and implement a program for providing all faculty and staff with training appropriate to their needs on the provision of matriculation services, including but not limited to, the proper purpose, design, evaluation, and use of assessment instruments, methods or procedures, as well as their limitations and possible misuse.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55518. Funding.

(a) The Chancellor shall adopt a funding formula, consistent with the requirements of this section, for allocating matriculation funds to community college districts complying with the requirements of this chapter.(b) Each dollar of state matriculation funding shall be matched by three dollars of other district resources devoted to the matriculation program.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78216, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 3. Matriculation Services

§ 55520. Required Services.

At a minimum, each community college district shall provide students, except as exempted pursuant to section 55532, with all of the following matriculation services:

(a) the processing of applications for admission;

(b) orientation and pre–orientation services designed to provide nonexempt students and potential students, on a timely basis, information concerning college procedures and course scheduling, academic expectations, financial assistance, and any other matters the college or district finds appropriate;

(c) assessment for all nonexempt students pursuant to section 55524;

(d) counseling or advisement for nonexempt students pursuant to section 55523;

(e) assistance in developing a student educational plan pursuant to section 55525, which identifies the student's educational objectives and the courses, services, and programs to be used to achieve them;

(f) post enrollment evaluation, pursuant to section 55526, of each student's progress; and

(g) referral of students to:

(1) support services which may be available, including, but not limited to, counseling, financial aid, health services, campus employment placement services, Extended Opportunity Programs and Services, campus child care services, tutorial services, and Disabled Students Programs and Services; and

(2) specialized curriculum offerings including but not limited to, pre–collegiate basic skills courses and programs in English as a Second Language.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55521. Prohibited Practices.

(a) In implementing matriculation services, community college districts shall not, except as provided in subdivision (b), do any of the following:

(1) use an assessment instrument which has not been approved by the Chancellor pursuant to Section 55524, except that the Chancellor may permit limited field–testing, under specified conditions, of new or alternative assessment instruments, where such instruments are not used for placement and are evaluated only in order to determine whether they should be added to the list of approved instruments;

(2) use any assessment instrument in a manner or for a purpose other than that for which it was developed or has been otherwise validated;

(3) use any single assessment instrument, method or procedure, by itself, for placement, required referral to appropriate services, or subsequent evaluation of any student; provided however that, in the case of assessment instruments, the use of two or more highly correlated instruments does not satisfy the requirement for use of multiple measures;

(4) use any assessment instrument, method or procedure to exclude any person from admission to a community college;

(5) use any assessment instrument, method or procedure for mandatory placement of a student in or exclusion from any particular course or educational program, except that districts may establish appropriate prerequisites pursuant to Sections 55002 and 58106 of Division 9 of this Part; or

(6) use any matriculation practice which has the purpose or effect of subjecting any person to unlawful discrimination prohibited by Chapter 5 (commencing with Section 59300) of Division 10 of this Part.

(b) Notwithstanding the provisions of subdivisions (a)(1) and (2), assessment instruments approved by the Secretary of the United States Department of Education may be used to determine "ability to benefit" in the process of establishing a student's eligibility for federal financial aid pursuant to subdivision (d) of Section 1091 of Title 20 of the United States Code.

NOTE: Authority cited: Section 11138, Government Code; and Sections 66700 and 70901, Education Code. Reference: Section 11135, Government Code; and Sections 72011, 78211 and 78213, Education Code.

HISTORY

1. Amendment of subsections (d), (e) and (f) filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (a) and redesignating following subsections (1)–(6), adoption of subsection (b) and amendment of NOTE filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 55522. Special Accommodations.

Matriculation services for ethnic and language minority students and students with disabilities, shall be appropriate to their needs, and community college districts shall, where necessary, make modifications in the matriculation process or use alternative instruments, methods or procedures to accommodate the needs of such students. Districts may require students requesting such accommodations to provide proof of need. Ex-

tended Opportunity Programs and Services (EOPS) and Disabled Students Programs and Services (DSPS) are authorized, consistent with the provisions of chapter 1 (commencing with section 56000) and chapter 2.5 (commencing with section 56200) of division 7 of this part, to provide specialized matriculation services and modified or alternative matriculation services to their respective student populations. Notwithstanding this authorization, participation in the EOPS and DSPS programs is voluntary and no student may be denied necessary accommodations in the assessment process because he or she chooses not to use specialized matriculation services provided by these programs. Modified or alternative matriculation services for limited or non-English-speaking students may be provided in English as a Second Language programs.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700, 70901, and 84500.1, Education Code. Reference: Section 11135, Government Code; Sections 72011, 78211, 78213, and 84500.1, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55523. Counseling and Advisement.

(a) If not already required to do so by the minimum standards for counseling services set forth in section 51018 of division 1 of this Part, each community college district shall do all of the following:

(1) make reasonable efforts to ensure that all nonexempt students who are on probation participate in counseling as provided in section 55759 of this Part;

(2) make reasonable efforts to ensure that all nonexempt students who have not declared a specific educational goal participate in counseling to assist them in the process of selecting a specified educational goal pursuant to section 55525;

(3) make reasonable efforts to ensure that all nonexempt students who are enrolled in pre-collegiate basic skills courses participate in counseling or advisement; and

(4) make available to all students, as defined in section 55502(i), advisement or counseling on general academic requirements and the selection of specific courses by counselors or appropriately trained instructor/advisors, and/or other appropriately trained staff working in consultation with counselors.

(b) Counseling by appropriately trained counselors or advisement by appropriately trained staff may also be made available in any other area the district deems appropriate, including but not limited to, the interpretation of assessment results and the development of a student's educational plan as required by section 55525.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

§ 55524. Assessment.

The Chancellor shall establish and update, at least annually, a list of approved assessment instruments and guidelines for their use by community college districts. These guidelines shall identify modifications of an assessment instrument or the procedures for its use which may be made in order to provide special accommodations required by section 55522 without separate approval by the Chancellor. Such guidelines shall also describe the procedure by which districts may seek to have assessment instruments approved and added to the list. The Chancellor shall ensure that all assessment instruments included on the list minimize or eliminate cultural or linguistic bias, are normed on the appropriate populations, yield valid and reliable information, identify the learning needs of students, make efficient use of student and staff time, and are otherwise consistent with the educational and psychological testing standards of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education.

NOTE: Authority cited: Sections 66700, and 70901, Education Code. Reference: Section 78213, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55525. Student Educational Plan.

(a) Each community college district shall establish a process for assisting students to select a specific educational goal within a reasonable time after admission as required by Section 55530 (d). This shall include, but not be limited to, the provision of counseling as required by Section 55523(a)(2).

(b) Once a student has selected a specific educational goal, the district shall afford the student the opportunity to develop a student educational plan describing the responsibilities of the student, the requirements he or she must meet, and the courses, programs, and services required to achieve the stated goal.

(c) The student educational plan developed pursuant to Subsection (b) shall be recorded in written or electronic form. The plan and its implementation shall be reviewed as necessary to ensure that it continues to accurately reflect the needs and goals of the student.

(d) If a student believes the district has failed to make good faith efforts to develop a plan, has failed to provide services specified in the student educational plan, or has otherwise violated the requirements of this Section, the student may file a complaint pursuant to Section 55534 (a).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).
2. Amendment of subsections (a), (c) and (d) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 55526. Student Follow-up.

Each community college district shall establish a student follow-up process to assist the student in achieving his/her educational goal. The follow-up system shall ensure that the academic progress of each student is regularly monitored to detect early signs of academic difficulty and students shall be provided with advice or referral to specialized services or curriculum offerings where necessary. Districts shall also identify and refer to counseling or advisement, as appropriate pursuant to section 55523(a), any students who have not declared a specific educational goal as required by section 55530, who are enrolled in pre-collegiate basic skills courses, or who have been placed on probation.

NOTE: Authority cited: Sections 66700 and 70901, Educational Code. Reference: Section 78212, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governor's, California Community Colleges, with the Secretary of State, operative 7-6-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (b) (Register 90, No. 37).

Article 4. Appeals, Waivers, Student Rights and Responsibilities

§ 55530. Student Rights and Responsibilities.

(a) Nothing in this Subchapter shall be construed to interfere with the right of a student admitted to a community college in accord with district admission policies adopted pursuant to Education Code Section 76000, et seq. to enroll in any course for which he or she can meet necessary and appropriate prerequisites, if any, which have been established pursuant to the requirements of Article 2.5 (commencing with Section 55200) of Subchapter 1 of Chapter 6 of this Division.

(b) Community college districts shall take steps to ensure that information is available in written form to all students during or prior to enrollment (e.g., during orientation) and is included in class schedules, catalogs or other appropriate publications, describing their rights and responsibilities under this Chapter.

(c) Districts shall also take steps to ensure that the matriculation process is efficient so that students are not discouraged from participating in college programs. Whenever possible, students should be permitted to avoid additional testing by submitting scores on recently taken tests that correlate with those used by the district.

(d) Students shall be required to express at least a broad educational intent upon admission; declare a specific educational goal within a reasonable period after admission; participate in counseling or advisement pursuant to Section 55523(a)(1), (2), and (3); diligently attend class and complete assigned coursework; and complete courses and maintain progress toward an educational goal according to standards established by the district, consistent with the requirements of Chapter 9 (commencing with Section 55750) of Division 6 of this Part. The governing board of each community college district shall adopt clear written policies not inconsistent with law, specifically defining these responsibilities of students and the consequences of failure to fulfill such responsibilities. This policy shall define the period of time within which a student must identify a specific educational goal as required by this Subsection, provided however, that all students shall be required to declare such a goal during the term after which the student completes 15 semester units or 22 quarter units of degree-applicable credit course work, unless the district policy establishes a shorter period. Once the student has developed a specific educational goal, the district must provide the student with an opportunity to develop a student educational plan pursuant to Section 55525. Student responsibilities shall also be identified in the student's educational plan developed pursuant to Section 55525. If a student fails to fulfill the responsibilities listed in this Subsection, fails to cooperate with the district in the development of a student educational plan within 90 days after declaring his or her specific educational goal, or fails to abide by the terms of his or her student educational plan, the district may, subject to the requirements of this Chapter, suspend or terminate the provision of services authorized in Section 55520, provided however, that nothing in this Section shall be construed to permit a district to suspend or terminate any service to which a student is otherwise entitled under any other provision of law.

(e) Information obtained from the matriculation process shall be considered student records and shall be subject to the requirements of Chapter 6 (commencing with Section 54600) of Division 5 of this Part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 76000, 76001, 76001.5 and 78212, Education Code.

HISTORY

1. Amendment filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsection (b) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).
3. Amendment of subsections (a), (b) and (d) filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).

§ 55532. Exemptions.

(a) Community college districts may elect to exempt certain students from participation in orientation, assessment, counseling or advisement, as required by subsections (b), (c), or (d) of section 55520. Each such district shall establish policies specifying the grounds for exemption. Such policies shall be identified in the matriculation plan required under section 55510 and the number of students so exempted shall be reported, by category, to the Chancellor pursuant to section 55514.

(b) District policies may exempt from orientation, assessment, counseling, or advisement any student who; has completed a associate degree or higher.

(c) Any student exempted pursuant to this section shall be notified that he or she is covered by an exemption and shall be given the opportunity to choose whether or not to participate in that part of the matriculation process.

(d) District policies may not use any of the following as the sole criterion for exempting any student who does not wish to participate:

(1) the student has enrolled only in evening classes;

(2) the student has enrolled in fewer than some specified number of units;

(3) the student is undecided about his or her educational objectives; or

(4) the student does not intend to earn a degree or certificate.

(e) As part of the statewide evaluation provided for under subsection (c) of section 55512, the Chancellor shall analyze and recommend necessary changes regarding the impact on the matriculation program of the exemption policies adopted by community college districts.

NOTE: Authority cited: Sections 66700, 70901, and 78215, Education Code. Reference: Section 78215, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 55534. Violations, Waivers and Appeals.

(a) Each community college district shall establish written procedures by which students may challenge any alleged violation of the provisions of this Subchapter. Districts shall investigate and attempt to resolve any such complaints in a timely manner. Such complaint procedures may be consolidated with existing student grievance procedures by action of the governing board. Records of all such complaints shall be retained for at least three years after the complaint has been resolved and shall be subject to review by the Chancellor as part of the statewide evaluation required under Section 55512(c).

(b) When a challenge contains an allegation that a community college district has violated the provisions of Section 55521(a)(6), the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

NOTE: Authority cited: Section 11138, Government Code; Sections 66700 and 70901, Education Code. Reference: Sections 11135–11139.5, Government Code; Sections 78211 and 78213, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–6–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–5–93; operative 11–4–93. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 93, No. 42).
3. Amendment of subsection (b) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 7. Occupational Education

Article 1. Vocational Education Contracts

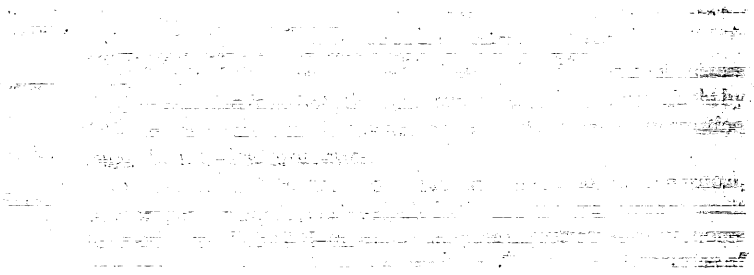
§ 55600. Definitions.

For the purposes of this article the following definitions apply:

(a) "Vocational education contract" means a written agreement between any community college district and a contractor which meets standards prescribed herein to provide vocational instruction to students enrolled in community colleges. Such agreements shall also be required to comply with the provisions of article 5 (commencing with section 8090) of chapter 1, part 6 of the Education Code.

(b) "The California State Plan for Vocational Education" means an official agreement between the United States Commissioner of Education and the California State Board of Education which provides standards, policies, and procedures that shall apply to the operation of various phases of vocational education to qualify for financial support from the Education Amendments of 1976 (Public Law 94–482 and 95–40), part A, Vocational Education, or any subsequent federal legislation.

(c) "Contractor" as used in section 55602 means any private postsecondary school authorized or approved pursuant to the provisions of chapter 3 (commencing with section 94300), and which has been in operation



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 17: Full-Time/Part-Time Faculty

History Index for
Title 5, California Code of Regulations

Section 51025
Section 53300
Section 53301
Section 53302
Section 53308
Section 53309
Section 53310
Section 53311
Section 53312
Section 53314

Register 90-37 § 53300: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53302: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53310: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53311: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53312: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53314: New section filed by the Board of Governors, California Community Colleges, with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 91-31 § 53300: Editorial correction of printing error in Subchapter 3 heading.

§ 53310: Editorial correction of printing error in Article 2 heading.

Register 91-46 § 51025: New section filed and submitted to OAL for printing only pursuant to Education Code 70901.5.

Register 92-09 § 53300: Amendment of section.

Register 92-34 § 51025: New first paragraph, amendment of subsections (a)-(a)(4) and (c) and NOTE.

§ 53300: Repealer and new section and amendment of NOTE.

§ 53302: Amendment of NOTE.

§ 53310: New subsections (f)-(h) and amendment of NOTE.

§ 53311: Amendment of section heading, text and NOTE.

§ 53312: Amendment of subsections (a) and (c) and NOTE and new subsection (d).

§ 53314: Repealer and new section and amendment of NOTE.

Register 93-06 § 53310: Amendment of subsection (h).

Register 94-38 § 51025: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53300: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53302: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53310: Amendment of subsections (d), (e), (g), and (h). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53311: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 53314: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 98-14 § 51025: Amendment of subsections (a)-(a)(4), (b) and (c).

Submitted to OAL for printing only.
§ 53300: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.
§ 53302: Amendment of section heading and section. Submitted to OAL for printing only.
§ 53310: Amendment of section heading and section. Submitted to OAL for printing only.
§ 53311: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 2000-26 § 51025: Amendment of section. Submitted to OAL for printing only.
§ 53301: Added new section. Submitted to OAL for printing only.
§ 53302: Amendment of section and NOTE. Submitted to OAL for printing only.
§ 53308: Added new section. Submitted to OAL for printing only.
§ 53309: Added new section. Submitted to OAL for printing only.
§ 53310: Repealer and new section filed. Submitted to OAL for printing only.
§ 53311: Amendment of section. Submitted to OAL for printing only.
§ 53312: Amendment of subsection (a). Submitted to OAL for

printing only.

§ 53314: Amendment of section. Submitted to OAL for printing only.

Register 2001-43 § 53309: Amendment of subsection (i). Submitted to OAL for printing only.

§ 53310: New subsection (c)(4). Submitted to OAL for printing only.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1990-37

§ 53300
§ 53302
§ 53310
§ 53311
§ 53312
§ 53314

(2) Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.

(d) The faculty may provide for the membership of part–time faculty members in the academic senate or faculty council.

(e) In the absence of any full–time faculty members in a community college, the part–time faculty of such community college may form an academic senate or faculty council with the same functions as stated in subsection (b) of Section 53200 and Section 53201.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 2–10–78; effective thirtieth day thereafter (Register 78, No. 6).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 53203. Powers.

After consultation with the administration of its community college, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.

NOTE: Authority cited: Sections 71020, 71062, 71079, Education Code. Reference: Section 71079, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).

§ 53204. Meet and Confer.

Upon the request of the academic senate or faculty council and subject to Chapter 9 (commencing with Section 54950) of Part 1, Division 2, Title 5 of the Government Code relating to public meetings when applicable, the governing board or such board members or administrative officers as it may designate shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 53205. Duties Assigned by Administration and Governing Board.

An academic senate or faculty council may assume such responsibilities and perform such functions as may be requested of it by the administration of its community college or the governing board of the district maintaining its community college.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 53206. Academic Senate for California Community Colleges.

(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

Subchapter 3. Full–Time and Part–Time Facility

Article 1. Scope and Definitions

§ 53300. Scope.

This chapter implements and should be read in conjunction with the requirements of Education Code section 87482.6 concerning the proportion of full–time and part–time instructors on the faculty of community colleges. The requirements of this chapter apply only until the provisions of Education Code section 84750 regarding program–based funding are implemented by a standard adopted by the Board of Governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full–time instructors.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53302. Full–Time Instructor.

For purposes of this chapter only, a full–time instructor shall be defined as any regular and contact faculty member teaching credit instruction

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Proportions of Full–Time and Part–Time Facility, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full–time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full–time instructors shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(b) Sabbatical. The hours of a full–time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(c) Released/Reassigned Time. The hours of a full–time instructor on released or reassigned time shall be counted as if the instructor was teaching full–time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of

credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(d) Unpaid Leave. The hours of a full-time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment,

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53311. Base Year.

For purposes of this chapter, fiscal year 1988-89 shall be the base year from which improvement in the percentage of hours of credit instruction taught by full-time instructors shall be measured.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53312. Additional Full-Time Faculty Positions.

(a) The Chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part-time instructors times the statewide average full-time teaching load).

(c) If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code.Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53314. Report to Districts.

(a) By March 15th of each year, the Chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(b) The final computation of the number of full-time instructors actually required shall be based upon full-year data submitted by districts.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 3. Enforcement

§ 53320. Funding Reductions.

On or before December 31, 1991, the Chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to section 53312 for the 1989-90 and 1990-91 fiscal years. To the extent that cumulative number of FTF have not been retained, the Chancellor shall reduce the district's base budget for 1991-92 and subsequent fiscal years by an amount equivalent to the average replacement costs times the deficiency in the number of FTF.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This chapter implements and should be read in conjunction with the requirements of Education Code sections 87001, 87356 and 87539 concerning minimum qualifications for community college faculty and administrators. The provisions of this chapter shall become effective in accordance with the provisions of section 70 of chapter 973 of the Statues of 1989.

NOTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a community college district in a supervisorial or management position as defined in Article 5 (commencing with section 3540) of chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Instructional or student services administrator" means an administrator who is employed in a position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Instructional and student services administrators include, but are not limited to, chancellors, presidents, and instructional or student service managers.

(c) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with section 3540) of chapter 10.7 of division 4 of Title 1 of the Government Code and for which minimum qualifications for hire are specified in section 53410. Faculty include, but are not limited to, instructors, librarians, counselors,

2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This chapter implements and should be read in conjunction with the requirements of Education Code section 87482.6 concerning the proportion of full–time and part–time instructors on the faculty of community colleges. The requirements of this chapter apply only until the provisions of Education Code section 84750 regarding program–based funding are implemented by a standard adopted by the Board of Governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full–time instructors.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).

§ 53302. Full–Time Instructor.

For purposes of this chapter only, a full–time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Proportions of Full–Time and Part–Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full–time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full–time instructors shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(b) Sabbatical. The hours of a full–time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(c) Released/Reassigned Time. The hours of a full–time instructor on released or reassigned time shall be counted as if the instructor was teaching full–time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(d) Unpaid Leave. The hours of a full–time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).

§ 53311. Base Year.

For purposes of this chapter, fiscal year 1988–89 shall be the base year from which improvement in the percentage of hours of credit instruction taught by full–time instructors shall be measured.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53312. Additional Full–Time Faculty Positions.

(a) The Chancellor shall compute and report to each community college district the number of full–time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part–time instructors times the statewide average full–time teaching load).

(c) If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53314. Report to Districts.

(a) By March 15th of each year, the Chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(b) The final computation of the number of full–time instructors actually required shall be based upon full–year data submitted by districts.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 3. Enforcement

§ 53320. Funding Reductions.

On or before December 31, 1991, the Chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to section 53312 for the 1989–90 and 1990–91 fiscal years. To the extent that cumulative number of FTF have not been retained, the Chancellor shall reduce the district's base budget for 1991–92 and subsequent fiscal years by an amount equivalent to the average replacement costs times the deficiency in the number of FTF.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This chapter implements and should be read in conjunction with the requirements of Education Code sections 87001, 87356 and 87539 concerning minimum qualifications for community college faculty and administrators. The provisions of this chapter shall become effective in accordance with the provisions of section 70 of chapter 973 of the Statues of 1989.

NOTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a community college district in a supervisorial or management position as defined in Article 5 (commencing with section 3540) of chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Instructional or student services administrator" means an administrator who is employed in a position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Instructional and student services administrators include, but are not limited to, chancellors, presidents, and instructional or student service managers.

(c) "Faculty" means those employees of a community college district who are employed in positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with section 3540) of chapter 10.7 of division 4 of Title 1 of the Government Code and for which minimum qualifications for hire are specified in section 53410. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, handicapped student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement certification qualifications.

NOTE: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Section 87001, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Qualifications and Equivalencies

§ 53410. Minimum Qualifications for Instructors of Credit Courses.

The minimum qualifications for hire as a community college faculty member teaching any credit course shall be satisfied by meeting any one of the following requirements:

(a) Possession of master's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(b) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment and possession of bachelor's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(c) For faculty assigned to teach courses in disciplines where the master's degree is not generally expected or available, which are, generally, disciplines in specialized technical, trade, or industrial fields, either of the following:

(1) Possession of a bachelor's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment, plus two years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available; or

(2) Possession of an associate degree from an accredited institution in a discipline reasonably related to the faculty member's assignment, plus six years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available.

NOTE: Authority cited: Sections 66700, 70901 and 87356, Education Code. Reference: Section 87356, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53412. Minimum Qualifications for Instructors of Noncredit Courses.

The minimum qualifications for hire as a community college faculty member teaching a noncredit course shall be satisfied by meeting both of the following requirements:

(a) Successful completion of four years of higher education with a major in a discipline, or completion of four years of occupational experience in a discipline; and

(b) Certification by the district that the applicant has adequate training and experience to teach the classes for which he or she is to be employed.

The provisions of this section shall become inoperative on July 1, 1991.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

HISTORY

1. New section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53413. Minimum Qualifications for Apprenticeship Instructors.

(a) Until July 1, 1993, the minimum qualifications for hire as a community college faculty member teaching credit or noncredit apprentice-

suant to the regulations on academic senates contained in sections 53200–53205 of chapter IV of this division.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1. (Register 91, No. 43). (Subchapter 15, section 51950, and chapter 3, section 52000)

§ 51024. Matriculation Services.

When matriculation services have been fully funded, as certified by the Chancellor in accord with policies adopted by the Board of Governors, the governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under section 55512(c);

(c) provide matriculation services to its students in accordance with sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with section 55534; and

(e) substantially comply with all other provisions of chapter 6 (commencing with section 55500) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 51025. Full–time/Part–time Faculty.

(a) Community College districts which have less than 75 percent of their hours of credit instruction taught by full–time instructors, in the prior fiscal year, shall apply the growth revenues received related to increases in credit FTES in accordance with section 58774 of this division and a portion of the program improvement allocation received in accordance with section 58775 of this division, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to section 58774 of this division, the districts shall increase the number of full–time instructors, by September 30 of the succeeding fiscal year, by the product of their base number of full–time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, in the prior fiscal year, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full–time instructors shall apply up to 33 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(3) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full–time instructors shall apply up to 40 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(4) Of the program improvement funds identified in paragraph (2) or (3), as appropriate, the district shall increase the number of full–time instructors, by September of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full–time faculty derived in paragraphs (1) and (4), result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part–time instructors times the statewide average full–time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine the extent to which each district, by September 30 of that year, has hired the number of additional full–time instructors determined pursuant to subdivision (a) for the prior fiscal year. To the extent that the number of additional full–time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full–time faculty. To the extent a district hires the additional full–time instructors in subsequent fiscal years the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to subdivision (c), shall be made available on a one–time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost–of–living funds have been provided to allow full or partial implementation of the provisions of subparagraph (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full–time faculty.

NOTE: Authority cited: Sections 66700, 70901 and 84750, Education Code. Reference: Section 84750, Education Code.

HISTORY

1. New section filed 7–3–91 and submitted to OAL on 7–12–91 for printing only pursuant to Education Code section 70901.5; operative 8–3–91 (Register 91, No. 46).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) The Chancellor, at least once each seven years, and at such other times or as he or she deems necessary, shall review each community college to determine whether it has met the minimum conditions contained in chapter 1 (commencing with section 51000) of this division.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51102. Enforcement.

(a) If any review pursuant to section 51100 discloses that a college is not in compliance with the provisions of chapter 1 (commencing with section 51000) of this division, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Full-Time and Part-Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This subchapter implements and should be read in conjunction with the requirements of Education Code Section 87482.6 concerning the proportion of hours of credit instruction taught by full-time and part-time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).

§ 53302. Full-Time Instructor.

For purposes of this chapter only, a full-time instructor shall be defined as any regular and contact faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 2. Proportions of Full-Time and Part-Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full-time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(b) Sabbatical. The hours of a full-time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(c) Released/Reassigned Time. The hours of a full-time instructor on released or reassigned time shall be counted as if the instructor was teaching full-time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(d) Unpaid Leave. The hours of a full-time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).

§ 53311. Base Year.

For purposes of this chapter, fiscal year 1988-89 shall be the base year from which improvement in the percentage of hours of credit instruction taught by full-time instructors shall be measured.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53312. Additional Full-Time Faculty Positions.

(a) The Chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part-time instructors times the statewide average full-time teaching load).

(c) If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53314. Report to Districts.

(a) By March 15th of each year, the Chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(b) The final computation of the number of full-time instructors actually required shall be based upon full-year data submitted by districts.

NOTE: Authority cited: Sections 66700, 70901, and 87482.6, Education Code.

History

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Article 3. Enforcement

§ 53320. Funding Reductions.

On or before December 31, 1991, the Chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to Section 53312 for the 1989–90 and 1990–91 fiscal years. To the extent that cumulative number of FTF have not been retained, the Chancellor shall reduce the district's allocation for 1991–92 by an amount equivalent to the average replacement costs times the deficiency in the number of FTF. To the extent a district hires the additional FTF in subsequent fiscal years, the reduction made to the district's revenue shall be restored.

Note: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

History

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87539 concerning minimum qualifications for community college faculty and administrators. The provisions of this subchapter shall become effective in accordance with the provisions of Section 70 of Chapter 973 of the Statutes of 1989.

Note: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

History

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service are specified in Section 53410–53414 or other provisions of this division. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

Note: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

History

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Article 2. Qualifications and Equivalencies

§ 53410. Minimum Qualifications for Instructors of Credit Courses.

The minimum qualifications for service as a community college faculty member teaching any credit course shall be satisfied by meeting any one of the following requirements:

(a) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(b) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment and possession of bachelor's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(c) For faculty assigned to teach courses in disciplines where the master's degree is not generally expected or available, which are, generally, disciplines in specialized technical, trade, or industrial fields, either of the following:

(1) Possession of a bachelor's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment, plus two years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available; or

(2) Possession of an associate degree from an accredited institution in a discipline reasonably related to the faculty member's assignment, plus six years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available.

Note: Authority cited: Sections 66700, 70901 and 87356, Education Code. Reference: Section 87356, Education Code.

History

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsections (a) and (b) filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 53412. Minimum Qualifications for Instructors of Noncredit Courses.

The minimum qualifications for service as a community college faculty member teaching a noncredit course shall be satisfied by meeting both of the following requirements:

(a) Successful completion of four years of higher education with a major in a discipline, or completion of four years of occupational experience in a discipline; and

(b) Certification by the district that the applicant has adequate training and experience to teach the classes for which he or she is to be employed. The provisions of this section shall become inoperative on July 1, 1992.

Note: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

History

1. New section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51025
§ 53300
§ 53302
§ 53310
§ 53311
§ 53312
§ 53314

(c) Nothing in this section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to sections 53200–53205, and section 51023.7, respectively, of this division.

(d) The governing board of a community college district shall comply substantially with the provisions of this section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to the regulations on academic senates contained in sections 53200–53205 of chapter IV of this division.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1. (Register 91, No. 43). (Subchapter 15, section 51950, and chapter 3, section 52000)

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 51025. Full–Time/Part–Time Faculty.

This section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) Community college districts which have less than 75 percent of their hours of credit instruction taught by full–time instructors, as determined from their base data calculated pursuant to Section 53311, shall apply the growth revenues received related to increases in credit FTES in accordance with section 58774 of this division and a portion of the program improvement allocation received in accordance with section 58775 of this division, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to section 58774 of this division, the districts shall increase the base number of full–time instructors, subject to subdivision (e) of this Section, by Fall of the succeeding fiscal year, by the product of their base number of full–time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, as determined from their base data, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full–time instructors shall apply up to 33 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(3) Districts which, as determined from their base data, had less than 67 percent of their hours of credit instruction taught by full–time instructors shall apply up to 40 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(4) Of the program improvement funds identified in paragraph (2) or (3), as appropriate, the district shall increase the number of full–time instructors, by Fall of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full–time faculty derived in paragraphs (1) and (4), result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part–time instructors times the statewide average full–time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by Fall of that year, has maintained or hired the number of additional full–time instructors determined pursuant to subdivision (a) for the prior fiscal year. To the extent that the number of full–time faculty has not been maintained or additional full–time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full–time faculty. To the extent a district hires the additional full–time instructors in subsequent fiscal years the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to subdivision (c), shall be made available on a one–time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost–of–living funds have been provided to allow full or partial implementation of the provisions of subparagraph (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full–time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7–3–91 and submitted to OAL on 7–12–91 for printing only pursuant to Education Code section 70901.5; operative 8–3–91 (Register 91, No. 46).

2. New first paragraph, amendment of subsections (a)–(a)(4) and (c) and NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African–American, Chicano/Latino, American Indian, disabled, low–income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a Transfer Center Plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in these standards, as outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants to the four–year segments from these populations, including specific targets for increasing the transfer applications of those underrepresented among transfer students. Plans shall be developed in consultation with four–year college and university personnel as available.

Plan components shall include, but not be limited to: services to be provided to students; facilities; staffing; advisory committee; and evaluation and reporting.

(1) Required Services. The following services shall be provided to students:

(A) Identify, contact and provide transfer support services to targeted student populations as identified in the Transfer Center Plan, with a priority emphasis placed on African–American, Chicano/Latino, American Indian, disabled, low–income and other underrepresented students. These activities shall be developed and implemented in cooperation with student services departments and with faculty.

(B) Ensure the provision of academic planning for transfer, the development and utilization of transfer admission agreements with four–year institutions where available and as appropriate, and the development and utilization of course–to–course and major articulation agreements. Academic planning and articulation activities shall be provided in cooperation with student services, with faculty, and with four–year college and university personnel as available.

(C) Ensure that students receive accurate and up–to–date academic and transfer information through the provision of coordinated transfer counseling services.

(D) Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan.

(E) Support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, and counseling, and other instructional and student services on campus as appropriate.

(F) Assist students in the transition process, including the timely completion and submittal of necessary forms and applications.

(G) In cooperation with four–year college and university personnel as available, develop and implement a schedule of services for transfer students to be provided by four–year staff.

(H) Provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to four–year colleges and universities, and related transfer information.

(2) Facilities. Each district governing board shall designate a particular location on campus which is readily identifiable and accessible to students, faculty and staff as the focal point of transfer functions. Space and facilities adequate to support the Transfer Center and its activities shall be provided.

(3) Staffing. Each district governing board shall ensure that college staff are assigned to coordinate the activities of the transfer center; to coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on campus; and to work with four–year college and university personnel. Clerical support for the transfer center shall also be provided.

(4) Advisory Committee. An advisory committee shall be designated to plan the development, implementation, and ongoing operations of the transfer center. Membership shall be representative of campus departments and services. Four–year college and university personnel shall be included as available.

(5) Evaluation and Reporting. Each district governing board shall include in its Transfer Center Plan a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its Transfer Center Plan.

Each community college district shall submit an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of Transfer Center Plan targets and goals, and expenditures supporting transfer center operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66010.4 and 70901, Education Code.

HISTORY

1. New section filed 7–22–91; operative 8–21–91 (Register 92, No. 4).

with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to subsection (a) of this section.

(f) The appointment of faculty members to serve on college or district committees, task forces, or other grounds dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.

§ 53204. Scope of Regulations.

Nothing in this subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No.18).

Repealer filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This subchapter relates to and should be read in conjunction with the requirements of Section 51025 of Subchapter 1 of Chapter 2 of this Division concerning the proportion of full–time and part–time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 53302. Full–Time Instructor.

For purposes of this chapter only, a full–time instructor shall be defined as any regular and contact faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

Article 2. Proportions of Full–Time and Part–Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full–time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full–time instructors shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(b) Sabbatical. The hours of a full–time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit

instruction taught by full–time and part–time instructors and total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(c) Released/Reassigned Time. The hours of a full–time instructor on released or reassigned time shall be counted as if the instructor was teaching full–time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(d) Unpaid Leave. The hours of a full–time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(f) Outreach Locations. The hours of instruction taught by full–time and part–time instructors at any outreach location that is more than 25 miles from the main campus and generates less than 200 FTES, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(g) Late Retirement. The hours of a full–time instructor who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full–time instructor by the current Fall primary term, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term of the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025.

(h) Librarians. A number of hours equivalent to the number of hours taught by a full–time instructor shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors for each full–time librarian hired in excess of the number of full–time librarians in the previous year's base.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).
3. New subsections (f)–(h) and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 53311. Base Data.

For purposes of this subchapter, "base data" means the base percentage of hours of credit instruction taught by full–time instructors and the base number of full–time faculty required to be maintained or additional hires to be made by the fall of the subsequent year. This data shall be determined from the current year's fall management information system staff data submission to the Chancellor's office.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of section heading, text and NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 53312. Additional Full–Time Faculty Positions.

(a) The Chancellor shall compute each community college district's number of full–time faculty (FTF) which are to be secured in accordance with the provisions of Section 51025, as the result of additional funded growth in credit full–time equivalent students and through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part–time instructors times the statewide average full–time teaching load).

(c) If the quotient determined in paragraph (b) is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

(d) The computation for the funded growth in full–time equivalent student workload obligation to secure additional full–time faculty shall, when required pursuant to the provisions of Section 51025(a)(1) and (e), be made by multiplying the percentage of funded credit FTES growth times the base number of full–time faculty that were to be in place by Fall of the current year.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NOTE and new subsection (d) filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 53314. Report to Districts.

The Chancellor shall report to districts by Spring of each year the estimated number of FTF each district must secure by the following Fall based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors action pursuant to section 51025(e).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for

printing c...' pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

Article 3. Enforcement

§ 53320. Funding Reductions.

On or before December 31, 1991, the Chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to Section 53312 for the 1989–90 and 1990–91 fiscal years. To the extent that cumulative number of FTF have not been retained, the Chancellor shall reduce the district's allocation for 1991–92 by an amount equivalent to the average replacement costs times the deficiency in the number of FTF. To the extent a district hires the additional FTF in subsequent fiscal years, the reduction made to the district's revenue shall be restored.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87539 concerning minimum qualifications for community college faculty and administrators. The provisions of this subchapter shall become effective in accordance with the provisions of Section 70 of Chapter 973 of the Statutes of 1989.

NOTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 53401. Applicability to Community Services and Contract Classes.

Community service or contract classes which do not award college credit and are not supported by state apportionment are not subject to the provisions of this subchapter. Contract classes which award college credit are subject to this subchapter, even if they are not supported by state apportionment.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 78020 through 78023 and 78300, Education Code.

HISTORY

1. New section filed 6–26–92; operative 7–27–92 (Register 92, No. 26).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service are specified in Section 53410–53414 or other provisions of this division. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

NOTE: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 53403. Applicability of Amendments.

Notwithstanding changes that may be made to the minimum qualifications established in this division, or to the implementing discipline lists adopted by the Board of Governors, the governing board of a community college district may continue to employ a person to teach in a discipline or render a service subject to minimum qualifications, if he or she, at the time of initial hire by the district, was qualified to teach in that discipline or render that service under the minimum qualifications or disciplines lists then in effect.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

HISTORY

1. New section filed 6–26–92; operative 7–27–92 (Register 92, No. 26).

§ 53404. Definition of Experience.

Where years of professional or occupational experience are referred to in this subchapter, the requirement is for the stated number of years of full–time experience, or the equivalent in part–time experience. Unpaid experience may be counted if it entailed responsibilities substantially similar to those of relevant paid positions in the field.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

HISTORY

1. New section filed 6–26–92; operative 7–27–92 (Register 92, No. 26).

Article 2. Qualifications and Equivalencies

§ 53410. Minimum Qualifications for Instructors of Credit Courses.

The minimum qualifications for service as a community college faculty member teaching any credit course shall be satisfied by meeting any one of the following requirements:

(a) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(b) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment and possession of bachelor's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(c) For faculty assigned to teach courses in disciplines where the master's degree is not generally expected or available, which are, generally, disciplines in specialized technical, trade, or industrial fields, either of the following:

with respect to the views, recommendations, or proposals of the senate. In addition, after consultation with the administration of the college and/or district, the academic senate may present its views and recommendations to the governing board.

(d) The governing board of a district shall adopt procedures for responding to recommendations of the academic senate that incorporate the following:

(1) In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendations not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate.

(2) In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons.

(e) An academic senate may assume such responsibilities and perform such functions as may be delegated to it by the governing board of the district pursuant to subsection (a) of this section.

(f) The appointment of faculty members to serve on college or district committees, task forces, or other grounds dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate. Notwithstanding this subsection, the collective bargaining representative may seek to appoint faculty members to committees, task forces, or other groups.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 81, No. 3.

§ 53204. Scope of Regulations.

Nothing in this subchapter shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) In order that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters, an Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This subchapter relates to and should be read in conjunction with the requirements of Section 51025 of Subchapter 1 of Chapter 2 of this Division concerning the proportion of full–time and part–time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 53302. Full–Time Instructor.

For purposes of this chapter only, a full–time instructor shall be defined as any regular and contact faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

Article 2. Proportions of Full–Time and Part–Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full–time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full–time instructors shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(b) Sabbatical. The hours of a full–time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(c) Released/Reassigned Time. The hours of a full–time instructor on released or reassigned time shall be counted as if the instructor was teaching full–time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(d) Unpaid Leave. The hours of a full–time instructor on unpaid leave shall be counted as if the instructor was teaching full time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately certified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(f) Outreach Locations. The hours of instruction taught by full–time and part–time instructors at any outreach location that is more than 25 miles from the main campus and generates less than 200 FTES, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(g) Late Retirement. The hours of a full–time instructor who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full–time instructor by the current Fall primary term, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term of the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025.

(h) Librarians. A number of hours equivalent to the number of hours taught by a full–time instructor shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors for each full–time librarian hired in excess of the number of full–time librarians in the previous year's base. A comparable number of hours shall be counted for each year thereafter unless the position(s) is vacant or eliminated. This subdivision shall become inoperative on July 1, 1994, unless a later–adopted regulation deletes or extends this date.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).
3. New subsections (f)–(h) and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
4. Amendment of subsection (h) filed 2–4–93; operative 3–6–93 (Register 93, No. 6).

§ 53311. Base Data.

For purposes of this subchapter, "base data" means the base percentage of hours of credit instruction taught by full–time instructors and the base number of full–time faculty required to be maintained or additional hires to be made by the fall of the subsequent year. This data shall be determined from the current year's fall management information system staff data submission to the Chancellor's office.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of section heading, text and NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 53312. Additional Full–Time Faculty Positions.

(a) The Chancellor shall compute each community college district's number of full–time faculty (FTF) which are to be secured in accordance with the provisions of Section 51025, as the result of additional funded growth in credit full–time equivalent students and through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part–time instructors times the statewide average full–time teaching load).

(c) If the quotient determined in paragraph (b) is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

(d) The computation for the funded growth in full–time equivalent student workload obligation to secure additional full–time faculty shall, when required pursuant to the provisions of Section 51025(a)(1) and (e), be made by multiplying the percentage of funded credit FTES growth times the base number of full–time faculty that were to be in place by Fall of the current year.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NOTE and new subsection (d) filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

§ 53314. Report to Districts.

The Chancellor shall report to districts by Spring of each year the estimated number of FTF each district must secure by the following Fall based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors action pursuant to section 51025(e).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).

Article 3. Enforcement

§ 53320. Funding Reductions.

On or before December 31, 1991, the Chancellor shall determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to Section 53312 for the 1989–90 and 1990–91 fiscal years. To the extent that cumulative number of FTF have not been retained, the Chancellor shall reduce the district's allocation for 1991–92 by an amount equivalent to the average replacement costs times the deficiency in the number of FTF. To the extent a district hires the additional FTF in subsequent fiscal years, the reduction made to the district's revenue shall be restored.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87539 concerning minimum qualifications for community college faculty and administrators. The provisions of this subchapter shall become effective in accordance with the provisions of Section 70 of Chapter 973 of the Statutes of 1989.

NOTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 53401. Applicability to Community Services and Contract Classes.

Community service or contract classes which do not award college credit and are not supported by state apportionment are not subject to the provisions of this subchapter. Contract classes which award college credit are subject to this subchapter, even if they are not supported by state apportionment.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 78020 through 78023 and 78300, Education Code.

HISTORY

1. New section filed 6–26–92; operative 7–27–92 (Register 92, No. 26).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service are specified in Section 53410–53414 or other provisions of this division. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

NOTE: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

§ 53403. Applicability of Amendments.

Notwithstanding changes that may be made to the minimum qualifications established in this division, or to the implementing discipline lists adopted by the Board of Governors, the governing board of a community college district may continue to employ a person to teach in a discipline or render a service subject to minimum qualifications, if he or she, at the time of initial hire by the district, was qualified to teach in that discipline or render that service under the minimum qualifications or disciplines lists then in effect.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

HISTORY

1. New section filed 6–26–92; operative 7–27–92 (Register 92, No. 26).

§ 53404. Definition of Experience.

Where years of professional or occupational experience are referred to in this subchapter, the requirement is for the stated number of years of full–time experience, or the equivalent in part–time experience. Unpaid experience may be counted if it entailed responsibilities substantially similar to those of relevant paid positions in the field.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

HISTORY

1. New section filed 6–26–92; operative 7–27–92 (Register 92, No. 26).

Article 2. Qualifications and Equivalencies

§ 53410. Minimum Qualifications for Instructors of Credit Courses.

The minimum qualifications for service as a community college faculty member teaching any credit course shall be satisfied by meeting any one of the following requirements:

(a) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

§ 51025
§ 53300
§ 53302
§ 53310
§ 53311
§ 53314

tions 3540, et seq., such procedures for staff participation shall not intrude on matters within the scope of representation under Section 3543.2 of the Government Code. In addition, governing boards shall not interfere with the exercise of employee rights to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer–employee relations. Nothing in this Section shall be construed to impinge upon or detract from any negotiations or negotiated agreements between exclusive representatives and district governing boards. It is the intent of the Board of Governors to respect lawful agreements between staff and exclusive representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to staff pursuant to these regulations.

(c) Nothing in this Section shall be construed to impinge upon the policies and procedures governing the participation rights of faculty and students pursuant to Sections 53200–53204, and Section 51023.7, respectively.

(d) The governing board of a community college district shall comply substantially with the provisions of this Section.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b), (Register 91, No. 23).
2. Editorial correction of printing error in subsection (b) and HISTORY 1. (Register 91, No. 43).
3. Amendment of subsections (a)(1), (a)(3), (a)(5), (a)(7), (b), (c) and (d) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51023.7. Students.

(a) The governing board of a community college district shall adopt policies and procedures that provide students the opportunity to participate effectively in district and college governance. Among other matters, said policies and procedures shall include the following:

(1) Students shall be provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures.

(2) Except in unforeseeable, emergency situations, the governing board shall not take action on a matter having a significant effect on students until it has provided students with an opportunity to participate in the formulation of the policy or procedure or the joint development of recommendations regarding the action.

(3) Governing board procedures shall ensure that at the district and college levels, recommendations and positions developed by students are given every reasonable consideration.

(4) For the purpose of this Section, the governing board shall recognize each associated student organization or its equivalent within the district as provided by Education Code Section 76060, as the representative body of the students to offer opinions and to make recommendations to the administration of a college and to the governing board of a district with regard to district and college policies and procedures that have or will have a significant effect on students. The selection of student representatives to serve on college or district committees, task forces, or other governance groups shall be made, after consultation with designated parties, by the appropriate officially recognized associated student organization(s) within the district.

(b) For the purposes of this Section, district and college policies and procedures that have or will have a "significant effect on students" includes the following:

(1) grading policies;
(2) codes of student conduct;
(3) academic disciplinary policies;
(4) curriculum development;
(5) courses or programs which should be initiated or discontinued;
(6) processes for institutional planning and budget development;
(7) standards and policies regarding student preparation and success;
(8) student services planning and development;
(9) student fees within the authority of the district to adopt; and
(10) any other district and college policy, procedure, or related matter that the district governing board determines will have a significant effect on students.

(c) The governing board shall give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff.

(d) Nothing in this Section shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiations or negotiated agreements between collective bargaining agents and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining agents as to how they will consult, collaborate, share or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to the regulations on academic senates contained in Sections 53200–53206.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this Section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1 (Register 91, No. 43).
3. Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 5–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4–3–92; operative 5–4–92 (Register 92, No. 15).

§ 51025. Full–Time/Part–Time Faculty.

This Section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) Community college districts which have less than 75 percent of their hours of credit instruction taught by full–time instructors, as determined from their base data calculated pursuant to Section 53311, shall apply the growth revenues received related to increases in credit FTES in accordance with Section 58774 and a portion of the program improvement allocation received in accordance with Section 58775, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to Section 58774, the districts shall increase the base number of full-time instructors, subject to Subsection (e) below, by the Fall term of the succeeding fiscal year, by the product of their base number of full-time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, as determined from their base data, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(3) Districts which, as determined from their base data, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(4) Of the program improvement funds identified in Subsection (a)(2) or (3), as appropriate, the district shall increase the number of full-time instructors, by the Fall term of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full-time faculty derived in Subsections (a)(1) and (4) result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by the Fall term of that year, has maintained or hired the number of additional full-time instructors determined pursuant to Subsection (a) for the prior fiscal year. To the extent that the number of full-time faculty has not been maintained or additional full-time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full-time faculty. To the extent a district hires the additional full-time instructors in subsequent fiscal years the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to Subsection (c), shall be made available on a one-time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code, Section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost-of-living funds have been provided to allow full or partial implementation of the provisions of Subsection (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full-time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7-3-91 and submitted to OAL on 7-12-91 for printing only pursuant to Education Code section 70901.5; operative 8-3-91 (Register 91, No. 46).
2. New first paragraph, amendment of subsections (a)-(a)(4) and (c) and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a transfer center plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in the standards outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students. Plans shall be developed in consultation with baccalaureate college and university personnel as available.

Plan components shall include, but not be limited to: services to be provided to students; facilities; staffing; advisory committee; and evaluation and reporting.

(1) Required Services. Districts shall:

(A) Identify, contact, and provide transfer support services to targeted student populations as identified in the transfer center plan, with a priority emphasis placed on African-American, Chicano/Latino, American Indian, disabled, low-income, and other underrepresented students. These activities shall be developed and implemented in cooperation with student services departments and with faculty.

(B) Ensure the provision of academic planning for transfer, the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and the development and use of course-to-course and major articulation agreements. Academic planning and articulation activities shall be provided in cooperation with student services, with faculty, and with baccalaureate institution personnel as available.

(C) Ensure that students receive accurate and up-to-date academic and transfer information through coordinated transfer counseling services.

(D) Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan.

(E) Support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, counseling, and to other instructional and student services on campus as appropriate.

(F) Assist students in the transition process, including timely completion and submittal of necessary forms and applications.

(G) In cooperation with baccalaureate institution personnel as available, develop and implement a schedule of services for transfer students to be provided by baccalaureate institution staff.

(H) Provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to baccalaureate institutions, and related transfer information.

(2) Facilities. Each district governing board shall provide space and facilities adequate to support the transfer center and its activities. Each district shall designate a particular location on campus as the focal point of transfer functions. This location should be readily identifiable and accessible to students, faculty, and staff.

(3) Staffing. Each district governing board shall provide clerical support for the transfer center and assign college staff to coordinate the activities of the transfer center; to coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on campus; and to work with baccalaureate institution personnel.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71052 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) An Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils so that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
4. Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51020 concerning the proportion of full–time and part–time instructors on the faculty of community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53302. Full–Time Instructor.

For purposes of this Chapter only, a full–time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.6, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 2. Proportions of Full–Time and Part–Time Faculty, Computation and Reports

§ 53310. Hours of Instruction.

In computing the percentage of hours of credit instruction taught by full–time instructors, the following rules shall be applied:

(a) Overload. The hours of overload teaching by full–time instructors shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(b) Sabbatical. The hours of a full–time instructor on sabbatical, whether paid or unpaid, shall be included in both the total hours of credit instruction taught by full–time and part–time instructors and total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(c) Released/Reassigned Time. The hours of a full–time instructor on released or reassigned time shall be counted as if the instructor was teaching full–time and had not been provided released or reassigned time. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(d) Unpaid Leave. The hours of a full–time instructor on unpaid leave shall be counted as if the instructor was teaching full–time and had not been provided with unpaid leave. The hours of instruction shall thereby be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors. The hours of instruction of replacement faculty, whether full–time or part–time, shall be excluded from both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors.

(e) Teaching by Others. The hours of instruction taught by counselors, librarians, classified staff or administrators who are appropriately qualified to teach shall, under the following conditions, be included in both the total hours of credit instruction taught by full–time and part–time instructors and the total hours of instruction taught by full–time instructors:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(f) Outreach Locations. The hours of instruction taught by full–time and part–time instructors at any outreach location that is more than 25 miles from the main campus and generates less than 200 FTES, shall be

excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(g) Late Retirement. The hours of a full-time instructor who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time instructor by the current Fall primary term, shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors. The hours of instruction of replacement faculty, whether full-time or part-time, shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term or the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025.

(h) Librarians. A number of hours equivalent to the number of hours taught by a full-time instructor shall be included in both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors for each full-time librarian hired in excess of the number of full-time librarians in the previous year's base. A comparable number of hours shall be counted for each year thereafter unless the position(s) is vacant or eliminated. This subdivision shall become inoperative on July 1, 1995, unless a later-adopted regulation deletes or extends this date.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).
3. New subsections (f)-(h) and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
4. Amendment of subsection (h) filed 2-4-93; operative 3-6-93 (Register 93, No. 6).
5. Amendment of subsections (d), (e), (g) and (h) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53311. Base Data.

For purposes of this Subchapter, "base data" means both the base percentage of hours of credit instruction taught by full-time instructors and the base number of full-time faculty required to be maintained or additional hires to be made by the fall term of the subsequent year. This data shall be determined from the current year's fall management information system staff data submission to the Chancellor's office.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of section heading, text and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53312. Additional Full-Time Faculty Positions.

(a) The Chancellor shall compute each community college district's number of full-time faculty (FTF) which are to be secured in accordance with the provisions of Section 51025, as the result of additional funded growth in credit full-time equivalent students and through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part-time instructors times the statewide average full-time teaching load).

(c) If the quotient determined in paragraph (b) is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

(d) The computation for the funded growth in full-time equivalent student workload obligation to secure additional full-time faculty shall, when required pursuant to the provisions of Section 51025(a)(1) and (e), be made by multiplying the percentage of funded credit FTES growth times the base number of full-time faculty that were to be in place by Fall of the current year.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NOTE and new subsection (d) filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

§ 53314. Report to Districts.

By the spring term of each year, the Chancellor shall report to districts the estimated number of FTF each district must secure by the following Fall term based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors action pursuant to Section 51025(e).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 3. Enforcement

§ 53320. Funding Reductions.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Repealer filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This Subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003,

§ 51025
§ 53300
§ 53302
§ 53310
§ 53311

(c) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this Section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3-12-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1 (Register 91, No. 43).
3. Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 36).

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210-78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 51025. Full-Time/Part-Time Faculty.

This Section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) Community college districts which have less than 75 percent of their total faculty workload hours taught/worked by full-time faculty, as determined from their base data calculated pursuant to Section 53311, shall apply the growth revenues received related to increases in credit FTES in accordance with Section 58774 and a portion of the program improvement allocation received in accordance with Section 58775, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to Section 58774, the districts shall increase the base number of full-time faculty, subject to Subsection (c) below, by the Fall term of the succeeding fiscal year, by the product of their base number of full-time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, as determined from their base data, had 67 percent or greater, but less than 75 percent of their total faculty workload hours taught/worked by full-time faculty shall apply up to 33 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(3) Districts which, as determined from their base data, had less than 67 percent of their total faculty workload hours taught/worked by full-time faculty shall apply up to 40 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(4) Of the program improvement funds identified in Subsection (a)(2) or (3), as appropriate, the district shall increase the number of full-time faculty, by the Fall term of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full-time faculty derived in Subsections (a)(1) and (4) result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part-time faculty times the statewide average full-time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by the Fall term of that year, has maintained or hired the number of additional full-time faculty determined pursuant to Subsection (a) for the prior fiscal year. To the extent that the number of full-time faculty has not been maintained or additional full-time faculty have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full-time faculty. To the extent a district hires the additional full-time faculty in subsequent fiscal years, the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to Subsection (c), shall be made available on a one-time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code, Section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost-of-living funds have been provided to allow full or partial implementation of the provisions of Subsection (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full-time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7-3-91 and submitted to OAL on 7-12-91 for printing only pursuant to Education Code section 70901.5; operative 8-3-91 (Register 91, No. 46).
2. New first paragraph, amendment of subsections (a)-(a)(4) and (c) and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 36).
4. Amendment of subsections (a)-(a)(4), (b) and (c) filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 51026. Student Equity.

In accordance with the provisions of Section 54220, the governing board of a community college district shall adopt a student equity plan.

HISTORY

1. New section filed 1-12-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a transfer center plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in the standards outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students. Plans

shall be developed in consultation with baccalaureate college and university personnel as available.

Plan components shall include, but not be limited to: services to be provided to students; facilities; staffing; advisory committee; and evaluation and reporting.

(l) Required Services. Districts shall:

(A) Identify, contact, and provide transfer support services to targeted student populations as identified in the transfer center plan, with a priority emphasis placed on African–American, Chicano/Latino, American Indian, disabled, low–income, and other underrepresented students. These

[The next page is 307.]

tween collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) An Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils so that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
5. Editorial correction of HISTORY 3 (Register 95, No. 19).

Subchapter 3. Full-Time and Part-Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51025 concerning the proportion of full-time and part-time faculty to be employed by community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
5. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 53302. Full-Time Faculty.

For purposes of this Chapter only, full-time faculty shall be defined as any regular and contract faculty member.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment of section heading and section filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

Article 2. Proportions of Full-Time and Part-Time Faculty, Computation and Reports

§ 53310. Total Faculty Workload Hours Taught/Worked.

For purposes of this Subchapter, "total faculty workload hours taught/worked" means the total hours of credit instruction taught by instructional faculty and the total hours worked by non-instructional faculty converted to a time base equivalent to that of instructional faculty in terms of the standard number of instructional hours as specified in the bargaining agreement. If there is no bargaining agreement for faculty or the agreement does not specify a standard number of hours for instructional faculty, then district policy or practice shall be controlling. In computing the percentage of total faculty workload hours taught/worked by full-time faculty, the following rules shall be applied:

(a) Overload. The hours of overload teaching/work by full-time faculty shall be excluded from both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty.

(b) Sabbatical. The hours of a full-time faculty member on sabbatical, whether paid or unpaid, shall be included in both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty. The faculty workload hours taught/worked by replacement faculty, whether full-time or part-time, shall be excluded from both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty.

(c) Released/Reassigned Time. The hours of a full-time faculty member on released or reassigned time shall be counted as if the faculty member was teaching/working full-time and had not been provided released or reassigned time. The faculty workload hours of released/reassigned time shall thereby be included in both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty. The faculty workload hours of replacement faculty, whether full-time or part-time, shall be excluded from both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty.

(d) Unpaid Leave. The hours of a full-time faculty member on unpaid leave shall be counted as if the faculty member was teaching/working full-time and had not been provided with unpaid leave. The faculty work-

load hours of unpaid leave shall thereby be included in both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty. The faculty workload hours of replacement faculty, whether full-time or part-time, shall be excluded from both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty.

(e) Teaching by Others. The hours of instruction taught by classified staff or administrators who are appropriately qualified to teach shall, under the following conditions, be included in both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty:

(1) Only the actual hours of teaching by such individuals shall be included;

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(f) Outreach Locations. The faculty workload hours taught/worked by full-time and part-time faculty at any outreach location that is more than 25 miles from the main campus and generates less than 200 FTES, shall be excluded from both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty.

(g) Late Retirement. The hours of a full-time faculty member who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time faculty member by the current Fall primary term, shall be included in both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty. The faculty workload hours taught/worked by replacement faculty, whether full-time or part-time, shall be excluded from both the total faculty workload hours taught/worked by full-time and part-time faculty and the total faculty workload hours taught/worked by full-time faculty.

Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term or the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025. If the number of late retirees exceeds 15% of the district's total number of full-time faculty, and the district's governing board and academic senate jointly agree, a district may file a request with the Chancellor's Office for a one-year extension to fulfill its hiring obligation to replace those retirees.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).
3. New subsections (f)-(h) and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
4. Amendment of subsection (h) filed 2-4-93; operative 3-6-93 (Register 93, No. 6).
5. Amendment of subsections (d), (e), (g) and (h) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment of section heading and section filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 53311. Base Data.

For purposes of this Subchapter, "base data" means both the base percentage of faculty workload hours taught/worked by full-time faculty and the base number of full-time faculty required to be maintained or additional hires to be made by the fall term of the subsequent year. This data shall be determined from the current year's fall management information system staff data submission to the Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of section heading, text and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 53312. Additional Full-Time Faculty Positions.

(a) The Chancellor shall compute each community college district's number of full-time faculty (FTF) which are to be secured in accordance with the provisions of Section 51025, as the result of additional funded growth in credit full-time equivalent students and through the use of the prescribed portion of program improvement revenue allocated to each district.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part-time instructors times the statewide average full-time teaching load).

(c) If the quotient determined in paragraph (b) is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

(d) The computation for the funded growth in full-time equivalent student workload obligation to secure additional full-time faculty shall, when required pursuant to the provisions of Section 51025(a)(1) and (e), be made by multiplying the percentage of funded credit FTES growth times the base number of full-time faculty that were to be in place by Fall of the current year.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NOTE and new subsection (d) filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

§ 53314. Report to Districts.

By the spring term of each year, the Chancellor shall report to districts the estimated number of FTF each district must secure by the following Fall term based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors action pursuant to Section 51025(e).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Article 3. Enforcement

§ 53320. Funding Reductions.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Repealer filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This Subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87359 concerning minimum qualifications for community college faculty and administrators. The provisions of this subchapter are effective July 1, 1990.

NOTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
4. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53401. Applicability to Community Services and Contract Classes.

Community service or contract classes which do not award college credit and are not supported by state apportionment are not subject to the provisions of this Subchapter. Contract classes which award college credit are subject to this Subchapter, even if they are not supported by state apportionment.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 78020 through 78023 and 78300, Education Code.

HISTORY

1. New section filed 6-26-92; operative 7-27-92 (Register 92, No. 26).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service are specified in Section 53410-53414 or other provisions of this division. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

NOTE: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).

§ 53403. Applicability of Amendments.

Notwithstanding changes that may be made to the minimum qualifications established in this division, or to the implementing discipline lists adopted by the Board of Governors, the governing board of a community college district may continue to employ a person to teach in a discipline or render a service subject to minimum qualifications, if he or she, at the time of initial hire by the district, was qualified to teach in that discipline or render that service under the minimum qualifications or disciplines lists then in effect.

Every person authorized to serve under a credential shall retain the right to serve under the terms of that credential, and, for that purpose, shall be deemed to possess the minimum qualifications specified for every discipline or service covered by the credential until the expiration of that credential. However, a credential shall be invalid when the holder has been convicted of any crime that, under former law, would have been mandatory grounds for revocation, or when the Chancellor's Office has determined that the credential was obtained by fraud.

NOTE: Authority cited: Sections 70901, 87355 and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 87355 and 87356, Education Code.

HISTORY

1. New section filed 6-26-92; operative 7-27-92 (Register 92, No. 26).
2. New second paragraph and amendment of NOTE filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 93, No. 42).

§ 53404. Definition of Experience.

Where years of professional or occupational experience are referred to in this Subchapter, the requirement is for the stated number of years of full-time experience or the equivalent in part-time experience. Unpaid experience may be counted if it entailed responsibilities substantially similar to those of relevant paid positions in the field. Applicants bear the responsibility for verifying all experience by documentation satisfactory to the districts.

As used in this Subchapter, "professional experience" includes teaching experience. "Occupational experience" does not include teaching experience.

As used in this Section, "year" means that period of time which in that occupation is accepted by contract or general agreement as a regular work year for that occupation on a full-time basis.

NOTE: Authority cited: Sections 70901 and 87356, Education Code. Reference: Sections 70901(b)(1)(B) and 87356, Education Code.

HISTORY

1. New section filed 6-26-92; operative 7-27-92 (Register 92, No. 26).
2. Amendment of section and NOTE filed 10-5-93; operative 11-4-93. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 93, No. 42).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53405. Certificated Employees.

Whenever in this Division, reference is made to "certificated employees" or to employees in "positions with certification qualifications," where such references are to certificates or credentials issued by the Board of Governors, these references are deemed to also apply to persons

Register 2000-26

§ 51025
§ 53301
§ 53302
§ 53308
§ 53309
§ 53310
§ 53311
§ 53312
§ 53314

HISTORY

New section filed 3-12-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).

2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1 (Register 91, No. 43).

3. Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210-78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

2. Amendment of first paragraph and subsection (e) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 51025. Full-Time/Part-Time Faculty.

This Section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) If a district's full-time faculty percentage, as calculated pursuant to Section 53308, is less than 75 percent, the following shall apply:

(1) For growth revenues received related to increases in credit FTES pursuant to Section 58774, the district shall increase the base full-time faculty obligation (as defined in Section 53311), subject to Subsection (c) below, by the Fall term of the succeeding fiscal year, by the product of their base full-time faculty obligation multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

In computing the district's full-time faculty obligation for the succeeding fiscal year, the base obligation will be increased by the lower of the projected fundable growth at the time of the budget enactment or the actual percentage change in funded credit FTES. For the second succeeding Fall term the obligation will be adjusted to the actual percentage change in funded credit FTES.

(2) Districts which, as determined from their base data, had a full-time faculty percentage of 67 percent or greater, but less than 75 percent shall apply up to 33 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(3) Districts which, as determined from their base data, had a full-time faculty percentage of less than 67 percent shall apply up to 40 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(4) For program improvement funds identified in Subsection (a)(2) or (3), as appropriate, the district shall increase the number of full-time faculty, by the Fall term of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full-time faculty derived in Subsections (a)(1) and (4) result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part-time faculty times the statewide average full-time teaching load.

(c) On or before January 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by the Fall term of that year, has maintained or hired the number of additional full-time faculty determined pursuant to Subsection (a) for the prior fiscal year. To the extent that the number of full-time faculty has not been maintained or additional full-time faculty have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equal to the average replacement cost for the prior fiscal year times the deficiency in the number of full-time faculty. To the extent a district hires the additional full-time faculty in subsequent fiscal years, the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to Subsection (c), shall be made available on a one-time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code, Section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost-of-living funds have been provided to allow full or partial implementation of the provisions of Subsection (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full-time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7-3-91 and submitted to OAL on 7-12-91 for printing only pursuant to Education Code section 70901.5; operative 8-3-91 (Register 91, No. 46).

2. New first paragraph, amendment of subsections (a)-(a)(4) and (c) and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).

3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

4. Amendment of subsections (a)-(a)(4), (b) and (c) filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

5. Amendment filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 51026. Student Equity.

In accordance with the provisions of Section 54220, the governing board of a community college district shall adopt a student equity plan.

HISTORY

1. New section filed 1-12-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a transfer center plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in the standards outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students. Plans shall be developed in consultation with baccalaureate college and university personnel as available.

between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.
2. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1–16–81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4–27–83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10–30–90 with Secretary of State by Board of Governors, California Community Colleges; operative 11–30–90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) An Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils so that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters.

(b) The Board of Governors recognizes the Academic Senate of the California Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5–9–78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Amendment of subsection (a) filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
5. Editorial correction of HISTORY 3 (Register 95, No. 19).

Subchapter 3. Full–Time and Part–Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51025 concerning the proportion of full–time and part–time faculty to be employed by community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10–25–91; operative 11–24–91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
5. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).

§ 53301. Part–Time Faculty.

The term "part–time faculty" includes any faculty member, as defined in Section 53402(c), who is not a regular employee or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5, or 87609 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750, 87482.7, 87601, 87605, 87608, 87608.5 and 87609, Education Code.

HISTORY

1. New section filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53302. Full–Time Faculty.

For purposes of this Chapter the term "full–time faculty" means any faculty member, as defined in Section 53402(c), who is a regular or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5 or 87609 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750, 87482.6, 87601, 87605, 87608, 87608.5 and 87609, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment of section heading and section filed 3–25–98; operative 4–24–98. Submitted to OAL for printing only (Register 98, No. 14).
5. Amendment of section and NOTE filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53308. Full–Time Faculty Percentage.

For purposes of this Subchapter and Section 51025, a district's full–time faculty percentage is determined as follows:

(a) Using the rules set forth in Section 53309, calculate the district's full–time equivalent faculty (FTEF) attributable to full–time faculty, as defined in Section 53302.

(b) Determine the district's total FTEF by adding together:

(1) FTEF attributable to full–time faculty, using the rules set forth in Section 53309; and

(2) FTEF attributable to part–time faculty, calculated using the rules set forth in Section 53310.

(c) To obtain the full–time faculty percentage, divide the figure from subdivision (a) (FTEF attributable to full–time faculty) by the figure from subdivision (b) (total FTEF).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6–23–2000; operative 7–23–2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53309. Rules for Calculating Full–Time Equivalent Faculty (FTEF) Attributable to Full–Time Faculty.

In calculating full–time equivalent faculty (FTEF) attributable to full–time faculty, the following rules shall be applicable:

(a) With respect to instruction, FTEF shall be calculated based on the percentage of instructional hours per week considered a full–time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments.

(b) With respect to non-instructional activities, FTEF shall be calculated based on the percentage of working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties.

(c) Regular Assignment. Include the regular assignment of full-time faculty as defined in Section 53302.

(d) Overload. Exclude full-time faculty overload from the calculation of FTEF.

(e) Sabbatical. Include full-time faculty sabbatical FTEF, whether paid or unpaid, and exclude the FTEF of replacement faculty, whether full-time or part-time, from the computation to determine the full-time faculty percentage pursuant to Section 53308.

(f) Released/Reassigned Time. Include FTEF for full-time faculty who are released or reassigned. The FTEF of a full-time faculty member on released or reassigned time shall be counted as if the faculty member was teaching/working full-time and had not been provided released or reassigned time. The FTEF of replacement faculty, whether full-time or part-time, shall be excluded from the computation to determine the full-time faculty percentage pursuant to Section 53308.

(g) Unpaid Leave. Include unpaid leave FTEF for a faculty member on unpaid leave. The FTEF of a full-time faculty member on unpaid leave shall be counted as if the faculty member was teaching/working full-time and had not been provided with unpaid leave. The FTEF of replacement faculty, whether full-time or part-time, shall be excluded from the computation to determine the full-time faculty percentage pursuant to Section 53308.

(h) Teaching by Others. Include credit instruction FTEF taught by classified staff or administrators who are appropriately qualified to teach, under the following conditions:

(1) Only the actual hours of teaching by such individuals shall be included in determining the FTEF; and

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(i) Late Retirement. The FTEF of a faculty member who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time faculty member by the current Fall primary term, shall be included.

Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term or the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025. If the number of late retirees exceeds 15% of the district's total number of full-time faculty, and the district's governing board and academic senate jointly agree, a district may file a request with the Chancellor's Office for a one-year extension to fulfill its hiring obligation to replace those retirees.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

Article 2. Proportions of Full-Time and Part-Time Faculty, Computation and Reports

§ 53310. Rules for Calculating Full-Time Equivalent Faculty (FTEF) Attributable to Part-Time Faculty.

In calculating full-time equivalent faculty (FTEF) attributable to part-time faculty, the following rules shall be applicable:

(a) With respect to instruction, FTEF shall be calculated based on the percentage of instructional hours per week considered a full-time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments.

(b) With respect to non-instructional activities, FTEF shall be calculated based on the percentage of working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties.

(c) All instructional and noninstructional activities of part-time faculty shall be included, except the following:

(1) FTEF attributable to part-time faculty who replace full-time faculty on sabbatical leave.

(2) FTEF attributable to part-time faculty who replace full-time faculty on released or reassigned time.

(3) FTEF of part-time faculty replacing full-time faculty on unpaid leave.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).
3. New subsections (f)-(h) and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
4. Amendment of subsection (h) filed 2-4-93; operative 3-6-93 (Register 93, No. 6).
5. Amendment of subsections (d), (e), (g) and (h) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment of section heading and section filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).
7. Repealer and new section filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53311. Base Data.

For purposes of this Subchapter, "base data" means both the district's base full-time faculty percentage and its base full-time faculty obligation (the number of full-time faculty the district is required to maintain or the number of additional full-time faculty to be hired by the Fall term of the subsequent year.) The data necessary to calculate the base full-time faculty percentage shall be determined from the current year's Fall management information system staff data submission to the Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of section heading, text and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).
5. Amendment filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53312. Additional Full-Time Faculty Positions.

(a) The Chancellor shall compute the number of full-time faculty which each district is to secure in accordance with Sections 51025 and 53308, as the result of applying additional FTES growth and program improvement revenue allotments.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for part-time instructors times the statewide average full-time teaching load).

(c) If the quotient determined in paragraph (b) is not a whole number, then the quotient shall be rounded down to the nearest whole number. If

the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

(d) The computation for the funded growth in full-time equivalent student workload obligation to secure additional full-time faculty shall, when required pursuant to the provisions of Section 51025(a)(1) and (c), be made by multiplying the percentage of funded credit FTES growth times the base number of full-time faculty that were to be in place by Fall of the current year.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NOTE and new subsection (d) filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment of subsection (a) filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53314. Report to Districts.

By the Spring term of each year, the Chancellor shall report to districts the estimated number of full-time faculty each district must secure by the following Fall term based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors' action pursuant to Section 51025(e).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
   Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

Article 3. Enforcement

§ 53320. Funding Reductions.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Repealer filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This Subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87359 concerning minimum qualifications for community lege faculty and administrators. The provisions of this subchapter are ective July 1, 1990.

NOTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
4. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53401. Applicability to Community Services and Contract Classes.

Community service or contract classes which do not award college credit and are not supported by state apportionment are not subject to the provisions of this Subchapter. Contract classes which award college credit are subject to this Subchapter, even if they are not supported by state apportionment.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 78020 through 78023 and 78300, Education Code.

HISTORY

1. New section filed 6-26-92; operative 7-27-92 (Register 92, No. 26).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service are specified in Section 53410-53414 or other provisions of this division. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

NOTE: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).

§ 53403. Applicability of Amendments.

Notwithstanding changes that may be made to the minimum qualifications established in this division, or to the implementing discipline lists adopted by the Board of Governors, the governing board of a community college district may continue to employ a person to teach in a discipline or render a service subject to minimum qualifications, if he or she, at the time of initial hire by the district, was qualified to teach in that discipline or render that service under the minimum qualifications or disciplines lists then in effect.

Every person authorized to serve under a credential shall retain the right to serve under the terms of that credential, and, for that purpose, shall be deemed to possess the minimum qualifications specified for every discipline or service covered by the credential until the expiration of that credential. However, a credential shall be invalid when the holder has been convicted of any crime that, under former law, would have been

boards. It is the intent of the Board of Governors to respect agreements tween academic senates and collective bargaining representatives as how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to academic senates pursuant to these regulations.

NOTE: Authority cited: Sections 66700 and 70901 Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. Repealer and new section filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b). For prior history, see Register 83, No.18.
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53205. Duties Assigned by Administration and Governing Board.

NOTE: Authority cited: Sections 66700, 71020, 71062 and 71079, Education Code. Reference: Sections 71079 and 72292, Education Code.

HISTORY

1. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No.18).
3. Repealer filed 10-30-90 with Secretary of State by Board of Governors, California Community Colleges; operative 11-30-90 (Register 90, No. 49). Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 53206. Academic Senate for California Community Colleges.

(a) An Academic Senate for the California Community Colleges has been established through ratification by local academic senates or faculty councils so that the community college faculty of California may have a formal and effective procedure for participating in the formation of state policies on academic and professional matters.

(b) The Board of Governors recognizes the Academic Senate of the fornia Community Colleges as the representative of community college academic senates or faculty councils before the Board of Governors and Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901, and 71079, Education Code. Reference: Sections 70901 and 70902, Education Code.

HISTORY

1. New section filed 5-9-78; effective thirtieth day thereafter (Register 78, No. 19).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
5. Editorial correction of HISTORY 3 (Register 95, No. 19).

Subchapter 3. Full-Time and Part-Time Faculty

Article 1. Scope and Definitions

§ 53300. Scope.

This Subchapter relates to and should be read in conjunction with the requirements of Section 51025 concerning the proportion of full-time and part-time faculty to be employed by community colleges.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in subchapter 3 heading (Register 91, No. 31).
3. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
4. Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
5. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).

§ 53301. Part-Time Faculty.

The term "part-time faculty" includes any faculty member, as defined in Section 53402(c), who is not a regular employee or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5, or 87609 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750, 87482.7, 87601, 87605, 87608, 87608.5 and 87609, Education Code.

HISTORY

1. New section filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53302. Full-Time Faculty.

For purposes of this Chapter the term "full-time faculty" means any faculty member, as defined in Section 53402(c), who is a regular or contract employee of the district pursuant to Sections 87601, 87605, 87608, 87608.5 or 87609 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750, 87482.6, 87601, 87605, 87608, 87608.5 and 87609, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment of section heading and section filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).
5. Amendment of section and NOTE filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53308. Full-Time Faculty Percentage.

For purposes of this Subchapter and Section 51025, a district's full-time faculty percentage is determined as follows:

(a) Using the rules set forth in Section 53309, calculate the district's full-time equivalent faculty (FTEF) attributable to full-time faculty, as defined in Section 53302.

(b) Determine the district's total FTEF by adding together:

(1) FTEF attributable to full-time faculty, using the rules set forth in Section 53309; and

(2) FTEF attributable to part-time faculty, calculated using the rules set forth in Section 53310.

(c) To obtain the full-time faculty percentage, divide the figure from subdivision (a) (FTEF attributable to full-time faculty) by the figure from subdivision (b) (total FTEF).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53309. Rules for Calculating Full-Time Equivalent Faculty (FTEF) Attributable to Full-Time Faculty.

In calculating full-time equivalent faculty (FTEF) attributable to full-time faculty, the following rules shall be applicable:

(a) With respect to instruction, FTEF shall be calculated based on the percentage of instructional hours per week considered a full-time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments.

(b) With respect to non-instructional activities, FTEF shall be calculated based on the percentage of working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties.

(c) Regular Assignment. Include the regular assignment of full-time faculty as defined in Section 53302.

(d) Overload. Exclude full-time faculty overload from the calculation of FTEF.

(e) Sabbatical. Include full-time faculty sabbatical FTEF, whether paid or unpaid, and exclude the FTEF of replacement faculty, whether full-time or part-time, from the computation to determine the full-time faculty percentage pursuant to Section 53308.

(f) Released/Reassigned Time. Include FTEF for full-time faculty who are released or reassigned. The FTEF of a full-time faculty member on released or reassigned time shall be counted as if the faculty member was teaching/working full-time and had not been provided released or reassigned time. The FTEF of replacement faculty, whether full-time or part-time, shall be excluded from the computation to determine the full-time faculty percentage pursuant to Section 53308.

(g) Unpaid Leave. Include unpaid leave FTEF for a faculty member on unpaid leave. The FTEF of a full-time faculty member on unpaid leave shall be counted as if the faculty member was teaching/working full-time and had not been provided with unpaid leave. The FTEF of replacement faculty, whether full-time or part-time, shall be excluded from the computation to determine the full-time faculty percentage pursuant to Section 53308.

(h) Teaching by Others. Include credit instruction FTEF taught by classified staff or administrators who are appropriately qualified to teach, under the following conditions:

(1) Only the actual hours of teaching by such individuals shall be included in determining the FTEF; and

(2) The hours of teaching by such individuals must be part of a regular contract, and not taught as an overload assignment.

(i) Late Retirement. The FTEF of a faculty member who resigned or retired and who provided written notice thereof within 45 faculty duty days of the end of the previous Spring primary term and whose position has not been replaced by another full-time faculty member by the current Fall primary term, shall be included. The FTEF of replacement faculty, whether full-time or part-time, shall be excluded from the computation to determine the full-time faculty percentage pursuant to Section 53308.

Districts are required to fill the position(s) by the following Spring primary term unless designees for the district governing board and academic senate jointly agree that it is in the best interests of the district to delay the filling of the position. In such cases, replacement must be made by the following primary term or the Chancellor shall reduce the district's state apportionment revenues for the current year in accordance with the provisions of Section 51025. If the number of late retirees exceeds 15% of the district's total number of full-time faculty, and the district's governing board and academic senate jointly agree, a district may file a request with the Chancellor's Office for a one-year extension to fulfill its hiring obligation to replace those retirees.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).
2. Amendment of subsection (i) filed 10-16-2001; operative 11-15-2001. Submitted to OAL for printing only (Register 2001, No. 43).

Article 2. Proportions of Full-Time and Part-Time Faculty, Computation and Reports

§ 53310. Rules for Calculating Full-Time Equivalent Faculty (FTEF) Attributable to Part-Time Faculty.

In calculating full-time equivalent faculty (FTEF) attributable to part-time faculty, the following rules shall be applicable:

(a) With respect to instruction, FTEF shall be calculated based on the percentage of instructional hours per week considered a full-time assignment for regular instructional employees having comparable duties, excluding any noncredit instructional assignments.

(b) With respect to non-instructional activities, FTEF shall be calculated based on the percentage of working hours per week considered a full-time assignment for regular non-instructional employees having comparable duties.

(c) All instructional and noninstructional activities of part-time faculty shall be included, except the following:

(1) FTEF attributable to part-time faculty who replace full-time faculty on sabbatical leave.

(2) FTEF attributable to part-time faculty who replace full-time faculty on released or reassigned time.

(3) FTEF of part-time faculty replacing full-time faculty on unpaid leave.

(4) FTEF of part-time faculty replacing full-time faculty who resigned or retired late as defined in section 53309(i).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Editorial correction of printing error in article 2 heading (Register 91, No. 31).
3. New subsections (f)-(h) and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
4. Amendment of subsection (h) filed 2-4-93; operative 3-6-93 (Register 93, No. 6).
5. Amendment of subsections (d), (e), (g) and (h) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
6. Amendment of section heading and section filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).
7. Repealer and new section filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).
8. New subsection (c)(4) filed 10-16-2001; operative 11-15-2001. Submitted to OAL for printing only (Register 2001, No. 43).

§ 53311. Base Data.

For purposes of this Subchapter, "base data" means both the district's base full-time faculty percentage and its base full-time faculty obligation (the number of full-time faculty the district is required to maintain or the number of additional full-time faculty to be hired by the Fall term of the subsequent year.) The data necessary to calculate the base full-time faculty percentage shall be determined from the current year's Fall management information system staff data submission to the Chancellor's Office.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of section heading, text and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment filed 3-25-98; operative 4-24-98. Submitted to OAL for printing only (Register 98, No. 14).
5. Amendment filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53312. Additional Full-Time Faculty Positions.

(a) The Chancellor shall compute the number of full-time faculty which each district is to secure in accordance with Sections 51025 and 53308, as the result of applying additional FTES growth and program improvement revenue allotments.

(b) This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide hourly rate of compensation for

-time instructors times the statewide average full-time teaching load).

(c) If the quotient determined in paragraph (b) is not a whole number, then the quotient shall be rounded down to the nearest whole number. If the quotient, once applied, will result in the district exceeding the 75 percent standard, the Chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

(d) The computation for the funded growth in full-time equivalent student workload obligation to secure additional full-time faculty shall, when required pursuant to the provisions of Section 51025(a)(1) and (c), be made by multiplying the percentage of funded credit FTES growth times the base number of full-time faculty that were to be in place by Fall of the current year.

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of subsections (a) and (c) and NOTE and new subsection (d) filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment of subsection (a) filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

§ 53314. Report to Districts.

By the Spring term of each year, the Chancellor shall report to districts the estimated number of full-time faculty each district must secure by the following Fall term based upon the appropriation of revenues contained in that year's Budget Act and the Board of Governors' action pursuant to Section 51025(c).

NOTE: Authority cited: Sections 66700, 70901 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Repealer and new section and amendment of NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Amendment filed 6-23-2000; operative 7-23-2000. Submitted to OAL for printing only (Register 2000, No. 26).

Article 3. Enforcement

§ 53320. Funding Reductions.

NOTE: Authority cited: Sections 66700, 70901 and 87482.6, Education Code. Reference: Section 87482.6, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Repealer filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 4. Minimum Qualifications

Article 1. Scope and Definitions

§ 53400. Scope.

This Subchapter implements and should be read in conjunction with the requirements of Education Code Sections 87001, 87002, 87003, 87356 and 87359 concerning minimum qualifications for community college faculty and administrators. The provisions of this subchapter are effective July 1, 1990.

NOTE: Authority cited: Sections 66700, 70901, 87001, 87356 and 87359, Education Code. Reference: Sections 87001, 87002, 87003, 87356 and 87359, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
4. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53401. Applicability to Community Services and Contract Classes.

Community service or contract classes which do not award college credit and are not supported by state apportionment are not subject to the provisions of this Subchapter. Contract classes which award college credit are subject to this Subchapter, even if they are not supported by state apportionment.

NOTE: Authority cited: Sections 70901(b)(1)(B) and 87356, Education Code. Reference: Sections 70901(b)(1)(B), 78020 through 78023 and 78300, Education Code.

HISTORY

1. New section filed 6-26-92; operative 7-27-92 (Register 92, No. 26).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 53402. Definitions.

(a) "Administrator" means any person employed by the governing board of a district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Educational administrator" means an administrator who is employed in an academic position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Educational administrators include, but are not limited to, chancellors, presidents, and other supervisory or management employees designated by the governing board as educational administrators.

(c) "Faculty" or "faculty member" means those employees of a district who are employed in academic positions that are not designated as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service are specified in Section 53410-53414 or other provisions of this division. Faculty include, but are not limited to, instructors, librarians, counselors, community college health service professionals, disabled student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement community college certification qualifications.

NOTE: Authority cited: Sections 66700, 70901 and 87001, Education Code. Reference: Sections 87001, 87002 and 87003, Education Code.

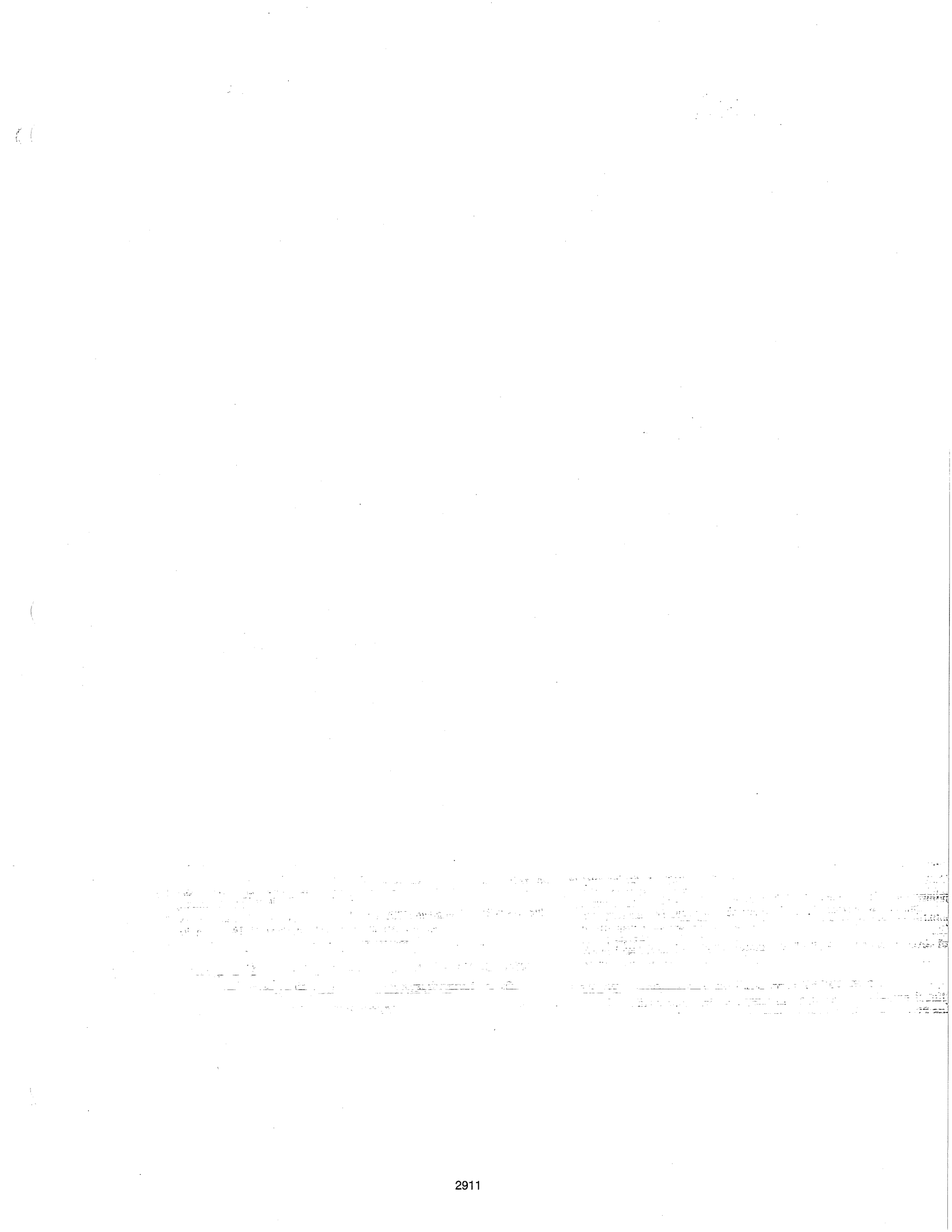
HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment filed 10-25-91; operative 11-24-91 (Register 92, No. 9).

§ 53403. Applicability of Amendments.

Notwithstanding changes that may be made to the minimum qualifications established in this division, or to the implementing discipline lists adopted by the Board of Governors, the governing board of a community college district may continue to employ a person to teach in a discipline or render a service subject to minimum qualifications, if he or she, at the time of initial hire by the district, was qualified to teach in that discipline or render that service under the minimum qualifications or disciplines lists then in effect.

Every person authorized to serve under a credential shall retain the right to serve under the terms of that credential, and, for that purpose, shall be deemed to possess the minimum qualifications specified for every discipline or service covered by the credential until the expiration of that credential. However, a credential shall be invalid when the holder has been convicted of any crime that, under former law, would have been



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 18: Student Equity

History Index for
Title 5, California Code of Regulations

Section 51026
Section 54220

Register 93-06 § 54220: New Subchapter 4 and section.

Register 98-03 § 51026: Added new section. Submitted to OAL for printing only.

§ 54220: Amendment of subsections (a)(1), (a)(2) and (b), repealer of subsections (d)-(d)(2), and new subsection (d). Submitted to OAL for printing only.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1993-06

§ 54220

portation to such persons, in those parking areas which are most accessible to facilities which the district finds are most used by students.

(f) Each community college district shall post in conspicuous places notice that parking is available to students with disabilities and those providing transportation for such students.

(g) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for students with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(h) Revenue form parking fees collected pursuant to Education Code Section 72247 may be used to offset the costs of implementing this section.

NOTE: Authority cited: Sections 66260, 67311.5, 66700 and 70901, Education Code. Reference: Sections 66260, 67311.5 and 72247, Education Code; and Sections 21458, 22507 and 22511.5, Vehicle Code.

HISTORY

1. Amendment filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer of Chapter 2 (Section 54150) filed 7–29–82; effective thirtieth day thereafter (Register 82, No. 31).
3. New section filed 1–16–92; operative 2–18–92 (Register 92, No. 12).

Subchapter 2.5. Medical Insurance for Hazardous Activities

NOTE: Authority cited: Sections 71020, 72246.5, Education Code. Reference: Section 72246.5, Education Code.

HISTORY

1. New Chapter 2.5 (Articles 1–3, Sections 54161–54184, not consecutive) filed 12–13–78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 50).
2. Repealer of Chapter 2.5 (Sections 54160–54184) filed 11—15–79; effective thirtieth day thereafter (Register 79, No. 46).

Subchapter 3. Attendance

NOTE: Authority cited: Sections 66700, 71020, 76300, 78405, 84500.1, and 84530, Education Code. Reference: Sections 8512, 76300, 78203, 78412, 84500, 84500.1, 84500.5, and 84530, Education Code.

HISTORY

1. Repealer of Chapter 3 (Subchapters 1 and 2, Sections 54200–54222, not consecutive) and new Chapter 3 (Articles 1 and 2, Sections 54180–54228, not consecutive) filed 8–12–80; effective thirtieth day thereafter (Register 80, No. 33). For prior history, see Registers 79, No. 46; 77, No. 45; and 74, No. 10.
2. Repealer of Chapter 3 (Articles 1 and 2, Sections 54180–54223, not consecutive) filed 7–29–82; effective thirtieth day thereafter (Register 82, No. 31). For prior history, see Register 81, No. 3.

§ 54200. Certain Students' Residences More than 60 Miles from Nearest Attendance Center.

Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service within the armed forces of the United States, who resides in this state and more than 60 miles from the nearest community college measured by the usual vehicular route between the student's home and the college, may request to attend credit courses at any community college in the state, whether or not the student's residence is in a district maintaining a community college. The governing board of the district maintaining the community college designated by the student shall admit the student provided all requirements for admission are met.

The provisions of this section shall not apply to any student residing in a district maintaining a community college if that district maintains adequate dormitories or housing facilities or provides adequate transportation for the student between the student's home and community college attendance center.

If the student resides within territory not included within any district and resides more than 60 miles from the nearest community college, measured by the usual vehicular route between the students home and the attendance center, there shall be paid to the parents or other persons having charge or control of the student and directly to adult students and married minors, by the district in which the student attends, a maintenance allowance not to exceed four dollars ($4) per calendar day, including weekends and school holidays, for the portion of a semester, quarter, or other session or term in which the student is enrolled full time in credit classes in a community college under this section. Districts shall receive reimbursement from the Chancellor's Office for allowances paid to students from nondistrict territory for the prior fiscal year not to exceed the maximum amount as provided by law.

No later than 60 days after the close of each fiscal year the Chancellor shall determine the daily allowance rate for the prior fiscal year. If claims made by community colleges exceed total funds raised by nondistrict territories for that purpose prior to July 1, 1978, the Chancellor shall prorate the allowances made under this section. No later than 90 days after the close of each fiscal year the community college districts shall pay eligible students at the rate prescribed by the Chancellor and verification of the claims by the appropriate county superintendent of schools.

The Chancellor shall prescribe procedures for the submission of claims by districts.

For the purpose of this section, a person shall be deemed to be honorably discharged from the armed forces (a) if he or she was honorable discharged from the armed forces of the United States or (b) if he or she was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and

(1) satisfactorily completes his or her period of training and service under that act and is issued a certificate to that effect pursuant to that act, or

(2) having served honorably on active duty was transferred to a reserve component of the armed forces of the United States pursuant to that act, or

(3) was otherwise released pursuant to that act under honorable conditions.

For the purposes of this section, the term "armed forces of the United States" shall include all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretaries of the Army, Navy and Air Force, and all components of the Coast Guard.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment of third and fifth paragraphs filed 10–25–91; operative 11–24–91 (Register 92, No. 9).

Subchapter 4. Student Equity

§ 54220. Student Equity Plans.

(a) In order to promote student success for all students, the governing board of each community college district shall adopt, by July 1, 1993, a student equity plan which includes for each college in the district:

(1) Campus–based research as to the extent of student equity and as to institutional barriers to equity in order to provide a basis for the development of goals and the determination of what activities are most likely to be effective;

(2) Goals for access, retention, degree and certificate completion, ESL and basic skills completion, and transfer; for each of the historically underrepresented groups as appropriate;

(3) Implementation activities designed to attain the goals, including a means of coordinating existing student equity related programs;

(4) Sources of funds for the activities in the plan;

(5) Schedule and process for evaluation; and

(6) An executive summary that includes, at a minimum, the groups for whom goals have been set, the goals, the initiatives that the college or district will undertake to achieve these goals, the resources that have been

budgeted for that purpose, and the district official to contact for further information.

(b) These plans should be developed with the active involvement of all groups on campus as required by law, and with the involvement of appropriate people from the community who can articulate the perspective and concerns of the historically underrepresented groups.

(c) The Board-adopted plan shall be submitted to the Office of the Chancellor, which shall publish all executive summaries, sending copies to every college and district, the chair of each consultation group that so requests, and such additional individuals and organizations as deemed appropriate.

(d) Definitions. For purposes of this section the following definitions will apply:

(1) Historically Underrepresented Group. "Historically underrepresented group" means any group for which the percentage of persons from that group who enroll and complete their educational goals is now, and historically has been, significantly lower than the percentage that members of that group represent in the adult population of the state. The Board of Governors has determined that, on a statewide basis, ethnic minorities, women, and persons with disabilities are historically underrepresented groups.

(2) Ethnic Minorities. "Ethnic minorities" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks and Hispanics. A person shall be included in the group with which he or she identifies as his or her group, but may be counted in only one ethnic group. These groups shall be more specifically defined by the Chancellor consistent with state and federal law.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 66010.2, 66010.7, 66030 and 70901, Education Code.

HISTORY

1. New subchapter 4 and section filed 2-4-93; operative 3-6-93 (Register 93, No. 6).

Subchapter 5. Enrollment Accounting

NOTE: Authority cited: Section 71020 and 84522, Education Code.

HISTORY

1. New Chapter 5 (Sections 54500-54510, not consecutive) filed 12-13-74; effective thirtieth day thereafter (Register 74, No. 50).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 5 (Sections 54500-54512, not consecutive) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31). For prior history, see Registers 76, No. 41 and 75, No. 26.

Subchapter 6. Student Records

§ 54600. Purpose.

This chapter is adopted pursuant to and for implementation of Chapter 1.5 (commencing with Section 76200), Part 47 of Division 7 of the Education Code regarding Student Records. The provisions of this Chapter should be read and interpreted in conjunction with the provisions of Chapter 1.5.

NOTE: Authority cited: Sections 76220, 76225 and 76246, Education Code. Reference: Chapter 1.5 (commencing with Section 76200), Part 47, Division 7, Education Code; and 20 USC 1232(g).

HISTORY

1. New Chapter 6 Articles 1-7, (Sections 54600-54662, not consecutive) filed 3-5-76; effective thirtieth day thereafter (Register 76, No. 10).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of article heading and amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54602. Construction.

HISTORY

1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54604. Policy.

Community College districts may establish and maintain only such information on students relevant to admission, registration, academic history, career, student benefits or services, extracurricular activities, counseling and guidance, discipline or matters relating to student conduct, and shall establish and maintain such information required by law.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76210, Education Code; and 20 USC 1232(g).

HISTORY

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54606. Definitions.

(a) "Student" as used in this Chapter means a currently enrolled or formerly enrolled student.

(b) "Access" means a personal inspection and review of a record, an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, or a request to release a copy of any record. The student shall be permitted to select the means of access.

(c) "Student Record" means any item of information directly related to an identifiable student maintained by a Community College or required to be maintained by an employee in the performance of the employee's duties, whether recorded by handwriting, print, tapes, film, microfilm or other means, except:

(1) Information provided by a student's parents relating to applications for financial aid or scholarships,

(2) Information related to a student compiled by a Community College officer or employee:

(A) appropriate for such officer or employee's performance of his or he responsibility; and

(B) which remains in the sole possession of the maker thereof; and

(C) is not accessible or revealed to any other person except a substitute. For the purposes of this subdivision, "substitute" shall mean a person who performs on a temporary basis the duties of the individual who made the notes and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

(3) Information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional:

[The next page is 339.]

(c) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this Section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3-12-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1 (Register 91, No. 43).
3. Amendment of subsections (a)(2), (a)(4), (b), (b)(10), (d) and (e) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51024. Matriculation Services.

The governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under Section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under Section 55512(c);

(c) provide matriculation services to its students in accordance with Sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with Section 55534; and

(e) substantially comply with all other provisions of Subchapter 6 (commencing with Section 55500) of Chapter 6 of this Division.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210-78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).
2. Amendment of first paragraph and subsection (e) filed 4-3-92; operative 5-4-92 (Register 92, No. 15).

§ 51025. Full-Time/Part-Time Faculty.

This Section relates to and should be read in conjunction with Subchapter 3 (commencing with Section 53300) of Chapter 4 of this Division.

(a) Community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors, as determined from their base data calculated pursuant to Section 53311, shall apply the growth revenues received related to increases in credit FTES in accordance with Section 58774 and a portion of the program improvement allocation received in accordance with Section 58775, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to Section 58774, the districts shall increase the base number of full-time instructors, subject to Subsection (e) below, by the Fall term of the succeeding fiscal year, by the product of their base number of full-time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, as determined from their base data, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(3) Districts which, as determined from their base data, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(4) Of the program improvement funds identified in Subsection (a)(2) or (3), as appropriate, the district shall increase the number of full-time instructors, by the Fall term of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full-time faculty derived in Subsections (a)(1) and (4) result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by the Fall term of that year, has maintained or hired the number of additional full-time instructors determined pursuant to Subsection (a) for the prior fiscal year. To the extent that the number of full-time faculty has not been maintained or additional full-time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full-time faculty. To the extent a district hires the additional full-time instructors in subsequent fiscal years the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to Subsection (c), shall be made available on a one-time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code, Section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost-of-living funds have been provided to allow full or partial implementation of the provisions of Subsection (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full-time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7-3-91 and submitted to OAL on 7-12-91 for printing only pursuant to Education Code section 70901.5; operative 8-3-91 (Register 91, No. 46).
2. New first paragraph, amendment of subsections (a)-(a)(4) and (c) and NOTE filed 8-19-92; operative 9-18-92 (Register 92, No. 34).
3. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51026. Student Equity.

In accordance with the provisions of Section 54220, the governing board of a community college district shall adopt a student equity plan.

HISTORY

1. New section filed 1-12-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African-American, Chicano/Latino, American Indian, disabled, low-income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a transfer center plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in the standards outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students. Plans

History

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer of Chapter 2 (Section 54150) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31).
3. New section filed 1-16-92; operative 2-18-92 (Register 92, No. 12).

Subchapter 2.5. Medical Insurance for Hazardous Activities

Note: Authority cited: Sections 71020, 72246.5, Education Code. Reference: Section 72246.5, Education Code.

History

1. New Chapter 2.5 (Articles 1-3, Sections 54161-54184, not consecutive) filed 12-13-78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 50).
2. Repealer of Chapter 2.5 (Sections 54160-54184) filed 11—15-79; effective thirtieth day thereafter (Register 79, No. 46).

Subchapter 3. Attendance

Note: Authority cited: Sections 66700, 71020, 76300, 78405, 84500.1, and 84530, Education Code. Reference: Sections 8512, 76300, 78203, 78412, 84500, 84500.1, 84500.5, and 84530, Education Code.

History

1. Repealer of Chapter 3 (Subchapters 1 and 2, Sections 54200-54222, not consecutive) and new Chapter 3 (Articles 1 and 2, Sections 54180-54228, not consecutive) filed 8-12-80; effective thirtieth day thereafter (Register 80, No. 33). For prior history, see Registers 79, No. 46; 77, No. 45; and 74, No. 10.
2. Repealer of Chapter 3 (Articles 1 and 2, Sections 54180-54228, not consecutive) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31). For prior history, see Register 81, No. 3.

§ 54200. Certain Students' Residences More than 60 Miles from Nearest Attendance Center.

Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service within the armed forces of the United States, who resides in this state and more than 60 miles from the nearest community college measured by the usual vehicular route between the student's home and the college, may request to attend credit courses at any community college in the state, whether or not the student's residence is in a district maintaining a community college. The governing board of the district maintaining the community college designated by the student shall admit the student provided all requirements for admission are met.

The provisions of this Section shall not apply to any student residing in a district maintaining a community college if that district maintains adequate dormitories or housing facilities or provides adequate transportation for the student between the student's home and community college attendance center.

If the student resides within territory not included within any district and resides more than 60 miles from the nearest community college, measured by the usual vehicular route between the students home and the attendance center, there shall be paid to the parents or other persons having charge or control of the student and directly to adult students and married minors, by the district in which the student attends, a maintenance allowance not to exceed four dollars ($4) per calendar day, including weekends and school holidays, for the portion of a semester, quarter, or other session or term in which the student is enrolled full time in credit classes in a community college under this Section. Districts shall receive reimbursement from the Chancellor's Office for allowances paid to students from nondistrict territory for the prior fiscal year not to exceed the maximum amount as provided by law.

No later than 60 days after the close of each fiscal year the Chancellor shall determine the daily allowance rate for the prior fiscal year. If claims made by community colleges exceed total funds raised by nondistrict territories for that purpose prior to July 1, 1978, the Chancellor shall prorate the allowances made under this Section. No later than 90 days after the close of each fiscal year the community college districts shall pay eligible students at the rate prescribed by the Chancellor and verification of the claims by the appropriate county superintendent of schools.

The Chancellor shall prescribe procedures for the submission of claims by districts.

For the purpose of this Section, a person shall be deemed to be honorably discharged from the armed forces (a) if he or she was honorable discharged from the armed forces of the United States or (b) if he or she was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and

(1) satisfactorily completes his or her period of training and service under that Act and is issued a certificate to that effect pursuant to that Act, or

(2) having served honorably on active duty was transferred to a reserve component of the armed forces of the United States pursuant to that Act, or

(3) was otherwise released pursuant to that Act under honorable conditions.

For the purposes of this Section, the term "armed forces of the United States" shall include all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretaries of the Army, Navy and Air Force, and all components of the Coast Guard.

Students residing in a nondistrict territory that has been annexed to a community college district and residing more than 60 miles from the nearest community college shall be provided a maintenance allowance as prescribed by this Section for up to four years from the date of annexation.

Note: Authority cited: Sections 66700, 70901 and 84750, Education Code. Reference: Section 70901, Education Code.

History

1. New section filed 3-4-91 by the Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment of third and fifth paragraphs filed 10-25-91; operative 11-24-91 (Register 92, No. 9).
3. Editorial correction of History 1 (Register 95, No. 19).
4. Amendment of section and Note filed 11-6-97; operative 12-6-97. Submitted to OAL for printing only (Register 97, No. 46).

Subchapter 4. Student Equity

§ 54220. Student Equity Plans.

(a) In order to promote student success for all students, the governing board of each community college district shall adopt, by July 1, 1993, a student equity plan which includes for each college in the district:

(1) Campus-based research as to the extent of student equity in the five areas described in paragraph (2) and the determination of what activities are most likely to be effective;

(2) Goals for access, retention, degree and certificate completion, ESL and basic skills completion, and transfer; for the overall student population and for each population group of students, as appropriate. Where significant underrepresentation is found to exist in accordance with standards adopted by the Board of Governors, the plan shall include race-neutral measures for addressing the disparity, and, when legally appropriate, race-conscious measures for addressing the disparity;

(3) Implementation activities designed to attain the goals, including a means of coordinating existing student equity related programs;

(4) Sources of funds for the activities in the plan;

(5) Schedule and process for evaluation; and

(6) An executive summary that includes, at a minimum, the groups for whom goals have been set, the goals, the initiatives that the college or district will undertake to achieve these goals, the resources that have been budgeted for that purpose, and the district official to contact for further information.

(b) These plans should be developed with the active involvement of all groups on campus as required by law, and with the involvement of appropriate people from the community.

(c) The Board-adopted plan shall be submitted to the Office of the Chancellor, which shall publish all executive summaries, sending copies to every college and district, the chair of each consultation group that so requests, and such additional individuals and organizations as deemed appropriate.

(d) For the purposes of this section, "each population group of students" means American Indians or Alaskan natives, Asians or Pacific Islanders, Blacks, Hispanics, Whites, men, women, and persons with disabilities. A person shall be included in the group with which he or she identifies as his or her group.

NOTE: Authority cited: Section 70901, Education Code. Reference: Sections 66010.2, 66010.7, 66030 and 70901, Education Code.

HISTORY

1. New subchapter 4 and section filed 2-4-93; operative 3-6-93 (Register 93, No. 6).
2. Amendment of subsections (a)(1), (a)(2) and (b), repealer of subsections (d)-(d)(2), and new subsection (d) filed 1-12-98; operative 2-11-98. Submitted to OAL for printing only (Register 98, No. 3).

Subchapter 5. Enrollment Accounting

NOTE: Authority cited: Section 71020 and 84522, Education Code.

HISTORY

1. New Chapter 5 (Sections 54500-54510, not consecutive) filed 12-13-74; effective thirtieth day thereafter (Register 74, No. 50).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 5 (Sections 54500-54512, not consecutive) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31). For prior history, see Registers 76, No. 41 and 75, No. 26.

Subchapter 6. Student Records

§ 54600. Purpose.

This chapter is adopted pursuant to and for implementation of Chapter 1.5 (commencing with Section 76200), Part 47 of Division 7 of the Education Code regarding Student Records. The provisions of this Chapter should be read and interpreted in conjunction with the provisions of Chapter 1.5.

NOTE: Authority cited: Sections 76220, 76225 and 76246, Education Code. Reference: Chapter 1.5 (commencing with Section 76200), Part 47, Division 7, Education Code; and 20 USC 1232(g).

HISTORY

1. New Chapter 6 Articles 1-7, (Sections 54600-54662, not consecutive) filed 3-5-76; effective thirtieth day thereafter (Register 76, No. 10).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of article heading and amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54602. Construction.

HISTORY

1. Amendment filed 3-15-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54604. Policy.

Community College districts may establish and maintain only such information on students relevant to admission, registration, academic history, career, student benefits or services, extracurricular activities, counseling and guidance, discipline or matters relating to student conduct, and shall establish and maintain such information required by law.

NOTE: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76210, Education Code; and 20 USC 1232(g).

HISTORY

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 54606. Definitions.

(a) "Student" as used in this Chapter means a currently enrolled or formerly enrolled student.

(b) "Access" means a personal inspection and review of a record, an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record, or a request to release a copy of any record. The student shall be permitted to select the means of access.

(c) "Student Record" means any item of information directly related to an identifiable student maintained by a Community College or required to be maintained by an employee in the performance of the employee's duties, whether recorded by handwriting, print, tapes, film, microfilm or other means, except:

(1) Information provided by a student's parents relating to applications for financial aid or scholarships,

(2) Information related to a student compiled by a Community College officer or employee:

(A) appropriate for such officer or employee's performance of his or he responsibility; and

(B) which remains in the sole possession of the maker thereof; and

(C) is not accessible or revealed to any other person except a substitute. For the purposes of this subdivision, "substitute" shall mean a person who performs on a temporary basis the duties of the individual who made the notes and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

(3) Information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional:

(A) acting or assisting in his professional or paraprofessional capacity; and

(B) the record is created, maintained or used in connection with the provision of treatment to the student; and

(C) the record is not available to anyone other than persons providing such treatment; provided, however, that such a record may be personally reviewed by a physician or other appropriate professional of the student's choice.

(4) Information maintained by a Community College law enforcement unit:

(A) necessary and appropriate to enable such law enforcement unit to carry out its duties and responsibilities as required by law or as may be assigned by the district

(B) unit personnel do not have access to other student records; and

(C) such information is kept apart from other student records; and

(D) maintained solely for law enforcement purposes; and

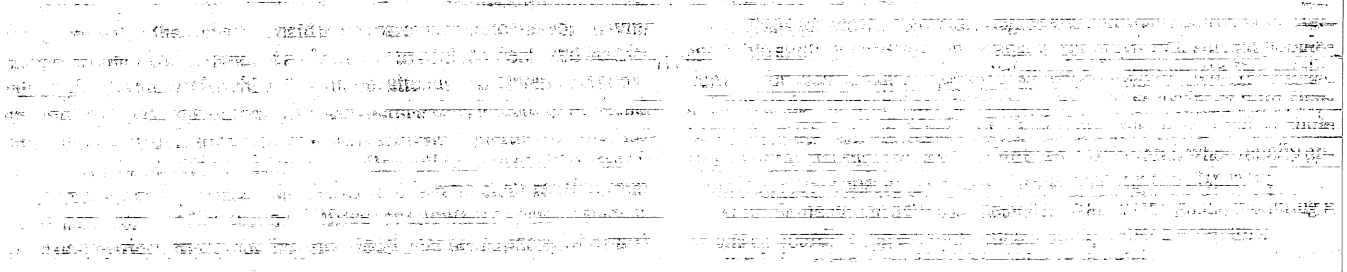
(E) is available only to other law enforcement officials of the same jurisdiction.

(5) Confidential letters and statements of recommendations maintained by a Community College on or before January 1, 1975, provided that such letters or statements are not used for purposes other than those for which they were specifically intended.

(6) Information maintained in the normal course of business pertaining to persons who are employed by a community college, provided that such information relates exclusively to such person in that person's capacity as an employee and is not available for use for any other purpose.

(7) Information related to a student compiled by a community college officer or employee which remains in the sole possession of the maker and is not available to any other person except a substitute who performs the duties of the individual who made the notes on a temporary basis.

(d) "Directory Information" means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part 19: Transfer Centers

History Index for
Title 5, California Code of Regulations

Section 51027

Register 92-04 § 51027: Added new section.

Register 94-38 § 51027: Amendment of section; submitted to OAL for printing only pursuant to Education Code Section 70901.5.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

suant to the regulations on academic senates contained in sections 53200–53205 of chapter IV of this division.

(e) The governing board of a community college district shall comply substantially with policies and procedures adopted in accordance with this section.

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901 (b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3–12–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 91, No. 23).
2. Editorial correction of printing errors in subsections (a) and (b) and HISTORY 1. (Register 91, No. 43). (Subchapter 15, section 51950, and chapter 3, section 52000)

§ 51024. Matriculation Services.

When matriculation services have been fully funded, as certified by the Chancellor in accord with policies adopted by the Board of Governors, the governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under section 55512(c);

(c) provide matriculation services to its students in accordance with sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with section 55534; and

(e) substantially comply with all other provisions of chapter 6 (commencing with section 55500) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210–78218, Education Code.

HISTORY

1. New section filed 6–5–90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7–5–90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 51025. Full-time/Part-time Faculty.

(a) Community College districts which have less than 75 percent of their hours of credit instruction taught by full–time instructors, in the prior fiscal year, shall apply the growth revenues received related to increases in credit FTES in accordance with section 58774 of this division and a portion of the program improvement allocation received in accordance with section 58775 of this division, as follows:

(1) Of the growth revenues received related to increases in credit FTES pursuant to section 58774 of this division, the districts shall increase the number of full–time instructors, by September 30 of the succeeding fiscal year, by the product of their base number of full–time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, in the prior fiscal year, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full–time instructors shall apply up to 33 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(3) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full–time instructors shall apply up to 40 percent of their program improvement allocation pursuant to subdivision (b) of section 58775 of this division, as necessary to reach the 75 percent standard pursuant to paragraph (4).

(4) Of the program improvement funds identified in paragraph (2) or (3), as appropriate, the district shall increase the number of full–time instructors, by September of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full–time faculty derived in paragraphs (1) and (4), result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part–time instructors times the statewide average full–time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine the extent to which each district, by September 30 of that year, has hired the number of additional full–time instructors determined pursuant to subdivision (a) for the prior fiscal year. To the extent that the number of additional full–time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full–time faculty. To the extent a district hires the additional full–time instructors in subsequent fiscal years the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to subdivision (c), shall be made available on a one–time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost–of–living funds have been provided to allow full or partial implementation of the provisions of subparagraph (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full–time faculty.

NOTE: Authority cited: Sections 66700, 70901 and 84750, Education Code. Reference: Section 84750, Education Code.

HISTORY

1. New section filed 7–3–91 and submitted to OAL on 7–12–91 for printing only pursuant to Education Code section 70901.5; operative 8–3–91 (Register 91, No. 46).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African–American, Chicano/Latino, American Indian, disabled, low–income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a Transfer Center Plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in these standards, as outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants to the four–year segments from these populations, including specific targets for increasing the transfer applications of those underrepresented among transfer students. Plans shall be developed in consultation with four–year college and university personnel as available.

Plan components shall include, but not be limited to: services to be provided to students; facilities; staffing; advisory committee; and evaluation and reporting.

(1) Required Services. The following services shall be provided to students:

(A) Identify, contact and provide transfer support services to targeted student populations as identified in the Transfer Center Plan, with a priority emphasis placed on African–American, Chicano/Latino, American Indian, disabled, low–income and other underrepresented students. These activities shall be developed and implemented in cooperation with student services departments and with faculty.

(B) Ensure the provision of academic planning for transfer, the development and utilization of transfer admission agreements with four–year institutions where available and as appropriate, and the development and utilization of course–to–course and major articulation agreements. Academic planning and articulation activities shall be provided in coopera-

tion with student services, with faculty, and with four–year college and university personnel as available.

(C) Ensure that students receive accurate and up–to–date academic and transfer information through the provision of coordinated transfer counseling services.

(D) Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan.

(E) Support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, and counseling, and other instructional and student services on campus as appropriate.

(F) Assist students in the transition process, including the timely completion and submittal of necessary forms and applications.

(G) In cooperation with four–year college and university personnel as available, develop and implement a schedule of services for transfer students to be provided by four–year staff.

(H) Provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to four–year colleges and universities, and related transfer information.

(2) Facilities. Each district governing board shall designate a particular location on campus which is readily identifiable and accessible to students, faculty and staff as the focal point of transfer functions. Space and facilities adequate to support the Transfer Center and its activities shall be provided.

(3) Staffing. Each district governing board shall ensure that college staff are assigned to coordinate the activities of the transfer center; to coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on campus; and to work with four–year college and university personnel. Clerical support for the transfer center shall also be provided.

(4) Advisory Committee. An advisory committee shall be designated to plan the development, implementation, and ongoing operations of the transfer center. Membership shall be representative of campus departments and services. Four–year college and university personnel shall be included as available.

(5) Evaluation and Reporting. Each district governing board shall include in its Transfer Center Plan a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its Transfer Center Plan.

Each community college district shall submit an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of Transfer Center Plan targets and goals, and expenditures supporting transfer center operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66010.4 and 70901, Education Code.

HISTORY

1. New section filed 7–22–91; operative 8–21–91 (Register 92, No. 4).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) The Chancellor, at least once each seven years, and at such other times or as he or she deems necessary, shall review each community college to determine whether it has met the minimum conditions contained in chapter 1 (commencing with section 51000) of this division.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51102. Enforcement.

(a) If any review pursuant to section 51100 discloses that a college is not in compliance with the provisions of chapter 1 (commencing with section 51000) of this division, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) Accept in whole or part the district's response regarding noncompliance;

(2) Require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) Withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance, and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to subsection (b) of this section; provided that in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3[216z (Sections 51200 and 51201) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300–51319, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

Subchapter 5. Facilities

HISTORY

1. Repealer of Chapter 5 (Sections 51400 and 51401) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 6. Counseling Services

HISTORY

1. Repealer of Chapter 6 (Sections 51500–51503) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 7. Degrees and Certificates

HISTORY

1. Repealer of Chapter 7 (Sections 51600–51606) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 71, No. 40.

(1) Of the growth revenues received related to increases in credit FTES pursuant to Section 58774, the districts shall increase the base number of full–time instructors, subject to Subsection (e) below, by the Fall term of the succeeding fiscal year, by the product of their base number of full–time faculty multiplied by the percentage change in funded credit FTES, rounded down to the nearest whole number.

(2) Districts which, as determined from their base data, had 67 percent or greater, but less than 75 percent of their hours of credit instruction taught by full–time instructors shall apply up to 33 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(3) Districts which, as determined from their base data, had less than 67 percent of their hours of credit instruction taught by full–time instructors shall apply up to 40 percent of their program improvement allocation pursuant to Subsection (b) of Section 58775, as necessary to reach the 75 percent standard pursuant to Subsection (a)(4) below.

(4) Of the program improvement funds identified in Subsection (a)(2) or (3), as appropriate, the district shall increase the number of full–time instructors, by the Fall term of the succeeding fiscal year, by the quotient of the applicable program improvement funds divided by the statewide average replacement cost, rounded down to the nearest whole number.

(5) If the number of full–time faculty derived in Subsections (a)(1) and (4) result in the district exceeding the 75 percent standard, the Chancellor shall reduce the number to a whole number to a whole number that leaves the district as close as possible to, but in excess of, the 75 percent standard.

(b) Statewide average replacement cost is the statewide average faculty salary plus benefits, minus the product of the statewide average hourly rate of compensation for part–time instructors times the statewide average full–time teaching load.

(c) On or before December 31 of each year, the Chancellor shall determine, based on information submitted by districts, the extent to which each district, by the Fall term of that year, has maintained or hired the number of additional full–time instructors determined pursuant to Subsection (a) for the prior fiscal year. To the extent that the number of full–time faculty has not been maintained or additional full–time instructors have not been retained, the Chancellor shall reduce the district's revenue for the current fiscal year by an amount equivalent to the average replacement cost for the prior fiscal year times the deficiency in the number of full–time faculty. To the extent a district hires the additional full–time instructors in subsequent fiscal years the reductions made to the district's revenue shall be restored.

(d) All revenues available due to reductions made pursuant to Subsection (c), shall be made available on a one–time basis for that fiscal year, for purposes of faculty and staff diversity pursuant to Education Code, Section 87107.

(e) By January 20 of each fiscal year the Board of Governors shall determine whether adequate growth funds and adequate cost–of–living funds have been provided to allow full or partial implementation of the provisions of Subsection (a)(1).

(f) For districts that experience a reduction in base credit FTES, the Chancellor shall make a proportionate reduction to their base number of full–time faculty.

NOTE: Authority cited: Sections 66700, 70901, 84750 and 87482.7, Education Code. Reference: Sections 84750 and 87482.7, Education Code.

HISTORY

1. New section filed 7–3–91 and submitted to OAL on 7–12–91 for printing only pursuant to Education Code section 70901.5; operative 8–3–91 (Register 91, No. 46).
2. New first paragraph, amendment of subsections (a)–(a)(4) and (c) and NOTE filed 8–19–92; operative 9–18–92 (Register 92, No. 34).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51027. Transfer Centers: Minimum Program Standards.

(a) The governing board of each community college district shall recognize transfer as one of its primary missions, and shall place priority emphasis on the preparation and transfer of underrepresented students, including African–American, Chicano/Latino, American Indian, disabled, low–income and other students historically and currently underrepresented in the transfer process.

(b) Each community college district governing board shall direct the development and adoption of a transfer center plan describing the activities of the transfer center and the services to be provided to students, incorporating the provisions established in the standards outlined below. Plans shall identify target student populations and shall establish target increases in the number of applicants baccalaureate institutions from these populations, including specific targets for increasing the transfer applications of underrepresented students among transfer students. Plans shall be developed in consultation with baccalaureate college and university personnel as available.

Plan components shall include, but not be limited to: services to be provided to students; facilities; staffing; advisory committee; and evaluation and reporting.

(1) Required Services. Districts shall:

(A) Identify, contact, and provide transfer support services to targeted student populations as identified in the transfer center plan, with a priority emphasis placed on African–American, Chicano/Latino, American Indian, disabled, low–income, and other underrepresented students. These activities shall be developed and implemented in cooperation with student services departments and with faculty.

(B) Ensure the provision of academic planning for transfer, the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and the development and use of course–to–course and major articulation agreements. Academic planning and articulation activities shall be provided in cooperation with student services, with faculty, and with baccalaureate institution personnel as available.

(C) Ensure that students receive accurate and up–to–date academic and transfer information through coordinated transfer counseling services.

(D) Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan.

(E) Support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, counseling, and to other instructional and student services on campus as appropriate.

(F) Assist students in the transition process, including timely completion and submittal of necessary forms and applications.

(G) In cooperation with baccalaureate institution personnel as available, develop and implement a schedule of services for transfer students to be provided by baccalaureate institution staff.

(H) Provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to baccalaureate institutions, and related transfer information.

(2) Facilities. Each district governing board shall provide space and facilities adequate to support the transfer center and its activities. Each district shall designate a particular location on campus as the focal point of transfer functions. This location should be readily identifiable and accessible to students, faculty, and staff.

(3) Staffing. Each district governing board shall provide clerical support for the transfer center and assign college staff to coordinate the activities of the transfer center; to coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on campus; and to work with baccalaureate institution personnel.

(4) Advisory Committee. Each district shall designate an advisory committee to plan the development, implementation, and ongoing operations of the transfer center. Membership shall be representative of campus departments and services. Baccalaureate institution personnel shall be included as available.

(5) Evaluation and Reporting. Each district governing board shall include in its transfer center plan a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan.

Each community college district shall submit an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of transfer center plan targets and goals, and expenditures supporting transfer center operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66010.4 and 70901, Education Code.

HISTORY

1. New section filed 7-22-91; operative 8-21-91 (Register 92, No. 4).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) At least once each seven years, and at such other times as he or she deems necessary, the Chancellor shall review each community college to determine whether it has met the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51102. Enforcement.

(a) If any review pursuant to Section 51100 discloses that a college is not in compliance with the provisions of Subchapter 1 (commencing with Section 51100) of Chapter 2, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) accept in whole or part the district's response regarding noncompliance;

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to Subsection (b) of this Section, provided that, in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3[216z (Sections 51200 and 51201) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300-51319, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

Subchapter 5. Facilities

HISTORY

1. Repealer of Chapter 5 (Sections 51400 and 51401) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 6. Counseling Services

HISTORY

1. Repealer of Chapter 6 (Sections 51500-51503) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 7. Degrees and Certificates

HISTORY

1. Repealer of Chapter 7 (Sections 51600-51606) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 71, No. 40.

Subchapter 8. Degrees and Certificates

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY

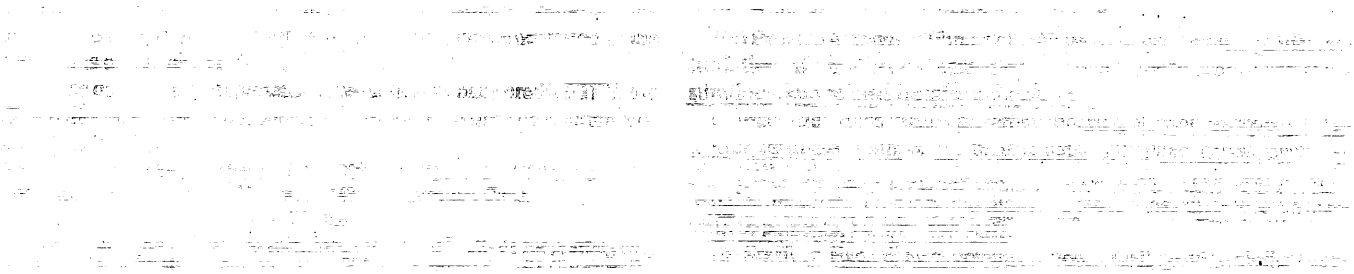
1. New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter (Register 71, No. 40).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 6-9-82; designated effective 7-1-83 (Register 82, No. 24).
4. Repealer of Chapter 8 (Sections 51620-51629) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 9. Minimum Class Size

NOTE: Authority cited for Chapter 9: Section 71027, Education Code.

HISTORY

1. New Chapter (§§ 51700 through 51703) filed 11-12-71; effective thirtieth day thereafter (Register 71, No. 46).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 9 (Sections 51700-51703) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).



No. CSM. 02-TC-31

Minimum Conditions for State Aid:
Part. 20: Compliance Enforcement

History Index for
Title 5, California Code of Regulations

Section 51000
Section 51100
Section 51102

Register 83-29 Repealer of Chapter 1 (section 51000) and new Chapter 1 (sections 51000-51021, not consecutive).
Repealer of Chapter 2 (sections 51100 and 51101) and new Chapter 2 (sections 51100 and 51102).

Register 91-23 § 51000: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
§ 51100: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).
§ 51102: Amendment filed by Board of Governors of California Community Colleges with the Secretary of State. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

Register 94-38 § 51000: Amendment of section; submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51100: Amendment of subsection (a). Submitted to OAL for printing only pursuant to Education Code section 70901.5.

§ 51102: Amendment of section. Submitted to OAL for printing only pursuant to Education Code section 70901.5.

Register 95-15 § 51000: Editorial correction of HISTORY 2.

§ 51100: Editorial correction of HISTORY 2.

§ 51102: Editorial correction of HISTORY 1.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

Register 1983-29

§ 51000
§ 51100
§ 51102

CHAPTER 1. MINIMUM STANDARDS

51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code Section 71025 and comprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges. The provisions of this chapter are to be distinguished from the regulations contained in Chapter 15 (commencing with Section 51950) of this division. Those regulations constitute minimum standards for the formation and operation of a college which operates pursuant to Education Code Section 78007 and which will not receive or utilize state or local funds.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 66700 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 1 (Section 51000) and new Chapter 1 (Sections 51000–51021, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 1, see Registers 81, No. 4 and 77, No. 45.

51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in Chapter 9 (commencing with Section 55750) of Division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in Chapter 10 (commencing with Section 55800) of Division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

NOTE: Authority cited: Sections 66700, 71025 and 71066, Education Code. Reference: Sections 71025, 71066 and 72285, Education Code.

51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute, every course, course section or class, the average daily attendance of which is to be reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in Article 1 (commencing with Section 58100) of Chapter 2, Division 9 of Title 5 of the California Administrative Code."

CHAPTER 2. INVESTIGATION AND ENFORCEMENT OF MINIMUM STANDARDS

51100. Review of Colleges.

(a) The Chancellor, at least once each seven years, and at such other times as he or she deems necessary, shall review each community college to determine whether it has met the minimum standards contained in Chapter 1 (commencing with Section 51000) of this Division.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum standards which will be investigated.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Section 71026, Education Code.

HISTORY:

1. Repealer of Chapter 2 (Sections 51100 and 51101) and new Chapter 2 (Sections 51100 and 51102) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.

51102. Enforcement.

(a) If any review pursuant to Section 51100 discloses that a college is not in compliance with the provisions of Chapter 1 (commencing with Section 51000) of this Division, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) Accept in whole or part the district's response regarding noncompliance;

(2) Require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) Withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance, and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to subsection (b) of this section; provided that in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 71025, Education Code. Reference: Sections 71025, 71026 and 84373, Education Code.

CHAPTER 3. FACULTY

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY:

1. Repealer of Chapter 3 (Sections 51200 and 51201) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

CHAPTER 4. STANDARDS OF SCHOLARSHIP

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY:

1. Repealer of Chapter 4 (Sections 51300–51319, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

CHAPTER 5. FACILITIES

HISTORY:
1. Repealer of Chapter 5 (Sections 51400 and 51401) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

CHAPTER 6. COUNSELING SERVICES

HISTORY:
1. Repealer of Chapter 6 (Sections 51500–51503) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

CHAPTER 7. DEGREES AND CERTIFICATES

HISTORY:
1. Repealer of Chapter 7 (Sections 51600–51606) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 71, No. 40.

CHAPTER 8. DEGREES AND CERTIFICATES

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY:
1. New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter (Register 71, No. 40).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 6-9-82; designated effective 7-1-83 (Register 82, No. 24).
4. Repealer of Chapter 8 (Sections 51620–51629) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

CHAPTER 9. MINIMUM CLASS SIZE

NOTE: Authority cited for Chapter 9: Section 71027, Education Code.

HISTORY:
1. New Chapter (§§ 51700 through 51703) filed 11-12-71; effective thirtieth day thereafter (Register 71, No. 46).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 9 (Sections 51700–51703) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

CHAPTER 10. NEW COLLEGES AND EDUCATIONAL CENTERS

HISTORY:
1. New Chapter 10 (Sections 51800–51808, not consecutive) filed 6-27-75; effective thirtieth day thereafter (Register 75, No. 26).
2. Amendment filed 3-18-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
4. Amendment of subsection (a) filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).
5. Repealer of Chapter 10 (Sections 51800–51808, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

CHAPTER 11. OPEN COURSES

NOTE: Authority cited: Sections 71020, 78452 and 84500, Education Code. Reference Sections 78452 and 84500, Education Code.

HISTORY:

1. New Chapter 11 (Sections 51820–51826) filed 12-17-76; effective thirtieth day thereafter (Register 76, No. 51).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 11 (Sections 51820–51826) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31).

Register 1991-23

§ 51000
§ 51100
§ 51102

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income if the business entity or source of income provides education, training, or experience to persons toward attaining a valid credential for employment as an instructor, supervisor, chief administrative officer, librarian, counselor, supervisor of health, student personnel worker, or other similar position within a Community College district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this chapter are adopted under the authority of Education Code section 70901(b)(6) and comprise the rules and regulations affirming and fixing the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) Adopt regulations consistent with the standards of scholarship adopted by the Board of Governors, as contained in chapter 9 (commencing with section 55750) of division 6 of this part;

(b) File a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51004. Degrees and Certificates.

The governing board of a community college district shall:

(a) Adopt regulations consistent with regulations of the Board of Governors pertaining to degrees and certificates, which are contained in chapter 10 (commencing with section 55800) of division 6 of this part;

(b) File a copy of its regulations and any amendments thereto with the Chancellor; and

(c) Substantially comply with its regulations and the regulations of the Board of Governors pertaining to degrees and certificates.

Note: Authority cited: Sections 66700, and 70901, Education Code. Reference: Sections 70901 and 70902, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51006. Open Courses.

(a) The governing board of a community college district shall adopt by resolution the following or a comparable statement: "It is the policy of this district that, unless specifically exempted by statute or regulation, every course, course section or class, reported for state aid, wherever offered and maintained by the district, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to regulations contained in article 1 (commencing with section 58100) of chapter 2, division 9 of title 5 of the California Code of Regulations."

(b) The statement of policy adopted by the board pursuant to subsection (a) of this section shall be published in the official catalog, schedule of classes, and addenda to the schedule of classes for which average daily attendance is reported for state apportionment. A copy of the statement shall also be filed with the Chancellor.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901 and 78020 et seq., Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51008. Comprehensive Plan.

(a) The governing board of a community college district shall establish policies for and approve comprehensive or master plans which include, among other plans, academic master plans and long range master plans for facilities. The content of such plans shall be locally determined, except that they shall also address planning requirements specified by the Board of Governors.

(b) Such plans, as well as any annual updates or changes to such plans, shall be submitted to the Chancellor's Office for review and approval in accordance with section 70901(b)(9) of the Education Code and regulations of the Board of Governors pertaining to such plans.

Note: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901, 70902, 71020.5, 81820, 81821 and 81822, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51010. Affirmative Action.

The governing board of a community college shall:

(a) Adopt a district affirmative action policy which meets the requirements of section 53002 of this part;

(b) Develop and adopt a district affirmative action plan which meets the requirements of section 53003 of this part;

(c) Annually survey its employment patterns in the manner required by section 53004 of this part;

(d) Undertake a program of recruitment as required by section 53021 of this part; and

NOTE: Authority cited: Sections 66700 and 70901(b)(1)(E), Education Code. Reference: Sections 70901(b)(1)(E), 70902(b)(7) and 76060, Education Code.

HISTORY

1. New section filed 3-12-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b).

§ 51024. Matriculation Services.

When matriculation services have been fully funded, as certified by the Chancellor in accord with policies adopted by the Board of Governors, the governing board of each community college district shall:

(a) adopt and submit to the Chancellor a matriculation plan as required under section 55510;

(b) evaluate its matriculation program and participate in statewide evaluation activities as required under section 55512(c);

(c) provide matriculation services to its students in accordance with sections 55520 and 55521;

(d) establish procedures for waivers and appeals in connection with its matriculation program in a manner consistent with section 55534; and

(e) substantially comply with all other provisions of chapter 6 (commencing with section 55500) of division 6 of this part.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 78210-78218, Education Code.

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) The Chancellor, at least once each seven years, and at such other times or as he or she deems necessary, shall review each community college to determine whether it has met the minimum conditions contained in chapter 1 (commencing with section 51000) of this division.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 51102. Enforcement.

(a) If any review pursuant to section 51100 discloses that a college is not in compliance with the provisions of chapter 1 (commencing with section 51000) of this division, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) Accept in whole or part the district's response regarding noncompliance;

(2) Require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) Withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance, and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to subsection (b) of this section; provided that in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3 [216z (Sections 51200 and 51201) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300-51319, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

Subchapter 5. Facilities

HISTORY

1. Repealer of Chapter 5 (Sections 51400 and 51401) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 6. Counseling Services

HISTORY

1. Repealer of Chapter 6 (Sections 51500-51503) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 7. Degrees and Certificates

HISTORY

1. Repealer of Chapter 7 (Sections 51600-51606) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 71, No. 40.

Subchapter 8. Degrees and Certificates

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY

1. New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter (Register 71, No. 40).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 6-9-82; designated effective 7-1-83 (Register 82, No. 24).
4. Repealer of Chapter 8 (Sections 51620-51629) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 9. Minimum Class Size

NOTE: Authority cited for Chapter 9: Section 71027, Education Code.

HISTORY

1. New Chapter (§§ 51700 through 51703) filed 11-12-71; effective thirtieth day thereafter (Register 71, No. 46).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 9 (Sections 51700-51703) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Register 1994-38

§ 51000
§ 51100
§ 51102

Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

(b) file a copy of its regulations, and any amendments thereto, with the Chancellor; and

(c) substantially comply with its regulations and the regulations of the Board of Governors pertaining to standards of scholarship.

(4) Advisory Committee. Each district shall designate an advisory committee to plan the development, implementation, and ongoing operations of the transfer center. Membership shall be representative of campus departments and services. Baccalaureate institution personnel shall be included as available.

(5) Evaluation and Reporting. Each district governing board shall include in its transfer center plan a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan.

Each community college district shall submit an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of transfer center plan targets and goals, and expenditures supporting transfer center operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66010.4 and 70901, Education Code.

HISTORY

1. New section filed 7-22-91; operative 8-21-91 (Register 92, No. 4).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) At least once each seven years, and at such other times as he or she deems necessary, the Chancellor shall review each community college to determine whether it has met the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

§ 51102. Enforcement.

(a) If any review pursuant to Section 51100 discloses that a college is not in compliance with the provisions of Subchapter 1 (commencing with Section 51100) of Chapter 2, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) accept in whole or part the district's response regarding noncompliance;

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to Subsection (b) of this Section, provided that, in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3 [216z (Sections 51200 and 51201) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300-51319, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

Subchapter 5. Facilities

HISTORY

1. Repealer of Chapter 5 (Sections 51400 and 51401) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 6. Counseling Services

HISTORY

1. Repealer of Chapter 6 (Sections 51500-51503) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 7. Degrees and Certificates

HISTORY

1. Repealer of Chapter 7 (Sections 51600-51606) filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 71, No. 40.

Subchapter 8. Degrees and Certificates

NOTE: Authority cited: Sections 66700, 71020 and 71066, Education Code. Reference: Sections 66701, 71066 and 72285, Education Code.

HISTORY

1. New Chapter 8 (§§ 51620 through 51626) filed 10-1-71; effective thirtieth day thereafter (Register 71, No. 40).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 6-9-82; designated effective 7-1-83 (Register 82, No. 24).
4. Repealer of Chapter 8 (Sections 51620-51629) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Subchapter 9. Minimum Class Size

NOTE: Authority cited for Chapter 9: Section 71027, Education Code.

HISTORY

1. New Chapter (§§ 51700 through 51703) filed 11-12-71; effective thirtieth day thereafter (Register 71, No. 46).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Chapter 9 (Sections 51700-51703) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29).

Senior Accounting Officers (Specialists) 3
Accounting Officers (Specialists) 3
Accounting I (Specialist) 3
Administrators Fiscal Planning and Administration 1
Specialists Fiscal Planning and Administration 2
Business Services Officer I (Specialist) 3
Property Controller I 1
Administrator Facilities Planning and Utilization 1
Specialist Facilities Planning and Utilization 2
Specialist Student Services Planning and Development 2
Staff Services Manager I 3
State Financial Examiner III 2
Consultants* 2

Student Services Division
Vice Chancellor 1, 4
Specialists Student Services Planning and Development 2, 4
Administrator Student Services Planning and Development 1
Consultants* 2

Transfer/General Education Division
Vice Chancellor 1, 4
Specialists/Lib. Planning and Development 2
Administrators Academic Planning and Development 1
Specialists Academic Planning and Development 2
Specialist Student Services Planning and Development 2
Consultants* 2

Economic Development/Vocational Education Division
Vice Chancellor 1, 4
Specialists General Vocational Education 2
Specialists Business Education 2
Specialist Criminal Justice 2
Specialist Agricultural Education 2
Specialist Health Occupations 2
Specialists Industrial Education 2
Specialists Employment and Certification 2
Administrator Vocational Education 1
Consultants* 2

Management Information Services Division
Vice Chancellor 1, 4
Specialists Information Systems and Analysis 2
Staff Information Systems Analyst (Supervisor) 3
Staff Programmer Analyst (Specialist) 3
Senior Programmer Analyst (Supervisor) 3
Consultants* 2

*Note: With respect to consultants, the Chancellor may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that is limited in scope. If the duties of the consultant are limited in scope, the consultant is not required to comply with the disclosure requirements described in this category. The Chancellor's determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chancellor's determination will be maintained at the offices of the Chancellor in the same location as this conflict of interest code. Nothing herein excuses any such consultant from any other provision of the conflict of interest code.

Disclosure Categories

1. Designated employees in Category 1 must report the following:

(a) any interest in real property; and

(b) any business entity in which the designated employee has an investment or a business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(1) instructional materials, (2) equipment, or (3) services, when such materials, equipment or services are of the type utilized by community college districts or the Chancellor's Office.

2. Designated employees in Category 2 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income is engaged in publishing, manufacturing, selling, or leasing:

(a) instructional materials;

(b) equipment; or

(c) services, when such materials, equipment, or services are of the type utilized by community college districts or the Chancellor's Office.

3. Designated employees in Category 3 must report any business entity in which they have an investment or business position, and income if the business entity or source of income is engaged in publishing, manufacturing, selling or leasing:

(a) instructional materials;

(b) equipment; or,

(c) services, when such materials, equipment, or services are of the type utilized by the Chancellor's Office.

4. Designated employees in Category 4 must report any business entity in which they have an investment or business position, and income, if the business entity or source of income provides education, training, or experience to persons toward meeting minimum qualifications for employment in a community college district.

Subchapter 3. Committees

History

1. Repealer of Chapter 3 (Sections 50200–50208) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 16.

Subchapter 4. Coordinating Council of Higher Education

History

1. Repealer of Chapter 4 (Sections 50300 and 50301) filed 11–4–77; effective thirtieth day thereafter (Register 77, No. 45). For prior history, see Register 70, No. 44.

Subchapter 5. Chancellor

History

1. Repealer of Chapter 5 (Sections 50400–50407) filed 5–17–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Registers 77, No. 45 and 70, No. 44.

Subchapter 6. Board of Governors and Chancellor's Office—Conflict of Interest Code

History

1. Redesignation of Chapter 6 (Sections 50500–50510, Exhibits A and B) to Chapter 1, Article 10 (Sections 50500–50510, Exhibits A and B) filed 5–16–78 as procedural and organizational; effective upon filing (Register 78, No. 20). For prior history, see Register 77, No. 9.

Chapter 2. Community College Standards

Subchapter 1. Minimum Conditions

§ 51000. Scope.

The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66700 and 70901, Education Code.

History

1. Repealer of chapter 1 (section 51000) and new chapter 1 (sections 51000–51021, not consecutive) filed 7–13–83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 1, see Registers 81, No. 4 and 77, No. 45.
2. Amendment filed 3–4–91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4–5–91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 9–6–94; operative 10–6–94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of History 2 (Register 95, No. 15).

§ 51002. Standards of Scholarship.

The governing board of a community college district shall:

(a) adopt regulations consistent with the standards of scholarship contained in Subchapter 9 (commencing with Section 55750) of Chapter 6;

activities shall be developed and implemented in cooperation with student services departments and with faculty.

(B) Ensure the provision of academic planning for transfer, the development and use of transfer admission agreements with baccalaureate institutions where available and as appropriate, and the development and use of course-to-course and major articulation agreements. Academic planning and articulation activities shall be provided in cooperation with student services, with faculty, and with baccalaureate institution personnel as available.

(C) Ensure that students receive accurate and up-to-date academic and transfer information through coordinated transfer counseling services.

(D) Monitor the progress of transfer students to the point of transfer, in accordance with monitoring activities established in the Transfer Center Plan.

(E) Support the progress of transfer students through referral as necessary, to such services as ability and diagnostic testing, tutoring, financial assistance, counseling, and to other instructional and student services on campus as appropriate.

(F) Assist students in the transition process, including timely completion and submittal of necessary forms and applications.

(G) In cooperation with baccalaureate institution personnel as available, develop and implement a schedule of services for transfer students to be provided by baccalaureate institution staff.

(H) Provide a resource library of college catalogs, transfer guides, articulation information and agreements, applications to baccalaureate institutions, and related transfer information.

(2) Facilities. Each district governing board shall provide space and facilities adequate to support the transfer center and its activities. Each district shall designate a particular location on campus as the focal point of transfer functions. This location should be readily identifiable and accessible to students, faculty, and staff.

(3) Staffing. Each district governing board shall provide clerical support for the transfer center and assign college staff to coordinate the activities of the transfer center; to coordinate underrepresented student transfer efforts; to serve as liaison to articulation, to student services, and to instructional programs on campus; and to work with baccalaureate institution personnel.

(4) Advisory Committee. Each district shall designate an advisory committee to plan the development, implementation, and ongoing operations of the transfer center. Membership shall be representative of campus departments and services. Baccalaureate institution personnel shall be included as available.

(5) Evaluation and Reporting. Each district governing board shall include in its transfer center plan a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan.

Each community college district shall submit an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center(s), achievement of transfer center plan targets and goals, and expenditures supporting transfer center operations.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 66010.4 and 70901, Education Code.

HISTORY

1. New section filed 7-22-91; operative 8-21-91 (Register 92, No. 4).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

Subchapter 2. Investigation and Enforcement of Minimum Conditions

§ 51100. Review of Colleges.

(a) At least once each seven years, and at such other times as he or she deems necessary, the Chancellor shall review each community college to determine whether it has met the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2.

(b) In the event that the Chancellor determines that a visit to the college is necessary to investigate compliance, he or she shall inform the chief executive officer of the district at least one month in advance of such visit, and shall specify the particular minimum conditions which will be investigated.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Repealer of chapter 2 (sections 51100 and 51101) and new chapter 2 (sections 51100 and 51102) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former chapter 2, see Registers 81, No. 52; 77, No. 45; and 71, No. 27.
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment of subsection (a) filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
4. Editorial correction of HISTORY 2 (Register 95, No. 15).

§ 51102. Enforcement.

(a) If any review pursuant to Section 51100 discloses that a college is not in compliance with the provisions of Subchapter 1 (commencing with Section 51100) of Chapter 2, the Chancellor shall notify the chief executive officer of the district in writing, and shall request an official written response from the district by a date which the Chancellor shall specify.

(b) After receiving the district's written response, or after the time for response has lapsed, the Chancellor shall pursue one or more of the following courses of action:

(1) accept in whole or part the district's response regarding noncompliance;

(2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;

(3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.

(c) The Chancellor shall report to the Board of Governors on any actions taken pursuant to Subsection (b) of this Section, provided that, in the event he or she determines to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 15).

Subchapter 3. Faculty

NOTE: Authority cited: Sections 71020, 71024 and 71025, Education Code.

HISTORY

1. Repealer of Chapter 3[216z (Sections 51200 and 51201) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For prior history, see Register 77, No. 45.

Subchapter 4. Standards of Scholarship

NOTE: Authority cited: Section 71020, 71025 and 71066, Education Code. Reference: Sections 71066, 72285 and 76000, Education Code.

HISTORY

1. Repealer of Chapter 4 (Sections 51300-51319, not consecutive) filed 7-13-83; effective thirtieth day thereafter (Register 83, No. 29). For history of former Chapter 4, see Registers 82, No. 20; 80, No. 19; 80, No. 11; 77, No. 45; and 71, No. 27.

STATE OF CALIFORNIA

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
TEL: (916) 323-3562
FAX (916) 445-0278
E-mail: csminfo@csm.ca.gov

ARNOLD SCHWARZENEGGER, *Governor*

Exhibit M

April 2, 2008

Mr. Keith Petersen
SixTen and Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: NOTICE OF SEVERANCE AND CONSOLIDATION:
California Code of Regulations, Title 2, Sections 55522 and 55602.5

Disabled Student Programs and Services (02-TC-22)
West Kern Community College District, Claimant

Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
Los Rios Community College District and
Santa Monica Community College District, Co-claimants

Dear Mr. Petersen:

After review of *Disabled Student Programs and Services* (02-TC-22) and *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31), it has been determined that both test claims have pled California Code of Regulations, title 5, sections 55522 and 55602.5, which address student matriculation and vocational education programs, respectively. However, in *Disabled Student Programs and Services,* the claim is limited to disabled students, while in *Minimum Conditions for State Aid* the claim addresses sections 55522 and 55602.5 in light of the whole administrative scheme, including its applicability to disabled students.

For the sake of efficiency, California Code of Regulations, title 5, sections 55522 and 55602.5 will be severed from West Kern Community College District's *Disabled Student Programs and Services* test claim and consolidated with the *Minimum Conditions for State Aid* (and *Notices to Students*) test claim. This action is being taken pursuant to my authority under Government Code section 17530 and California Code of Regulations, title 2, section 1183.06, and will be effective 10 days from the service of this letter.

All future references to the *Minimum Conditions for State Aid* test claim will include West Kern Community College District as a co-claimant with Los Rios Community College District and Santa Monica Community College District. A consolidated mailing list is enclosed.

As provided in the Commission's regulations this action and decision of the executive director may be appealed to the Commission for review. Please refer to California Code of Regulations, title 2, section 1181, subdivision (c).

Please contact Kenny Louie at (916) 323-2611 if you have any questions or concerns regarding this matter.

Sincerely,

PAULA HIGASHI
Executive Director

Commission on State Mandates

Original List Date: 6/26/2003
Last Updated: 4/26/2007
List Print Date: 04/02/2008
Claim Number: 02-TC-31
Issue: Minimum Conditions for State Aid

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 322-4005
Fax: (916) 323-8245

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Tel: (916) 323-5849
Fax: (916) 327-0832

Mr. Douglas R. Brinkley
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Tel: (916) 000-0000
Fax: (916) 000-0000

Ms. Kelly Hargreaves
Department of Rehabilitation
721 Capitol Mall
Sacramento, CA 95814

Tel: 916-58-5825
Fax:

Mr. Joe Rombold
School Innovations & Advocacy
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Tel: (916) 669-5116
Fax: (888) 487-6441

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Tel: (916) 485-8102
Fax: (916) 485-0111

Mr. Jon Sharpe Los Rios Community College District 1919 Spanos Court Sacramento, CA 95825	Tel: Fax:	(559) 244-5910 (559) 243-1949
Mr. William Duncan West Kern Community College District 29 Emmons Park Drive Taft, CA 93268	Tel: Fax:	(661) 763-7700
Mr. Thomas J. Donner Santa Monica Community College District 1900 Pico Blvd. Santa Monica, CA 90405-1628	**Claimant** Tel: Fax:	 (310) 434-4201 (310) 434-8200
Ms. Harmeet Barkschat Mandate Resource Services 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: Fax:	(916) 727-1350 (916) 727-1734
Ms. Sandy Reynolds Reynolds Consulting Group, Inc. P.O. Box 894059 Temecula, CA 92589	Tel: Fax:	(951) 303-3034 (951) 303-6607
Mr. Steve Smith Steve Smith Enterprises, Inc. 2200 Sunrise Blvd., Suite 220 Gold River, CA 95670	Tel: Fax:	(916) 852-8970 (916) 852-8978
Mr. Arthur Palkowitz San Diego Unified School District Office of Resource Development 4100 Normal Street, Room 3209 San Diego, CA 92103-8363	Tel: Fax:	(619) 725-7785 (619) 725-7564
Mr. Robert Miyashiro Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: Fax:	(916) 446-7517 (916) 446-2011
Ms. Beth Hunter Centration, Inc. 8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730	Tel: Fax:	(866) 481-2621 (866) 481-2682
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street	Tel: Fax:	(916) 454-7310 (916) 454-7312

Sacramento, CA 95816

Ms. Carol Bingham
California Department of Education (E-08)
Fiscal Policy Division
1430 N Street, Suite 5602
Sacramento, CA 95814

Tel: (916) 324-4728
Fax: (916) 319-0116

Mr. David E. Scribner
Scribner & Smith, Inc.
2200 Sunrise Boulevard, Suite 220
Gold River, CA 95670

Tel: (916) 852-8970
Fax: (916) 852-8978

Ms. Ginny Brummels
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Tel: (916) 324-0256
Fax: (916) 323-6527

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

Tel: (916) 445-0328
Fax: (916) 323-9530

Ms. Susan Geanacou
Department of Finance (A-15)
915 L Street, Suite 1190
Sacramento, CA 95814

Tel: (916) 445-3274
Fax: (916) 324-4888

Mr. J. Bradley Burgess
Public Resource Management Group
895 La Sierra Drive
Sacramento, CA 95864

Tel: (916) 595-2646
Fax:

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

Claimant Representative
Tel: (916) 565-6104
Fax: (916) 564-6103

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EXHIBIT N

April 21, 2008

Mr. Erik Skinner
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

And Interested Parties and Affected State Agencies

Re: Request for Comments
Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
(See attachment for a complete pleadings list)
Los Rios Community College District and
Santa Monica Community College District,
West Kern Community College District, Co-claimants

Dear Mr. Skinner and Ms. Oropeza:

Staff has reviewed the administrative record of this test claim and determined that the following information is needed to complete an analysis of the claim. Pursuant to the Commission's regulations, all assertions or representations of fact must be supported by documentary evidence, and copies of any law cited and relied upon (with the exception of state mandates statutes and case law) must be included in the comments (Cal. Code Regs., tit. 2, § 1183.02). As a result, staff requests the following:

1. Page 3 of the California Community Colleges, Chancellor's Office comments regarding test claim number 02-TC-31, dated March 11, 2004, provides "Although most community college districts seek state aid in the form of apportionment, districts are not required to do so, and some districts do not receive apportionment."
    a. Please provide a breakdown of what "state aid" consists of. Specifically, what forms of state aid are there other than apportionment?
    b. Beginning in the 2001-2002 fiscal year, provide which community college districts <u>have not</u> sought state aid in the form of apportionment.
    c. Did the districts that did not seek state aid in the form of apportionment receive state aid in any other form of state aid?
    d. If so, what are the sources of the state aid?

e. How much did each of these districts receive for each fiscal year since 2001-2002 from these sources?

f. Beginning in the 2001-2002 fiscal year, provide which community college districts have sought state aid in the form of apportionment.

g. For each fiscal year beginning with 2001-2002, please provide a break down of how much each district has received in state aid in the form of apportionment.

h. For each fiscal year beginning with 2001-2002, please provide a break down of how much each district has received in state aid that was in a form other than apportionment.

2. Page 12 of the March 11, 2004 comments provides that "Claimant is not required to seek funding from the Employment Opportunity Fund."

   a. Are there any districts that do not seek funding from the Employment Opportunity Fund? If so which districts?

   b. For each fiscal year beginning in 2001-2002, how much funding has each district received from the Employment Opportunity Fund? What is the total amount of funding for all districts each fiscal year?

3. Page 18 of the March 11, 2004 comments provides that "Matriculation obligations are directly tied to participation in matriculation funding."

   a. For each fiscal year beginning in 2001-2002, how much is appropriated for matriculation funding?

   b. Please cite to a specific line item and schedule which contains funding for the matriculation obligations in the budget acts for each fiscal year beginning in 2001-2002.

   c. Which districts do not receive matriculation funding?

   d. Which districts receive matriculation funding?

   e. For each fiscal year since 2001-2002, how much has each district received?

4. In regard to "Full-time/Part-time Faculty," page 19 of the March 11, 2004 comments provides, "Amounts were added to the base of the community college districts as Program Improvement monies after the 1989-90 fiscal year."

   a. What was the amount added?

   b. How much did each district receive?

   c. If possible, please cite to a specific line item and schedule which indicates this increase in the 1989-1990 budget act.

Please submit this information as soon as possible, but **not later than May 2, 2008.** If you have any questions please contact Kenny Louie at (916) 323-2611.

Sincerely,

Paula Higashi

PAULA HIGASHI
Executive Director

Attachments: California Community Colleges, Chancellor's Office Comments on Test Claim 02-TC-31, dated March 11, 2004, and Mailing List

STATE OF CALIFORNIA

CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE
1102 Q STREET
SACRAMENTO, CA 95814-6511
(916) 445-8752
HTTP://WWW.CCCCO.EDU

March 11, 2004

RECEIVED
MAR 16 2004
COMMISSION ON
STATE MANDATES

Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: CSM 02-TC-31
Santa Monica Community College District, Claimant
Minimum Conditions for State Aid

Dear Ms. Higashi:

As an interested state agency, the Chancellor's Office has reviewed the above-referenced test claim in light of the following questions addressing key issues before the Commission:

Do the subject statutes or regulations result in a mandated new program or a mandated higher level of service within an existing program upon local entities within the meaning of section 6, article XIIIB of the California Constitution and section 17514 of the Government Code? If so, are costs associated with the mandate reimbursable?

Do any of the provisions of Government Code section 17556 preclude the Commission from finding that the provisions of the subject statutes or regulations impose a reimbursable state-mandated program upon local entities?

Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?

This test claim ("Claim") alleges mandated costs reimbursable by the state for community college district activities related to complying with minimum conditions that are necessary for the receipt of state aid. Test Claimant Santa Monica Community College District ("Claimant") alleges that reimbursable mandated costs arise from a variety of Education Code sections and regulations that appear in title 5 of the California Code of Regulations.

Given the number of statutes and regulations that are invoked by Claimant, and the severe cutbacks suffered by this office, we are unable to provide a thorough response to this Claim. It is regrettable that the lack of funding to support mandate claim reviews could conceivably result in the payment of unwarranted claims. We can offer analytical assistance and provide some historic documentation, but regrettably, we must leave a comprehensive review of the issues to the Commission.

There are several bases for rejecting the Claim in its entirety, and various challenged sections raise other specific defenses to reimbursement.

1. If Claimant Has Complied With The Challenged Provisions In Order To Receive State Aid And Has Received State Aid, Claimant Has Already Been Compensated For Compliance, And No Further Reimbursement Is Warranted.

The provisions raised by Claimant are incorporated into a number of regulations that have been adopted by the Board of Governors for the California Community Colleges as minimum conditions for the receipt of state aid. The Board has long been legislatively required to promulgate such regulations.

If Claimant has not complied with the regulations, Claimant cannot raise an issue of reimbursement because Claimant has not taken action in response to a claimed mandate. If Claimant has complied with the regulations so as to collect state aid, Claimant is not eligible for further reimbursement. That is, funds have already been appropriated and paid for any required actions set out in the Claim.

The California Supreme Court recently addressed the conditions for reimbursement of claimed state mandates. (*Department of Finance v. Commission on State Mandates (Kern High School)* (2003) 30 Cal.4th 727, hereinafter referred to as "*Kern High School.*") The primary focus of the Court's analysis was that districts cannot voluntarily participate in programs, and then claim reimbursement for mandates. This is because there is no mandate under the law if a district has the option of not participating in a program or activity.

Kern High School pointed out that even if costs are incurred, they may be permissibly payable from funds that have already been obtained from the state. *(Id.*, at 747.) For the year 2001-2002, Claimant received state assistance in excess of $133,000. Claimant can use the funds it has already received from the state to satisfy any costs of complying with the regulations that are the subject of this Claim. Claimant is supposed to satisfy the regulations in order to be eligible to collect state funding.

Because Claimant has already received state funding for the purposes of complying with the subject provisions, the Claim should be rejected in its entirety. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

2. Claimant Is Not Required To Collect State Aid. To The Extent Claimant Chooses To Do So, That Choice Negates The Finding Of A State Mandate For Activities That Are Necessary To Make Claimant Eligible For State Aid.

As noted above, the California Supreme Court recently confirmed that reimbursement is not authorized where the Claimant voluntarily undertakes an activity. (See *Kern High School, supra.)* In *Kern High School*, the District sought reimbursement from the state for the costs of preparing notices and agenda items related to certain programs it offered. The Supreme Court found that the District chose to participate in the programs, and therefore the costs of the programs were also voluntarily assumed. No mandates exist where a district voluntarily participates in a program.

Although most community college districts seek state aid in the form of apportionment, districts are not required to do so, and some districts do not receive apportionment. To the extent Claimant complies with the regulations cited herein in order to obtain the state aid that results from compliance, Claimant voluntarily accepts the obligations.

Under *Kern High School,* Claimant's choice to receive state funding for the purposes of complying with the subject provisions renders the conduct optional. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

3. Minimum Standards Are Not Eligible For Reimbursement If They Were Required By Legislative Action That Predated January 1, 1975.

The regulations identified by Claimant reflect minimum standards that have been adopted by the Board of Governors.

A recent California Attorney General opinion concluded that reimbursement is often unavailable for minimum standard regulations. The question posed to the Attorney General concerned minimum standards for juvenile justice facilities. The Attorney General concluded that where a statute enacted prior to 1975 required a state body to establish minimum standards, revising those standards does not constitute a new program or increased level of an existing program.

The Attorney General considered a county's claim for reimbursement for bringing a juvenile justice facility into compliance with the minimum standards established by the Board of Corrections. The Attorney General concluded that the Board of Corrections had been required to set minimum standards for suitable juvenile facilities since at least 1915. Therefore, regulations adopted as minimum standards did not constitute a new program because

> "Counties have been required to maintain a 'suitable' place for the detention of minors since at least 1915. [Citations omitted.] Setting the minimum standards for what is 'suitable' does not create a 'higher' level of service--it has long been the level of service required of local agencies. [Citations omitted.]" (83 Ops.Cal.Atty.Gen. 111 (2000).)

The Attorney General considered the language of Welfare and Institutions Code section 210, which provides: "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors." The term "suitable" is not part of the charge to the Board of Corrections in setting minimum standards. The term is implied.

Regulations challenged in this Claim reflect Board of Governors' minimum standards. Based on the premise established by the Attorney General, the minimum standards of the Board of Governors do not constitute either a new program or a higher level of service if the Board of Governors was statutorily obligated to set minimum standards in these areas prior to 1975.

Pre-1975 Requirements

The Board of Governors' minimum conditions regulations are generally adopted pursuant to statutes that appear in the Education Code (in a few isolated instances, regulations are also supported by statutes in other codes). Because the Education Code has been reorganized several

times, it is important to trace statutory requirements to their original sources. This is not always an easy undertaking where the Education Code is concerned.

Most statutes that concerned public schools were first assembled in the School Code in 1929. Prior to that time, such statutes appeared in various codes. The School Code became the Education Code in 1943. The Education Code was reorganized in 1959 and again in 1976. Some sections that appear in today's Education Code show that they were added in 1976 - which date incorrectly suggests that they came into being after January 1, 1975, a critical date for purposes of finding a state mandate. However, for many sections, the 1976 date merely reflects the 1976 comprehensive reorganization of the Education Code. That 1976 date does not represent the date of initial legislative pronouncement. In many instances, the Legislature required the Board of Governors to establish minimum standards in the subject areas prior to 1975.

Under the theory articulated by the Attorney General in his 2000 opinion, no new programs or higher level of services are established by Board of Governors' regulations that set minimum standards if the Legislature required the adoption of minimum standards prior to 1975. (83 Ops.Cal.Atty.Gen. 111 (2000).)

Education Code section 66700

Section 66700 requires the Board of Governors to prescribe minimum standards for the operation of the community colleges. Section 66700 was preceded by section 22650, that was enacted in 1960, when the State Board of Education had jurisdiction over the junior colleges in California. (Stats. 1960, 1st Ex. Sess., ch. 49, p. 396.) Section 22650 required the State Board of Education to adopt minimum standards for the operation of the junior colleges. As the community college system developed, the obligation to adopt minimum standards was assigned to the Board of Governors and junior colleges were redesignated community colleges. (The Legislature created the Board of Governors of the California Community Colleges in 1967 by Statutes 1967, chapter 1549. It also vested in the Board of Governors the "duties, powers, purposes, responsibilities, and jurisdiction" previously vested with the State Board of Education. See Education Code section 71024, previously section 197.) Accordingly, since at least 1960, the Legislature has required the state agency having oversight responsibility to adopt minimum standards for the operation of community college districts. It has vested that responsibility in the Board of Governors since 1967.

Education Code section 70901(b)(6)

Section 70901(b)(6) requires the Board of Governors to adopt minimum standards entitling districts to receive state aid for support of community colleges. Section 70901(b)(6) was added by Statutes 1988. However, section 70901(b)(6) was preceded by section 71025 that was enacted by Statutes 1976. Former section 71025 provided that "the Board of Governors of the California Community Colleges shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." Section 71025 was preceded by section 25510 that was added by Statutes 1963. (Stats. 1963, ch. 100, p. 760.) A 1970 amendment substituted "community college" for "junior college" and an amendment by Statutes 1974 substituted the Board of Governors of the California Community Colleges for the State Board of Education; thus the section read, "The Board of Governors of the California Community College shall adopt rules and regulations fixing minimum standards entitling districts to receive state aid for the support of community colleges." (The 1974 amendment

merely conformed the Board of Governors' authority to that previously assigned by the Legislature in 1967.)

Accordingly, since at least 1963[1], the Legislature has required the state agency having oversight responsibility to adopt minimum standards enabling community college districts to receive state aid. As noted above, since 1967, that responsibility has rested with the Board of Governors. Based on the Attorney General's analysis, such minimum standards cannot be the basis for a mandate claim. Virtually all of the minimum conditions regulations challenged herein are based on legislative directives to the Board of Governors that preceded January 1, 1975. On that basis, none of the minimum conditions regulations support a claim for reimbursement, and the Claim may be rejected in its entirety. We will not raise this general defense for each of the regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

4. Many Of The Regulations That Are The Subject Of This Claim Existed Prior To January 1, 1975, Under Different Section Numbers. To The Extent Any Mandates Predated January 1, 1975 They Are Not Eligible For Reimbursement.

A number of the regulations that are the subject of this Claim were originally adopted in 1969 or 1971 and later renumbered. In 1983, numerous regulations were renumbered through the process of repealing prior regulations and adding the regulations back into the code of regulations under new numbers. The Commission will note that Claimant alleges that a number of the regulations that are claimed as creating mandates came into existence in 1983. In many cases, that 1983 date represents a reorganization of title 5 and does not reflect the creation of new regulatory requirements.

"Costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Government Code section 17514.) Regulatory requirements that existed before January 1, 1975, cannot be the basis for reimbursement.

5. A Number Of The Regulations Address Areas That Are Already Required By Federal Laws That Claimant Must Follow.

California community colleges are subject to a variety of federal mandates that require certain activities. In some of these cases, the mandates are imposed as a condition of the receipt of federal financial assistance. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

6. A Number Of The Regulations Address Areas Of General Law That Are Not Based On Claimant's Status As A Local Governmental Body.

Claimant is a California employer. Claimant is also a California business enterprise. As such, Claimant is required to follow general laws that apply to all such employers and enterprises. To the extent that a general law already requires Claimant to take certain actions, Claimant cannot be reimbursed for duplicative actions that are required under the challenged regulations. Actions required by general law cannot be the basis of a claim for reimbursement. (*County of Los*

[1] In some cases, the statutes cited herein may have existed earlier under different section numbers. However, given our resource limitations, we are not able to explore the full extent of possible previous enactments.

Angeles v. State of California (1987) 43 Cal.3d 46, 56.) Only if Claimant is able to determine that the regulations include specific additional mandates is reimbursement a possibility.

Regulatory Background. In the early times after the Board of Governors was established, the Office of Administrative Law, rather than this office, retained the primary regulatory files. Given our current resource restrictions, we are unable to fully explore the earlier versions of current regulations for purposes of this review.

We are attaching copies of the early regulation packages that remain in our files, and we encourage the Commission's thorough review of the early provisions. These packages verify that many of the issues addressed in the regulations cited by Claimant preexisted January 1, 1975. (See enclosed Attachment 1, regulation packet approved for filing August 26, 1969; Attachment 2, regulation packet approved for filing July 1, 1971; Attachment 3, regulation packet approved for filing October 1, 1971; Attachment 4, regulation packet approved for filing June 28, 1971.)

Condition 1, California Code of Regulations, title 5, section 51002 (Standards of Scholarship) Claimant asserts that this section mandates costs of adopting and complying with standards of scholarship for students. Claimant alleges that section 51002 was added in 1983 and amended in 1994.

In August 1969, the Board of Governors filed regulations with the Secretary of State that included section 51002 as a minimum standard entitling districts to receive state aid. (Attachment 1.) Section 51002(e) addressed standards of scholarship. It required districts to adopt regulations consistent with the state regulation and to publish the district standards in the college catalog under appropriate headings.

Section 51002(e) addressed grading, "credit-no credit" grades, when students should be on probation, and standards for dismissal. Section 51005, the text of which is set out in full below in our response to "condition 2," included subsections (e) and (f) that provided for credit by examination, which currently appears as section 55753.

In July, 1971, the Board of Governors filed additional regulations related to standards of scholarship. (Attachment 2.) These 1971 regulations addressed credit and no credit courses, standards for probation (section 51303 that led to present section 55754), standards for dismissal (section 51304 that led to present section 55756), a definition of "units attempted" (section 51305 which led to present section 55757), and grade point averages. Section 51300 required district governing boards to adopt regulations consistent with the regulations of the Board of Governors and to publish the regulations in the college catalog.

We lack the resources to fully correlate all these regulations, but it is clear that current regulatory provisions addressing standards of scholarship existed prior to January 1, 1975, and are not eligible for reimbursement.

Any Claim under this section must be rejected for the general reasons discussed above and because most if not all of the provisions predated January 1, 1975.

Condition 2. California Code of Regulations, title 5, section 51004 (Degrees and Certificates). Claimant asserts that this section requires districts to adopt and comply with regulations for awarding degrees and certificates. Claimant alleges the section was added in 1983 and amended in 1994.

Regulations that were filed by the Board of Governors in 1969 established minimum standards for degrees and certificates as follows. (See Attachment 1.) Those provisions led to numerous regulations that currently appear at sections 55800-55810. We have indicated some of the current related provisions in bold in the following.

> "51005. Requirements for Degrees and Certificates. (a) The governing board of a district maintaining a community college shall confer the degree of associate in arts upon the satisfactory completion in grades 13 and 14 of from 60 to 64 semester hours of work in a curriculum which the district accepts toward the degree (as shown by its catalog) and which includes the requirements listed in (1) through (5), provided that 12 of the required credit hours were secured in residence at that community college. **(See current section 55806.)** (The governing board may make exceptions to the residence requirement in any instance in which the governing board determines that an injustice or hardship would otherwise be placed upon an individual student.) "Satisfactory completion" means either credit earned on a "credit-no credit" basis or a grade point average of 2.0 (grade C on a five point scale with zero for an F grade) or better in 13th and 14th year graded courses in the curriculum upon which the degree is based. **(See current section 55801.)**
>
> (1) A major consisting of at least 20 semester hours in a specified field of study; **(See current section 55806(a).)**
>
> (2) Three semester hours in the Constitution of the United States, and in American history, including the study of American institutions and ideals, and of the principles of state and local government established under the Constitution of this State, and the satisfactory passing of an examination on said courses;
>
> (3) Two semester hours of community and personal hygiene; except that a community college student, who is a minor whose parents or guardian state in writing that the course in community and personal hygiene is contrary to the religious beliefs of the student, or if the student is not a minor if he so states in writing, may be excused from such course and permitted to substitute a two-hour course in a field or fields specifically designated by the governing board of the district in lieu of the required two-hour course in community and personal hygiene.
>
> (4) Two semester hours in physical education earned at the rate of one-half credit per semester for a minimum of 120 minutes per week in directed physical education activities, except as a student may be exempted in accordance with Section 8162, Education Code; and
>
> (5) Such requirements in oral and written English as the governing board of the school district may establish.
>
> (b) The governing board of a district maintaining a community college may confer the degree of associate in science upon the satisfactory completion in grades 13 and 14 of a minimum of 60 semester hours of work which shall satisfy all the requirements for an associate in arts degree, and which work shall include

a major of at least 20 semester hours in any of the following fields: engineering, physical and biological science, vocational-technical curriculums.

(c) The governing board of a district maintaining a community college shall award the appropriate diploma or degree whenever a student shall have completed all requirements of a full curriculum of the community college without regard to the length of time actually taken by the student to complete such requirements. **(See current section 55809.)** The governing board shall grant to any student who satisfactorily completes the requirements of any course of study in less than the prescribed time the full number of semester hours scheduled for such course.

(d) The governing board of a district maintaining a community college shall issue a certificate of achievement (as determined by the governing board and specified in the catalog) to any student who successfully completes any course of study or curriculum in length less than the full number of years and grades maintained by the community college. **(See current section 55808.)**

(e) The governing board of a district maintaining a community college may grant credit (but it shall not count toward the 12 semester hours of credit in residence required in (a) to any student who satisfactorily passes an examination approved and conducted by proper authorities of the college. Such credit may be granted only:

(1) To a student who is registered at the college and in good standing.

(2) For a course listed in the catalog of a California public community college. **(See current section 55753.)**

(f) The examination shall be made at the expense of the person being examined.

(g) Information contained in the physician's report is confidential, and the contents of the report shall not be divulged by an official or employee who has access to the report except to the Board of Governors of the California Community Colleges, the Teachers Retirement Board, any county superintendent of schools, the representatives of any of them, or to the governing board of a district which has requested such information.

(h) The person shall file with the governing board of any district employing him as a substitute instructor the notice, or a photostatic copy or certified copy of the notice, from the county superintendent, stating that the person has passed the physical examination prescribed by the Board of Governors."

The foregoing language verifies that many of the current regulations identified by Claimant existed in 1969 regulations.

In September 1971, the Board of Governors filed additional regulations that addressed degrees and certificates. (Attachment 3.) It is clear that the 1971 regulations are forerunners to current regulations. For example, former section 51622 (definitions) is current section 55801 and former section 51623 (Associate in arts degree) led to current section 55806.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that a number of the provisions predated January 1, 1975, making them ineligible for reimbursement.

Condition 3. California Code of Regulations, title 5, section 51006 (Open Courses)
Claimant alleges that section 51006 was added in 1983 and amended in 1994.

Claimant alleges that section 51006 incorporates the requirements of other sections, including sections 58102, 58104, and 58106 that require that classes be described in catalogs and/or class schedules.

Education Code section 5754 (added by Stats 1965, ch. 842) provided in part: "No class for adults shall be maintained by any district: . . . (2 if such classes are not open to the general public. . . ." (Emphasis added.) This requirement for open courses was replaced by section 84500.1 (added by Stats. 1978, ch. 909) that required in pertinent part that "[n]o community college shall report for attendance or average daily attendance to the board of governors for apportionment any classes: . . . if such classes are not located in facilities clearly identified in such a manner, and established by procedures, to insure that attendance in such classes is open to the general public. . . ." (Emphasis added.) Section 84500.1 was in effect until January 1, 1991. Accordingly, the open course requirement has been in effect in statute or regulation since 1965.

In August 1969, the Board of Governors filed a number of regulations, including section 51003. (See Attachment 1.) Subsection 51003(c) provided that courses that counted towards the associate degree, that were part of an occupational course of study beyond high school, or that were approved for transfer must be described in the college catalog or supplement thereto.

In July 1971, the Board of Governors adopted a number of regulations concerning standards of scholarship. (See Attachment 2.) Section 51102 required districts to describe all of their courses in college publications. Publication of courses in the public catalogs, that was required by both the 1969 and 1971 regulations, is a core element of open courses that presently resides in sections 58100 and 58102. The existence of these 1969 and 1971 regulations that required publication of course information verify the open nature of courses prior to January 1, 1975.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that open course and publication requirements predated January 1, 1975, making them ineligible for reimbursement.

Condition 4. California Code of Regulations, title 5, section 51008 (Comprehensive Plans).
Claimant asserts that section 51008 was added in 1983 and amended in 1994. The section requires districts to adopt academic master plans and master plans for facilities.

The requirement for district academic master plans and facilities master plans preexisted January 1, 1975, and continued without lapse such that reimbursement should be denied. The requirement originally appeared in the Education Code and was later transferred to title 5 pursuant to the requirement that the Board of Governors establish minimum conditions for the receipt of state aid. Our limited resources prevent a thorough review or tracing of all the provisions, but we offer the following:

Section 200.6 was added to the Education Code by stats. 1969 and was replaced by section 199 (added to the Education Code by stats. 1970). Section 199 provided:

"The board of governors shall review and approve academic master plans and

> master plans for facilities for each community college district. Such plans shall be submitted to the board of governors by the local governing board of each community college district. Master plans for facilities submitted pursuant to Chapter 19 (commencing with Section 20050) of Division 14 shall satisfy the requirements of this section in relation to master plans for facilities. Each district shall annually submit changes in its approved academic master plan for approval by the board of governors." (Emphasis added.)
>
> Section 1010.3 was added to the Education Code through stats. 1969, c. 1026; it was renumbered to section 25427 and amended by stats. 1970, c. 870 until it was renumbered to section 72231.5 by stats. 1976, c. 1010. In 1970, section 25427 provided:
>
> "The district governing board shall:
> (a) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the community colleges within the district.
> (b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval." (Emphasis added.)

The foregoing confirmed the obligation of districts to establish academic and facility master plans well in advance of January 1, 1975.

The Board of Governors also adopted regulations concerning educational master plans well before January 1, 1975. (See Attachment 4.) Sections 55400 through 55405 required districts to "establish policies for, and approve, current and long range educational plans and programs for each Community College which it maintains and for the district as a whole." (Cal. Code Regs., tit. 4, § 55401.) These sections have remained in effect, with some intervening amendments, to the present.

Any Claim under this section must be rejected for the general reasons discussed above and because the requirement for academic master plans and for master plans for facilities predated January 1, 1975, making them ineligible for reimbursement.

Condition 5. California Code of Regulations, title 5, section 51010 (Equal Employment Opportunity).
Claimant asserts that section 51010, regulations that are incorporated by reference under section 51010, and Education Code sections 87100 et seq. require Claimant to provide equal employment opportunity.

Claimant is subject to a number of federal constitutional and statutory requirements that are designed to ensure equal employment opportunity. These include the federal Equal Protection Clause of the Fourteenth Amendment, Title VII, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. These federal laws prohibit discrimination and apply to Claimant because of Claimant's status as a public entity or as an employer, or Claimant's receipt of federal funds. We have determined that Claimant receives federal Vocational and Applied Technology Education Act (VATEA) funding, and it may receive other federal financial support. (Claimant's tentative VATEA allocation for the 2003-04 fiscal year alone is $687,436.00)

Accordingly, Claimant is subject to any obligations that attach to the receipt of such federal funding. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Equal Protection Clause. The federal Equal Protection Clause is a general constitutional guarantee that requires to Claimant afford equal treatment to all employees. Discrimination on the basis of race, ethnicity, and national origin is particularly suspect, but other bases for discriminatory treatment, such as gender, may also be challenged as a federal constitutional violation.

Title VII. Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex, or national origin. Title VII applies to Claimant in its role as an employer. Title VII is implemented by regulations adopted by the federal Equal Employment Opportunity Commission ("EEOC"). The regulations that appear at 29 C.F.R. 1607 et seq., include a number of obligations to ensure against unlawful discrimination, and the regulations invoked in this Claim frequently reflect the federal provisions.

Americans with Disabilities Act and Section 504 of the Rehabilitation Act. These federal laws require Claimant to ensure that persons with disabilities are not subjected to unlawful discrimination in their employment.

To the extent that the foregoing or other federal laws require activities to ensure equal employment opportunity without discrimination, Government Code section 17556(c) precludes the finding of a reimbursable mandate.

Claimant is also subject to a number of general laws that do not depend on Claimant's status as a local governmental body.

Government Code section 12940. Section 12940 is part of the California Fair Employment and Housing Act ("FEHA"), and it covers virtually all California employers with 15 or more employees. Accordingly, section 12940 applies to Claimant independent of its status as a local government agency.

Section 12940 requires the Claimant to ensure a workplace free of discrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation. Section 12950 requires Claimant to maintain an employment environment free of sexual harassment.

The FEHA is enforced by the Fair Employment and Housing Commission which has adopted a number of regulations. The Commission has adopted the Uniform Guidelines for Selection Procedures that has been promulgated by the EEOC under Title VII. (See Cal. Code of Regs., tit.2, § 7287.4.) Even if Claimant were not directly subject to Title VII and EEOC regulations, it is subject to the Commission's regulations, and those regulations incorporate the EEOC regulations. As a result, to the extent that the challenged regulations reflect general law requirements that apply to Claimant as a California employer, they cannot be the basis for reimbursement. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Claimant raises issues under Education Code section 87100, et seq. Section 87102 provides that the activities described in the article are conditions to receipt of funds that are provided by the

Employment Opportunity Fund that is described in section 87107. Therefore, Claimant is not entitled to reimbursement for the activities described in section 87100 et seq. for two reasons.

First, Claimant is not required to seek funding from the Employment Opportunity Fund. If Claimant seeks such funding, it voluntarily assumes the obligations that attach to such funding. Pursuant to *Kern High School*, noted above, such voluntary actions are not reimbursable.

Second, the Employment Opportunity Fund is available for the payment of any documented costs, and reimbursement under this process would be double recovery.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that federal law or general California law may require the challenged actions, and because Claimant has chosen to proceed under Education Code provisions that carry their own funding.

Condition 6. California Code of Regulations, title 5, section 51012 (Student Fees).
Claimant alleges that this regulation requires it to establish and implement policies and procedures to ensure that student fees comply with the law.

The obligation contained in title 5, section 51012 existed prior to January 1, 1975, and has continued to apply to Claimant without lapse to the present. Education Code section 1010.10 was added to the Education Code by stats. 1969, c. 1026. It was renumbered to section 72289 by stats 1976, c. 1010. Both sections provided:

> "The district governing board may establish such student fees as it is authorized to establish by law."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the obligation predated January 1, 1975.

Condition 7. California Code of Regulations, title 5, section 51014 (Approval of New Colleges & Educational Centers)
Claimant asserts that section 51014 was added in 1983 and amended in 1994, and that it requires districts that are planning new colleges or educational centers to obtain the approval of the Board of Governors prior to the commencement of classes.

Claimant does not allege that it has ever been affected by section 51014. Nothing in the Claim suggests that Claimant has ever sought the Board's approval under section 51014 for a new college or a new educational center, and Claimant alleges no costs arising from complying with section 51014.

Any Claim under this section must be rejected for the general reasons discussed above and because this is a special provision that mandates actions only under special and limited conditions. Claimant does not allege that it ever took those actions. For these reasons, any Claim under this section should be rejected.

Condition 8. California Code of Regulations, title 5, section 51016 (Accreditation)
Claimant asserts that section 51016 was added in 1983 and that the section requires it to establish and implement policies and procedures to ensure compliance with the accreditation standards of

the Accrediting Commission for Community and Junior Colleges ("AACJAC") and to pay the costs of the accreditation process. Claimant alleges that prior to the addition of section 51016, colleges were not specifically required to comply with AACJAC standards and that they were permitted, but not required to pay the costs of the accreditation process.

The expectation that colleges would be accredited predated January 1, 1975. Through stats. of 1967, c. 1562 (amended by stats. 1970, c. 102 and stats. 1974, c. 989), Education Code section 25522 specifically authorized the costs of accreditation of the colleges within a district by "the regional accrediting association serving California." Section 25522 was renumbered to section 78050 by stats. 1976, c. 1010.

Claimant may be correct that no specific statute or regulation required it to pay the costs of accreditation. Our resources do not permit a thorough review of this issue. However, since before January 1, 1975, Claimant was expected to be accredited, and it could not be accredited unless it paid the costs of accreditation.

Accreditation is a condition of eligibility for participation in certain federal programs, including federal funding for higher education resources and student assistance. (See, e.g., 20 U.S.C. § 1058.) To the extent that Claimant chooses to participate in federal programs, it also chooses to participate in the accreditation process. Given Claimant's choice, it cannot claim reimbursement for the costs associated with that choice.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that federal law may require accreditation, because Claimant has chosen to secure federal funding that requires accreditation, and because the expectation of accredited status predated January 1, 1975.

Condition 9. California Code of Regulations, title 5, section 51018. (Counseling)
Claimant asserts that this section requires districts to adopt regulations and procedures regarding counseling programs, to provide the programs to students, and to publicize the counseling programs. Claimant alleges that section 51018 was added in 1983 and amended in 1994.

The obligation for Claimant to have a counseling program preceded January 1, 1975. In August, 1969, the Board of Governors filed regulations with the Secretary of State that included section 51002 as a minimum standard entitling districts to receive state aid. (See Attachment 1.) Section 51001(h) provided as follows:

> Counseling Services. The community college shall have an adequate counseling staff, both in training and experience, and shall have established procedures, to provide, and shall provide, the following counseling services:
> (1) Assisting each student in the college
> (A) To determine his educational goal,
> (B) To make a self-appraisal toward progress toward his goals.
> (2) Providing each first-time freshman described in (A) or (B) below who is enrolled in more than six units special individual or group counseling and guidance, arranging a study load suitable to his needs, and keeping an appropriate record of the student.
>
> (A) He is a high school graduate, his scores on a qualifying test or tests

were below an acceptable minimum for the college of attendance, and his grade point average in the last three years in high school was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science; or

(B) He is not a high school graduate, and his scores on a qualifying test or tests were below an acceptable minimum for the college of attendance and his grade point average in the years of high school attendance was less than 2.0 (grade C on a five point scale with zero for an F grade), excluding only physical education and military science.

(3) Providing to each student who is on probation individual counseling and guidance service, including regulation of his program according to aptitude and his achievements."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that counseling services were required prior to January 1, 1975.

Condition 10. California Code of Regulations, title 5, section 51020 (Objectives).
Claimant asserts that this section was added in 1983 and amended in 1991, and that it requires Claimant to adopt objectives for its instructional programs and other district functions.

This regulation was first adopted in 1969 as section 51002(a). (See Attachment 1.) Its provisions have remained the same to the present. It provided:

"51002(a) Objectives. The community college shall have stated objectives of its instructional program and the functions which it undertakes to perform."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that objectives were required prior to January 1, 1975.

Condition 11. California Code of Regulations, title 5, section 51021. (Curriculum).
Claimant alleges that this section was added in 1983 and amended in 1994. Claimant alleges that it requires each community college to establish educational programs and courses that will further the objectives and functions of the college and that all courses must be approved by the State Chancellor.

As noted under Condition 4, above, section 1010.3 was added to the Education Code through stats. 1969, c. 1026; it was renumbered to section 25427 and amended by stats. 1970, c. 870 until it was renumbered to section 72231.5 by stats. 1976, c. 1010. Section 25427 required district governing boards to establish policies for and approve, current and long-range educational plans and programs. It can fairly be assumed that such long-range education plans and programs addressed curriculum.

Education Code section 200.9 was added by stats. 1969, c. 1026 and amended by stats. 1970, c. 102. It provided:

"The board of governors shall establish criteria and standards for graded and nongraded classes in community colleges."

Additionally, the curriculum regulation was first adopted in 1969 as section 51002(b) which essentially tracked the language of current section 51021, as follows:

> "51002(b) Curriculum. The community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. Such courses shall be submitted to the Chancellor of the California Community Colleges for prior approval on forms provided by the Chancellor. The Chancellor shall report to the Board of Governors at a fall and a spring meeting the actions which he has taken in approving the courses."

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the curriculum requirement predated January 1, 1975.

Condition 12. California Code of Regulations, title 5, section 51022 (a) (Instructional Programs).
Claimant asserts that section 50122(a) mandates certain responsibilities regarding instructional programs, including vocational or occupational training program review.

Section 51022(a) provides that districts must develop and file with the Chancellor policies for the establishment, modification, and discontinuance of courses or programs.

Districts have long been required to develop and submit to the state their academic master plans which must, of necessity, address instructional programs. (See Ed. Code, § 199, added by stats. 1970, c. 870, and section 1010.3, added by stats. 1969, c. 1026 (renumbered to 25427 by stats. 1970, c. 870) that required district governing boards to "establish policies for, and approve, current and long-range educational plans and programs" and to "establish policies for, and approve, academic master plans. . ." District governing boards have also been required to "establish policies for, and approve, the total educational program of the community college or colleges in the district. . . . approve all classes for adults and shall submit such classes as are eligible for state apportionments to the board of governors for approval." (See Ed. Code, § 1010.4, added by stats. 1969, c. 1026, amended by stats. 1970, c. 102, stats. 1970, c. 870.)

The very reason for Claimant to exist is to offer educational programs and services. The public community colleges were established to "offer instruction through but not beyond the 14th grade level." Their programs could include, but were not limited to "(1) standard collegiate courses for transfer to higher institutions; (b) vocational and technical fields leading to employment; and (3) general or liberal arts courses." (Ed. Code, § 22651, added by stats. 1960, 1st Ex. Sess, c. 49.)

Section 22651 was amended, and ultimately renumbered to section 66701 by stats. 1976, c. 1010. In light of the basic mission of community colleges, the required education master plans, and obligations to establish curriculum (as noted above regarding "Condition 11"), districts would necessarily have developed policies for the establishment, modification, and discontinuance of educational programs and courses apart from the regulation at issue here.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that numerous duties related to instructional

programs and courses existed prior to January 1, 1975.

Condition 13. California Code of Regulations, title 5, section 51022(b) (Course Articulation-Local)
Claimant asserts that section 51022(b) requires it to develop and implement policies and procedures for the articulation of its courses with proximate four-year colleges and high schools.

Through stats. 1969, c. 1026, Education Code section 200.13 was enacted to require the Board of Governors to "facilitate articulation with other segments of higher education and with secondary education." Section 200.13 was renumbered to section 71071 by stats. 1976, c. 1010. Therefore, the Board of Governors has been statutorily required to act in this specific area since before January 1, 1975. This regulation is a necessary part of carrying out this requirement.

Moreover, the community colleges have always been a part of the California public school system. (E.g., see former Ed. Code, § 22650, as amended by stats. 1970, c. 102: "The public community colleges are secondary schools and shall continue to be a part of the public school system of this state.") Being part of a system necessarily involves a level of articulation with other segments of the system.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that articulation with other segments was required prior to January 1, 1975.

Condition 14. California Code of Regulations, title 5, section 51023(a) (Academic Freedom).
Claimant asserts that this section was added in 1984 and amended in 1994, and that it requires districts to adopt and implement a policy statement on academic freedom.

Academic freedom includes the opportunity to express opinions. The requirements of the current regulations grew out of legislative direction to the Board of Governors to establish minimum procedures to insure faculty have the opportunity to express their opinions. Education Code section 200.22 was added by stats. 1969 and provided:

> "The board of governors shall establish minimum procedures to be used by district governing boards to insure to faculty and students the opportunity to express their opinions at the campus level and to insure that these opinions are given every reasonable consideration."

Through stats. 1969, c. 1026, Education Code section 1010.13 required community college districts to "establish procedures not inconsistent with those established by the board of governors to insure faculty and students the opportunity to express their opinions at the campus level." Section 1010.13 was renumbered to section 72292 by stats. 1976. Section 72292 was the original statutory underpinning for the language concerning academic freedom. Section 72292 existed as section 1010.13 well before January 1, 1975.

Any Claim under this section must be rejected for the general reasons discussed above and because the Commission will be able to confirm that the basis for the academic freedom language predated January 1, 1975.

Condition 15. California Code of Regulations, title 5, sections 51023, 51023.5, and 51023.7.

(Shared Governance: Faculty, Staff, Students)
Claimant references the regulations that require shared governance for faculty (§ 51023), staff (§ 51023.5), and students (§ 51023.7).

Faculty. The requirements of section 51023 and sections that are incorporated into section 51023 largely preceded January 1, 1975. The role of academic senates or faculty councils in academic and professional matters was established in 1969 (see Attachment 1) under section 51004 as follows:

> 51004. Academic Senates or Faculty Councils.
> (a) For the purposes of this section:
> (1) "Faculty" means those certificated persons who teach full time in a community college or other full-time certificated persons who do not perform any services for the college that require an administrative or supervisory credential.
> (2) "Academic senate" or "faculty council" means an organization formed in accordance with this section whose primary function is, as the representative of the faculty, to make recommendations to the administration and the governing board of a district with respect to academic and professional matters.
> (b) In order that the faculty may have a formal and effective procedure for participating in the formation of district policies on academic and professional matters described in (a)(2), the faculty first must decide by secret ballot to have an "academic senate" or "faculty council," in which case the governing board of each district shall establish such an "academic senate" or "faculty council" in each community college by authorizing the faculty to:
> (1) Fix, and amend, by vote of the faculty, the composition, structure, and procedures of the academic senate or faculty council.
> (2) Select, in accordance with accepted democratic election procedures, the members of the academic senate or faculty council.
> (c) After consultation with the administration, the academic senate or faculty council may present its written views and recommendations to the governing board. The governing board shall consider and respond to such views and recommendations.
> (d) Upon the request of the academic senate or faculty council and subject to Government Code Sections 54950 ff. (The Brown Act), when applicable, the governing board, or such board members or administrative officers as it may designate, shall meet and confer with representatives of the academic senate or faculty council with respect to recommendations made or proposed to be made by the senate or council. The designation of board members or administrative officers as provided herein shall not preclude the representatives of an academic senate or a faculty council from meeting with, or appearing before, the governing board with respect to the views, recommendations, or proposals of the senate or council at a regular or special meeting of the board.
> (e) The academic senates or faculty councils may assume such responsibilities and perform such functions as may be requested of it by the administration or board of trustees."

Students. Through stats. 1969, c. 1026, Education Code section 1010.13 required community

college districts to "establish procedures not inconsistent with those established by the board of governors to insure . . . students the opportunity to express their opinions at the campus level." Section 1010.13 was renumbered to section 72292 by stats. 1976.

Staff: The specific details of section 51023.5 appear to have developed recently. However, because they reflect minimum standards, and the Board of Governors has been required to establish minimum standards since before January 1, 1975, the Attorney General has determined that a reimbursable mandate has not been created.

Any Claim under this section must be rejected for the general reasons discussed above. For academic senates or faculty counsels under section 53023, the Commission will be able to confirm that responsibilities predated January 1, 1975. For students, the Commission will also be able to confirm that Claimant was required to provide students with the opportunity to express their opinions prior to January 1, 1975.

Condition 16. California Code of Regulations, title 5, section 51024 (Matriculation Services).
Claimant asserts that the Seymour-Campbell Matriculation Act of 1986 requires certain conduct. Claimant asserts that Education Code sections 78210-78218, and title 5, sections 51024 and 55500-55534 describe these requirements.

Matriculation obligations are directly tied to participation in matriculation funding. Education Code section 78218 verifies that the statutory obligations the regulations implement are only operative if funds are specifically appropriated for matriculation purposes. Moreover, Education Code section 78211.5(b) provides in part that

> "any college or district receiving funding under this article shall agree to carry out its provisions as specified, but shall be bound to that agreement only for the period during which funding is received pursuant to this article."

Accordingly, Claimant's acceptance of matriculation funding is the source of any obligations.

The choice to participate in the matriculation program carries certain obligations so long as the funding is provided. Because participation is discretionary as to districts, under *Kern High School, supra,* 30 Cal.4th 727, the requirements of the Education Code and title 5 sections related to matriculation carry no state mandates.

Districts that do apply for and accept matriculation funding are required to match each dollar of matriculation funding with three dollars of other district resources. (§ 55518.) Some of that matching money is likely other state funding dollars. Nothing in statute or regulation prohibits districts from spending matriculation funding or the matching money from other state resources to satisfy the requirements of section 55530; accordingly, the state should not have to pay again for actions Claimant may already pay for from state resources.

Any Claim under this section must be rejected for the general reasons discussed above, because participation is optional, and because funding for participation is already available.

Condition 17. California Code of Regulations, title 5, section 51025 (Full-time/Part-time Faculty).
Claimant asserts that this section creates mandated costs to reach a full-time/part-time faculty

ratio of 75%/25%. Claimant acknowledges that this provision was adopted in response to Education Code section 87482.6.

Education Code section 87482.6 was added by stats. 1988, c. 973. SEC 70(b)(2) provided that during phase II of the reforms described by AB 1725,

> "the new educational environment created under Phase I, including such reforms as innovative training programs, evaluation procedures, and minimum qualifications, may be utilized to the fullest extent in hiring new full-time faculty. The Legislature finds that this latter step is a major component of successful reform and the eventual attainment of the highest possible quality in the educational programs of the California Community Colleges. It is the intent of the Legislature that moneys appropriated during Phase II fully fund any state-mandate created pursuant to this section."

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review and because funding has been provided.

Amounts were added to the base of community college districts as Program Improvement monies after the 1989-90 fiscal year.

Condition 18. California Code of Regulations, title 5, section 51026 (Student Equity). Claimant asserts that this section requires it to develop policies and procedures for student equity. Although student equity is approached by reference to section 51026, Claimant also identifies a number of state statutory provisions that prohibit discrimination and harassment against students on a variety of bases. For example, Claimant notes that Education Code section 72011 requires it to provide access to its services, classes, and programs without regard to race, religious creed, color, national origin, ancestry, handicap, or sex.

California nondiscrimination laws concerning students frequently reflect the requirements of federal constitutional and statutory requirements, including the federal Equal Protection Clause of the Fourteenth Amendment, Title VI, Title IX, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. These provisions generally prohibit discrimination and harassment by districts as a matter of constitutional principle or as a condition that attaches to the acceptance of federal funds. As noted above, we have determined that Claimant receives federal Vocational and Applied Technology Education Act funding, and it may receive other federal financial support. Accordingly, Claimant is subject to any obligations that attach to the receipt of such federal funding. Government Code section 17556(c) precludes the finding of a reimbursable mandate where a federal mandate results in the claimed costs.

Equal Protection Clause. The federal Equal Protection Clause is a general constitutional guarantee that requires Claimant to treat students equally. Discrimination on the basis of race, ethnicity, and national origin is particularly suspect, but other bases for discriminatory treatment, such as gender, may also be challenged as a federal constitutional violation.

Title VI. Title VI protects students from discrimination under programs that receive federal funding. It provides that "[n]o person . . . shall on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or subjected to discrimination under

any program or activity receiving Federal financial assistance." (42 U.S.C. § 2000d.) Title VI guarantees equity and nondiscrimination in admissions, services, programs and activities.

It is likely that Claimant receives federal funds and is therefore federally mandated to provide student equity and to prohibit discrimination based on race, color or national origin.

Title IX. Title IX of the Education Amendments of 1972 "is designed to eliminate . . . discrimination on the basis of sex in any education program or activity receiving Federal financial assistance. . . ." (34 CFR § 106.1.) Claimant is therefore subject to the requirements of Title IX and its implementing regulations if Claimant accepts federal education financial assistance. The implementing regulations appear at title 34, Code of Federal Regulations, part 106, sections 106.1 through 106.71. The Office for Civil Rights ("OCR") within the U.S. Department of Education enforces Title IX and the implementing regulations.

Title IX requires community college districts that receive federal financial assistance to adopt and to publish policies prohibiting sex discrimination. Districts must also "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part." (34 C.F.R. §§ 106.8(b), 106.9.)

Sexual harassment is a form of sex discrimination that is prohibited by Title IX. In January 2001, the OCR published its Title IX "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." As interpreted by the OCR, if a district's required sex discrimination policy does not specifically address sexual harassment, its policy and procedures will not be considered effective. (*Id.*, pp. 19-20.) The failure to have a policy and procedure prohibiting sex discrimination, including sexual harassment, violates the Title IX regulations even if no discrimination or harassment occurs. (*Id.*, p. 19.)

The sexual harassment policy and procedures must be distributed.

> "Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination." (*Id.*, at p. 14.)

OCR examines certain elements in determining whether a district's grievance procedures are prompt and equitable. One element is that students and employees are notified of the procedure, "including where complaints may be filed." (*Id.*, at p. 20.) The OCR notes that schools may ensure notice to students of their rights under Title IX by having copies of the procedures "available at various locations throughout the school or campus" and by "including a summary of the procedures in major publications issued by the school." (*Id.*, at p. 20.)

Based on the foregoing, by accepting federal financial assistance, community college districts obligate themselves to develop and disseminate sexual harassment policies, notify students and employees of the district as to how to file charges, and disseminate information concerning the prohibition to sexual harassment in major district publications.

Americans with Disabilities Act (ADA). The ADA applies to all public (and private) postsecondary educational institutions, and it generally prohibits discrimination against students with disabilities.

Section 504 of the Rehabilitation Act (Section 504). Section 504 applies to those postsecondary educational institutions that receive or benefit from federal financial assistance. Section 504 generally prohibits discrimination against students with disabilities.

Age Discrimination Act of 1975. Public (and private) institutions that receive federal funds must comply with the Age Discrimination Act (42 U.S.C. § 6101 et seq.) that prohibits unreasonable discrimination on the basis of age in programs or activities that receive federal funds. To the extent that Claimant receives federal funds, student equity or nondiscrimination on the basis of age is not a reimbursable state mandate.

There is a second basis for rejecting a Claim based on equity and nondiscrimination requirements. If Claimant is already required by general law to ensure student equity and nondiscrimination, the statutes and regulations cited by Claimant that require nondiscrimination on the same bases do not create reimbursable mandates. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Civil Code, section 51 (Unruh Act). The Unruh Act prohibits discrimination in business establishments. Public school districts have been found to be business establishments subject to the Unruh Act. For example, the Act ensures student freedom from racial harassment and from sex discrimination in the California public school districts. (*Davison ex rel. Sims v. Santa Barbara High School Dist.*, C.D. Cal.1998, 48 F. Supp.2d 1225; *Nicole M. By and Through Jacqueline M. v. Martinez Unified School Dist.*, N.D.Cal.1997, 964 F. Supp. 1369.)

The Unruh Act has general application to all California businesses and does not impose unique requirements on local government agencies such as community college districts. Accordingly, the requirements to ensure student equity and an educational environment free of discrimination on the basis of sex, race, color, religion, ancestry, national origin, disability, or medical condition already exist apart from the Education Code provisions or title 5 regulations noted by Claimant. Because the Claimant is already required by general law to do these things, these actions cannot be the basis of a claim for reimbursement. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.)

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review, because mandates may replicate existing federal requirements, and because general law imposes some of the same requirements.

Condition 19. California Code of Regulations, title 5, section 51027 (Transfer Centers)
Claimant asserts that section 51027 requires each community college district to recognize transfer as one of its primary missions and to develop and adopt a transfer center plan.

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review.

Condition 20. California Code of Regulations, title 5, sections 51100 and 51102 (Compliance Enforcement)

Claimant asserts that sections 51100 and 51102 were added in 1983 and amended in 1984.

Claimant asserts that section 51100 requires the State Chancellor to review each college to determine whether it has met the minimum conditions established by title 5, sections 51000-51027. Section 51102 requires the State Chancellor to notify districts of areas of noncompliance to which districts must respond.

As noted at the beginning of this review, since at least the mid-1960's the Board of Governors has been required to adopt minimum standards entitling districts to receive state aid for support of community colleges. Education Code section 1010.2 was added by stats. 1969, c. 1026 that required Claimant to "establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district. . . ." This section was renumbered to section 72282 through stats. 1976, c. 1010. Accordingly, Claimant has been required to comply with state requirements since well before January 1, 1975. Implicit in the requirement to comply with state requirements is the obligation to demonstrate compliance and to take necessary actions to come into compliance where noncompliance is found.

Any Claim under this section must be rejected for the general reasons stated at the beginning of this review and because the obligation to comply with the rules and regulations of the state Board of Governors predated January 1, 1975, and is therefore not reimbursable under this process.

We hope the foregoing information is useful to you.

Sincerely,

Frederick E. Harris

FREDERICK E. HARRIS, Assistant Vice Chancellor
College Finance and Facilities Planning

Commission on State Mandates

Original List Date: 6/26/2003
Last Updated: 4/26/2007
List Print Date: 04/21/2008
Claim Number: 02-TC-31
Issue: Minimum Conditions for State Aid

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 322-4005
Fax: (916) 323-8245

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Tel: (916) 323-5849
Fax: (916) 327-0832

Mr. Douglas R. Brinkley
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Tel: (916) 000-0000
Fax: (916) 000-0000

Ms. Kelly Hargreaves
Department of Rehabilitation
721 Capitol Mall
Sacramento, CA 95814

Tel: 916-58-5825
Fax:

Mr. Joe Rombold
School Innovations & Advocacy
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Tel: (916) 669-5116
Fax: (888) 487-6441

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Tel: (916) 485-8102
Fax: (916) 485-0111

Mr. Jon Sharpe
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Claimant
Tel: (559) 244-5910
Fax: (559) 243-1949

Mr. William Duncan
West Kern Community College District
29 Emmons Park Drive
Taft, CA 93268

Claimant
Tel: (661) 763-7700
Fax:

Ms. Carla Castaneda
Department of Finance (A-15)
915 L Street, 11th Floor
Sacramento, CA 95814

Tel: (916) 445-3274
Fax: (916) 323-9584

Mr. Thomas Todd
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

Tel:
Fax:

Mr. Thomas J. Donner
Santa Monica Community College District
1900 Pico Blvd.
Santa Monica, CA 90405-1628

Claimant
Tel: (310) 434-4201
Fax: (310) 434-8200

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Tel: (916) 727-1350
Fax: (916) 727-1734

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 894059
Temecula, CA 92589

Tel: (951) 303-3034
Fax: (951) 303-6607

Mr. Steve Smith
Steve Smith Enterprises, Inc.
2200 Sunrise Blvd., Suite 220
Gold River, CA 95670

Tel: (916) 852-8970
Fax: (916) 852-8978

Mr. Arthur Palkowitz
San Diego Unified School District
Office of Resource Development
4100 Normal Street, Room 3209
San Diego, CA 92103-8363

Tel: (619) 725-7785
Fax: (619) 725-7564

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814
Tel: (916) 446-7517
Fax: (916) 446-2011

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730
Tel: (866) 481-2621
Fax: (866) 481-2682

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816
Tel: (916) 454-7310
Fax: (916) 454-7312

Ms. Carol Bingham
California Department of Education (E-08)
Fiscal Policy Division
1430 N Street, Suite 5602
Sacramento, CA 95814
Tel: (916) 324-4728
Fax: (916) 319-0116

Mr. David E. Scribner
Scribner & Smith, Inc.
2200 Sunrise Boulevard, Suite 220
Gold River, CA 95670
Tel: (916) 852-8970
Fax: (916) 852-8978

Ms. Ginny Brummels
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816
Tel: (916) 324-0256
Fax: (916) 323-6527

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814
Tel: (916) 445-0328
Fax: (916) 323-9530

Ms. Susan Geanacou
Department of Finance (A-15)
915 L Street, Suite 1190
Sacramento, CA 95814
Tel: (916) 445-3274
Fax: (916) 324-4888

Mr. J. Bradley Burgess
Public Resource Management Group
895 La Sierra Drive
Sacramento, CA 95864
Tel: (916) 595-2646
Fax:

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

Claimant Representative

Tel: (916) 565-6104

Fax: (916) 564-6103

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EXHIBIT O

April 23, 2008

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

Mr. Keith Petersen
SixTen and Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

And Interested Parties and Affected State Agencies

Re: Request for Comments
Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
(See attachment for a complete pleadings list)
Los Rios Community College District
Santa Monica Community College District
West Kern Community College District, Co-claimants

Dear Ms. Oropeza:

On January 11, 2008, the Commission issued a request for comments in regard to the unconsolidated *Minimum Conditions for State Aid* (02-TC-31) test claim. Staff would like to confirm that the Department of Finance intends to reserve comments until the draft staff analysis is issued.

Please contact Kenny Louie at (916) 323-2611 if you have any questions.

Sincerely,

PAULA HIGASHI
Executive Director

Attachments: List of Statutes and Executive Orders Pled, and Mailing List

MAILED: ✓ FAXED: _____
DATE: 4/23/08 INITIAL: AE
CHRON: _____ FILE: _____
WORKING BINDER: ✓

LIST OF STATUTES AND EXECUTIVE ORDERS PLED
CONSOLIDATED TEST CLAIM: *MINIMUM CONDITIONS FOR STATE AID*
(02-TC-25 AND 02-TC-31)

STATUTES

Chaptered Bills:

Statutes 1975, Chapter 802;
Statutes 1976, Chapters 275, 783, 1010, and 1176;
Statutes 1977, Chapters 36, 967;
Statutes 1979, Chapters 797 and 977;
Statutes 1980, Chapter 910;
Statutes 1981, Chapters 470 and 891;
Statutes 1982, Chapters 1117 and 1329;
Statutes 1983, Chapters 143 and 537;
Statutes 1984, Chapter 1371;
Statutes 1986, Chapter 1467;
Statutes 1988, Chapters 973 and 1514;
Statutes 1990, Chapters 1372 and 1667;
Statutes 1991, Chapters 1038, 1188, and 1198;
Statutes 1995, Chapters 493 and 758;
Statutes 1998, Chapter 365, 914, and 1023;
Statutes 1999, Chapter 587;
Statutes 2000, Chapter 187; and
Statutes 2002, Chapter 1169

Education Code Sections:

212	66030	66270	66722	66742	72014	81820
212.5	66251	66271.7	66722.5	66743	78015	81821
213	66252	66281.5	66731	70901	78016	81823
214	66261	66290	66732	70901.5	78211.5	87101
221.5	66261.5	66291	66736	70902	78212	87102
221.7	66262	66292	66737	71027	78213	87482.6
66010.2	66262.5	66292.3	66738	72011	78214	87482.7
66010.7	66263	66721	66740	72012	78215	
66016	66264	66721.5	66741	72013	78216	

California Code of Regulations, Title 5, Sections:

51000	53002	53309	55201	55502	55620	55800.5
51002	53003	53310	55202	55510	55630	55801
51004	53004	53311	55205	55512	55750	55805
51006	53005	53312	55207	55514	55751	55805.5
51008	53006	53314	55209	55516	55752	55806
51010	53020	54220	55211	55518	55753	55807
51012	53021	54626	55213	55520	55753.5	55808
51014	53022	54805	55215	55521	55753.7	55809
51016	53023	55000	55217	55522	55754	55825
51018	53024	55000.5	55219	55523	55755	55827
51020	53025	55001	55300	55524	55756	55828
51021	53026	55002	55316	55525	55756.5	55829
51022	53033	55002.5	55316.5	55526	55757	55830
51023	53034	55004	55320	55530	55758	55831
51023.5	53200	55005	55321	55532	55758.5	58102
51023.7	53202	55006	55322	55534	55759	58104
51024	53203	55100	55340	55600	55760	58106
51025	53204	55130	55350	55601	55761	58107
51026	53207	55150	55401	55602	55762	58108
51027	53300	55160	55402	55602.5	55763	59404
51100	53301	55170	55403	55603	55764	59410
51102	53302	55182	55404	55605	55765	
53001	53308	55200	55500	55607	55800	

Implementing Guidelines Handbooks:

Handbook of Accreditation and Policy Manual,
Accrediting Commission for Community and Junior Colleges (Summer 2002)

"Program and Course Approval Handbook"
Chancellor's Office California Community Colleges (September 2001)

"Student Equity Guidelines for Developing a Plan"
Fall 2002, The Academic Senate for California Community Colleges
(Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions")
(Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, adopted by the Academic Senate fall 2002)

Original List Date: 6/26/2003
Last Updated: 4/26/2007
List Print Date: 04/23/2008
Claim Number: 02-TC-31
Issue: Minimum Conditions for State Aid

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 322-4005
Fax: (916) 323-8245

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Tel: (916) 323-5849
Fax: (916) 327-0832

Mr. Douglas R. Brinkley
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Tel: (916) 000-0000
Fax: (916) 000-0000

Ms. Kelly Hargreaves
Department of Rehabilitation
721 Capitol Mall
Sacramento, CA 95814

Tel: 916-58-5825
Fax:

Mr. Joe Rombold
School Innovations & Advocacy
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Tel: (916) 669-5116
Fax: (888) 487-6441

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Tel: (916) 485-8102
Fax: (916) 485-0111

Mr. Jon Sharpe Los Rios Community College District 1919 Spanos Court Sacramento, CA 95825	**Claimant** Tel: (559) 244-5910 Fax: (559) 243-1949
Mr. William Duncan West Kern Community College District 29 Emmons Park Drive Taft, CA 93268	**Claimant** Tel: (661) 763-7700 Fax:
Ms. Carla Castaneda Department of Finance (A-15) 915 L Street, 11th Floor Sacramento, CA 95814	Tel: (916) 445-3274 Fax: (916) 323-9584
Mr. Thomas Todd Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Fax:
Mr. Thomas J. Donner Santa Monica Community College District 1900 Pico Blvd. Santa Monica, CA 90405-1628	**Claimant** Tel: (310) 434-4201 Fax: (310) 434-8200
Ms. Harmeet Barkschat Mandate Resource Services 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916) 727-1350 Fax: (916) 727-1734
Ms. Sandy Reynolds Reynolds Consulting Group, Inc. P.O. Box 894059 Temecula, CA 92589	Tel: (951) 303-3034 Fax: (951) 303-6607
Mr. Steve Smith Steve Smith Enterprises, Inc. 2200 Sunrise Blvd., Suite 220 Gold River, CA 95670	Tel: (916) 852-8970 Fax: (916) 852-8978
Mr. Arthur Palkowitz San Diego Unified School District Office of Resource Development 4100 Normal Street, Room 3209 San Diego, CA 92103-8363	Tel: (619) 725-7785 Fax: (619) 725-7564

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor*

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
T: (916) 323-3562
F: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EXHIBIT P

May 6, 2008

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Response to Request for Comments
Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
(See attachment for a complete pleadings list)
Los Rios Community College District and
Santa Monica Community College District,
West Kern Community College District, Co-claimants

Dear Mr. Petersen:

The Department of Finance has submitted the enclosed response to staff's April 21, 2008 and April 23, 2008 letters requesting specified information and confirmation of the Department of Finance's decision to reserve comments until the draft staff analysis for *Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)* is issued.

The draft staff analysis on the consolidated test claim will be issued by August 1, 2008. If you have questions on the above, please contact Kenny Louie at (916) 323-2611.

Sincerely,

PAULA HIGASHI
Executive Director

Attachments: Department of Finance Response, List of Statutes and Executive Orders Pled, and Mailing List

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814
Tel: (916) 446-7517
Fax: (916) 446-2011

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730
Tel: (866) 481-2621
Fax: (866) 481-2682

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816
Tel: (916) 454-7310
Fax: (916) 454-7312

Ms. Carol Bingham
California Department of Education (E-08)
Fiscal Policy Division
1430 N Street, Suite 5602
Sacramento, CA 95814
Tel: (916) 324-4728
Fax: (916) 319-0116

Mr. David E. Scribner
Scribner & Smith, Inc.
2200 Sunrise Boulevard, Suite 220
Gold River, CA 95670
Tel: (916) 852-8970
Fax: (916) 852-8978

Ms. Ginny Brummels
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816
Tel: (916) 324-0256
Fax: (916) 323-6527

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814
Tel: (916) 445-0328
Fax: (916) 323-9530

Ms. Susan Geanacou
Department of Finance (A-15)
915 L Street, Suite 1190
Sacramento, CA 95814
Tel: (916) 445-3274
Fax: (916) 324-4888

Mr. J. Bradley Burgess
Public Resource Management Group
895 La Sierra Drive
Sacramento, CA 95864
Tel: (916) 595-2646
Fax:

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

Claimant Representative

Tel: (916) 565-6104

Fax: (916) 564-6103

Paula Higashi

From: Todd, Thomas [Thomas.Todd@dof.ca.gov]
Sent: Tuesday, May 06, 2008 10:42 AM
To: Paula Higashi
Cc: Oropeza, Jeannie; Podesto, Lynn; McKinney, Jean-Marie; Geanacou, Susan
Subject: Minimum Conditions for State Aid Correspondence

Paula,

We are in receipt of two separate correspondences from your office on *Minimum Conditions for State Aid (02-TC-25 and 02-TC-31).* In the first correspondence dated April 21, 2008, your office indicates the need to provide a host of supporting documentation related to this claim. We will defer to the Chancellor's Office as the appropriate entity to supply your office with this data, given that they are responsible for the collection and maintenance of the types of information you are seeking. In the second correspondence dated April 23, 2008, your office was attempting to confirm whether or not the Department of Finance intended to reserve comments on this claim until after the issuance of the draft staff analysis. I can confirm for you that this is the case.

I spoke with Kenny Louie in your office about the form of notification needed to communicate these points to your office. I expressed to him, that given our current workload associated with the May Revision, that an email communication was the preferred course of action for us to inform your office. He indicate that this would be acceptable. If it is not, please let our office know as soon as possible.

Thank you.

-Thomas

LIST OF STATUTES AND EXECUTIVE ORDERS PLED
CONSOLIDATED TEST CLAIM: *MINIMUM CONDITIONS FOR STATE AID*
(02-TC-25 AND 02-TC-31)

STATUTES

Chaptered Bills:

Statutes 1975, Chapter 802;
Statutes 1976, Chapters 275, 783, 1010, and 1176;
Statutes 1977, Chapters 36, 967;
Statutes 1979, Chapters 797 and 977;
Statutes 1980, Chapter 910;
Statutes 1981, Chapters 470 and 891;
Statutes 1982, Chapters 1117 and 1329;
Statutes 1983, Chapters 143 and 537;
Statutes 1984, Chapter 1371;
Statutes 1986, Chapter 1467;
Statutes 1988, Chapters 973 and 1514;
Statutes 1990, Chapters 1372 and 1667;
Statutes 1991, Chapters 1038, 1188, and 1198;
Statutes 1995, Chapters 493 and 758;
Statutes 1998, Chapter 365, 914, and 1023;
Statutes 1999, Chapter 587;
Statutes 2000, Chapter 187; and
Statutes 2002, Chapter 1169

Education Code Sections:

212	66030	66270	66722	66742	72014	81820
212.5	66251	66271.7	66722.5	66743	78015	81821
213	66252	66281.5	66731	70901	78016	81823
214	66261	66290	66732	70901.5	78211.5	87101
221.5	66261.5	66291	66736	70902	78212	87102
221.7	66262	66292	66737	71027	78213	87482.6
66010.2	66262.5	66292.3	66738	72011	78214	87482.7
66010.7	66263	66721	66740	72012	78215	
66016	66264	66721.5	66741	72013	78216	

California Code of Regulations, Title 5, Sections:

51000	53002	53309	55201	55502	55620	55800.5
51002	53003	53310	55202	55510	55630	55801
51004	53004	53311	55205	55512	55750	55805
51006	53005	53312	55207	55514	55751	55805.5
51008	53006	53314	55209	55516	55752	55806
51010	53020	54220	55211	55518	55753	55807
51012	53021	54626	55213	55520	55753.5	55808
51014	53022	54805	55215	55521	55753.7	55809
51016	53023	55000	55217	55522	55754	55825
51018	53024	55000.5	55219	55523	55755	55827
51020	53025	55001	55300	55524	55756	55828
51021	53026	55002	55316	55525	55756.5	55829
51022	53033	55002.5	55316.5	55526	55757	55830
51023	53034	55004	55320	55530	55758	55831
51023.5	53200	55005	55321	55532	55758.5	58102
51023.7	53202	55006	55322	55534	55759	58104
51024	53203	55100	55340	55600	55760	58106
51025	53204	55130	55350	55601	55761	58107
51026	53207	55150	55401	55602	55762	58108
51027	53300	55160	55402	55602.5	55763	59404
51100	53301	55170	55403	55603	55764	59410
51102	53302	55182	55404	55605	55765	
53001	53308	55200	55500	55607	55800	

Implementing Guidelines Handbooks:

Handbook of Accreditation and Policy Manual,
Accrediting Commission for Community and Junior Colleges (Summer 2002)

"Program and Course Approval Handbook"
Chancellor's Office California Community Colleges (September 2001)

"Student Equity Guidelines for Developing a Plan"
Fall 2002, The Academic Senate for California Community Colleges
(Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions")
(Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, adopted by the Academic Senate fall 2002)

Commission on State Mandates

Original List Date: 6/26/2003
ast Updated: 4/26/2007
_ist Print Date: 05/06/2008
Claim Number: 02-TC-31
Issue: Minimum Conditions for State Aid

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 322-4005
Fax: (916) 323-8245

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Tel: (916) 323-5849
Fax: (916) 327-0832

Mr. Douglas R. Brinkley
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Tel: (916) 000-0000
Fax: (916) 000-0000

Ms. Kelly Hargreaves
Department of Rehabilitation
721 Capitol Mall
Sacramento, CA 95814

Tel: 916-58-5825
Fax:

Mr. Joe Rombold
School Innovations & Advocacy
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Tel: (916) 669-5116
Fax: (888) 487-6441

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Tel: (916) 485-8102
Fax: (916) 485-0111

Mr. Jon Sharpe Los Rios Community College District 1919 Spanos Court Sacramento, CA 95825	**Claimant** Tel: (559) 244-5910 Fax: (559) 243-1949
Mr. William Duncan West Kern Community College District 29 Emmons Park Drive Taft, CA 93268	**Claimant** Tel: (661) 763-7700 Fax:
Ms. Carla Castaneda Department of Finance (A-15) 915 L Street, 11th Floor Sacramento, CA 95814	Tel: (916) 445-3274 Fax: (916) 323-9584
Mr. Thomas Todd Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Fax:
Mr. Thomas J. Donner Santa Monica Community College District 1900 Pico Blvd. Santa Monica, CA 90405-1628	**Claimant** Tel: (310) 434-4201 Fax: (310) 434-8200
Ms. Harmeet Barkschat Mandate Resource Services 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916) 727-1350 Fax: (916) 727-1734
Ms. Sandy Reynolds Reynolds Consulting Group, Inc. P.O. Box 894059 Temecula, CA 92589	Tel: (951) 303-3034 Fax: (951) 303-6607
Mr. Steve Smith Steve Smith Enterprises, Inc. 2200 Sunrise Blvd., Suite 220 Gold River, CA 95670	Tel: (916) 852-8970 Fax: (916) 852-8978
Mr. Arthur Palkowitz San Diego Unified School District Office of Resource Development 4100 Normal Street, Room 3209 San Diego, CA 92103-8363	Tel: (619) 725-7785 Fax: (619) 725-7564

Mr. Robert Miyashiro
Education Mandated Cost Network
1121 L Street, Suite 1060
Sacramento, CA 95814
Tel: (916) 446-7517
Fax: (916) 446-2011

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730
Tel: (866) 481-2621
Fax: (866) 481-2682

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816
Tel: (916) 454-7310
Fax: (916) 454-7312

Ms. Carol Bingham
California Department of Education (E-08)
Fiscal Policy Division
1430 N Street, Suite 5602
Sacramento, CA 95814
Tel: (916) 324-4728
Fax: (916) 319-0116

Mr. David E. Scribner
Scribner & Smith, Inc.
2200 Sunrise Boulevard, Suite 220
Gold River, CA 95670
Tel: (916) 852-8970
Fax: (916) 852-8978

Ms. Ginny Brummels
State Controller's Office (B-08)
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816
Tel: (916) 324-0256
Fax: (916) 323-6527

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814
Tel: (916) 445-0328
Fax: (916) 323-9530

Ms. Susan Geanacou
Department of Finance (A-15)
915 L Street, Suite 1190
Sacramento, CA 95814
Tel: (916) 445-3274
Fax: (916) 324-4888

Mr. J. Bradley Burgess
Public Resource Management Group
895 La Sierra Drive
Sacramento, CA 95864
Tel: (916) 595-2646
Fax:

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

Claimant Representative
Tel: (916) 565-6104
Fax: (916) 564-6103

MAILED: 5/6 FAXED: _____
DATE: 5/6 INITIAL: LD
CHRON: ✓ FILE: _____
WORKING BINDER: _____

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EXHIBIT Q

June 23, 2008

Mr. Erik Skinner
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

And Interested Parties and Affected State Agencies

Re: Request for Comments
Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
(See attachment for a complete pleadings list)
Los Rios Community College District and
Santa Monica Community College District,
West Kern Community College District, Co-claimants

Dear Mr. Skinner:

On April 21, 2008, staff issued the attached letter requesting additional information from the Department of Finance and/or the Chancellor's Office by May 2, 2008. On May 6, 2008, the Department of Finance responded that it will defer to the Chancellor's Office to supply the requested data, indicating that the Chancellor's Office is responsible for the collection and maintenance of the types of information requested. The Commission has not received a response from the Chancellor's Office as of this date.

This test claim has been tentatively set for hearing on September 26, 2008. In order to keep this test claim on schedule, please submit the information requested in the attached April 21, 2008, Commission letter as soon as possible, but **not later than July 7, 2008**. If you have any questions please contact Kenny Louie at (916) 323-2611.

Sincerely,

PAULA HIGASHI
Executive Director

Attachments: April 21, 2008 Commission Letter, List of Statutes and Executive Orders Pled, and Mailing List.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
IE: (916) 323-3562
(916) 445-0278
E-mail: csminfo@csm.ca.gov

April 21, 2008

Mr. Erik Skinner
California Community Colleges
Chancellor's Office
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Ms. Jeannie Oropeza
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

And Interested Parties and Affected State Agencies

Re: Request for Comments
Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
(See attachment for a complete pleadings list)
Los Rios Community College District and
Santa Monica Community College District,
West Kern Community College District, Co-claimants

Dear Mr. Skinner and Ms. Oropeza:

Staff has reviewed the administrative record of this test claim and determined that the following information is needed to complete an analysis of the claim. Pursuant to the Commission's regulations, all assertions or representations of fact must be supported by documentary evidence, and copies of any law cited and relied upon (with the exception of state mandates statutes and case law) must be included in the comments (Cal. Code Regs., tit. 2, § 1183.02). As a result, staff requests the following:

1. Page 3 of the California Community Colleges, Chancellor's Office comments regarding test claim number 02-TC-31, dated March 11, 2004, provides "Although most community college districts seek state aid in the form of apportionment, districts are not required to do so, and some districts do not receive apportionment."
    a. Please provide a breakdown of what "state aid" consists of. Specifically, what forms of state aid are there other than apportionment?
    b. Beginning in the 2001-2002 fiscal year, provide which community college districts have not sought state aid in the form of apportionment.
    c. Did the districts that did not seek state aid in the form of apportionment receive state aid in any other form of state aid?
    d. If so, what are the sources of the state aid?

e. How much did each of these districts receive for each fiscal year since 2001-2002 from these sources?

f. Beginning in the 2001-2002 fiscal year, provide which community college districts have sought state aid in the form of apportionment.

g. For each fiscal year beginning with 2001-2002, please provide a break down of how much each district has received in state aid in the form of apportionment.

h. For each fiscal year beginning with 2001-2002, please provide a break down of how much each district has received in state aid that was in a form other than apportionment.

2. Page 12 of the March 11, 2004 comments provides that "Claimant is not required to seek funding from the Employment Opportunity Fund."

   a. Are there any districts that do not seek funding from the Employment Opportunity Fund? If so which districts?

   b. For each fiscal year beginning in 2001-2002, how much funding has each district received from the Employment Opportunity Fund? What is the total amount of funding for all districts each fiscal year?

3. Page 18 of the March 11, 2004 comments provides that "Matriculation obligations are directly tied to participation in matriculation funding."

   a. For each fiscal year beginning in 2001-2002, how much is appropriated for matriculation funding?

   b. Please cite to a specific line item and schedule which contains funding for the matriculation obligations in the budget acts for each fiscal year beginning in 2001-2002.

   c. Which districts do not receive matriculation funding?

   d. Which districts receive matriculation funding?

   e. For each fiscal year since 2001-2002, how much has each district received?

4. In regard to "Full-time/Part-time Faculty," page 19 of the March 11, 2004 comments provides, "Amounts were added to the base of the community college districts as Program Improvement monies after the 1989-90 fiscal year."

   a. What was the amount added?

   b. How much did each district receive?

   c. If possible, please cite to a specific line item and schedule which indicates this increase in the 1989-1990 budget act.

Please submit this information as soon as possible, but **not later than May 2, 2008**. If you have any questions please contact Kenny Louie at (916) 323-2611.

Sincerely,

Paula Higashi

PAULA HIGASHI
Executive Director

Attachments: California Community Colleges, Chancellor's Office Comments on Test Claim 02-TC-31, dated March 11, 2004, and Mailing List

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EXHIBIT R

July 7, 2008

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

RE: Response to Request for Comments
Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
(See attachment for a complete pleadings list)
Los Rios Community College District and
Santa Monica Community College District,
West Kern Community College District, Co-claimants

Dear Mr. Petersen:

The California Community Colleges, Chancellor's Office, has submitted the enclosed response to staff's April 21, 2008, letter requesting additional information regarding *Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)*.

If you have questions on the above, please contact Kenny Louie at (916) 323-2611.

Sincerely,

PAULA HIGASHI
Executive Director

Attachments: Chancellor's Office Response, List of Statutes and Executive Orders Pled, and Mailing List

STATE OF CALIFORNIA

DIANE WOODRUFF, CHANCELLOR (INTERIM)

CALIFORNIA COMMUNITY COLLEGES
SYSTEM OFFICE
1102 Q STREET
SACRAMENTO, CA 95814-6511
(916) 445-8752
http://www.cccco.edu

July 7, 2008

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Director Higashi:

This letter responds to your request for additional information concerning test claims titled, *Minimum Conditions for State Aid (02-TC-25 and 02-TC-31).* Below are answers to the questions you posed in your letter concerning these claims.

1. (a) State aid for California Community Colleges other than apportionment consists of categorical funding (twenty three separate categorical funds in the *2007-08 Budget Act* under 6870-101-0001), mandate funding, state teacher retirement system (STRS) funds, and lottery funds. In addition, and for clarity, the state controls through provisions in the state constitution local property tax revenues and directs counties to allocate a share of local property tax dollars to support community college districts. Attached is spreadsheet showing all Proposition 98 funding for the community colleges per the *2007-08 Budget Act* and projected Proposition 98 funding for 2008-09 based on levels proposed in the *2008-09 Governor's May Revision.* The attachment displays the total statewide funding for each of the twenty three categorical programs that are not considered apportionment funds *(Attachment 1).*

   (b) Historically there have been three community college districts that have **not** received state aid through apportionment because their local property tax allocations from their counties are sufficient to meet their funding obligations. We refer to these districts as "basic aid" or non-state general fund districts. These districts are Marin, Mira Costa and South Orange Community College Districts (CCD). At various times over the past seven years, San Mateo CCD also was a "basic aid" district.

   To clarify, these districts did not decline to seek apportionment funding from the state. Rather, they were not eligible and therefore did not receive state apportionment funding because they received local property tax revenue at a sufficient level that state apportionment funding was not required.

   (c) & (d) Yes, they did receive other forms of state aid during this time period in form of categorical funding, STRS funding, and lottery funds.

(e)(f)(g)(h) *Attachment 2- Categorical Funds* provides a breakout of various funding sources for each community college district from 2001-02 through 2007-08. In addition, for your convenience, some of this information is publicly available at the Chancellor's Office Fiscal Services webpage: http://www.cccco.edu/SystemOffice/Divisions/FinanceFacilities/FiscalServices/AllocationsSection/ApportionmentReports/tabid/329/Default.aspx

2. All districts received Employment Opportunity Funds during the period in question. The attachment titled, Employment Opportunity Funds, shows funding by district dating back to 2001-02, *(Attachment 3)*.

3. All districts received Matriculation categorical funding during the periods in question. *Attachment 2* shows Matriculation funding, for both credit and non-credit, by district and cites the statute numbers and schedules for Matriculation funding dating back to 2001-02.

4. $70 million was provided to all districts per Section 36(b) (1) of AB 198, Chapter 83 Statutes of 1989. The attachment titled, Program Improvement, shows funding by district and cites the budget act schedule for 1989-90 *(Attachment 4)*.

Should you have any additional questions, please feel free to call me or my staff, Chris Yatooma at 323-7007 or 324-2564, respectively.

Sincerely,

Erik Skinner
Vice Chancellor for Fiscal Policy

CC: Attachments 1-5

Attachment 1

2008-09 California Community College Proposition 98 Budget
Year-to-Year Comparison - Governor's Budget and May Revision

(dollars in thousands)

BUDGET ITEMS	2007-08 Budget Act	2008-09 Governor's Budget	Change from 2007-08 Budget Act		2008-09 May Revision	Change from 2007-08 Budget Act	
General Apportionment							
General Fund Apportionments	$ 3,279,349	$ 3,240,266	-39,083	-1.2%	[illegible]	[illegible]	2.8%
Growth for Apportionments	107,532	60,118	-47,414	-44.1%	[illegible]	[illegible]	-11.1%
Subtotal General Apportionment	3,386,881	3,300,384	(86,497)	-2.6%	[illegible]	[illegible]	2.3%
Categorical Programs							
Student Success Initiative - Basic Skills	33,100	29,494	(3,606)	-10.9%	[illegible]	[illegible]	-10.9%
Fund for Student Success	6,158	5,487	(671)	-10.9%	[illegible]	[illegible]	-10.9%
Disabled Students	115,011	110,769	(4,242)	-3.7%	[illegible]	[illegible]	-3.7%
Matriculation	101,803	98,049	(3,754)	-3.7%	[illegible]	[illegible]	-3.7%
Extended Opportunity Programs & Services	122,291	117,783	(4,508)	-3.7%	[illegible]	[illegible]	-3.7%
CalWORKs	43,580	38,832	(4,748)	-10.9%	[illegible]	[illegible]	-10.9%
Student Financial Aid Administration	51,640	45,044	(6,596)	-12.8%	[illegible]	[illegible]	-11.4%
Foster Care Education Program	5,254	4,682	(572)	-10.9%	[illegible]	[illegible]	0.0%
Apprenticeship	15,229	14,240	(989)	-6.5%	[illegible]	[illegible]	-10.3%
Academic Senate	467	416	(51)	-10.9%	[illegible]	[illegible]	-10.9%
Equal Employment Opportunity	1,747	1,557	(190)	-10.9%	[illegible]	[illegible]	-10.9%
Part-time Faculty Health Insurance	1,000	891	(109)	-10.9%	[illegible]	[illegible]	-10.9%
Part-time Faculty Compensation	50,828	45,290	(5,538)	-10.9%	[illegible]	[illegible]	-10.9%
Part-time Faculty Office Hours	7,172	6,391	(781)	-10.9%	[illegible]	[illegible]	-10.9%
Telecom & Technology Services	26,197	23,343	(2,854)	-10.9%	[illegible]	[illegible]	-10.9%
Economic Development	46,790	41,692	(5,098)	-10.9%	[illegible]	[illegible]	-10.9%
Transfer Education and Articulation	1,424	1,269	(155)	-10.9%	[illegible]	[illegible]	-10.9%
Physical Plant and Instructional Support	27,345	24,366	(2,979)	-10.9%	[illegible]	[illegible]	-10.9%
Career Technical Education	20,000	17,821	(2,179)	-10.9%	[illegible]	[illegible]	-10.9%
Childcare Tax Bail Out	6,836	6,392	(444)	-6.5%	[illegible]	[illegible]	-6.5%
Nursing Support	22,100	19,692	(2,408)	-10.9%	[illegible]	[illegible]	-10.9%
Subtotal Categorical	705,972	654,008	(52,534)	-7.4%	[illegible]	[illegible]	-7.3%
Total State Apportionment	**4,092,853**	**3,954,392**	(139,031)	-3.4%	[illegible]	[illegible]	0.7%
Property tax assumption	2,056,377	2,196,195	139,818	6.8%	[illegible]	[illegible]	0.1%
Fiscal Crisis Management Assistance Team	570	508	(62)	-10.9%	[illegible]	[illegible]	-10.9%
Lease purchase payments	59,401	68,122	8,721	14.7%	[illegible]	[illegible]	14.7%
Mandates	4,004	4,004	-	0.0%	[illegible]	[illegible]	0.0%
Total Proposition 98 Funding	**6,213,205**	**6,222,713**	9,508	0.2%	[illegible]	[illegible]	0.6%

Notes:

1) General apportionment includes COLA for 2007-08;

2) Governor's Budget provides 11.2% split of Prop. 98; May Revise provides 11.3%

3) Governor's Budget provides 1% for growth; LAO provides 1.67% for growth

4) $10M for CAHSEE included 07-08 growth apportionment item and in 08-09 CAHSEE is included in general apportionment item.

5) May budget proposes two block grants: Student Success & Part-Time Faculty block grants

Attachment 2 - Categorical Funds

California Community Colleges
Categorical Apportionments - Part 1
2007-08 Second Principal Apportionment

06/20/08
Exhibit B-2A

Chps 171/172 - 2007
Schedule - 8

County	District	Fee Waiver Admin. (2%)	Student Financial Aid Admin.	E.O.P.S.	C.A.R.E.	D.S.P.S.	State Hospitals	TANF (GAIN)	Calworks
Alameda	Chabot-Las Positas	$48,147	$575,546	$998,653	$146,996	$1,764,443	$0	$71,167	$529,809
Alameda	Ohlone	$12,110	$215,309	$405,248	$55,590	$1,704,112	$0	$23,750	$108,763
Alameda	Peralta	$96,929	$1,094,684	$3,108,361	$605,355	$2,504,225	$0	$253,809	$858,989
Alameda Total		$157,186	$1,885,539	$4,512,262	$807,941	$5,972,780	$0	$348,726	$1,497,561
Butte	Butte	$53,465	$487,355	$1,514,055	$381,786	$810,570	$0	$146,935	$765,809
Butte Total		$53,465	$487,355	$1,514,055	$381,786	$810,570	$0	$146,935	$765,809
Contra Costa	Contra Costa	$16,393	$935,322	$2,972,538	$429,648	$2,855,692	$0	$145,171	$802,493
Contra Costa Total		$16,393	$935,322	$2,972,538	$429,648	$2,855,692	$0	$145,171	$802,493
El Dorado	Lake Tahoe	$4,514	$107,779	$152,200	$22,331	$463,143	$0	$23,750	$63,250
El Dorado Total		$4,514	$107,779	$152,200	$22,331	$463,143	$0	$23,750	$63,250
Fresno	State Center	$166,879	$1,352,138	$2,850,611	$333,735	$2,310,710	$0	$274,183	$1,799,806
Fresno	West Hills	$24,949	$288,698	$797,353	$234,235	$737,884	$0	$47,500	$264,700
Fresno Total		$191,828	$1,640,836	$3,647,964	$567,970	$3,048,594	$0	$321,683	$2,064,506
Humboldt	Redwoods	$23,600	$265,348	$1,067,230	$158,067	$1,070,545	$0	$45,858	$317,346
Humboldt Total		$23,600	$265,348	$1,067,230	$158,067	$1,070,545	$0	$45,858	$317,346
Imperial	Imperial	$46,927	$335,442	$1,303,461	$203,960	$602,813	$0	$61,519	$317,781
Imperial Total		$46,927	$335,442	$1,303,461	$203,960	$602,813	$0	$61,519	$317,781
Kern	Kern	$107,062	$892,145	$2,623,646	$449,346	$2,072,683	$513,403	$180,281	$769,643
Kern	West Kern	$8,934	$139,823	$306,639	$43,008	$364,890	$0	$61,693	$172,715
Kern Total		$115,996	$1,031,968	$2,930,285	$492,354	$2,437,573	$513,403	$241,974	$942,358
Lassen	Lassen	$8,001	$107,690	$415,931	$67,843	$356,948	$0	$26,727	$175,873
Lassen Total		$8,001	$107,690	$415,931	$67,843	$356,948	$0	$26,727	$175,873
Los Angeles	Antelope Valley	$51,066	$443,898	$1,029,952	$311,861	$842,846	$0	$134,228	$770,500
Los Angeles	Cerritos	$92,190	$761,438	$1,109,632	$104,620	$1,920,748	$0	$110,742	$486,165
Los Angeles	Citrus	$43,662	$399,421	$994,748	$207,978	$805,003	$0	$61,016	$378,544
Los Angeles	Compton	$32,319	$308,773	$1,268,979	$624,997	$252,321	$0	$149,679	$724,866
Los Angeles	El Camino	$47,915	$614,240	$1,769,835	$250,759	$1,639,057	$0	$132,211	$649,413
Los Angeles	Glendale	$66,825	$563,523	$1,986,380	$54,772	$1,935,973	$0	$181,422	$1,108,445
Los Angeles	Long Beach	$114,397	$894,288	$1,809,538	$298,731	$1,583,422	$0	$237,859	$1,344,835
Los Angeles	Los Angeles	$538,030	$4,954,508	$13,302,122	$1,397,093	$6,417,213	$0	$1,015,051	$5,526,674
Los Angeles	Mt. San Antonio	$90,366	$851,795	$1,040,322	$191,545	$2,169,269	$0	$106,357	$499,242
Los Angeles	Pasadena Area	$112,898	$840,481	$1,355,666	$138,088	$1,380,660	$0	$110,846	$707,389
Los Angeles	Rio Hondo	$53,285	$463,726	$1,572,592	$195,343	$811,932	$0	$72,723	$420,608
Los Angeles	Santa Clarita	$25,314	$302,520	$483,882	$58,720	$655,099	$0	$23,750	$80,971
Los Angeles	Santa Monica	$75,528	$676,833	$1,409,659	$102,961	$1,523,248	$0	$79,378	$371,487
Los Angeles Total		$1,343,795	$12,075,444	$29,133,307	$3,937,468	$21,936,791	$0	$2,415,262	$13,069,139
Marin	Marin	$15,044	$186,645	$604,138	$68,637	$1,432,774	$0	$26,821	$167,777
Marin Total		$15,044	$186,645	$604,138	$68,637	$1,432,774	$0	$26,821	$167,777
Mendocino	Mendocino-Lake	$14,738	$182,961	$450,125	$66,955	$488,749	$0	$32,456	$183,955
Mendocino Total		$14,738	$182,961	$450,125	$66,955	$488,749	$0	$32,456	$183,955
Merced	Merced	$43,127	$378,248	$1,469,873	$275,551	$866,747	$0	$132,792	$731,523
Merced Total		$43,127	$378,248	$1,469,873	$275,551	$866,747	$0	$132,792	$731,523
Monterey	Hartnell	$22,686	$281,763	$808,980	$179,699	$660,375	$0	$42,539	$396,700
Monterey	Monterey Peninsula	$14,600	$209,171	$931,429	$111,001	$930,090	$0	$25,407	$157,291
Monterey Total		$37,286	$490,934	$1,740,409	$290,700	$1,590,465	$0	$67,946	$553,991
Napa	Napa Valley	$14,512	$215,815	$670,203	$90,532	$1,979,302	$0	$23,750	$167,324
Napa Total		$14,512	$215,815	$670,203	$90,532	$1,979,302	$0	$23,750	$167,324
Orange	Coast	$123,087	$1,292,000	$3,193,577	$208,270	$2,849,918	$884,819	$124,252	$801,573
Orange	North Orange County	$102,049	$1,024,676	$2,464,121	$312,314	$2,651,704	$0	$133,264	$813,445
Orange	Rancho Santiago	$70,026	$965,815	$2,178,894	$133,347	$2,482,846	$0	$153,882	$673,264
Orange	South Orange County	$41,639	$584,865	$1,584,028	$135,494	$2,219,606	$0	$47,500	$222,947
Orange Total		$336,801	$3,867,356	$9,420,620	$789,425	$10,204,074	$884,819	$458,898	$2,511,229
Placer	Sierra	$48,771	$469,648	$799,172	$184,467	$1,341,627	$0	$56,057	$345,148
Placer Total		$48,771	$469,648	$799,172	$184,467	$1,341,627	$0	$56,057	$345,148
Plumas	Feather River	$3,833	$90,415	$239,468	$40,470	$292,992	$0	$23,750	$101,250
Plumas Total		$3,833	$90,415	$239,468	$40,470	$292,992	$0	$23,750	$101,250
Riverside	Desert	$27,916	$274,040	$489,601	$107,235	$749,257	$0	$40,891	$51,302
Riverside	Mt. San Jacinto	$41,193	$386,579	$714,786	$181,939	$673,378	$0	$65,412	$435,656
Riverside	Palo Verde	$9,051	$110,635	$416,401	$53,537	$239,498	$0	$23,750	$102,123
Riverside	Riverside	$97,589	$867,210	$796,347	$105,618	$1,814,136	$0	$119,841	$686,969
Riverside Total		$175,749	$1,638,464	$2,417,135	$448,329	$3,476,269	$0	$249,894	$1,276,050
Sacramento	Los Rios	$252,954	$2,223,568	$4,658,656	$780,682	$5,064,497	$0	$502,537	$2,433,087
Sacramento Total		$252,954	$2,223,568	$4,658,656	$780,682	$5,064,497	$0	$502,537	$2,433,087

County	District	Fee Waiver Admin. (2%)	Student Financial Aid Admin.	E.O.P.S.	C.A.R.E.	D.S.P.S.	State Hospitals	TANF (GAIN)	Calworks
San Bernardino	Barstow	$14,430	$156,356	$496,838	$102,456	$236,684	$0	$23,866	$134,741
San Bernardino	Chaffey	$49,247	$486,733	$1,047,807	$134,295	$1,171,327	$0	$77,509	$439,431
San Bernardino	Copper Mt.	$6,846	$100,618	$217,622	$72,885	$258,716	$0	$23,750	$61,914
San Bernardino	San Bernardino	$78,756	$715,032	$1,324,811	$204,384	$1,219,270	$0	$169,992	$1,052,133
San Bernardino	Victor Valley	$38,696	$409,618	$1,030,235	$270,047	$833,151	$0	$114,099	$624,182
San Bernardino Total		$187,975	$1,868,357	$4,117,313	$784,067	$3,719,148	$0	$409,216	$2,312,401
San Diego	Grossmont-Cuyamaca	$69,259	$714,978	$1,747,223	$294,291	$1,928,170	$0	$97,640	$613,002
San Diego	Mira Costa	$21,061	$234,911	$782,128	$115,265	$712,144	$0	$36,693	$400,431
San Diego	Palomar	$41,784	$514,708	$1,305,854	$145,042	$1,396,614	$0	$57,000	$340,714
San Diego	San Diego	$139,184	$1,622,142	$2,319,000	$230,249	$4,523,200	$0	$430,473	$1,503,881
San Diego	Southwestern	$77,617	$608,170	$2,383,811	$207,405	$1,361,761	$0	$65,048	$417,877
San Diego Total		$348,905	$3,694,909	$8,538,016	$992,252	$9,921,889	$0	$686,854	$3,275,905
San Francisco	San Francisco	$92,920	$1,038,935	$1,831,079	$101,539	$3,007,918	$0	$163,001	$848,564
San Francisco Total		$92,920	$1,038,935	$1,831,079	$101,539	$3,007,918	$0	$163,001	$848,564
San Joaquin	San Joaquin Delta	$83,116	$659,647	$1,707,326	$362,942	$2,006,611	$0	$174,778	$837,014
San Joaquin Total		$83,116	$659,647	$1,707,326	$362,942	$2,006,611	$0	$174,778	$837,014
San Luis Obispo	San Luis Obispo	$31,468	$321,500	$498,101	$113,282	$948,724	$0	$28,331	$175,388
San Luis Obispo Total		$31,468	$321,500	$498,101	$113,282	$948,724	$0	$28,331	$175,388
San Mateo	San Mateo	$62,499	$790,546	$1,836,000	$121,596	$1,775,723	$0	$71,250	$303,750
San Mateo Total		$62,499	$790,546	$1,836,000	$121,596	$1,775,723	$0	$71,250	$303,750
Santa Barbara	Allan Hancock	$35,226	$312,452	$734,043	$394,066	$1,085,239	$0	$72,957	$561,198
Santa Barbara	Santa Barbara	$49,491	$492,292	$1,295,537	$128,290	$1,121,808	$0	$40,809	$221,308
Santa Barbara Total		$84,717	$804,744	$2,029,580	$522,356	$2,207,047	$0	$113,766	$782,506
Santa Clara	Foothill-DeAnza	$66,743	$961,953	$1,974,631	$190,893	$4,333,222	$0	$82,956	$495,357
Santa Clara	Gavilan	$18,738	$206,643	$560,662	$183,154	$715,790	$0	$24,832	$182,145
Santa Clara	San Jose-Evergreen	$69,134	$670,531	$1,961,392	$257,697	$1,347,672	$0	$120,189	$845,820
Santa Clara	West Valley-Mission	$33,653	$523,535	$1,368,935	$150,608	$1,442,977	$303,778	$56,670	$351,066
Santa Clara Total		$188,268	$2,362,662	$5,865,620	$782,352	$7,839,661	$303,778	$284,647	$1,874,388
Santa Cruz	Cabrillo	$36,424	$388,024	$528,200	$141,681	$1,852,778	$0	$42,368	$268,939
Santa Cruz Total		$36,424	$388,024	$528,200	$141,681	$1,852,778	$0	$42,368	$268,939
Shasta	Shasta-Tehama-Trinity	$28,392	$354,023	$1,217,551	$132,168	$788,502	$0	$82,469	$520,869
Shasta Total		$28,392	$354,023	$1,217,551	$132,168	$788,502	$0	$82,469	$520,869
Siskiyou	Siskiyou	$11,085	$148,364	$436,086	$79,311	$365,785	$0	$26,752	$98,429
Siskiyou Total		$11,085	$148,364	$436,086	$79,311	$365,785	$0	$26,752	$98,429
Solano	Solano	$0	$300,664	$543,638	$87,551	$865,304	$0	$46,137	$287,359
Solano Total		$0	$300,664	$543,638	$87,551	$865,304	$0	$46,137	$287,359
Sonoma	Sonoma	$55,710	$594,712	$749,001	$90,356	$3,138,270	$0	$78,796	$456,585
Sonoma Total		$55,710	$594,712	$749,001	$90,356	$3,138,270	$0	$78,796	$456,585
Stanislaus	Yosemite	$80,784	$684,261	$1,899,280	$251,522	$2,108,087	$0	$138,000	$712,464
Stanislaus Total		$80,784	$684,261	$1,899,280	$251,522	$2,108,087	$0	$138,000	$712,464
Tulare	Sequoias	$48,580	$383,047	$1,169,988	$234,768	$947,854	$0	$90,109	$701,829
Tulare Total		$48,580	$383,047	$1,169,988	$234,768	$947,854	$0	$90,109	$701,829
Ventura	Ventura	$90,537	$973,085	$2,357,456	$332,089	$3,979,878	$0	$99,760	$836,014
Ventura Total		$90,537	$973,085	$2,357,456	$332,089	$3,979,878	$0	$99,760	$836,014
Yuba	Yuba	$0	$385,743	$1,342,715	$266,036	$757,517	$0	$106,760	$607,222
Yuba Total		$0	$385,743	$1,342,715	$266,036	$757,517	$0	$106,760	$607,222
Grand Total	**Statewide**	**$4,335,900**	**$44,370,000**	**$106,785,982**	**$15,500,984**	**$112,523,641**	**$1,702,000**	**$7,995,500**	**$43,387,076**

California Community Colleges
Categorical Apportionments - Part 2
2007-08 Second Principal Apportionment

County	District	Credit Matriculation	Noncredit Matriculation	Faculty & Staff Diversity	Telecomm And Technology	Instruct. Equip. & Library	Part-Time Faculty Allocation	Scheduled Maintenance & Repair
Alameda	Chabot-Las Positas	$1,233,753	$0	$18,817	$99,186	$190,028	$729,253	$190,046
Alameda	Ohlone	$549,329	$0	$13,026	$45,183	$100,000	$366,647	$100,000
Alameda	Peralta	$1,902,918	$0	$20,054	$189,552	$208,118	$789,302	$208,136
Alameda Total		$3,686,000	$0	$51,897	$333,921	$498,146	$1,885,202	$498,182
Butte	Butte	$629,324	$213,266	$14,832	$7,416,293	$120,292	$552,370	$120,303
Butte Total		$629,324	$213,266	$14,832	$7,416,293	$120,292	$552,370	$120,303
Contra Costa	Contra Costa	$1,895,435	$951	$26,530	$144,369	$278,732	$1,458,983	$278,757
Contra Costa Total		$1,895,435	$951	$26,530	$144,369	$278,732	$1,458,983	$278,757
El Dorado	Lake Tahoe	$192,597	$28,091	$8,402	$45,183	$100,000	$97,197	$100,000
El Dorado Total		$192,597	$28,091	$8,402	$45,183	$100,000	$97,197	$100,000
Fresno	State Center	$1,719,260	$21,335	$25,285	$99,186	$285,998	$1,105,044	$286,024
Fresno	West Hills	$468,945	$0	$10,701	$90,366	$100,000	$162,981	$100,000
Fresno Total		$2,188,205	$21,335	$35,986	$189,552	$385,998	$1,268,025	$386,024
Humboldt	Redwoods	$327,433	$1,147	$10,386	$45,183	$100,000	$263,346	$100,000
Humboldt Total		$327,433	$1,147	$10,386	$45,183	$100,000	$263,346	$100,000
Imperial	Imperial	$463,193	$61,056	$11,933	$45,183	$100,000	$238,509	$100,000
Imperial Total		$463,193	$61,056	$11,933	$45,183	$100,000	$238,509	$100,000
Kern	Kern	$1,424,814	$30,303	$19,842	$144,369	$199,704	$796,395	$199,722
Kern	West Kern	$807,401	$32,227	$8,725	$45,183	$100,000	$97,197	$100,000
Kern Total		$2,232,215	$62,530	$28,567	$189,552	$299,704	$893,592	$299,722
Lassen	Lassen	$106,169	$8,272	$8,399	$45,183	$100,000	$114,640	$100,000
Lassen Total		$106,169	$8,272	$8,399	$45,183	$100,000	$114,640	$100,000
Los Angeles	Antelope Valley	$763,488	$12,776	$14,483	$45,183	$117,981	$398,122	$117,992
Los Angeles	Cerritos	$1,064,787	$192,996	$18,637	$45,183	$181,052	$788,495	$181,069
Los Angeles	Citrus	$868,487	$203,642	$15,197	$45,183	$129,749	$519,462	$129,761
Los Angeles	Compton	$337,669	$0	$9,148	$45,183	$100,000	$288,448	$100,000
Los Angeles	El Camino	$1,235,268	$0	$19,920	$45,183	$210,895	$848,408	$210,914
Los Angeles	Glendale	$721,723	$815,757	$17,275	$45,183	$160,478	$702,164	$160,492
Los Angeles	Long Beach	$1,275,629	$255,894	$21,889	$45,183	$232,250	$937,446	$232,271
Los Angeles	Los Angeles	$7,293,940	$983,160	$77,574	$415,467	$1,119,792	$4,427,138	$1,119,893
Los Angeles	Mt. San Antonio	$1,529,098	$1,457,110	$27,451	$45,183	$326,359	$1,141,544	$326,389
Los Angeles	Pasadena Area	$1,699,292	$401,880	$22,693	$45,183	$243,411	$998,221	$243,433
Los Angeles	Rio Hondo	$1,284,180	$406,753	$16,031	$45,183	$143,964	$534,759	$143,977
Los Angeles	Santa Clarita	$984,214	$70,515	$16,238	$45,183	$145,199	$420,171	$145,212
Los Angeles	Santa Monica	$1,436,312	$47,338	$22,238	$45,183	$241,048	$1,000,440	$241,070
Los Angeles Total		$20,294,087	$4,847,821	$298,774	$957,663	$3,352,178	$13,004,818	$3,352,473
Marin	Marin	$380,323	$158,147	$10,087	$45,183	$100,000	$324,991	$100,000
Marin Total		$380,323	$158,147	$10,087	$45,183	$100,000	$324,991	$100,000
Mendocino	Mendocino-Lake	$270,095	$21,171	$9,322	$45,183	$100,000	$124,209	$100,000
Mendocino Total		$270,095	$21,171	$9,322	$45,183	$100,000	$124,209	$100,000
Merced	Merced	$603,253	$217,729	$13,705	$45,183	$100,738	$409,045	$100,747
Merced Total		$603,253	$217,729	$13,705	$45,183	$100,738	$409,045	$100,747
Monterey	Hartnell	$534,515	$0	$11,742	$45,183	$100,000	$319,164	$100,000
Monterey	Monterey Peninsula	$505,670	$142,464	$13,075	$45,183	$100,000	$395,523	$100,000
Monterey Total		$1,040,185	$142,464	$24,817	$90,366	$200,000	$714,687	$200,000
Napa	Napa Valley	$394,068	$184,765	$11,372	$45,183	$100,000	$263,385	$100,000
Napa Total		$394,068	$184,765	$11,372	$45,183	$100,000	$263,385	$100,000
Orange	Coast	$2,567,866	$145,576	$31,252	$144,369	$379,810	$1,584,432	$379,844
Orange	North Orange County	$1,791,719	$1,495,153	$31,360	$99,186	$380,288	$1,561,487	$380,322
Orange	Rancho Santiago	$2,846,733	$2,362,015	$28,622	$99,186	$343,758	$1,381,015	$343,789
Orange	South Orange County	$1,489,695	$109,950	$22,965	$90,366	$250,825	$1,005,110	$250,848
Orange Total		$8,696,013	$4,112,694	$114,199	$433,107	$1,354,681	$5,532,044	$1,354,803
Placer	Sierra	$1,020,728	$0	$17,177	$45,183	$157,734	$564,871	$157,748
Placer Total		$1,020,728	$0	$17,177	$45,183	$157,734	$564,871	$157,748
Plumas	Feather River	$82,785	$737	$8,229	$45,183	$100,000	$97,197	$100,000
Plumas Total		$82,785	$737	$8,229	$45,183	$100,000	$97,197	$100,000

California Community Colleges
Categorical Apportionments - Part 2
2007-08 Second Principal Apportionment

County	District	Credit Matriculation	Noncredit Matriculation	Faculty & Staff Diversity	Telecomm And Technology	Instruct. Equip. & Library	Part-Time Faculty Allocation	Scheduled Maintenance & Repair
Riverside	Desert	$484,702	$214,126	$12,555	$45,183	$100,000	$282,131	$100,000
Riverside	Mt. San Jacinto	$691,731	$80,916	$13,828	$45,183	$105,620	$327,277	$105,629
Riverside	Palo Verde	$340,120	$46,805	$8,459	$45,183	$100,000	$97,197	$100,000
Riverside	Riverside	$1,752,515	$164	$23,541	$45,183	$261,729	$1,083,773	$261,753
Riverside Total		$3,269,068	$342,011	$58,383	$180,732	$567,349	$1,790,378	$567,382
Sacramento	Los Rios	$4,615,967	$0	$41,143	$189,552	$558,443	$1,997,475	$558,493
Sacramento Total		$4,615,967	$0	$41,143	$189,552	$558,443	$1,997,475	$558,493
San Bernardino	Barstow	$189,119	$17,485	$8,864	$45,183	$100,000	$97,197	$100,000
San Bernardino	Chaffey	$1,020,258	$36,773	$17,049	$45,183	$153,568	$591,547	$153,582
San Bernardino	Copper Mt.	$70,266	$0	$8,209	$45,183	$100,000	$97,197	$100,000
San Bernardino	San Bernardino	$1,000,976	$0	$16,683	$99,186	$150,420	$639,324	$150,433
San Bernardino	Victor Valley	$561,130	$29,566	$13,534	$45,183	$100,000	$398,461	$100,000
San Bernardino Total		$2,841,749	$83,824	$64,339	$279,918	$603,988	$1,823,726	$604,015
San Diego	Grossmont-Cuyamaca	$1,362,196	$139,761	$19,821	$99,186	$197,101	$780,847	$197,119
San Diego	Mira Costa	$597,696	$273,748	$12,774	$45,183	$100,000	$337,144	$100,000
San Diego	Palomar	$1,334,983	$351,348	$20,692	$45,183	$211,922	$838,297	$211,941
San Diego	San Diego	$3,106,622	$3,215,159	$35,631	$144,369	$452,165	$1,926,575	$452,206
San Diego	Southwestern	$1,051,320	$136,690	$17,762	$45,183	$167,694	$653,332	$167,709
San Diego Total		$7,452,817	$4,116,706	$106,680	$379,104	$1,128,882	$4,536,195	$1,128,975
San Francisco	San Francisco	$1,631,669	$2,936,415	$32,377	$54,003	$397,535	$1,686,620	$397,571
San Francisco Total		$1,631,669	$2,936,415	$32,377	$54,003	$397,535	$1,686,620	$397,571
San Joaquin	San Joaquin Delta	$981,178	$157,410	$18,065	$45,183	$172,289	$668,433	$172,305
San Joaquin Total		$981,178	$157,410	$18,065	$45,183	$172,289	$668,433	$172,305
San Luis Obispo	San Luis Obispo	$620,393	$47,952	$13,642	$45,183	$100,975	$388,356	$100,984
San Luis Obispo Total		$620,393	$47,952	$13,642	$45,183	$100,975	$388,356	$100,984
San Mateo	San Mateo	$1,467,776	$0	$22,068	$144,369	$231,948	$938,479	$231,969
San Mateo Total		$1,467,776	$0	$22,068	$144,369	$231,948	$938,479	$231,969
Santa Barbara	Allan Hancock	$643,534	$454,090	$13,798	$45,183	$104,615	$418,022	$104,624
Santa Barbara	Santa Barbara	$906,829	$894,135	$18,028	$45,183	$170,013	$624,301	$170,029
Santa Barbara Total		$1,550,363	$1,348,225	$31,826	$90,366	$274,628	$1,042,323	$274,653
Santa Clara	Foothill-DeAnza	$2,406,436	$103,029	$29,735	$90,366	$353,385	$1,475,772	$353,416
Santa Clara	Gavilan	$460,546	$28,460	$10,656	$45,183	$100,000	$206,293	$100,000
Santa Clara	San Jose-Evergreen	$1,308,898	$0	$17,255	$99,186	$159,105	$666,535	$159,119
Santa Clara	West Valley-Mission	$1,271,017	$82,964	$19,749	$90,366	$174,198	$785,215	$174,214
Santa Clara Total		$5,446,897	$214,453	$77,395	$325,101	$786,688	$3,133,815	$786,749
Santa Cruz	Cabrillo	$709,930	$12,817	$14,961	$45,183	$125,165	$495,146	$125,176
Santa Cruz Total		$709,930	$12,817	$14,961	$45,183	$125,165	$495,146	$125,176
Shasta	Shasta-Tehama-Trinity	$483,230	$9,459	$12,187	$45,183	$100,000	$368,306	$100,000
Shasta Total		$483,230	$9,459	$12,187	$45,183	$100,000	$368,306	$100,000
Siskiyou	Siskiyou	$169,596	$164	$8,882	$45,183	$100,000	$117,425	$100,000
Siskiyou Total		$169,596	$164	$8,882	$45,183	$100,000	$117,425	$100,000
Solano	Solano	$649,087	$13,964	$13,628	$45,183	$100,000	$373,804	$100,000
Solano Total		$649,087	$13,964	$13,628	$45,183	$100,000	$373,804	$100,000
Sonoma	Sonoma	$1,369,186	$402,166	$21,404	$45,183	$223,193	$920,304	$223,214
Sonoma Total		$1,369,186	$402,166	$21,404	$45,183	$223,193	$920,304	$223,214
Stanislaus	Yosemite	$1,066,363	$122,931	$18,762	$99,186	$181,752	$753,662	$181,768
Stanislaus Total		$1,066,363	$122,931	$18,762	$99,186	$181,752	$753,662	$181,768
Tulare	Sequoias	$610,670	$0	$12,768	$45,183	$100,000	$396,558	$100,000
Tulare Total		$610,670	$0	$12,768	$45,183	$100,000	$396,558	$100,000
Ventura	Ventura	$1,747,903	$63,718	$24,434	$144,369	$270,962	$1,207,516	$270,987
Ventura Total		$1,747,903	$63,718	$24,434	$144,369	$270,962	$1,207,516	$270,987
Yuba	Yuba	$585,520	$39,803	$12,690	$45,183	$100,000	$382,368	$100,000
Yuba Total		$585,520	$39,803	$12,690	$45,183	$100,000	$382,368	$100,000
Grand Total	**Statewide**	**$81,771,470**	**$19,994,194**	**$1,310,248**	**$12,500,000**	**$13,672,000**	**$50,828,000**	**$13,673,000**

County	District	Economic Development	Nursing Education Program	Other Adjustments	PT Faculty Office Hours	PT Faculty Insurance	Basic Skills	State Career Technical Education
Alameda	Chabot-Las Positas	$205,000	$295,319	$0	$0	$0	$374,134	$0
Alameda	Ohlone	$299,735	$310,534	$0	$0	$0	$100,000	$198,176
Alameda	Peralta	$407,135	$598,171	$0	$88,156	$41,286	$451,555	$0
Alameda Total		$911,870	$1,204,024	$0	$88,156	$41,286	$925,689	$198,176
Butte	Butte	$1,193,500	$355,602	$0	$11,976	$0	$106,615	$200,000
Butte Total		$1,193,500	$355,602	$0	$11,976	$0	$106,615	$200,000
Contra Costa	Contra Costa	$759,247	$506,479	$0	$284,361	$97,480	$823,222	$249,978
Contra Costa Total		$759,247	$506,479	$0	$284,361	$97,480	$823,222	$249,978
El Dorado	Lake Tahoe	$41,600	$55,317	$0	$0	$0	$100,000	$0
El Dorado Total		$41,600	$55,317	$0	$0	$0	$100,000	$0
Fresno	State Center	$990,118	$820,576	$0	$0	$0	$480,392	$124,961
Fresno	West Hills	$0	$158,691	$0	$0	$0	$200,000	$150,000
Fresno Total		$990,118	$979,267	$0	$0	$0	$680,392	$274,961
Humboldt	Redwoods	$205,000	$239,598	$0	$0	$0	$100,000	$0
Humboldt Total		$205,000	$239,598	$0	$0	$0	$100,000	$0
Imperial	Imperial	$50,000	$386,592	$0	$0	$0	$402,784	$0
Imperial Total		$50,000	$386,592	$0	$0	$0	$402,784	$0
Kern	Kern	$696,474	$1,761,414	$0	$0	$0	$507,361	$125,000
Kern	West Kern	$0	$55,579	$0	$9,750	$0	$100,000	$0
Kern Total		$696,474	$1,816,993	$0	$9,750	$0	$607,361	$125,000
Lassen	Lassen	$41,666	$56,780	$0	$0	$0	$100,000	$0
Lassen Total		$41,666	$56,780	$0	$0	$0	$100,000	$0
Los Angeles	Antelope Valley	$0	$505,755	$0	$94,709	$16,424	$405,310	$0
Los Angeles	Cerritos	$663,565	$367,532	$0	$0	$0	$347,069	$198,907
Los Angeles	Citrus	$205,000	$340,540	$0	$7,799	$759	$340,744	$125,000
Los Angeles	Compton	$0	$342,131	$0	$0	$0	$100,000	$0
Los Angeles	El Camino	$1,419,474	$508,099	$0	$0	$1,308	$376,149	$0
Los Angeles	Glendale	$0	$546,527	$0	$296,428	$22,866	$655,860	$75,000
Los Angeles	Long Beach	$1,495,486	$792,059	$0	$0	$0	$568,890	$250,000
Los Angeles	Los Angeles	$2,070,008	$1,911,204	$0	$2,937,498	$93,894	$3,227,912	$199,996
Los Angeles	Mt. San Antonio	$1,014,981	$924,407	$0	$115,899	$16,387	$1,497,910	$74,856
Los Angeles	Pasadena Area	$531,000	$494,772	$0	$0	$0	$359,560	$0
Los Angeles	Rio Hondo	$676,882	$376,584	$0	$0	$0	$558,323	$0
Los Angeles	Santa Clarita	$1,155,010	$717,382	$0	$0	$0	$299,359	$224,970
Los Angeles	Santa Monica	$650,000	$231,324	$0	$79,202	$88,519	$640,128	$125,000
Los Angeles Total		$9,881,406	$8,058,316	$0	$3,531,535	$240,157	$9,377,214	$1,273,729
Marin	Marin	$0	$218,921	$1,667,129	$205,801	$40,898	$100,000	$75,000
Marin Total		$0	$218,921	$1,667,129	$205,801	$40,898	$100,000	$75,000
Mendocino	Mendocino-Lake	$0	$273,096	$0	$7,495	$0	$100,000	$0
Mendocino Total		$0	$273,096	$0	$7,495	$0	$100,000	$0
Merced	Merced	$591,000	$315,817	$0	$0	$0	$689,515	$0
Merced Total		$591,000	$315,817	$0	$0	$0	$689,515	$0
Monterey	Hartnell	$535,336	$439,407	$0	$0	$0	$100,000	$0
Monterey	Monterey Peninsula	$0	$284,830	$0	$6,880	$0	$112,809	$0
Monterey Total		$535,336	$724,237	$0	$6,880	$0	$212,809	$0
Napa	Napa Valley	$500,206	$350,918	$0	$0	$0	$100,000	$125,000
Napa Total		$500,206	$350,918	$0	$0	$0	$100,000	$125,000
Orange	Coast	$205,000	$752,386	$0	$0	$85,582	$410,246	$512,014
Orange	North Orange County	$2,130,693	$388,393	$0	$0	$0	$1,206,862	$0
Orange	Rancho Santiago	$765,000	$352,510	$0	$0	$0	$1,287,715	$75,000
Orange	South Orange County	$205,000	$303,307	$5,258,465	$0	$13,955	$244,521	$525,000
Orange Total		$3,305,693	$1,796,596	$5,258,465	$0	$99,537	$3,149,344	$1,112,014
Placer	Sierra	$838,500	$168,242	$0	$44,748	$0	$160,593	$250,000
Placer Total		$838,500	$168,242	$0	$44,748	$0	$160,593	$250,000
Plumas	Feather River	$41,666	$56,301	$0	$0	$0	$100,000	$0
Plumas Total		$41,666	$56,301	$0	$0	$0	$100,000	$0
Riverside	Desert	$582,500	$891,550	$0	$44,013	$0	$437,895	$25,000
Riverside	Mt. San Jacinto	$0	$296,483	$0	$0	$0	$182,256	$125,000
Riverside	Palo Verde	$0	$59,794	$0	$0	$0	$100,000	$0
Riverside	Riverside	$874,500	$952,540	$0	$135,677	$14,768	$677,465	$199,926
Riverside Total		$1,457,000	$2,200,367	$0	$179,690	$14,768	$1,397,616	$349,926
Sacramento	Los Rios	$1,882,687	$531,659	$0	$0	$0	$774,631	$650,276
Sacramento Total		$1,882,687	$531,659	$0	$0	$0	$774,631	$650,276

County	District	Economic Development	Nursing Education Program	Other Adjustments	PT Faculty Office Hours	PT Faculty Insurance	Basic Skills	State Career Technical Education
San Bernardino	Barstow	$0	$56,685	$0	$0	$0	$100,000	$0
San Bernardino	Chaffey	$224,382	$172,000	$0	$0	$0	$382,914	$458,000
San Bernardino	Copper Mt.	$0	$136,519	$0	$0	$0	$100,000	$0
San Bernardino	San Bernardino	$927,500	$141,077	$0	$29,107	$0	$258,844	$0
San Bernardino	Victor Valley	$0	$457,603	$0	$0	$0	$105,684	$75,000
San Bernardino Total		$1,151,882	$963,884	$0	$29,107	$0	$947,442	$533,000
San Diego	Grossmont-Cuyamaca	$1,172,890	$354,220	$0	$0	$0	$470,242	$0
San Diego	Mira Costa	$50,000	$398,384	$1,675,093	$21,386	$2,140	$258,752	$74,988
San Diego	Palomar	$0	$278,224	$0	$0	$0	$417,872	$0
San Diego	San Diego	$1,206,000	$127,559	$0	$98,204	$97,578	$1,486,123	$175,000
San Diego	Southwestern	$355,000	$373,945	$0	$0	$10,949	$1,052,831	$0
San Diego Total		$2,783,890	$1,532,332	$1,675,093	$119,590	$110,667	$3,685,820	$249,988
San Francisco	San Francisco	$1,781,055	$354,555	$0	$0	$157,979	$2,136,690	$74,772
San Francisco Total		$1,781,055	$354,555	$0	$0	$157,979	$2,136,690	$74,772
San Joaquin	San Joaquin Delta	$401,666	$353,853	$0	$0	$0	$439,416	$0
San Joaquin Total		$401,666	$353,853	$0	$0	$0	$439,416	$0
San Luis Obispo	San Luis Obispo	$91,666	$281,743	$0	$52,843	$22,669	$111,524	$124,565
San Luis Obispo Total		$91,666	$281,743	$0	$52,843	$22,669	$111,524	$124,565
San Mateo	San Mateo	$1,823,544	$264,757	$0	$661,896	$9,295	$513,826	$125,000
San Mateo Total		$1,823,544	$264,757	$0	$661,896	$9,295	$513,826	$125,000
Santa Barbara	Allan Hancock	$310,647	$204,948	$0	$0	$0	$133,056	$199,812
Santa Barbara	Santa Barbara	$781,693	$323,122	$0	$0	$713	$503,223	$124,844
Santa Barbara Total		$1,092,340	$528,070	$0	$0	$713	$636,279	$324,656
Santa Clara	Foothill-DeAnza	$791,317	$218,378	$0	$292,554	$67,983	$280,183	$0
Santa Clara	Gavilan	$246,666	$179,525	$0	$0	$0	$110,635	$0
Santa Clara	San Jose-Evergreen	$172,500	$305,250	$0	$0	$0	$374,581	$125,000
Santa Clara	West Valley-Mission	$2,355,623	$261,415	$0	$351,027	$3,686	$311,831	$124,992
Santa Clara Total		$3,566,106	$964,568	$0	$643,581	$71,669	$1,077,230	$249,992
Santa Cruz	Cabrillo	$150,000	$346,372	$0	$37,935	$14,455	$183,876	$200,000
Santa Cruz Total		$150,000	$346,372	$0	$37,935	$14,455	$183,876	$200,000
Shasta	Shasta-Tehama-Trinity	$530,437	$330,043	$0	$22,555	$0	$100,000	$199,999
Shasta Total		$530,437	$330,043	$0	$22,555	$0	$100,000	$199,999
Siskiyou	Siskiyou	$0	$300,538	$0	$0	$0	$100,000	$125,000
Siskiyou Total		$0	$300,538	$0	$0	$0	$100,000	$125,000
Solano	Solano	$150,000	$207,650	$0	$0	$0	$116,032	$124,750
Solano Total		$150,000	$207,650	$0	$0	$0	$116,032	$124,750
Sonoma	Sonoma	$150,000	$607,816	$0	$1,196,387	$78,427	$364,979	$458,000
Sonoma Total		$150,000	$607,816	$0	$1,196,387	$78,427	$364,979	$458,000
Stanislaus	Yosemite	$265,784	$347,178	$0	$0	$0	$342,907	$124,705
Stanislaus Total		$265,784	$347,178	$0	$0	$0	$342,907	$124,705
Tulare	Sequoias	$139,280	$79,307	$0	$4,145	$0	$212,907	$200,000
Tulare Total		$139,280	$79,307	$0	$4,145	$0	$212,907	$200,000
Ventura	Ventura	$1,313,500	$789,977	$0	$20,822	$0	$317,384	$150,000
Ventura Total		$1,313,500	$789,977	$0	$20,822	$0	$317,384	$150,000
Yuba	Yuba	$592,743	$318,114	$0	$12,747	$0	$205,923	$200,000
Yuba Total		$592,743	$318,114	$0	$12,747	$0	$205,923	$200,000
Grand Total	**Statewide**	**$39,906,862**	**$28,865,879**	**$8,600,687**	**$7,172,000**	**$1,000,000**	**$31,500,000**	**$8,348,487**

Chaps 47-48 of 2006

Schedule - 8

County	District	Fee Waiver Admin. (2%)	Student Financial Aid Admin.	E.O.P.S.	C.A.R.E.	D.S.P.S.	State Hospitals	TANF (GAIN)	Calworks
Alameda	Chabot-Las Positas	$62,403	$574,441	$933,656	$141,613	$1,666,824	$0	$71,157	$398,053
Alameda	Ohlone	$17,008	$220,741	$371,998	$55,979	$1,738,245	$0	$18,421	$79,737
Alameda	Peralta	$115,960	$1,083,684	$2,862,293	$625,756	$2,527,939	$0	$267,167	$833,267
Alameda Total		$195,371	$1,878,866	$4,167,947	$823,348	$5,933,008	$0	$356,745	$1,311,057
Butte	Butte	$67,676	$496,350	$1,356,088	$370,922	$716,713	$0	$146,915	$843,155
Butte Total		$67,676	$496,350	$1,356,088	$370,922	$716,713	$0	$146,915	$843,155
Contra Costa	Contra Costa	$54,573	$973,089	$2,692,114	$406,291	$2,725,949	$0	$145,151	$737,540
Contra Costa Total		$54,573	$973,089	$2,692,114	$406,291	$2,725,949	$0	$145,151	$737,540
El Dorado	Lake Tahoe	$6,038	$110,017	$143,745	$27,217	$445,263	$0	$12,500	$44,160
El Dorado Total		$6,038	$110,017	$143,745	$27,217	$445,263	$0	$12,500	$44,160
Fresno	State Center	$209,112	$1,270,844	$2,573,448	$293,600	$1,725,642	$0	$274,146	$2,092,920
Fresno	West Hills	$30,290	$281,115	$734,267	$225,842	$610,232	$0	$41,234	$371,364
Fresno Total		$239,402	$1,551,959	$3,307,715	$519,442	$2,335,874	$0	$315,380	$2,464,284
Humboldt	Redwoods	$35,067	$292,492	$959,563	$152,723	$1,093,475	$0	$45,852	$261,895
Humboldt Total		$35,067	$292,492	$959,563	$152,723	$1,093,475	$0	$45,852	$261,895
Imperial	Imperial	$53,139	$313,076	$1,155,287	$191,857	$580,392	$0	$64,625	$312,745
Imperial Total		$53,139	$313,076	$1,155,287	$191,857	$580,392	$0	$64,625	$312,745
Kern	Kern	$136,298	$913,992	$2,456,054	$373,695	$2,188,363	$513,403	$180,257	$857,047
Kern	West Kern	$11,715	$152,041	$292,010	$43,309	$302,520	$0	$64,940	$158,647
Kern Total		$148,013	$1,066,033	$2,748,064	$417,004	$2,490,883	$513,403	$245,197	$1,015,694
Lassen	Lassen	$8,692	$112,475	$382,824	$68,318	$348,746	$0	$26,723	$165,944
Lassen Total		$8,692	$112,475	$382,824	$68,318	$348,746	$0	$26,723	$165,944
Los Angeles	Antelope Valley	$63,142	$442,991	$927,182	$297,531	$809,955	$0	$134,210	$576,693
Los Angeles	Cerritos	$103,999	$745,558	$1,095,924	$99,217	$1,528,975	$0	$110,727	$508,387
Los Angeles	Citrus	$52,906	$404,741	$895,111	$209,436	$658,867	$0	$61,008	$503,257
Los Angeles	Compton	$49,655	$308,873	$1,172,570	$663,958	$275,480	$0	$157,557	$848,481
Los Angeles	El Camino	$75,174	$621,469	$1,568,978	$252,617	$1,513,099	$0	$139,169	$703,860
Los Angeles	Glendale	$81,512	$565,377	$1,832,643	$55,156	$1,877,812	$0	$181,397	$774,060
Los Angeles	Long Beach	$146,652	$894,005	$1,793,109	$300,826	$1,544,367	$0	$237,827	$1,428,377
Los Angeles	Los Angeles	$587,407	$4,964,935	$12,334,564	$1,361,752	$6,127,556	$0	$1,014,913	$6,349,593
Los Angeles	Mt. San Antonio	$108,057	$823,500	$985,843	$148,861	$2,032,826	$0	$111,955	$714,760
Los Angeles	Pasadena Area	$143,585	$853,956	$1,340,316	$139,056	$1,118,761	$0	$116,680	$579,349
Los Angeles	Rio Hondo	$69,814	$493,020	$1,425,307	$149,140	$794,470	$0	$72,713	$314,309
Los Angeles	Santa Clarita	$29,576	$286,899	$455,635	$56,681	$626,057	$0	$18,026	$77,323
Los Angeles	Santa Monica	$88,535	$661,146	$1,273,148	$103,889	$1,641,379	$0	$83,556	$435,672
Los Angeles Total		$1,600,014	$12,066,470	$27,100,330	$3,838,020	$20,549,604	$0	$2,439,738	$13,814,121
Marin	Marin	$14,611	$189,249	$543,419	$73,616	$1,448,203	$0	$26,817	$117,330
Marin Total		$14,611	$189,249	$543,419	$73,616	$1,448,203	$0	$26,817	$117,330
Mendocino	Mendocino-Lake	$38,350	$185,074	$423,307	$66,400	$531,623	$0	$32,452	$167,076
Mendocino Total		$38,350	$185,074	$423,307	$66,400	$531,623	$0	$32,452	$167,076
Merced	Merced	$55,958	$385,161	$1,401,859	$254,650	$782,951	$0	$134,001	$707,453
Merced Total		$55,958	$385,161	$1,401,859	$254,650	$782,951	$0	$134,001	$707,453
Monterey	Hartnell	$26,395	$271,315	$766,706	$166,481	$653,889	$0	$42,533	$564,831
Monterey	Monterey Peninsula	$18,307	$219,510	$867,270	$111,779	$887,427	$0	$25,404	$109,928
Monterey Total		$44,702	$490,825	$1,633,976	$278,260	$1,541,316	$0	$67,937	$674,759
Napa	Napa Valley	$22,494	$220,757	$657,524	$88,084	$1,966,310	$0	$23,514	$172,876
Napa Total		$22,494	$220,757	$657,524	$88,084	$1,966,310	$0	$23,514	$172,876
Orange	Coast	$150,221	$1,174,369	$2,933,387	$188,248	$2,673,421	$884,819	$124,548	$922,984
Orange	North Orange County	$133,267	$949,126	$2,331,067	$293,614	$2,451,638	$0	$133,246	$728,771
Orange	Rancho Santiago	$89,065	$957,506	$1,982,851	$129,899	$2,137,429	$0	$161,981	$708,699
Orange	South Orange County	$54,366	$603,268	$1,426,911	$140,942	$2,054,092	$0	$32,730	$177,316
Orange Total		$426,919	$3,684,269	$8,674,216	$752,703	$9,316,580	$884,819	$452,505	$2,537,770
Placer	Sierra	$60,738	$443,446	$725,690	$145,557	$1,271,476	$0	$56,049	$241,140
Placer Total		$60,738	$443,446	$725,690	$145,557	$1,271,476	$0	$56,049	$241,140
Plumas	Feather River	$4,560	$91,817	$236,038	$40,753	$294,537	$0	$12,500	$61,925
Plumas Total		$4,560	$91,817	$236,038	$40,753	$294,537	$0	$12,500	$61,925
Riverside	Desert	$34,060	$271,216	$465,351	$97,773	$658,463	$0	$43,043	$31,633
Riverside	Mt. San Jacinto	$52,864	$393,777	$662,081	$183,215	$590,456	$0	$65,403	$349,508
Riverside	Palo Verde	$9,793	$99,620	$382,992	$60,477	$241,649	$0	$17,339	$90,900
Riverside	Riverside	$134,347	$889,379	$726,785	$88,323	$1,775,456	$0	$119,825	$604,640

County	District	Fee Waiver Admin. (2%)	Student Financial Aid Admin.	E.O.P.S.	C.A.R.E.	D.S.P.S.	State Hospitals	TANF (GAIN)	Calworks
Riverside Total		$231,064	$1,653,992	$2,237,209	$429,788	$3,266,024	$0	$245,610	$1,076,681
Sacramento	Los Rios	$291,730	$2,057,838	$4,257,347	$733,223	$4,368,029	$0	$502,469	$1,642,164
Sacramento Total		$291,730	$2,057,838	$4,257,347	$733,223	$4,368,029	$0	$502,469	$1,642,164
San Bernardino	Barstow	$19,742	$160,657	$469,261	$97,132	$209,708	$0	$23,863	$103,296
San Bernardino	Chaffey	$60,751	$492,880	$930,615	$135,236	$1,134,661	$0	$77,498	$478,353
San Bernardino	Copper Mt.	$10,390	$116,395	$200,696	$77,894	$224,707	$0	$18,170	$45,031
San Bernardino	San Bernardino	$106,784	$750,007	$1,192,613	$206,207	$1,107,550	$0	$169,969	$935,309
San Bernardino	Victor Valley	$51,049	$433,047	$938,314	$269,771	$842,785	$0	$114,084	$545,197
San Bernardino Total		$248,716	$1,952,986	$3,731,399	$786,240	$3,519,411	$0	$403,584	$2,107,186
San Diego	Grossmont-Cuyamaca	$84,435	$718,281	$1,607,617	$291,319	$1,766,009	$0	$97,627	$562,438
San Diego	Mira Costa	$25,808	$239,770	$725,393	$110,501	$607,666	$0	$36,688	$307,019
San Diego	Palomar	$53,254	$528,178	$1,174,859	$126,448	$1,201,412	$0	$56,992	$360,847
San Diego	San Diego	$174,827	$1,627,921	$2,186,377	$207,591	$4,135,133	$0	$453,129	$1,114,202
San Diego	Southwestern	$94,646	$621,359	$2,195,786	$208,859	$1,188,422	$0	$65,039	$343,553
San Diego Total		$432,970	$3,735,509	$7,890,032	$944,718	$8,898,642	$0	$709,475	$2,688,059
San Francisco	San Francisco	$115,769	$978,033	$1,677,885	$76,111	$2,800,971	$0	$162,979	$1,244,670
San Francisco Total		$115,769	$978,033	$1,677,885	$76,111	$2,800,971	$0	$162,979	$1,244,670
San Joaquin	San Joaquin Delta	$113,205	$684,307	$1,579,179	$322,369	$1,734,886	$0	$183,977	$748,390
San Joaquin Total		$113,205	$684,307	$1,579,179	$322,369	$1,734,886	$0	$183,977	$748,390
San Luis Obispo	San Luis Obispo	$40,063	$327,496	$458,025	$114,546	$947,538	$0	$28,327	$239,586
San Luis Obispo Total		$40,063	$327,496	$458,025	$114,546	$947,538	$0	$28,327	$239,586
San Mateo	San Mateo	$76,873	$782,830	$1,704,198	$115,468	$1,719,595	$0	$40,442	$198,588
San Mateo Total		$76,873	$782,830	$1,704,198	$115,468	$1,719,595	$0	$40,442	$198,588
Santa Barbara	Allan Hancock	$41,981	$336,144	$863,723	$307,663	$872,006	$0	$72,947	$516,254
Santa Barbara	Santa Barbara	$62,704	$495,572	$1,166,284	$94,371	$976,477	$0	$40,803	$227,343
Santa Barbara Total		$104,685	$831,716	$1,830,007	$402,034	$1,848,483	$0	$113,750	$743,597
Santa Clara	Foothill-DeAnza	$83,949	$932,829	$1,863,275	$184,817	$4,304,019	$0	$82,945	$501,042
Santa Clara	Gavilan	$24,561	$207,543	$494,685	$133,336	$713,573	$0	$24,829	$344,178
Santa Clara	San Jose-Evergreen	$87,655	$674,934	$1,742,118	$208,423	$1,147,962	$0	$120,173	$1,027,078
Santa Clara	West Valley-Mission	$41,839	$527,876	$1,303,021	$151,663	$1,340,737	$303,778	$56,662	$292,365
Santa Clara Total		$238,004	$2,343,182	$5,403,099	$678,239	$7,506,291	$303,778	$284,609	$2,164,663
Santa Cruz	Cabrillo	$47,209	$395,762	$494,146	$105,469	$1,773,557	$0	$42,362	$371,541
Santa Cruz Total		$47,209	$395,762	$494,146	$105,469	$1,773,557	$0	$42,362	$371,541
Shasta	Shasta-Tehama-Trinity	$41,777	$351,078	$1,093,844	$164,672	$791,421	$0	$82,458	$488,755
Shasta Total		$41,777	$351,078	$1,093,844	$164,672	$791,421	$0	$82,458	$488,755
Siskiyou	Siskiyou	$15,029	$150,958	$390,076	$79,867	$384,401	$0	$26,748	$86,533
Siskiyou Total		$15,029	$150,958	$390,076	$79,867	$384,401	$0	$26,748	$86,533
Solano	Solano	$36,366	$306,359	$509,138	$88,165	$858,233	$0	$46,131	$225,903
Solano Total		$36,366	$306,359	$509,138	$88,165	$858,233	$0	$46,131	$225,903
Sonoma	Sonoma	$69,851	$583,593	$681,193	$86,424	$2,785,948	$0	$78,785	$376,174
Sonoma Total		$69,851	$583,593	$681,193	$86,424	$2,785,948	$0	$78,785	$376,174
Stanislaus	Yosemite	$100,448	$680,103	$1,699,703	$175,967	$2,154,185	$0	$145,068	$734,044
Stanislaus Total		$100,448	$680,103	$1,699,703	$175,967	$2,154,185	$0	$145,068	$734,044
Tulare	Sequoias	$61,332	$392,250	$1,046,874	$186,165	$874,178	$0	$92,133	$700,857
Tulare Total		$61,332	$392,250	$1,046,874	$186,165	$874,178	$0	$92,133	$700,857
Ventura	Ventura	$113,109	$1,002,220	$2,186,560	$287,407	$3,849,998	$0	$99,746	$675,250
Ventura Total		$113,109	$1,002,220	$2,186,560	$287,407	$3,849,998	$0	$99,746	$675,250
Yuba	Yuba	$45,383	$361,363	$1,194,354	$223,963	$821,867	$0	$106,746	$591,564
Yuba Total		$45,383	$361,363	$1,194,354	$223,963	$821,867	$0	$106,746	$591,564
Grand Total	**Statewide**	**$5,499,900**	**$44,123,000**	**$98,373,974**	**$14,516,000**	**$105,276,561**	**$1,702,000**	**$8,000,000**	**$42,755,129**

County	District	Credit Matriculation	Noncredit Matriculation	Faculty & Staff Diversity	Telecomm And Technology	Instruct. Equip. & Library	Part-Time Faculty Allocation	Scheduled Maintenance & Repair
Alameda	Chabot-Las Positas	$1,157,369	$584	$19,021	$104,511	$188,272	$729,253	$188,289
Alameda	Ohlone	$460,412	$0	$12,959	$46,958	$100,000	$366,647	$100,000
Alameda	Peralta	$1,700,500	$12,930	$20,139	$198,427	$209,969	$789,302	$209,988
Alameda Total		$3,318,281	$13,514	$52,119	$349,896	$498,241	$1,885,202	$498,277
Butte	Butte	$632,296	$217,350	$15,421	$6,765,868	$130,697	$552,370	$130,709
Butte Total		$632,296	$217,350	$15,421	$6,765,868	$130,697	$552,370	$130,709
Contra Costa	Contra Costa	$1,811,370	$13,014	$27,144	$151,469	$346,423	$1,458,983	$346,455
Contra Costa Total		$1,811,370	$13,014	$27,144	$151,469	$346,423	$1,458,983	$346,455
El Dorado	Lake Tahoe	$174,840	$27,529	$8,431	$46,958	$100,000	$97,197	$100,000
El Dorado Total		$174,840	$27,529	$8,431	$46,958	$100,000	$97,197	$100,000
Fresno	State Center	$1,686,408	$42,087	$26,072	$104,511	$299,400	$1,105,044	$299,427
Fresno	West Hills	$395,305	$0	$10,860	$93,916	$100,000	$162,981	$100,000
Fresno Total		$2,081,713	$42,087	$36,932	$198,427	$399,400	$1,268,025	$399,427
Humboldt	Redwoods	$328,979	$417	$10,801	$46,958	$100,000	$263,346	$100,000
Humboldt Total		$328,979	$417	$10,801	$46,958	$100,000	$263,346	$100,000
Imperial	Imperial	$465,380	$8,968	$11,865	$46,958	$100,000	$238,509	$100,000
Imperial Total		$465,380	$8,968	$11,865	$46,958	$100,000	$238,509	$100,000
Kern	Kern	$1,269,216	$35,412	$19,837	$151,469	$200,719	$796,395	$200,738
Kern	West Kern	$694,059	$12,138	$8,708	$46,958	$100,000	$97,197	$100,000
Kern Total		$1,963,275	$47,550	$28,545	$198,427	$300,719	$893,592	$300,738
Lassen	Lassen	$106,670	$5,839	$8,523	$46,958	$100,000	$114,640	$100,000
Lassen Total		$106,670	$5,839	$8,523	$46,958	$100,000	$114,640	$100,000
Los Angeles	Antelope Valley	$653,353	$8,467	$14,343	$46,958	$112,964	$398,122	$112,975
Los Angeles	Cerritos	$1,034,338	$168,592	$18,890	$46,958	$189,225	$788,495	$189,242
Los Angeles	Citrus	$619,054	$243,586	$15,360	$46,958	$131,658	$519,462	$131,670
Los Angeles	Compton	$339,263	$0	$10,577	$46,958	$100,000	$288,448	$100,000
Los Angeles	El Camino	$1,195,281	$0	$20,134	$46,958	$207,524	$848,408	$207,543
Los Angeles	Glendale	$702,050	$753,448	$18,211	$46,958	$181,841	$702,164	$181,858
Los Angeles	Long Beach	$1,202,793	$240,291	$20,615	$46,958	$214,102	$937,446	$214,122
Los Angeles	Los Angeles	$6,934,056	$758,954	$74,069	$433,217	$1,007,164	$4,427,138	$1,007,255
Los Angeles	Mt. San Antonio	$1,303,737	$1,266,397	$27,632	$46,958	$321,934	$1,141,544	$321,963
Los Angeles	Pasadena Area	$1,391,973	$412,261	$22,742	$46,958	$251,674	$998,221	$251,697
Los Angeles	Rio Hondo	$1,084,121	$410,509	$15,965	$46,958	$137,598	$534,759	$137,611
Los Angeles	Santa Clarita	$959,632	$32,450	$15,955	$46,958	$139,601	$420,171	$139,613
Los Angeles	Santa Monica	$1,405,472	$51,470	$22,228	$46,958	$242,672	$1,000,440	$242,694
Los Angeles Total		$18,825,123	$4,346,425	$296,721	$996,713	$3,237,958	$13,004,818	$3,238,243
Marin	Marin	$359,977	$127,174	$10,089	$46,958	$100,000	$324,991	$100,000
Marin Total		$359,977	$127,174	$10,089	$46,958	$100,000	$324,991	$100,000
Mendocino	Mendocino-Lake	$260,408	$18,019	$9,138	$46,958	$100,000	$124,209	$100,000
Mendocino Total		$260,408	$18,019	$9,138	$46,958	$100,000	$124,209	$100,000
Merced	Merced	$518,682	$195,453	$13,904	$46,958	$104,304	$409,045	$104,314
Merced Total		$518,682	$195,453	$13,904	$46,958	$104,304	$409,045	$104,314
Monterey	Hartnell	$494,580	$0	$11,819	$46,958	$100,000	$319,164	$100,000
Monterey	Monterey Peninsula	$508,058	$166,840	$12,997	$46,958	$100,000	$395,523	$100,000
Monterey Total		$1,002,638	$166,840	$24,816	$93,916	$200,000	$714,687	$200,000
Napa	Napa Valley	$329,645	$205,922	$11,331	$46,958	$100,000	$263,385	$100,000
Napa Total		$329,645	$205,922	$11,331	$46,958	$100,000	$263,385	$100,000
Orange	Coast	$2,288,369	$142,523	$29,030	$151,469	$346,467	$1,584,432	$346,498
Orange	North Orange County	$1,639,432	$1,476,990	$30,998	$104,511	$381,854	$1,561,487	$381,889
Orange	Rancho Santiago	$2,813,429	$3,024,679	$29,009	$104,511	$346,555	$1,381,015	$346,586
Orange	South Orange County	$1,453,048	$128,842	$21,948	$93,916	$239,567	$1,005,110	$239,588
Orange Total		$8,194,278	$4,773,034	$110,985	$454,407	$1,314,443	$5,532,044	$1,314,561
Placer	Sierra	$925,137	$0	$17,202	$46,958	$159,462	$564,871	$159,477
Placer Total		$925,137	$0	$17,202	$46,958	$159,462	$564,871	$159,477
Plumas	Feather River	$82,172	$1,043	$8,300	$46,958	$100,000	$97,197	$100,000
Plumas Total		$82,172	$1,043	$8,300	$46,958	$100,000	$97,197	$100,000
Riverside	Desert	$432,917	$188,279	$12,379	$46,958	$100,000	$282,131	$100,000
Riverside	Mt. San Jacinto	$601,605	$63,399	$13,427	$46,958	$100,000	$327,277	$100,000
Riverside	Palo Verde	$341,726	$53,764	$8,394	$46,958	$100,000	$97,197	$100,000

County	District	Credit Matriculation	Noncredit Matriculation	Faculty & Staff Diversity	Telecomm And Technology	Instruct. Equip. & Library	Part-Time Faculty Allocation	Scheduled Maintenance & Repair
Riverside	Riverside	$1,494,345	$542	$25,612	$46,958	$299,683	$1,083,773	$299,710
Riverside Total		$2,870,593	$305,984	$59,812	$187,832	$599,683	$1,790,378	$599,710
Sacramento	Los Rios	$4,217,171	$0	$41,723	$198,427	$551,055	$1,997,475	$551,105
Sacramento Total		$4,217,171	$0	$41,723	$198,427	$551,055	$1,997,475	$551,105
San Bernardino	Barstow	$169,076	$21,773	$8,938	$46,958	$100,000	$97,197	$100,000
San Bernardino	Chaffey	$967,570	$24,233	$17,165	$46,958	$146,877	$591,547	$146,890
San Bernardino	Copper Mt.	$70,598	$25,777	$8,240	$46,958	$100,000	$97,197	$100,000
San Bernardino	San Bernardino	$899,442	$0	$16,785	$104,511	$151,284	$639,324	$151,297
San Bernardino	Victor Valley	$564,884	$31,366	$13,972	$46,958	$103,016	$398,461	$103,025
San Bernardino Total		$2,671,570	$103,149	$65,100	$292,343	$601,177	$1,823,726	$601,212
San Diego	Grossmont-Cuyamaca	$1,237,425	$119,082	$19,413	$104,511	$194,635	$780,847	$194,653
San Diego	Mira Costa	$576,006	$287,507	$12,646	$46,958	$100,000	$337,144	$100,000
San Diego	Palomar	$1,224,374	$337,475	$21,062	$471,958	$220,020	$838,297	$220,039
San Diego	San Diego	$2,725,333	$3,209,872	$36,261	$151,469	$464,835	$1,926,575	$464,877
San Diego	Southwestern	$918,449	$170,927	$17,775	$46,958	$171,398	$663,332	$171,413
San Diego Total		$6,681,587	$4,124,863	$107,157	$821,854	$1,150,887	$4,536,195	$1,150,982
San Francisco	San Francisco	$1,548,315	$3,023,053	$32,151	$57,553	$372,795	$1,686,620	$372,828
San Francisco Total		$1,548,315	$3,023,053	$32,151	$57,553	$372,795	$1,686,620	$372,828
San Joaquin	San Joaquin Delta	$879,040	$184,876	$18,073	$46,958	$173,305	$668,433	$173,320
San Joaquin Total		$879,040	$184,876	$18,073	$46,958	$173,305	$668,433	$173,320
San Luis Obispo	San Luis Obispo	$559,733	$36,997	$13,512	$46,958	$100,000	$388,356	$100,000
San Luis Obispo Total		$559,733	$36,997	$13,512	$46,958	$100,000	$388,356	$100,000
San Mateo	San Mateo	$1,383,394	$0	$19,530	$151,469	$193,506	$938,479	$193,524
San Mateo Total		$1,383,394	$0	$19,530	$151,469	$193,506	$938,479	$193,524
Santa Barbara	Allan Hancock	$597,001	$403,418	$14,164	$46,958	$109,639	$418,022	$109,649
Santa Barbara	Santa Barbara	$825,432	$743,521	$18,221	$46,958	$174,643	$624,301	$174,658
Santa Barbara Total		$1,422,433	$1,146,939	$32,385	$93,916	$284,282	$1,042,323	$284,307
Santa Clara	Foothill-DeAnza	$2,290,322	$96,100	$29,937	$93,916	$370,294	$1,475,772	$370,328
Santa Clara	Gavilan	$407,217	$20,146	$10,653	$46,958	$100,000	$206,293	$100,000
Santa Clara	San Jose-Evergreen	$1,244,694	$0	$17,448	$104,511	$165,739	$666,535	$165,753
Santa Clara	West Valley-Mission	$1,108,932	$23,608	$19,161	$93,916	$191,129	$785,215	$191,146
Santa Clara Total		$5,051,165	$139,854	$77,199	$339,301	$827,162	$3,133,815	$827,227
Santa Cruz	Cabrillo	$677,540	$9,385	$15,233	$46,958	$127,043	$495,146	$127,054
Santa Cruz Total		$677,540	$9,385	$15,233	$46,958	$127,043	$495,146	$127,054
Shasta	Shasta-Tehama-Trinity	$431,749	$16,475	$12,765	$46,958	$100,000	$368,306	$100,000
Shasta Total		$431,749	$16,475	$12,765	$46,958	$100,000	$368,306	$100,000
Siskiyou	Siskiyou	$161,876	$0	$8,972	$46,958	$100,000	$117,425	$100,000
Siskiyou Total		$161,876	$0	$8,972	$46,958	$100,000	$117,425	$100,000
Solano	Solano	$625,160	$62,440	$13,798	$46,958	$104,535	$373,804	$104,544
Solano Total		$625,160	$62,440	$13,798	$46,958	$104,535	$373,804	$104,544
Sonoma	Sonoma	$1,290,704	$399,665	$21,718	$46,958	$231,545	$920,304	$231,566
Sonoma Total		$1,290,704	$399,665	$21,718	$46,958	$231,545	$920,304	$231,566
Stanislaus	Yosemite	$998,485	$109,322	$19,028	$104,511	$188,289	$753,662	$188,306
Stanislaus Total		$998,485	$109,322	$19,028	$104,511	$188,289	$753,662	$188,306
Tulare	Sequoias	$530,483	$0	$12,668	$46,958	$100,000	$396,558	$100,000
Tulare Total		$530,483	$0	$12,668	$46,958	$100,000	$396,558	$100,000
Ventura	Ventura	$1,587,727	$55,724	$24,434	$151,469	$275,089	$1,207,516	$275,114
Ventura Total		$1,587,727	$55,724	$24,434	$151,469	$275,089	$1,207,516	$275,114
Yuba	Yuba	$511,411	$45,047	$12,725	$46,958	$100,000	$382,368	$100,000
Yuba Total		$511,411	$45,047	$12,725	$46,958	$100,000	$382,368	$100,000
Grand Total	**Statewide**	**$75,481,000**	**$19,973,951**	**$1,310,250**	**$12,500,000**	**$13,672,000**	**$50,828,000**	**$13,673,000**

County	District	Economic Development	Nursing Education Program	Child Care Tax Bailout	Basic Aid Partnership	PT Faculty Office Hours	PT Faculty Insurance	Basic Skills
Alameda	Chabot-Las Positas	$0	$162,487	$0	$0	$62,186	$0	$367,642
Alameda	Ohlone	$299,999	$350,000	$0	$0	$0	$0	$67,198
Alameda	Peralta	$205,000	$384,537	$722,707	$0	$74,990	$29,661	$362,890
Alameda Total		$504,999	$897,024	$722,707	$0	$137,176	$29,661	$797,730
Butte	Butte	$982,500	$229,147	$0	$0	$12,835	$0	$127,302
Butte Total		$982,500	$229,147	$0	$0	$12,835	$0	$127,302
Contra Costa	Contra Costa	$1,255,400	$271,795	$0	$0	$143,200	$77,251	$669,793
Contra Costa Total		$1,255,400	$271,795	$0	$0	$143,200	$77,251	$669,793
El Dorado	Lake Tahoe	$0	$0	$0	$0	$0	$0	$22,581
El Dorado Total		$0	$0	$0	$0	$0	$0	$22,581
Fresno	State Center	$949,025	$738,693	$0	$0	$0	$0	$434,382
Fresno	West Hills	$0	$0	$0	$0	$2,897	$0	$219,100
Fresno Total		$949,025	$738,693	$0	$0	$2,897	$0	$653,482
Humboldt	Redwoods	$154,165	$190,262	$31,698	$0	$108,004	$2,795	$88,037
Humboldt Total		$154,165	$190,262	$31,698	$0	$108,004	$2,795	$88,037
Imperial	Imperial	$50,000	$384,687	$0	$0	$0	$0	$395,706
Imperial Total		$50,000	$384,687	$0	$0	$0	$0	$395,706
Kern	Kern	$891,994	$937,064	$13,297	$0	$0	$0	$447,228
Kern	West Kern	$0	$0	$0	$0	$0	$0	$30,713
Kern Total		$891,994	$937,064	$13,297	$0	$0	$0	$477,941
Lassen	Lassen	$0	$0	$0	$0	$0	$0	$10,080
Lassen Total		$0	$0	$0	$0	$0	$0	$10,080
Los Angeles	Antelope Valley	$0	$492,847	$0	$0	$0	$0	$402,539
Los Angeles	Cerritos	$729,501	$329,137	$0	$0	$0	$0	$361,729
Los Angeles	Citrus	$563,365	$500,000	$158,232	$0	$6,954	$1,023	$253,869
Los Angeles	Compton	$0	$251,367	$0	$0	$0	$0	$52,924
Los Angeles	El Camino	$1,593,249	$318,027	$0	$0	$0	$1,004	$334,394
Los Angeles	Glendale	$0	$621,035	$0	$0	$272,417	$17,345	$864,353
Los Angeles	Long Beach	$1,440,742	$0	$100,577	$0	$0	$0	$937,055
Los Angeles	Los Angeles	$2,365,641	$896,023	$2,054,809	$0	$2,510,564	$65,410	$3,593,633
Los Angeles	Mt. San Antonio	$1,018,269	$984,558	$173,703	$0	$53,890	$16,072	$1,196,036
Los Angeles	Pasadena Area	$531,000	$273,587	$0	$0	$0	$0	$394,819
Los Angeles	Rio Hondo	$649,901	$306,917	$22,737	$0	$0	$1,361	$468,544
Los Angeles	Santa Clarita	$817,443	$735,481	$0	$0	$0	$0	$189,826
Los Angeles	Santa Monica	$650,000	$106,937	$0	$0	$85,392	$79,952	$559,851
Los Angeles Total		$10,359,111	$5,815,916	$2,510,058	$0	$2,929,217	$182,167	$9,609,572
Marin	Marin	$0	$183,115	$148,101	$1,622,163	$209,517	$29,936	$643,462
Marin Total		$0	$183,115	$148,101	$1,622,163	$209,517	$29,936	$643,462
Mendocino	Mendocino-Lake	$0	$181,667	$0	$0	$7,371	$0	$45,070
Mendocino Total		$0	$181,667	$0	$0	$7,371	$0	$45,070
Merced	Merced	$410,000	$279,427	$0	$0	$0	$0	$731,398
Merced Total		$410,000	$279,427	$0	$0	$0	$0	$731,398
Monterey	Hartnell	$986,756	$0	$69,377	$0	$0	$0	$66,595
Monterey	Monterey Peninsula	$0	$251,307	$0	$0	$7,176	$0	$105,351
Monterey Total		$986,756	$251,307	$69,377	$0	$7,176	$0	$171,946
Napa	Napa Valley	$361,427	$387,615	$129,282	$0	$0	$0	$56,506
Napa Total		$361,427	$387,615	$129,282	$0	$0	$0	$56,506
Orange	Coast	$205,000	$204,961	$0	$0	$0	$68,446	$372,253
Orange	North Orange County	$1,994,907	$297,812	$0	$0	$551,165	$9,594	$1,475,669
Orange	Rancho Santiago	$765,000	$173,597	$451,115	$0	$0	$0	$2,065,895
Orange	South Orange County	$205,000	$229,147	$0	$5,116,635	$0	$0	$260,880
Orange Total		$3,169,907	$905,517	$451,115	$5,116,635	$551,165	$78,040	$4,174,697
Placer	Sierra	$848,500	$218,037	$0	$0	$41,580	$0	$180,650
Placer Total		$848,500	$218,037	$0	$0	$41,580	$0	$180,650
Plumas	Feather River	$0	$0	$0	$0	$9,871	$0	$9,591
Plumas Total		$0	$0	$0	$0	$9,871	$0	$9,591
Riverside	Desert	$577,500	$430,447	$0	$0	$35,284	$0	$443,061
Riverside	Mt. San Jacinto	$0	$326,247	$23,909	$0	$0	$0	$140,944
Riverside	Palo Verde	$0	$0	$0	$0	$0	$0	$42,664
Riverside	Riverside	$864,500	$1,091,988	$137,337	$0	$125,724	$9,503	$600,698
Riverside Total		$1,442,000	$1,848,682	$161,246	$0	$161,008	$9,503	$1,227,367
Sacramento	Los Rios	$1,579,500	$131,937	$353,015	$0	$190,576	$109,828	$909,271
Sacramento Total		$1,579,500	$131,937	$353,015	$0	$190,576	$109,828	$909,271

County	District	Economic Development	Nursing Education Program	Child Care Tax Ballout	Basic Aid Partnership	PT Faculty Office Hours	PT Faculty Insurance	Basic Skills
San Bernardino	Barstow	$0	$0	$0	$0	$0	$0	$61,786
San Bernardino	Chaffey	$224,382	$106,937	$272,347	$0	$0	$0	$420,434
San Bernardino	Copper Mt.	$0	$357,444	$0	$0	$0	$0	$60,573
San Bernardino	San Bernardino	$616,500	$0	$0	$0	$29,059	$0	$233,880
San Bernardino	Victor Valley	$0	$293,587	$0	$0	$0	$0	$143,023
San Bernardino Total		$840,882	$757,968	$272,347	$0	$29,059	$0	$919,696
San Diego	Grossmont-Cuyamaca	$777,829	$157,500	$0	$0	$0	$410	$312,157
San Diego	Mira Costa	$50,000	$0	$0	$1,629,913	$21,241	$1,877	$227,876
San Diego	Palomar	$0	$179,352	$177,729	$0	$11,299	$4,088	$513,113
San Diego	San Diego	$1,387,000	$0	$0	$0	$37,958	$108,300	$1,835,530
San Diego	Southwestern	$355,000	$329,014	$0	$0	$0	$0	$898,338
San Diego Total		$2,569,829	$665,866	$177,729	$1,629,913	$70,498	$114,675	$3,787,014
San Francisco	San Francisco	$1,971,230	$0	$150,618	$0	$53,846	$187,374	$2,900,513
San Francisco Total		$1,971,230	$0	$150,618	$0	$53,846	$187,374	$2,900,513
San Joaquin	San Joaquin Delta	$360,000	$271,937	$0	$0	$0	$0	$452,629
San Joaquin Total		$360,000	$271,937	$0	$0	$0	$0	$452,629
San Luis Obispo	San Luis Obispo	$50,000	$210,937	$0	$0	$45,836	$18,290	$133,778
San Luis Obispo Total		$50,000	$210,937	$0	$0	$45,836	$18,290	$133,778
San Mateo	San Mateo	$1,502,318	$118,047	$0	$0	$392,590	$8,076	$565,683
San Mateo Total		$1,502,318	$118,047	$0	$0	$392,590	$8,076	$565,683
Santa Barbara	Allan Hancock	$391,104	$106,937	$0	$0	$8,473	$0	$165,095
Santa Barbara	Santa Barbara	$802,917	$106,937	$55,199	$0	$0	$259	$552,576
Santa Barbara Total		$1,194,021	$213,874	$55,199	$0	$8,473	$259	$717,671
Santa Clara	Foothill-DeAnza	$655,000	$0	$791,639	$0	$269,434	$62,776	$75,350
Santa Clara	Gavilan	$205,000	$105,345	$40,205	$0	$4,075	$0	$131,004
Santa Clara	San Jose-Evergreen	$677,342	$378,558	$66,977	$0	$322,860	$8,615	$388,351
Santa Clara	West Valley-Mission	$2,587,156	$86,661	$96,207	$0	$315,400	$2,472	$361,669
Santa Clara Total		$4,124,498	$570,564	$995,028	$0	$911,769	$73,863	$956,374
Santa Cruz	Cabrillo	$266,629	$216,445	$120,606	$0	$33,853	$12,207	$211,835
Santa Cruz Total		$266,629	$216,445	$120,606	$0	$33,853	$12,207	$211,835
Shasta	Shasta-Tehama-Trinity	$530,437	$184,707	$0	$0	$21,054	$0	$16,268
Shasta Total		$530,437	$184,707	$0	$0	$21,054	$0	$16,268
Siskiyou	Siskiyou	$0	$64,893	$0	$0	$0	$0	$24,886
Siskiyou Total		$0	$64,893	$0	$0	$0	$0	$24,886
Solano	Solano	$150,000	$271,517	$0	$0	$0	$0	$181,548
Solano Total		$150,000	$271,517	$0	$0	$0	$0	$181,548
Sonoma	Sonoma	$150,000	$273,587	$0	$0	$1,072,502	$65,996	$410,637
Sonoma Total		$150,000	$273,587	$0	$0	$1,072,502	$65,996	$410,637
Stanislaus	Yosemite	$321,746	$106,937	$0	$0	$0	$0	$260,240
Stanislaus Total		$321,746	$106,937	$0	$0	$0	$0	$260,240
Tulare	Sequoias	$135,432	$261,040	$0	$0	$2,044	$0	$5,838
Tulare Total		$135,432	$261,040	$0	$0	$2,044	$0	$5,838
Ventura	Ventura	$1,303,500	$720,797	$178,577	$0	$18,883	$79	$353,416
Ventura Total		$1,303,500	$720,797	$178,577	$0	$18,883	$79	$353,416
Yuba	Yuba	$150,000	$162,487	$0	$0	$0	$0	$209,792
Yuba Total		$150,000	$162,487	$0	$0	$0	$0	$209,792
Grand Total	**Statewide**	**$39,565,806**	**$18,923,495**	**$6,540,000**	**$8,368,711**	**$7,172,000**	**$1,000,000**	**$33,110,000**

Chaps 38 - 39 of 2005

Schedule - 8

CATEGORICAL APPORTIONMENTS - PART 1

2005-06 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
Alameda	Chabot-Las Positas	53,755	556,604	911,857	137,354	1,198,310	0	58,486	297,145
	Ohlone	14,903	222,536	369,580	49,980	1,001,329	0	16,564	71,597
	Peralta	91,412	1,109,422	2,652,952	602,673	2,146,250	0	263,244	1,109,261
Alameda		160,070	1,888,562	3,934,389	790,007	4,345,889	0	338,294	1,478,003
Butte	Butte	61,987	469,462	1,246,932	351,528	618,278	0	146,154	646,601
Contra Costa	Contra Costa	46,303	964,476	2,493,162	401,336	2,367,040	0	154,807	649,252
El Dorado	Lake Tahoe	5,111	112,259	136,979	26,404	440,328	0	12,500	35,851
Fresno	State Center	197,461	1,343,108	2,384,863	251,795	1,542,007	0	263,282	1,163,618
	West Hills	24,483	202,149	406,620	131,698	350,484	0	38,919	333,860
Fresno		221,944	1,545,257	2,791,483	383,493	1,892,491	0	302,201	1,497,478
Humboldt	Redwoods	35,939	293,587	881,114	131,990	1,031,344	0	47,141	215,021
Imperial	Imperial	48,368	285,181	1,071,510	154,528	512,099	0	68,026	317,626
Kern	Kern	132,491	906,754	2,223,915	347,189	1,912,582	515,198	163,733	636,639
	West Kern	10,882	135,216	275,073	43,040	271,136	0	45,632	194,719
Kern		143,373	1,041,970	2,498,988	390,229	2,183,718	515,198	209,365	831,358
Lassen	Lassen	8,898	119,656	357,111	67,894	347,271	0	27,797	120,893
Los Angeles	Antelope Valley	56,043	422,565	809,740	291,215	771,578	0	127,140	542,529
	Cerritos	103,707	754,059	1,061,661	96,166	1,192,008	0	116,555	533,565
	Citrus	44,819	366,243	822,628	208,137	547,841	0	64,219	302,670
	Compton	55,308	344,770	1,178,508	746,904	256,650	0	150,584	363,841
	El Camino	50,935	662,985	1,484,480	250,951	1,148,356	0	146,494	635,116
	Glendale	80,514	568,919	1,720,296	54,813	1,525,318	0	190,944	814,800
	Long Beach	144,866	919,278	1,774,345	251,965	1,048,903	0	250,344	1,238,270
	Los Angeles	584,884	5,038,200	11,238,289	1,301,628	5,236,500	0	1,068,329	4,584,781
	Mt. San Antonio	102,146	810,927	871,510	130,259	1,538,003	0	117,847	547,517
	Pasadena Area	129,580	845,635	1,356,832	138,193	913,174	0	122,821	530,893
	Rio Hondo	63,775	485,903	1,406,761	113,205	518,953	0	76,359	330,063
	Santa Clarita	27,542	278,095	424,174	53,066	539,265	0	20,261	130,910
	Santa Monica	71,016	689,873	1,196,722	100,810	1,234,732	0	87,954	427,181
Los Angeles		1,515,135	12,187,452	25,345,946	3,737,312	16,471,281	0	2,539,851	10,982,136
Marin	Marin	19,312	201,632	495,005	52,724	1,366,141	0	28,228	123,506

CATEGORICAL APPORTIONMENTS - PART 1

2005-06 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
Mendocino	Mendocino-Lake	30,726	187,372	388,093	63,503	353,392	0	31,633	138,490
Merced	Merced	50,586	361,188	1,305,700	253,070	696,090	0	127,593	678,220
Monterey	Hartnell	29,947	271,088	690,644	159,826	616,666	0	45,524	206,038
	Monterey Peninsula	16,306	223,362	860,329	111,085	776,714	0	23,769	102,742
Monterey		46,253	494,450	1,550,973	270,911	1,393,380	0	69,293	308,780
Napa	Napa Valley	22,856	225,480	598,019	81,305	1,950,820	0	24,752	108,291
Orange	Coast	132,733	1,115,598	2,693,896	167,173	2,418,820	887,913	131,103	598,192
	North Orange County	118,851	856,892	2,111,235	276,254	1,998,022	0	140,259	631,893
	Rancho Santiago	86,078	936,347	1,819,267	128,384	1,794,305	0	170,506	745,999
	South Orange	50,798	573,278	1,339,301	136,086	1,757,093	0	34,453	149,806
Orange		388,460	3,482,115	7,963,699	707,897	7,968,240	887,913	476,321	2,125,890
Placer	Sierra	52,990	433,597	710,148	103,585	1,053,843	0	47,800	190,322
Plumas	Feather River	4,605	92,014	212,815	39,084	270,508	0	12,500	53,846
Riverside	Desert	30,615	259,044	415,185	89,478	527,758	0	45,308	88,235
	Mt. San Jacinto	46,135	378,952	647,035	184,113	526,581	0	61,777	293,424
	Palo Verde	8,778	94,516	350,034	47,510	209,938	0	29,039	122,059
	Riverside	126,372	873,689	679,914	87,552	1,409,054	0	124,067	539,587
Riverside		211,900	1,606,201	2,092,168	408,653	2,673,331	0	260,191	1,043,305
Sacramento	Los Rios	317,575	1,958,820	3,890,707	646,116	3,229,870	0	507,516	1,595,549
San Bernardino	Barstow	6,122	146,122	448,763	94,764	210,189	0	21,533	93,076
	Chaffey	47,724	491,612	849,100	134,397	1,133,899	0	81,577	358,616
	Copper Mt.	10,430	115,294	189,414	74,975	211,597	0	14,039	62,059
	San Bernardino	101,838	643,015	1,087,466	180,761	1,058,424	0	163,733	724,238
	Victor Valley	70,171	542,225	875,175	181,993	802,532	0	58,000	195,184
San Bernardino		236,285	1,938,268	3,449,918	666,890	3,416,641	0	338,882	1,433,173
San Diego	Grossmont-Cuyamaca	81,073	709,960	1,486,489	286,358	1,372,089	0	101,450	530,839
	Mira Costa	23,946	234,682	684,460	102,362	516,978	0	38,619	344,468
	Palomar	36,402	497,171	1,093,764	99,363	895,190	0	59,991	211,471
	San Diego	152,488	1,528,287	2,027,728	196,663	3,446,959	0	476,978	1,634,236
	Southwestern	89,413	620,787	1,956,759	181,018	1,009,764	0	68,462	299,529
San Diego		393,322	3,590,887	7,249,200	865,764	7,240,980	0	745,500	3,020,543

CATEGORICAL APPORTIONMENTS - PART 1

2005-06 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
San Francisco	San Francisco	105,748	925,360	1,674,479	70,821	2,478,649	0	171,557	750,600
San Joaquin	San Joaquin Delta	101,633	660,792	1,545,461	309,228	1,301,563	0	175,855	753,857
San Luis Obispo	San Luis Obispo	38,082	319,944	434,041	109,365	812,124	0	25,789	121,418
San Mateo	San Mateo	72,111	767,156	1,585,258	123,337	1,580,549	0	38,871	170,073
Santa Barbara	Allan Hancock	39,915	338,058	655,735	286,893	843,926	0	68,238	343,613
	Santa Barbara	58,743	477,122	1,085,505	89,315	932,252	0	38,868	168,008
Santa Barbara		98,658	815,180	1,741,240	376,208	1,776,178	0	107,106	511,621
Santa Clara	Foothill-DeAnza	80,315	928,789	1,749,642	135,699	4,119,151	0	67,731	296,337
	Gavilan	18,570	197,633	461,801	130,075	681,098	0	19,045	94,518
	San Jose-Evergreen	83,627	689,051	1,636,933	143,677	883,799	0	110,155	998,269
	West Valley-Mission	37,141	532,102	1,235,480	146,855	1,254,501	304,840	48,780	210,854
Santa Clara		219,653	2,347,575	5,083,856	556,306	6,938,549	304,840	245,711	1,599,978
Santa Cruz	Cabrillo	44,997	387,600	482,087	133,463	1,625,914	0	36,054	141,740
Shasta	Shasta-Tehama-Trinity	32,087	345,428	1,005,962	163,650	627,774	0	86,798	429,742
Siskiyou	Siskiyou	14,792	152,162	359,579	60,423	352,294	0	25,027	109,569
Solano	Solano	32,579	297,501	489,926	87,618	663,806	0	43,544	190,506
Sonoma	Sonoma	64,620	573,708	644,684	83,453	2,175,095	0	69,359	303,457
Stanislaus	Yosemite	78,790	629,158	1,552,706	154,589	1,996,998	0	151,913	658,414
Tulare	Sequoias	61,358	411,923	966,785	174,835	779,671	0	89,859	433,415
Ventura	Ventura	112,525	1,026,902	1,998,103	277,340	2,468,103	0	94,535	337,990
Yuba	Yuba	50,099	350,725	1,058,763	220,140	657,807	0	108,576	469,319
		5,149,730	43,491,000	91,286,989	13,494,999	88,058,049	1,707,951	7,986,899	34,575,833

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY	PHYSICAL PLANT &INSTRUCT EQUIP	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
Mendocino	Mendocino-Lake	173,908	17,420	10,041	124,209	52,332	100,000	0	8,856
Merced	Merced	344,351	159,268	14,883	409,045	52,332	221,224	0	0
Monterey	Hartnell	349,510	0	13,054	319,164	52,332	155,674	0	0
	Monterey Peninsula	331,022	155,684	14,463	395,523	52,332	206,003	0	8,599
Monterey		680,532	155,684	27,517	714,687	104,664	361,677	0	8,599
Napa	Napa Valley	276,305	132,690	12,396	263,385	52,332	140,307	0	0
Orange	Coast	1,576,274	98,248	33,875	1,584,432	172,631	819,750	85,062	0
	North Orange County	1,142,332	1,137,173	34,128	1,561,487	120,299	823,913	5,361	604,093
	Rancho Santiago	1,673,030	2,236,751	30,531	1,381,015	120,299	712,408	0	0
	South Orange	991,213	77,279	24,512	1,005,110	104,664	517,720	8,659	0
Orange		5,382,849	3,549,451	123,046	5,532,044	517,893	2,873,792	99,082	604,093
Placer	Sierra	639,710	0	18,306	564,871	52,332	327,457	0	46,500
Plumas	Feather River	62,906	299	8,980	97,197	52,332	100,000	0	7,680
Riverside	Desert	305,638	146,029	13,361	282,131	52,332	171,307	0	16,574
	Mt. San Jacinto	411,448	43,500	14,517	327,277	52,332	205,039	0	0
	Palo Verde	337,231	44,263	9,088	97,197	52,332	100,000	0	0
	Riverside	1,066,948	0	26,783	1,083,773	52,332	590,942	7,781	135,590
Riverside		2,121,265	233,792	63,749	1,790,378	209,328	1,067,287	7,781	152,164
Sacramento	Los Rios	2,919,439	0	43,905	1,997,475	224,963	1,128,432	104,543	229,823
San Bernardino	Barstow	122,976	10,452	9,310	97,197	52,332	100,000	0	0
	Chaffey	622,283	49,108	18,710	591,547	52,332	333,575	0	0
	Copper Mt.	69,955	0	9,039	97,197	52,332	100,000	0	0
	San Bernardino	800,523	3,219	18,688	639,324	120,299	337,869	0	0
	Victor Valley	389,606	21,269	14,907	398,461	52,332	222,992	0	0
San Bernardino		2,005,343	84,048	70,654	1,823,726	329,627	1,094,437	0	0
San Diego	Grossmont-Cuyamaca	880,620	102,761	21,536	780,847	120,299	432,420	0	0
	Mira Costa	358,702	227,388	13,284	337,144	52,332	175,354	2,019	27,342
	Palomar	811,807	261,365	22,436	838,297	282,327	463,558	0	0
	San Diego	1,824,756	2,588,335	38,624	1,926,575	172,631	977,973	107,980	0
	Southwestern	595,746	105,349	19,253	653,332	52,332	342,575	3,204	0
San Diego		4,471,631	3,285,198	115,133	4,536,195	679,921	2,391,879	113,203	27,342

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY	PHYSICAL PLANT &INSTRUCT EQUIP	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
Alameda	Chabot-Las Positas	802,107	8,295	20,375	729,253	120,299	391,367	0	64,811
	Ohlone	419,556	0	13,875	366,647	52,332	162,161	0	0
	Peralta	1,166,448	10,617	21,357	789,302	224,963	425,854	20,739	77,005
Alameda		2,388,111	18,912	55,607	1,885,202	397,594	979,382	20,739	141,816
Butte	Butte	442,541	197,426	17,283	552,370	6,367,989	285,536	0	24,158
Contra Costa	Contra Costa	1,255,347	22,861	28,173	1,458,983	172,631	621,754	75,370	133,497
El Dorado	Lake Tahoe	120,553	30,062	9,167	97,197	52,332	100,000	0	4,470
Fresno	State Center	1,119,982	25,549	27,798	1,105,044	120,299	626,585	0	0
	West Hills	172,259	0	11,500	162,981	52,332	112,683	0	0
Fresno		1,292,241	25,549	39,298	1,268,025	172,631	739,268	0	0
Humboldt	Redwoods	234,590	1,294	11,842	263,346	52,332	119,487	2,190	128,847
Imperial	Imperial	259,273	0	12,903	238,509	52,332	143,638	0	0
Kern	Kern	896,795	27,772	22,273	796,395	172,631	449,582	0	0
	West Kern	389,737	7,300	9,437	97,197	52,332	100,000	0	0
Kern		1,286,532	35,072	31,710	893,592	224,963	549,582	0	0
Lassen	Lassen	99,971	8,262	9,430	114,640	52,332	100,000	0	0
Los Angeles	Antelope Valley	429,988	18,017	15,551	398,122	52,332	239,243	20,145	64,638
	Cerritos	703,034	72,799	20,791	788,495	52,332	411,289	0	0
	Citrus	432,319	206,385	16,647	519,462	52,332	270,617	855	7,866
	Compton	336,170	0	12,746	288,448	52,332	153,360	0	0
	El Camino	782,199	0	22,647	848,408	52,332	463,309	1,343	0
	Glendale	478,863	577,081	19,986	702,164	52,332	386,717	13,125	274,094
	Long Beach	816,099	181,267	24,493	937,446	52,332	501,260	0	0
	Los Angeles	4,492,147	471,965	82,915	4,427,138	486,623	2,324,130	72,863	2,575,857
	Mt. San Antonio	898,160	955,806	26,619	1,141,544	52,332	631,775	14,309	74,713
	Pasadena Area	972,099	330,083	24,978	998,221	52,332	529,622	0	0
	Rio Hondo	639,088	208,375	17,483	534,759	52,332	299,552	2,866	0
	Santa Clarita	541,840	0	16,883	420,171	52,332	269,837	0	0
	Santa Monica	987,758	25,416	23,912	1,000,440	52,332	504,102	68,204	86,891
Los Angeles		12,509,764	3,047,194	325,651	13,004,818	1,114,607	6,984,812	193,710	3,084,059
Marin	Marin	262,469	112,549	11,196	324,991	52,332	103,651	30,012	187,353

CATEGORICAL APPORTIONMENTS - PART 2

2005-06 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY	PHYSICAL PLANT &INSTRUCT EQUIP	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
San Francisco	San Francisco	1,270,133	2,094,704	35,182	1,686,620	67,967	862,557	201,776	130,475
San Joaquin	San Joaquin Delta	601,956	157,084	19,569	668,433	52,332	361,803	0	0
San Luis Obispo	San Luis Obispo	383,945	13,637	14,907	388,356	52,332	219,891	0	0
San Mateo	San Mateo	1,006,720	0	23,361	938,479	172,631	517,177	0	0
Santa Barbara	Allan Hancock	413,553	321,422	15,278	418,022	52,332	232,304	0	10,445
	Santa Barbara	509,202	493,996	19,147	624,301	52,332	358,961	287	0
Santa Barbara		922,755	815,418	34,425	1,042,323	104,664	591,266	287	10,445
Santa Clara	Foothill-DeAnza	1,442,844	71,637	31,824	1,475,772	104,664	744,593	68,356	279,306
	Gavilan	262,750	14,334	11,392	206,293	52,332	112,005	0	0
	San Jose-Evergreen	902,191	0	18,196	666,535	120,299	318,718	7,173	401,378
	West Valley-Mission	807,942	2,854	21,180	785,215	104,664	422,921	1,381	339,180
Santa Clara		3,415,727	88,825	82,592	3,133,815	381,959	1,598,237	76,910	1,019,864
Santa Cruz	Cabrillo	481,496	7,598	16,415	495,146	52,332	267,350	14,128	41,666
Shasta	Shasta-Tehama-Trinity	290,196	31,588	13,726	368,306	52,332	181,132	0	18,419
Siskiyou	Siskiyou	112,834	0	9,759	117,425	52,332	100,000	0	0
Solano	Solano	425,126	36,632	14,528	373,804	36,697	207,970	0	0
Sonoma	Sonoma	854,983	299,855	23,466	920,304	52,332	489,374	59,682	1,123,954
Stanislaus	Yosemite	649,509	77,643	21,076	753,662	104,664	412,538	0	0
Tulare	Sequoias	363,691	0	14,481	396,558	52,332	206,519	0	3,873
Ventura	Ventura	1,091,103	33	27,503	1,207,516	172,631	609,448	587	19,737
Yuba	Yuba	389,525	35,835	13,834	382,368	52,332	186,136	0	14,310
		51,489,330	14,775,883	1,425,694	50,828,000	12,500,000	27,345,000	1,000,000	7,172,000

CATEGORICAL APPORTIONMENTS - PART 3
2005-06 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	TITLE IB STATE LEADERSHIP	TITLE II TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	NURSING CARE	TOTAL ECON DEV AND VTEA ALLOCATIONS
Alameda	Chabot-Las Positas	0	0	336,198	336,198	133,912	806,308
	Ohlone	596,408	0	56,437	106,308	0	759,153
	Peralta	178,875	0	75,250	470,219	479,487	1,203,831
Alameda		775,283	0	467,885	912,725	613,399	2,769,292
Butte	Butte	675,800	270,750	75,250	646,539	179,487	1,847,826
Contra Costa	Contra Costa	652,500	0	112,875	396,243	358,767	1,520,385
El Dorado	Lake Tahoe	0	0	75,250	114,809	0	190,059
Fresno	State Center	872,528	300,000	150,500	1,062,505	179,487	2,565,020
	West Hills	154,445	50,000	0	242,130	0	446,575
Fresno		1,026,973	350,000	150,500	1,304,635	179,487	3,011,595
Humboldt	Redwoods	152,502	0	75,250	181,311	0	409,063
Imperial	Imperial	0	0	295,284	295,284	179,487	770,055
Kern	Kern	676,903	0	225,750	639,279	0	1,541,932
	West Kern	158,158	0	217,257	217,257	0	592,672
Kern		835,061	0	443,007	856,536	0	2,134,604
Lassen	Lassen	0	0	0	22,016	0	22,016
Los Angeles	Antelope Valley	0	0	471,079	471,079	179,487	1,121,645
	Cerritos	357,750	0	37,625	917,419	179,487	1,492,281
	Citrus	178,875	0	75,250	337,071	0	591,196
	Compton	0	0	56,437	247,813	0	304,250
	El Camino	972,791	0	75,250	801,273	479,468	2,328,782
	Glendale	0	0	75,250	446,149	479,487	1,000,886
	Long Beach	1,357,017	0	75,250	964,030	0	2,396,297
	Los Angeles	2,442,640	0	489,123	3,683,955	0	6,615,718
	Mt. San Antonio	650,800	187,500	75,250	1,117,809	441,333	2,472,692
	Pasadena Area	357,751	0	18,812	492,927	104,917	974,407
	Rio Hondo	858,045	225,624	75,250	298,799	179,487	1,637,205
	Santa Clarita	519,888	0	75,250	261,519	479,463	1,336,120
	Santa Monica	300,000	0	56,437	526,477	0	882,914
Los Angeles		7,995,557	413,124	1,656,263	10,566,320	2,523,129	23,154,393
Marin	Marin	170,852	0	56,437	54,061	179,487	460,837

CATEGORICAL APPORTIONMENTS - PART 3

2005-06 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	TITLE IB STATE LEADERSHIP	TITLE II TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	NURSING CARE	TOTAL ECON DEV AND VTEA ALLOCATIONS
Mendocino	Mendocino-Lake	149,987	0	75,250	180,618	179,400	585,255
Merced	Merced	357,750	0	18,812	360,950	179,487	916,999
Monterey	Hartnell	652,098	0	75,250	102,030	0	829,378
	Monterey Peninsula	0	0	37,625	127,826	161,158	326,609
Monterey		652,098	0	112,875	229,856	161,158	1,155,987
Napa	Napa Valley	140,550	0	75,250	115,334	179,487	510,621
Orange	Coast	178,875	250,000	225,750	752,178	0	1,406,803
	North Orange County	1,346,875	0	75,250	408,994	0	1,831,119
	Rancho Santiago	677,175	0	112,875	962,979	0	1,753,029
	South Orange	178,875	0	94,062	276,229	0	549,166
Orange		2,381,800	250,000	507,937	2,400,380	0	5,540,117
Placer	Sierra	1,001,924	150,000	56,437	416,349	179,487	1,804,197
Plumas	Feather River	0	0	0	0	0	0
Riverside	Desert	705,716	0	202,300	202,300	179,487	1,289,803
	Mt. San Jacinto	0	0	37,625	265,268	179,487	482,380
	Palo Verde	0	0	74,466	74,466	0	148,932
	Riverside	560,250	118,452	169,312	821,593	478,696	2,148,303
Riverside		1,265,966	118,452	483,703	1,363,627	837,670	4,069,418
Sacramento	Los Rios	1,472,477	300,000	225,750	1,768,121	0	3,766,348
San Bernardino	Barstow	0	0	83,129	83,129	0	166,258
	Chaffey	334,269	0	643,960	643,960	0	1,622,189
	Copper Mt.	0	0	0	0	0	0
	San Bernardino	331,375	0	605,984	605,984	0	1,543,343
	Victor Valley	0	0	402,977	402,977	179,424	985,378
San Bernardino		665,644	0	1,736,050	1,736,050	179,424	4,317,168
San Diego	Grossmont-Cuyamaca	695,066	112,812	150,500	556,755	179,192	1,694,325
	Mira Costa	0	0	75,250	140,407	499,390	715,047
	Palomar	0	0	56,437	263,239	179,487	499,163
	San Diego	1,194,375	0	225,750	2,112,642	0	3,532,767
	Southwestern	319,425	0	75,250	511,839	179,294	1,085,808
San Diego		2,208,866	112,812	583,187	3,584,882	1,037,363	7,527,110

CATEGORICAL APPORTIONMENTS - PART 3

2005-06 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	TITLE IB STATE LEADERSHIP	TITLE II TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	NURSING CARE	TOTAL ECON DEV AND VTEA ALLOCATIONS
San Francisco	San Francisco	1,380,210	0	56,437	1,385,346	0	2,821,993
San Joaquin	San Joaquin Delta	140,550	0	37,625	742,722	383,758	1,304,655
San Luis Obispo	San Luis Obispo	225,121	0	75,250	302,973	0	603,344
San Mateo	San Mateo	1,055,641	225,624	169,312	221,785	0	1,672,362
Santa Barbara	Allan Hancock	178,875	0	37,625	583,188	0	799,688
	Santa Barbara	499,918	0	75,250	499,420	0	1,074,588
Santa Barbara		678,793	0	112,875	1,082,608	0	1,874,276
Santa Clara	Foothill-DeAnza	610,280	0	37,625	340,605	0	988,510
	Gavilan	319,425	0	56,437	81,505	179,487	636,854
	San Jose-Evergreen	452,500	300,000	112,875	372,507	179,487	1,417,369
	West Valley-Mission	2,085,759	0	131,687	323,508	413,339	2,954,293
Santa Clara		3,467,964	300,000	338,624	1,118,125	772,313	5,997,026
Santa Cruz	Cabrillo	140,550	0	56,437	250,368	479,487	926,842
Shasta	Shasta-Tehama-Trinity	0	0	320,839	320,839	179,487	821,165
Siskiyou	Siskiyou	0	0	102,010	102,010	499,775	703,795
Solano	Solano	140,550	0	75,250	203,303	0	419,103
Sonoma	Sonoma	378,684	0	75,250	418,856	179,487	1,052,277
Stanislaus	Yosemite	370,326	157,936	75,250	978,930	0	1,582,442
Tulare	Sequoias	212,712	0	75,250	498,396	0	786,358
Ventura	Ventura	868,000	157,936	131,687	575,380	0	1,733,003
Yuba	Yuba	140,550	0	75,250	410,873	179,487	806,160
		31,781,241	2,806,634	9,060,598	36,119,160	9,820,513	89,588,146

Chap. 208 of 2004

Schedule - 10

CALIFORNIA COMMUNITY COLLEGES Exhibit B-2A 16:14 Thursday, June 23, 2005
CATEGORICAL APPORTIONMENTS - PART 1
2004-2005 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
Alameda	Chabot-Las Positas	56,554	536,330	819,527	121,246	1,110,596	0	60,557	252,775
	Ohlone	14,430	221,446	344,584	49,421	928,265	0	16,564	71,597
	Peralta	123,010	1,104,423	2,514,892	562,850	2,090,297	0	263,688	1,162,991
Alameda		193,994	1,862,199	3,679,003	733,517	4,129,158	0	340,809	1,487,363
Butte	Butte	60,141	480,115	1,190,920	255,780	627,122	0	146,154	649,427
Contra Costa	Contra Costa	48,713	946,631	2,331,903	380,223	2,220,834	0	145,756	658,752
El Dorado	Lake Tahoe	3,776	116,053	130,975	26,665	446,934	0	12,500	42,269
Fresno	State Center	209,931	1,405,576	2,243,194	223,978	1,390,017	0	265,871	1,362,604
	West Hills	25,756	208,569	396,462	126,521	338,747	0	36,444	178,919
Fresno		235,687	1,614,145	2,639,656	350,499	1,728,764	0	302,315	1,541,523
Humboldt	Redwoods	37,808	320,198	822,646	129,887	1,021,606	0	47,141	205,021
Imperial	Imperial	50,884	291,105	1,010,508	133,042	495,194	0	68,026	318,115
Kern	Kern	139,386	911,591	2,063,004	327,289	1,934,146	494,290	163,733	707,738
	West Kern	11,448	130,994	258,549	43,466	243,283	0	45,632	194,719
Kern		150,834	1,042,585	2,321,553	370,755	2,177,429	494,290	209,365	902,457
Lassen	Lassen	9,361	121,648	346,962	68,566	353,016	0	27,797	120,893
Los Angeles	Antelope Valley	58,959	430,633	764,209	277,103	698,939	0	127,140	542,529
	Cerritos	109,137	826,127	965,722	93,612	1,108,374	0	116,555	523,565
	Citrus	47,151	387,951	768,469	210,200	556,563	0	64,219	290,670
	Compton	58,187	353,991	1,098,052	756,418	260,425	0	150,584	642,575
	El Camino	53,586	676,750	1,424,005	242,240	1,056,749	0	146,494	675,116
	Glendale	84,704	588,350	1,520,465	55,356	1,511,927	0	190,944	782,625
	Long Beach	152,403	992,751	1,791,382	252,407	994,409	0	250,344	1,068,270
	Los Angeles	660,888	5,119,629	10,819,448	1,318,500	4,941,174	0	1,070,766	4,955,843
	Mt. San Antonio	107,461	821,747	816,034	130,560	1,507,993	0	117,847	522,517
	Pasadena Area	136,323	874,148	1,314,668	139,562	928,385	0	122,821	530,893
	Rio Hondo	54,144	520,013	1,303,441	107,814	525,979	0	76,359	344,063
	Santa Clarita	28,976	294,754	405,178	53,646	531,256	0	23,961	84,510
	Santa Monica	74,711	776,770	1,090,305	98,357	1,177,733	0	87,954	400,181
Los Angeles		1,626,630	12,663,614	24,081,378	3,735,775	15,799,906	0	2,545,988	11,363,357
Marin	Marin	20,318	229,542	467,623	44,954	1,374,358	0	28,228	94,436

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
Mendocino	Mendocino-Lake	32,326	199,393	391,399	62,582	325,807	0	0	60,074
Merced	Merced	51,932	280,183	1,236,135	194,923	620,311	0	127,593	695,220
Monterey	Hartnell	31,293	276,487	646,072	155,027	626,268	0	49,550	241,038
	Monterey Peninsula	17,155	219,644	801,473	104,629	730,994	0	26,269	116,232
Monterey		48,448	496,131	1,447,545	259,656	1,357,262	0	75,819	357,270
Napa	Napa Valley	24,046	221,041	588,739	80,522	1,937,342	0	24,752	91,494
Orange	Coast	139,639	1,169,857	2,508,775	164,521	2,357,999	851,879	133,603	584,892
	North Orange County	115,845	1,006,374	1,990,771	271,923	1,956,601	0	140,259	598,082
	Rancho Santiago	90,557	963,397	1,748,072	127,485	1,650,363	0	170,506	844,799
	South Orange	53,441	587,250	1,297,820	132,343	1,560,176	0	34,453	149,806
Orange		399,482	3,726,878	7,545,438	696,272	7,525,139	851,879	478,821	2,177,579
Placer	Sierra	55,748	427,888	659,341	98,204	969,956	0	47,800	203,827
Plumas	Feather River	4,856	94,100	208,560	39,037	273,230	0	12,500	53,846
Riverside	Desert	32,208	268,765	411,474	46,778	476,973	0	22,808	16,235
	Mt. San Jacinto	48,536	417,739	574,390	169,927	490,100	0	61,777	263,424
	Palo Verde	9,235	98,107	340,094	44,329	213,252	0	19,039	122,059
	Riverside	132,949	871,104	632,380	70,069	1,291,155	0	124,067	539,587
Riverside		222,928	1,655,715	1,958,338	331,103	2,471,460	0	227,691	941,305
Sacramento	Los Rios	334,101	1,973,540	3,622,531	541,730	2,935,737	0	507,516	1,796,949
San Bernardino	Barstow	16,096	137,287	397,530	97,485	193,925	0	21,533	93,076
	Chaffey	55,406	384,870	748,898	117,765	1,154,108	0	81,577	352,616
	Copper Mt.	10,973	123,078	170,534	59,082	196,842	0	14,039	62,059
	San Bernardino	107,079	779,897	1,034,099	183,845	955,716	0	166,157	717,738
	Victor Valley	73,823	551,512	790,332	158,036	661,298	0	105,691	450,678
San Bernardino		263,377	1,976,644	3,141,393	616,213	3,161,889	0	388,997	1,676,167
San Diego	Grossmont-Cuyamaca	85,292	735,604	1,400,069	253,935	1,331,805	0	101,450	558,391
	Mira Costa	25,192	238,789	620,315	99,367	479,085	0	43,619	199,968
	Palomar	38,296	499,388	1,017,570	102,457	853,582	0	59,991	279,471
	San Diego	170,943	1,625,330	1,999,507	196,409	3,294,807	0	476,978	1,054,161
	Southwestern	94,065	637,960	1,836,083	173,251	934,125	0	68,462	319,529
San Diego		413,788	3,737,071	6,873,544	825,419	6,893,404	0	750,500	2,411,520

CALIFORNIA COMMUNITY COLLEGES Exhibit B-2A
CATEGORICAL APPORTIONMENTS - PART 1
2004-2005 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
San Francisco	San Francisco	96,645	945,498	1,533,782	60,230	2,300,811	0	171,557	750,600
San Joaquin	San Joaquin Delta	106,922	688,229	1,563,049	277,122	1,182,570	0	175,855	753,857
San Luis Obispo	San Luis Obispo	40,063	328,028	407,953	112,559	727,175	0	25,789	136,418
San Mateo	San Mateo	75,866	745,553	1,494,501	109,773	1,487,620	0	38,871	171,573
Santa Barbara	Allan Hancock	41,991	287,055	603,711	241,653	757,330	0	68,238	392,912
	Santa Barbara	61,800	400,019	987,387	90,200	881,572	0	40,894	215,942
Santa Barbara		103,791	687,074	1,591,098	331,853	1,638,902	0	109,132	608,854
Santa Clara	Foothill-DeAnza	84,495	943,126	1,595,477	136,516	3,970,772	0	67,731	308,737
	Gavilan	19,536	204,998	447,027	114,505	649,574	0	19,045	84,318
	San Jose-Evergreen	89,284	644,991	1,575,910	132,353	815,789	0	110,155	693,877
	West Valley-Mission	37,881	526,901	1,133,306	126,494	1,225,301	292,468	48,780	246,380
Santa Clara		231,196	2,320,016	4,751,720	509,868	6,661,436	292,468	245,711	1,333,312
Santa Cruz	Cabrillo	47,338	389,682	452,871	144,996	1,535,036	0	40,554	199,960
Shasta	Shasta-Tehama-Trinity	33,756	399,069	941,623	161,985	635,163	0	89,222	402,676
Siskiyou	Siskiyou	15,562	160,229	337,409	61,076	358,044	0	25,027	109,569
Solano	Solano	34,275	294,515	457,526	88,486	604,549	0	43,544	190,506
Sonoma	Sonoma	67,983	592,118	594,788	62,724	1,951,708	0	69,359	282,968
Stanislaus	Yosemite	82,891	640,818	1,455,256	155,897	1,660,851	0	151,913	678,226
Tulare	Sequoias	64,550	435,620	915,995	176,568	693,405	0	89,859	364,415
Ventura	Ventura	118,378	1,048,011	1,920,704	276,544	2,388,571	0	96,539	358,883
Yuba	Yuba	52,706	387,121	954,628	215,274	641,664	0	111,000	389,319
		5,461,100	44,538,000	86,068,993	12,720,279	83,313,363	1,638,637	8,000,000	34,580,000

CATEGORICAL APPORTIONMENTS - PART 2

2004-05 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY	INSTRUCT EQUIP & SCHED MAINT BLOCK GRANT	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
Alameda	Chabot-Las Positas	732,230	0	18,567	729,253	122,612	347,192	0	0
	Ohlone	398,541	0	13,081	366,647	53,103	174,844	0	0
	Peralta	1,098,631	10,533	20,162	789,302	228,818	399,238	22,225	80,504
Alameda		2,229,402	10,533	51,810	1,885,202	404,533	921,274	22,225	80,504
Butte	Butte	368,589	180,462	15,762	552,370	6,469,568	259,176	0	0
Contra Costa	Contra Costa	1,223,602	25,261	29,489	1,458,983	175,715	671,571	113,518	295,407
El Dorado	Lake Tahoe	116,925	24,799	8,522	97,197	53,103	37,987	0	0
Fresno	State Center	1,006,515	27,045	24,814	1,105,044	122,612	537,005	0	0
	West Hills	157,086	12,350	10,232	162,981	53,103	90,218	0	0
Fresno		1,163,601	39,395	35,046	1,268,025	175,715	627,223	0	0
Humboldt	Redwoods	218,213	2,179	11,268	263,346	53,103	119,724	3,667	161,390
Imperial	Imperial	242,242	0	11,080	238,509	53,103	118,155	0	0
Kern	Kern	845,673	24,337	20,260	796,395	175,715	396,713	0	0
	West Kern	299,101	7,694	8,578	97,197	53,103	39,929	0	0
Kern		1,144,774	32,031	28,838	893,592	228,818	436,642	0	0
Lassen	Lassen	100,746	8,850	9,034	114,640	53,103	46,574	0	0
Los Angeles	Antelope Valley	366,798	19,582	13,989	398,122	53,103	209,964	26,650	76,895
	Cerritos	686,465	73,142	19,625	788,495	53,103	372,058	0	0
	Citrus	365,123	222,102	15,153	519,462	53,103	240,589	862	21,275
	Compton	322,845	0	11,597	288,448	53,103	136,503	0	0
	El Camino	793,946	0	21,628	848,408	53,103	422,260	0	0
	Glendale	439,552	520,880	18,421	702,164	53,103	349,006	14,735	262,358
	Long Beach	807,863	215,531	21,941	937,446	53,103	450,138	0	0
	Los Angeles	4,360,190	419,106	74,425	4,427,138	494,333	2,036,106	108,299	2,292,686
	Mt. San Antonio	831,582	868,959	24,252	1,141,544	53,103	522,963	18,845	77,775
	Pasadena Area	1,037,153	375,189	22,982	998,221	53,103	476,904	0	0
	Rio Hondo	653,252	45,537	16,074	534,759	53,103	273,987	4,079	0
	Santa Clarita	455,647	0	14,975	420,171	53,103	236,041	0	0
	Santa Monica	730,493	35,366	18,443	1,000,440	53,103	340,576	96,379	81,240
Los Angeles		11,850,909	2,795,394	293,505	13,004,818	1,131,569	6,067,095	269,849	2,812,229
Marin	Marin	260,633	156,951	11,030	324,991	53,103	111,532	36,487	87,332
Mendocino	Mendocino-Lake	161,170	16,709	9,250	124,209	53,103	60,275	0	0

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY	INSTRUCT EQUIP & SCHED MAINT BLOCK GRANT	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
Merced	Merced	332,255	151,535	13,565	409,045	53,103	196,062	0	0
Monterey	Hartnell	347,317	0	12,248	319,164	53,103	152,421	0	0
	Monterey Peninsula	324,932	92,394	13,473	395,523	53,103	194,163	0	9,764
Monterey		672,249	92,394	25,721	714,687	106,206	346,584	0	9,764
Napa	Napa Valley	261,954	137,369	11,400	263,385	53,103	127,393	0	22,064
Orange	Coast	1,468,132	102,069	29,911	1,584,432	175,715	689,454	0	0
	North Orange County	1,053,628	1,123,191	30,817	1,561,487	122,612	708,590	8,996	668,505
	Rancho Santiago	1,378,456	2,173,867	27,934	1,381,015	122,612	623,762	0	0
	South Orange	916,008	79,152	23,339	1,005,110	106,206	489,203	0	0
Orange		4,816,224	3,478,279	112,001	5,532,044	527,145	2,511,009	8,996	668,505
Placer	Sierra	581,675	4,260	16,901	564,871	53,103	293,787	0	48,527
Plumas	Feather River	51,248	0	8,254	97,197	53,103	28,712	0	8,180
Riverside	Desert	295,117	141,266	12,058	282,131	53,103	148,214	0	17,039
	Mt. San Jacinto	362,541	48,277	13,024	327,277	53,103	172,599	0	0
	Palo Verde	339,847	40,451	8,350	97,197	53,103	35,457	0	0
	Riverside	937,520	5,184	23,654	1,083,773	53,103	498,104	9,451	152,757
Riverside		1,935,025	235,178	57,086	1,790,378	212,412	854,374	9,451	169,796
Sacramento	Los Rios	2,667,217	0	40,004	1,997,475	228,818	983,389	120,785	229,899
San Bernardino	Barstow	123,931	15,322	8,863	97,197	53,103	50,517	0	0
	Chaffey	552,533	164,315	16,930	591,547	53,103	293,278	0	0
	Copper Mt.	70,183	18,162	8,321	97,197	53,103	31,471	0	0
	San Bernardino	616,358	0	17,301	639,324	122,612	303,287	0	0
	Victor Valley	325,685	33,054	13,158	398,461	53,103	180,422	0	0
San Bernardino		1,683,690	230,853	64,573	1,823,726	335,024	858,975	0	0
San Diego	Grossmont-Cuyamaca	785,416	114,056	19,979	780,847	122,612	388,563	0	0
	Mira Costa	333,689	238,547	12,466	337,144	53,103	161,259	2,232	18,871
	Palomar	781,987	270,412	20,667	838,297	53,103	406,682	0	0
	San Diego	1,599,750	2,670,708	36,114	1,926,575	175,715	878,336	177,234	0
	Southwestern	599,203	83,577	17,631	653,332	53,103	320,598	1,218	0
San Diego		4,100,045	3,377,300	106,857	4,536,195	457,636	2,155,438	180,684	18,871
San Francisco	San Francisco	1,279,989	2,289,244	32,764	1,686,620	69,509	778,114	0	0
San Joaquin	San Joaquin Delta	553,114	162,598	18,064	668,433	53,103	331,726	0	0

CATEGORICAL APPORTIONMENTS - PART 2

2004-05 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY	INSTRUCT EQUIP & SCHED MAINT BLOCK GRANT	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
San Luis Obispo	San Luis Obispo	338,765	396	13,729	388,356	53,103	197,113	30,854	57,285
San Mateo	San Mateo	960,648	0	21,289	938,479	175,715	429,744	12,236	269,694
Santa Barbara	Allan Hancock	390,043	257,600	13,919	418,022	53,103	200,912	0	9,334
	Santa Barbara	441,299	480,924	17,533	624,301	53,103	320,280	0	0
Santa Barbara		831,342	738,524	31,452	1,042,323	106,206	521,192	0	9,334
Santa Clara	Foothill-DeAnza	1,304,197	58,052	30,453	1,475,772	106,206	707,265	83,963	288,343
	Gavilan	236,187	15,190	10,619	206,293	53,103	98,812	0	0
	San Jose-Evergreen	844,674	0	17,848	666,535	122,612	316,888	9,867	416,132
	West Valley-Mission	775,179	231	20,100	785,215	106,206	394,414	1,395	443,119
Santa Clara		3,160,237	73,473	79,020	3,133,815	388,127	1,517,379	95,225	1,147,594
Santa Cruz	Cabrillo	440,853	7,925	15,505	495,146	53,103	247,106	18,560	45,774
Shasta	Shasta-Tehama-Trinity	292,447	29,092	12,678	368,306	53,103	155,408	0	0
Siskiyou	Siskiyou	104,944	0	9,128	117,425	53,103	56,370	0	0
Solano	Solano	378,506	37,347	13,519	373,804	53,103	189,426	0	0
Sonoma	Sonoma	826,474	306,802	21,810	920,304	53,103	442,509	77,463	1,029,851
Stanislaus	Yosemite	601,705	136,775	19,454	753,662	122,612	373,652	0	0
Tulare	Sequoias	339,920	8,156	13,295	396,558	53,103	184,307	0	0
Ventura	Ventura	1,021,351	20,242	25,480	1,207,516	175,715	558,523	0	0
Yuba	Yuba	378,631	32,361	12,067	382,368	53,103	148,480	0	0
		47,696,314	14,842,667	1,310,250	50,828,000	12,500,000	23,964,000	1,000,000	7,172,000

CALIFORNIA COMMUNITY COLLEGES Exhibit B-3B 16:14 Thursday, June 23, 2005
CATEGORICAL APPORTIONMENTS - PART 3
2004-2005 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	PLANT & INSTRUCTIONAL SUPPORT	ECONOMIC DEVELOPMENT	TITLE IB STATE LEADERSHIP	TITLE II TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	TOTAL ECON DEV AND VTEA ALLOCATIONS
Alameda	Chabot-Las Positas	389,431	0	0	0	387,707	387,707
	Ohlone	196,115	585,750	0	51,600	88,432	725,782
	Peralta	447,809	237,698	0	68,800	438,387	744,885
Alameda		1,033,355	823,448	0	120,400	914,526	1,858,374
Butte	Butte	290,706	724,737	585,340	34,400	633,744	1,978,221
Contra Costa	Contra Costa	753,273	1,293,119	0	34,400	595,948	1,923,467
El Dorado	Lake Tahoe	100,000	0	0	68,800	117,789	186,589
Fresno	State Center	602,336	899,238	150,000	103,200	1,374,235	2,526,673
	West Hills	101,193	174,108	50,000	0	227,588	451,696
Fresno		703,529	1,073,346	200,000	103,200	1,601,823	2,978,369
Humboldt	Redwoods	134,289	147,112	0	68,800	243,478	459,390
Imperial	Imperial	132,529	58,823	0	0	376,260	435,083
Kern	Kern	444,976	801,426	0	206,400	414,371	1,422,197
	West Kern	100,000	145,054	0	0	350,404	495,458
Kern		544,976	946,480	0	206,400	764,775	1,917,655
Lassen	Lassen	100,000	0	0	17,200	101,472	118,672
Los Angeles	Antelope Valley	235,508	58,823	0	0	438,746	497,569
	Cerritos	417,322	416,573	0	68,800	717,911	1,203,284
	Citrus	269,859	178,875	0	68,800	289,086	536,761
	Compton	153,110	58,823	0	34,400	260,267	353,490
	El Camino	473,631	949,340	0	51,600	715,802	1,716,742
	Glendale	391,465	63,937	0	68,800	467,116	599,853
	Long Beach	504,901	1,231,919	100,000	68,800	673,740	2,074,459
	Los Angeles	2,283,815	2,806,224	0	17,200	4,978,471	7,801,895
	Mt. San Antonio	586,585	739,737	93,750	68,800	1,098,077	2,000,364
	Pasadena Area	534,923	492,143	0	51,600	472,008	1,015,751
	Rio Hondo	307,320	842,315	226,240	68,800	341,179	1,478,534
	Santa Clarita	264,757	975,644	0	68,800	202,450	1,246,894
	Santa Monica	382,010	358,823	0	51,600	516,314	926,737
Los Angeles		6,805,206	9,173,176	419,990	688,000	11,171,167	21,452,333
Marin	Marin	125,101	258,857	0	68,800	79,050	406,707

CATEGORICAL APPORTIONMENTS - PART 3

2004-2005 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	PLANT & INSTRUCTIONAL SUPPORT	ECONOMIC DEVELOPMENT	TITLE IB STATE LEADERSHIP	TITLE II TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	TOTAL ECON DEV AND VTEA ALLOCATIONS
Mendocino	Mendocino-Lake	100,000	149,987	0	68,800	173,003	391,790
Merced	Merced	219,915	452,371	0	34,400	348,968	835,739
Monterey	Hartnell	170,964	647,821	0	68,800	231,987	948,608
	Monterey Peninsula	217,784	58,823	0	34,400	145,171	238,394
Monterey		388,748	706,644	0	103,200	377,158	1,187,002
Napa	Napa Valley	142,892	276,164	0	68,800	152,892	497,856
Orange	Coast	773,332	63,937	200,000	206,400	757,908	1,228,245
	North Orange County	794,795	1,441,268	0	103,200	802,258	2,346,726
	Rancho Santiago	699,648	750,998	0	103,200	1,050,764	1,904,962
	South Orange	548,719	416,573	0	68,800	278,133	763,506
Orange		2,816,494	2,672,776	200,000	481,600	2,889,063	6,243,439
Placer	Sierra	329,528	840,748	150,000	68,800	346,903	1,406,451
Plumas	Feather River	100,000	0	0	0	0	0
Riverside	Desert	166,246	711,638	0	0	245,184	956,822
	Mt. San Jacinto	193,597	63,937	0	68,800	352,918	485,655
	Palo Verde	100,000	0	0	0	63,630	63,630
	Riverside	558,702	684,187	65,500	103,200	1,044,839	1,897,726
Riverside		1,018,545	1,459,762	65,500	172,000	1,706,571	3,403,833
Sacramento	Los Rios	1,103,026	1,607,872	93,750	275,200	1,819,176	3,795,998
San Bernardino	Barstow	100,000	0	0	0	91,843	91,843
	Chaffey	328,958	383,338	0	0	592,177	975,515
	Copper Mt.	100,000	0	0	0	0	0
	San Bernardino	340,185	356,375	0	0	684,918	1,041,293
	Victor Valley	202,372	58,823	0	0	430,935	489,758
San Bernardino		1,071,515	798,536	0	0	1,799,873	2,598,409
San Diego	Grossmont-Cuyamaca	435,834	783,542	202,720	137,600	476,183	1,600,045
	Mira Costa	180,878	50,000	0	68,800	156,573	275,373
	Palomar	456,157	63,937	0	51,600	268,706	384,243
	San Diego	985,193	1,278,768	0	206,400	2,387,786	3,872,954
	Southwestern	359,601	378,248	0	68,800	640,298	1,087,346
San Diego		2,417,663	2,554,495	202,720	533,200	3,929,546	7,219,961

CATEGORICAL APPORTIONMENTS - PART 3
2004-2005 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	PLANT & INSTRUCTIONAL SUPPORT	ECONOMIC DEVELOPMENT	TITLE IB STATE LEADERSHIP	TITLE II TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	TOTAL ECON DEV AND VTEA ALLOCATIONS
San Francisco	San Francisco	872,777	1,363,048	0	51,600	1,337,695	2,752,343
San Joaquin	San Joaquin Delta	372,083	199,373	0	68,800	709,517	977,690
San Luis Obispo	San Luis Obispo	221,094	283,540	0	68,800	297,705	650,045
San Mateo	San Mateo	482,026	916,165	222,080	103,200	291,015	1,532,460
Santa Barbara	Allan Hancock	225,355	178,875	100,000	34,400	628,560	941,835
	Santa Barbara	359,245	507,282	0	68,800	568,655	1,144,737
Santa Barbara		584,600	686,157	100,000	103,200	1,197,215	2,086,572
Santa Clara	Foothill-DeAnza	793,309	361,290	0	34,400	421,575	817,265
	Gavilan	110,833	319,425	0	51,600	122,727	493,752
	San Jose-Evergreen	355,440	646,323	93,750	68,800	426,895	1,235,768
	West Valley-Mission	442,397	2,258,461	0	51,600	304,617	2,614,678
Santa Clara		1,701,979	3,585,499	93,750	206,400	1,275,814	5,161,463
Santa Cruz	Cabrillo	277,168	199,373	175,000	68,800	153,027	596,200
Shasta	Shasta-Tehama-Trinity	174,314	84,393	0	0	366,116	450,509
Siskiyou	Siskiyou	100,000	0	0	0	98,936	98,936
Solano	Solano	212,471	199,373	0	68,800	183,618	451,791
Sonoma	Sonoma	496,344	306,046	0	68,800	542,081	916,927
Stanislaus	Yosemite	419,110	496,473	84,840	68,800	959,549	1,609,662
Tulare	Sequoias	206,729	211,023	0	68,800	396,999	676,822
Ventura	Ventura	626,471	1,041,330	100,640	68,800	624,767	1,835,537
Yuba	Yuba	166,544	199,373	0	68,800	465,590	733,763
		27,345,000	35,789,619	2,693,610	4,300,000	39,042,829	81,826,058

Chap. 157 of 2003

Schedule - 12

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2A (REVISED 6/29/04)

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
Alameda	Chabot-Las Positas	30,174	534,318	754,618	112,548	1,061,590	0	61,564	269,468
	Ohlone	7,169	236,110	328,977	50,798	801,738	0	17,149	75,026
	Peralta	64,608	1,060,155	2,402,905	473,215	1,996,336	0	275,294	1,302,412
Alameda		101,951	1,830,583	3,486,500	636,561	3,859,664	0	354,007	1,646,906
Butte	Butte	38,419	475,042	1,126,562	205,819	638,675	0	154,466	673,081
Contra Costa	Contra Costa	48,963	894,397	2,209,449	383,111	1,954,431	0	151,834	681,844
El Dorado	Lake Tahoe	3,355	112,786	126,423	27,021	457,441	0	12,500	38,271
Fresno	State Center	128,454	1,350,159	2,195,712	228,867	1,370,483	0	249,153	1,071,090
	West Hills	15,644	200,091	363,470	106,444	344,684	0	38,362	165,819
Fresno		144,098	1,550,250	2,559,182	335,311	1,715,167	0	287,515	1,236,909
Humboldt	Redwoods	22,668	311,855	786,760	129,569	1,021,081	0	49,622	215,812
Imperial	Imperial	18,255	241,853	955,717	116,601	492,963	0	71,606	313,291
Kern	Kern	90,847	925,100	1,986,698	331,999	1,900,719	482,657	169,730	742,572
	West Kern	5,271	121,137	252,906	44,677	226,107	0	43,183	184,359
Kern		96,118	1,046,237	2,239,604	376,676	2,126,826	482,657	212,913	926,931
Lassen	Lassen	5,152	120,231	319,709	70,476	326,276	0	29,824	131,813
Los Angeles	Antelope Valley	30,283	405,418	699,722	287,653	647,951	0	120,317	445,664
	Cerritos	69,659	826,767	990,836	99,051	1,010,596	0	110,300	476,773
	Citrus	25,251	365,432	744,957	183,227	517,354	0	60,773	387,834
	Compton	34,775	356,404	1,084,812	775,322	250,924	0	142,503	608,387
	El Camino	41,750	602,464	1,291,831	241,114	1,070,094	0	138,632	591,857
	Glendale	54,701	606,943	1,498,292	56,125	1,545,834	0	180,697	771,449
	Long Beach	95,125	932,915	1,779,763	210,836	911,662	0	236,909	1,011,434
	Los Angeles	376,140	4,427,329	10,432,837	1,265,525	4,843,658	0	1,027,763	4,738,229
	Mt. San Antonio	60,899	827,532	761,908	132,028	1,471,422	0	111,523	499,199
	Pasadena Area	71,451	808,985	1,331,463	132,900	938,561	0	126,805	690,405
	Rio Hondo	41,706	521,063	1,272,699	105,301	471,137	0	74,373	325,454
	Santa Clarita	17,048	257,814	382,907	50,470	510,487	0	19,061	88,846
	Santa Monica	54,837	829,670	1,114,468	99,437	1,079,476	0	92,024	406,876
Los Angeles		973,625	11,768,736	23,386,495	3,638,989	15,269,156	0	2,441,680	11,042,407
Marin	Marin	10,920	248,178	440,397	33,703	1,294,856	0	29,714	130,006
Mendocino	Mendocino-Lake	17,585	194,574	379,252	64,326	303,938	0	0	63,236

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2A (REVISED 6/29/04)

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
Merced	Merced	32,967	364,851	1,218,240	197,694	617,728	0	134,308	702,600
Monterey	Hartnell	21,802	263,219	631,652	152,476	637,379	0	40,580	191,140
	Monterey Peninsula	9,908	245,785	786,904	106,319	702,060	0	23,607	103,041
Monterey		31,710	509,004	1,418,556	258,795	1,339,439	0	64,187	294,181
Napa	Napa Valley	12,065	224,411	529,448	80,597	1,697,902	0	26,055	113,991
Orange	Coast	86,875	1,161,283	2,384,096	166,934	2,267,771	831,833	125,778	485,591
	North Orange Count	66,553	1,149,520	1,918,012	268,217	1,842,243	0	132,732	566,262
	Rancho Santiago	60,462	939,966	1,613,996	128,567	1,664,362	0	179,480	796,300
	South Orange	30,252	611,148	1,252,094	139,150	1,466,088	0	36,043	157,691
Orange		244,142	3,861,917	7,168,198	702,868	7,240,464	831,833	474,033	2,005,844
Placer	Sierra	29,878	410,064	606,586	77,526	900,538	0	45,235	192,983
Plumas	Feather River	2,711	97,861	194,738	39,623	278,717	0	12,500	26,407
Riverside	Desert	21,578	259,717	399,065	60,231	428,940	0	47,693	108,668
	Mt. San Jacinto	22,661	412,718	566,496	168,743	454,060	0	58,462	309,409
	Palo Verde	4,469	114,338	302,342	45,875	188,880	0	13,286	98,757
	Riverside	72,999	827,643	619,659	76,976	1,192,880	0	130,597	567,986
Riverside		121,707	1,614,416	1,887,562	351,825	2,264,760	0	250,038	1,084,820
Sacramento	Los Rios	158,465	1,944,080	3,208,574	460,522	2,791,205	0	516,569	2,142,760
San Bernardino	Barstow	8,485	149,091	382,334	100,201	171,980	0	21,870	93,348
	Chaffey	40,619	302,157	749,565	99,176	1,066,239	0	81,769	355,097
	Copper Mountain	6,971	119,498	165,246	36,643	182,866	0	13,286	58,757
	San Bernardino	54,434	821,696	987,344	167,137	958,100	0	159,652	681,118
	Victor Valley	35,427	459,791	764,275	147,351	632,991	0	100,019	426,700
San Bernardino		145,936	1,852,233	3,048,764	550,508	3,012,176	0	376,596	1,615,020
San Diego	Grossmont-Cuyamaca	50,790	648,975	1,379,833	254,062	1,068,226	0	108,564	529,353
	Mira Costa	11,390	207,031	610,400	100,090	447,122	0	40,934	177,861
	Palomar	27,078	464,960	1,010,175	103,143	796,258	0	63,148	149,975
	San Diego	107,483	1,632,122	1,937,181	199,991	3,164,697	0	502,082	1,245,683
	Southwestern	57,049	604,987	1,766,991	135,051	843,944	0	72,629	315,294
San Diego		253,790	3,558,075	6,704,580	792,337	6,320,247	0	787,357	2,418,166
San Francisco	San Francisco	51,297	873,305	1,488,738	55,209	2,060,514	0	180,586	790,105

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2A (REVISED 6/29/04)

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
San Joaquin	San Joaquin Delta	63,831	632,768	1,606,267	284,843	1,114,107	0	185,110	793,534
San Luis Obispo	San Luis Obispo	24,670	308,115	397,327	113,526	697,524	0	24,405	116,883
San Mateo	San Mateo	35,734	683,337	1,411,168	105,804	1,388,069	0	40,917	181,758
Santa Barbara	Allan Hancock	29,406	352,070	547,550	218,676	690,332	0	71,829	338,115
	Santa Barbara	30,438	447,284	988,858	105,055	831,879	0	42,041	235,965
Santa Barbara		59,844	799,354	1,536,408	323,731	1,522,211	0	113,870	574,080
Santa Clara	Foothill-DeAnza	37,237	870,156	1,542,267	125,363	4,010,246	0	71,296	368,508
	Gavilan	13,194	186,707	427,972	102,051	614,918	0	20,047	87,703
	San Jose-Evergreen	37,841	336,750	1,533,277	129,286	793,866	0	109,880	551,653
	West Valley-Mission	25,328	473,302	1,034,710	102,001	1,180,733	285,584	46,940	286,314
Santa Clara		113,600	1,866,915	4,538,226	458,701	6,599,763	285,584	248,163	1,294,178
Santa Cruz	Cabrillo	24,661	368,276	439,685	115,717	1,466,499	0	37,952	214,042
Shasta	Shasta-Tehama-Trinity	31,958	406,507	899,187	166,498	597,944	0	91,366	399,728
Siskiyou	Siskiyou	9,338	156,762	323,159	70,608	333,575	0	26,344	85,030
Solano	Solano	17,985	223,396	441,368	71,501	560,728	0	45,836	200,533
Sonoma	Sonoma	35,979	561,946	556,110	65,719	1,691,116	0	73,009	321,707
Stanislaus	Yosemite	46,626	610,289	1,391,378	155,337	1,835,463	0	159,908	693,067
Tulare	Sequoias	41,540	431,289	890,506	176,122	702,062	0	86,613	374,386
Ventura	Ventura	70,222	990,785	1,795,560	295,781	2,364,162	0	89,462	456,230
Yuba	Yuba	40,275	502,322	954,614	231,444	656,808	0	113,900	387,460
		3,182,040	42,647,000	82,670,997	12,220,999	79,514,195	1,600,074	8,000,000	34,580,000

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2B (REVISED 6/29/04)

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	TELECOM AND TECHNOLOGY	INSTRUCT EQUIP & SCHED MAINT BLOCK GRANT	PART-TIME FACULTY ALLOCATION	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
Alameda	Chabot-Las Positas	729,616	3,559	19,719	156,338	376,406	729,253	9,758	70,132
	Ohlone	348,023	0	13,291	64,234	178,538	366,647	0	0
	Peralta	1,030,879	5,892	21,203	284,806	419,156	789,302	26,842	76,827
Alameda		2,108,518	9,451	54,213	505,378	974,100	1,885,202	36,600	146,959
Butte	Butte	379,031	96,433	16,134	4,536,834	264,944	552,370	0	18,663
Contra Costa	Contra Costa	1,204,188	14,186	30,001	220,572	692,859	1,458,983	75,562	263,027
El Dorado	Lake Tahoe	120,676	15,102	8,845	64,234	41,422	97,197	0	0
Fresno	State Center	946,455	14,808	25,382	156,338	556,035	1,105,044	0	0
	West Hills	161,905	14,013	10,430	358,468	90,626	162,981	0	0
Fresno		1,108,360	28,821	35,812	514,806	646,661	1,268,025	0	0
Humboldt	Redwoods	220,985	0	11,605	64,234	125,023	263,346	3,277	153,872
Imperial	Imperial	248,836	0	11,158	64,234	114,559	238,509	0	0
Kern	Kern	822,934	12,820	20,610	220,572	392,897	796,395	0	0
	West Kern	302,087	3,197	8,747	64,234	40,245	97,197	0	6,176
Kern		1,125,021	16,017	29,357	284,806	433,142	893,592	0	6,176
Lassen	Lassen	104,066	7,274	9,459	64,234	58,816	114,640	0	0
Los Angeles	Antelope Valley	350,016	7,603	14,372	64,234	212,334	398,122	21,774	38,512
	Cerritos	665,983	37,737	20,045	64,234	391,251	788,495	0	0
	Citrus	363,449	121,228	15,870	64,234	258,863	519,462	1,454	13,395
	Compton	321,957	0	11,854	64,234	135,126	288,448	0	0
	El Camino	748,105	1,330	21,275	64,234	420,828	848,408	0	0
	Glendale	412,182	318,586	19,296	64,234	365,661	702,164	13,479	248,587
	Long Beach	761,361	104,122	21,017	64,234	450,611	937,446	0	0
	Los Angeles	4,281,496	112,624	76,451	605,976	2,135,893	4,427,138	84,295	2,195,615
	Mt. San Antonio	791,334	481,698	25,811	64,234	563,069	1,141,544	19,479	68,939
	Pasadena Area	1,021,016	153,194	23,147	64,234	484,507	998,221	0	0
	Rio Hondo	661,814	109,478	16,062	64,234	269,188	534,759	4,165	0
	Santa Clarita	383,978	0	15,074	64,234	228,768	420,171	0	0
	Santa Monica	741,108	79,465	23,845	64,234	504,352	1,000,440	94,017	71,913
Los Angeles		11,503,799	1,527,065	304,119	1,376,784	6,420,451	13,004,818	238,663	2,636,961
Marin	Marin	268,205	108,649	11,795	64,234	127,742	324,991	28,101	89,840
Mendocino	Mendocino-Lake	155,445	0	9,522	64,234	62,043	124,209	0	8,965

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2B (REVISED 6/29/04)

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	TELECOM AND TECHNOLOGY	INSTRUCT EQUIP & SCHED MAINT BLOCK GRANT	PART-TIME FACULTY ALLOCATION	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
Merced	Merced	341,727	87,189	13,980	64,234	200,417	409,045	0	0
Monterey	Hartnell	346,015	0	12,563	64,234	158,493	319,164	0	0
	Monterey Peninsula	334,214	48,830	13,697	64,234	192,782	395,523	0	7,019
Monterey		680,229	48,830	26,260	128,468	351,275	714,687	0	7,019
Napa	Napa Valley	250,152	65,469	11,803	64,234	131,639	263,385	0	22,831
Orange	Coast	1,471,047	68,752	32,972	220,572	787,050	1,584,432	98,624	0
	North Orange Count	1,072,661	678,141	32,180	156,338	760,149	1,561,487	8,228	572,603
	Rancho Santiago	1,347,023	1,185,930	28,812	156,338	654,409	1,381,015	0	0
	South Orange	873,778	46,100	23,863	128,468	492,260	1,005,110	8,083	0
Orange		4,764,509	1,978,923	117,827	661,716	2,693,868	5,532,044	114,935	572,603
Placer	Sierra	554,686	0	16,965	64,234	290,423	564,871	0	50,046
Plumas	Feather River	52,417	0	8,570	64,234	30,754	97,197	0	8,533
Riverside	Desert	272,972	78,066	12,292	64,234	146,921	282,131	0	13,883
	Mt. San Jacinto	355,079	23,672	13,026	64,234	171,955	327,277	0	0
	Palo Verde	117,160	22,532	8,648	64,234	41,237	97,197	0	0
	Riverside	884,858	0	24,690	64,234	523,737	1,083,773	7,238	127,803
Riverside		1,630,069	124,270	58,656	256,936	883,850	1,790,378	7,238	141,686
Sacramento	Los Rios	2,365,062	0	39,960	514,806	997,632	1,997,475	94,242	211,765
San Bernardino	Barstow	104,525	9,711	9,037	64,234	46,495	97,197	0	0
	Chaffey	523,614	124,442	17,142	64,234	294,310	591,547	0	0
	Copper Mountain	72,691	0	8,564	64,234	32,744	97,197	0	0
	San Bernardino	628,896	0	18,153	156,338	320,063	639,324	0	0
	Victor Valley	316,309	29,011	13,622	64,234	183,265	398,461	0	0
San Bernardino		1,646,035	163,164	66,518	413,274	876,877	1,823,726	0	0
San Diego	Grossmont-Cuyamaca	730,711	51,232	20,581	156,338	400,664	780,847	0	0
	Mira Costa	332,894	126,135	12,734	64,234	170,775	337,144	2,919	12,706
	Palomar	793,971	132,494	20,801	64,234	404,933	838,297	0	0
	San Diego	1,522,320	1,583,307	38,956	220,572	943,152	1,926,575	155,824	68,397
	Southwestern	562,613	11,231	18,515	64,234	328,023	653,332	1,371	0
San Diego		3,942,509	1,904,399	111,587	569,612	2,247,547	4,536,195	160,114	81,103
San Francisco	San Francisco	919,159	1,277,421	34,363	92,104	802,498	1,686,620	0	67,529

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2B (REVISED 6/29/04)

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	TELECOM AND TECHNOLOGY	INSTRUCT EQUIP & SCHED MAINT BLOCK GRANT	PART-TIME FACULTY ALLOCATION	PART-TIME FACULTY INSURANCE	PART-TIME FACULTY OFFICE
San Joaquin	San Joaquin Delta	527,481	95,258	18,653	64,234	335,865	668,433	0	0
San Luis Obispo	San Luis Obispo	311,519	0	13,793	64,234	196,849	388,356	27,996	52,793
San Mateo	San Mateo	934,052	0	22,176	220,572	451,081	938,479	6,450	284,743
Santa Barbara	Allan Hancock	363,389	141,220	14,232	64,234	205,788	418,022	0	7,061
	Santa Barbara	420,978	351,641	17,599	64,234	314,400	624,301	0	0
Santa Barbara		784,367	492,861	31,831	128,468	520,188	1,042,323	0	7,061
Santa Clara	Foothill-DeAnza	1,243,527	40,864	30,723	128,468	724,259	1,475,772	79,943	299,804
	Gavilan	233,659	0	10,802	64,234	100,353	206,293	0	0
	San Jose-Evergreen	803,353	0	17,859	156,338	323,837	666,535	10,671	395,738
	West Valley-Mission	736,335	45,063	20,759	128,468	400,786	785,215	1,397	423,142
Santa Clara		3,016,874	85,927	80,143	477,508	1,549,235	3,133,815	92,011	1,118,684
Santa Cruz	Cabrillo	428,936	2,868	15,668	64,234	251,487	495,146	21,240	45,128
Shasta	Shasta-Tehama-Trinity	300,865	21,201	13,161	64,234	174,725	368,306	0	13,800
Siskiyou	Siskiyou	107,070	0	9,354	64,234	57,547	117,425	0	0
Solano	Solano	361,167	21,650	13,509	64,234	182,850	373,804	0	21,772
Sonoma	Sonoma	849,090	170,334	22,221	64,234	452,317	920,304	69,056	1,109,817
Stanislaus	Yosemite	574,406	90,610	19,409	156,338	366,099	753,662	0	0
Tulare	Sequoias	322,196	0	13,623	64,234	187,819	396,558	0	6,378
Ventura	Ventura	1,026,438	18,747	26,166	220,572	570,048	1,207,516	24,515	24,246
Yuba	Yuba	389,340	21,495	13,249	64,234	176,348	382,368	0	0
		45,627,485	8,493,614	1,351,465	12,500,000	24,941,000	50,828,000	1,000,000	7,172,000

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-3B (REVISED 6/29/04)

COUNTY	DISTRICT	ECON. DEV. 0203 ONE TIME	ECON. DEV. ONGOING	TITLE II A STATE LEADERSHIP	TITLE III E TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	TOTAL ECON DEV AND VTEA ALLOCATIONS
Alameda	Chabot-Las Positas	45,600	0	0	0	388,304	433,904
	Ohlone	0	49,882	0	36,000	92,613	178,495
	Peralta	0	219,812	0	334,000	819,567	1,373,379
Alameda		45,600	269,694	0	370,000	1,300,484	1,985,778
Butte	Butte	117,466	686,586	300,000	36,000	610,724	1,750,776
Contra Costa	Contra Costa	75,041	607,161	0	191,500	559,024	1,432,726
El Dorado	Lake Tahoe	0	0	0	72,000	164,211	236,211
Fresno	State Center	208,837	1,051,634	225,000	167,000	1,372,733	3,025,204
	West Hills	127,452	724,123	50,000	0	209,494	1,111,069
Fresno		336,289	1,775,757	275,000	167,000	1,582,227	4,136,273
Humboldt	Redwoods	0	49,882	0	54,000	247,525	351,407
Imperial	Imperial	0	49,882	0	0	266,773	316,655
Kern	Kern	97,330	890,189	0	216,000	638,456	1,841,975
	West Kern	0	183,522	0	0	354,179	537,701
Kern		97,330	1,073,711	0	216,000	992,635	2,379,676
Lassen	Lassen	45,178	254,887	0	36,000	139,942	476,007
Los Angeles	Antelope Valley	0	49,882	0	0	405,320	455,202
	Cerritos	27,189	389,742	0	83,500	470,781	971,212
	Citrus	62,453	169,930	0	83,500	287,881	603,764
	Compton	9,514	464,322	0	72,000	536,894	1,082,730
	El Camino	181,899	942,540	0	83,500	444,025	1,651,964
	Glendale	55,885	53,676	0	54,000	555,584	719,145
	Long Beach	99,199	559,672	0	83,500	816,592	1,558,963
	Los Angeles	310,438	1,588,179	0	532,000	3,681,706	6,112,323
	Mt. San Antonio	99,834	686,586	300,000	54,000	877,311	2,017,731
	Pasadena Area	54,378	408,712	0	54,000	630,715	1,147,805
	Rio Hondo	107,626	655,502	237,000	54,000	361,455	1,415,583
	Santa Clarita	27,189	229,297	0	83,500	173,602	513,588
	Santa Monica	53,276	49,882	0	54,000	687,436	844,594
Los Angeles		1,088,880	6,247,922	537,000	1,291,500	9,929,302	19,094,604
Marin	Marin	7,600	49,882	0	54,000	79,154	190,636

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-3B (REVISED 6/29/04)

COUNTY	DISTRICT	ECON. DEV. 0203 ONE TIME	ECON. DEV. ONGOING	TITLE II A STATE LEADERSHIP	TITLE III E TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	TOTAL ECON DEV AND VTEA ALLOCATIONS
Mendocino	Mendocino-Lake	25,292	180,000	0	36,000	175,555	416,847
Merced	Merced	72,010	416,300	0	18,000	408,017	914,327
Monterey	Hartnell	81,789	557,897	0	83,500	168,976	892,162
	Monterey Peninsula	0	49,882	0	83,500	147,846	281,228
Monterey		81,789	607,779	0	167,000	316,822	1,173,390
Napa	Napa Valley	21,364	247,427	0	54,000	150,635	473,426
Orange	Coast	0	53,676	400,000	250,500	792,230	1,496,406
	North Orange Count	133,754	1,071,002	0	72,000	917,387	2,194,143
	Rancho Santiago	120,563	700,222	0	108,000	1,117,769	2,046,554
	South Orange	46,148	389,742	0	101,500	284,254	821,644
Orange		300,465	2,214,642	400,000	532,000	3,111,640	6,558,747
Placer	Sierra	87,868	512,862	400,000	36,000	353,807	1,390,537
Plumas	Feather River	7,600	0	0	0	0	7,600
Riverside	Desert	109,296	699,169	0	0	123,205	931,670
	Mt. San Jacinto	7,600	53,676	0	83,500	342,928	487,704
	Palo Verde	0	0	0	0	87,034	87,034
	Riverside	73,536	393,536	79,000	162,000	1,014,184	1,722,256
Riverside		190,432	1,146,381	79,000	245,500	1,567,351	3,228,664
Sacramento	Los Rios	371,697	1,431,364	631,000	162,000	1,658,452	4,254,513
San Bernardino	Barstow	0	0	0	0	113,627	113,627
	Chaffey	104,954	338,205	0	0	563,580	1,006,739
	Copper Mountain	0	0	0	0	0	0
	San Bernardino	61,978	324,930	0	0	515,437	902,345
	Victor Valley	5,534	56,102	0	0	505,372	567,008
San Bernardino		172,466	719,237	0	0	1,698,016	2,589,719
San Diego	Grossmont-Cuyamaca	68,313	389,742	79,000	167,000	495,561	1,199,616
	Mira Costa	0	0	0	83,500	96,425	179,925
	Palomar	0	53,676	0	36,000	277,838	367,514
	San Diego	187,545	918,502	0	250,500	2,313,018	3,669,565
	Southwestern	101,432	360,362	0	83,500	653,497	1,198,791
San Diego		357,290	1,722,282	79,000	620,500	3,836,339	6,615,411

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2003-2004 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-3B (REVISED 6/29/04)

COUNTY	DISTRICT	ECON. DEV. 0203 ONE TIME	ECON. DEV. ONGOING	TITLE II A STATE LEADERSHIP	TITLE III E TECHNICAL PREPARATION	TITLE IC ALLOCATIONS	TOTAL ECON DEV AND VTEA ALLOCATIONS
San Francisco	San Francisco	184,497	1,160,130	0	54,000	1,188,066	2,586,693
San Joaquin	San Joaquin Delta	52,604	190,432	0	72,000	681,206	996,242
San Luis Obispo	San Luis Obispo	0	49,882	0	54,000	230,067	333,949
San Mateo	San Mateo	119,106	378,606	158,000	162,000	265,425	1,083,137
Santa Barbara	Allan Hancock	45,455	169,930	0	18,000	473,803	707,188
	Santa Barbara	108,361	389,742	0	83,500	544,147	1,125,750
Santa Barbara		153,816	559,672	0	101,500	1,017,950	1,832,938
Santa Clara	Foothill-DeAnza	59,094	393,816	0	72,000	439,771	964,681
	Gavilan	47,978	462,980	0	54,000	60,114	625,072
	San Jose-Evergreen	94,829	672,312	300,000	36,000	396,766	1,499,907
	West Valley-Mission	219,762	1,448,142	0	119,500	247,804	2,035,208
Santa Clara		421,663	2,977,250	300,000	281,500	1,144,455	5,124,868
Santa Cruz	Cabrillo	59,017	435,604	0	54,000	307,686	856,307
Shasta	Shasta-Tehama-Trinity	80,615	727,370	0	0	358,363	1,166,348
Siskiyou	Siskiyou	0	0	0	0	104,794	104,794
Solano	Solano	21,364	190,432	0	0	119,346	331,142
Sonoma	Sonoma	28,964	190,432	0	83,500	433,216	736,112
Stanislaus	Yosemite	37,579	226,415	118,500	36,000	706,172	1,124,666
Tulare	Sequoias	22,005	213,620	0	54,000	396,208	685,833
Ventura	Ventura	128,256	954,748	39,500	144,000	659,262	1,925,766
Yuba	Yuba	227,258	1,090,432	0	54,000	543,868	1,915,558
		5,038,401	29,608,663	3,317,000	5,509,500	37,304,719	80,778,283

Chap. 379 of 2002

Schedule – 12

EXHIBIT B-2A

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (CalWORKS)	CALWORKS
Alameda	Chabot-Las Positas	15,515	79,265	747,110	118,471	1,058,679	0	64,804	267,086
	Fremont-Newark	4,616	20,686	338,316	53,472	789,579	0	18,052	48,179
	Peralta	33,023	220,650	2,442,800	445,382	1,993,679	0	289,783	1,330,802
Alameda		53,154	320,601	3,528,226	617,325	3,841,937	0	372,639	1,646,067
Butte	Butte-Glenn	20,338	95,464	1,153,987	197,368	670,271	0	161,943	908,506
Contra Costa	Contra Costa	18,523	118,970	2,301,679	399,878	1,937,332	0	159,232	696,678
El Dorado	Lake Tahoe	1,633	19,337	135,731	28,443	480,309	0	12,500	30,700
Fresno	State Center	122,624	318,683	2,173,127	240,912	1,349,300	0	237,330	1,013,322
	West Hills	10,834	37,165	353,128	112,046	361,590	0	39,136	171,219
Fresno		133,458	355,848	2,526,255	352,958	1,710,890	0	276,466	1,184,541
Humboldt	Redwoods	12,432	59,281	795,511	136,388	1,014,167	0	52,234	227,170
Imperial	Imperial	20,069	74,330	1,012,858	122,682	518,257	0	75,375	329,780
Kern	Kern	37,849	140,873	2,005,085	307,462	1,974,557	488,648	178,663	781,655
	West Kern	2,773	16,865	255,294	47,028	236,266	0	40,821	178,719
Kern		40,622	157,738	2,260,379	354,490	2,210,823	488,648	219,484	960,374
Lassen	Lassen	3,127	16,309	343,376	49,182	342,358	0	30,800	133,954
Los Angeles	Antelope Valley	17,276	85,077	705,086	284,925	637,795	0	113,736	455,549
	Cerritos	34,964	172,951	1,026,638	101,978	995,295	0	107,175	469,018
	Citrus	14,292	67,345	766,909	190,333	517,464	0	63,464	489,321
	Compton	16,901	77,045	1,092,608	816,128	263,062	0	134,709	589,774
	El Camino	21,786	139,714	1,366,147	253,804	1,053,589	0	131,049	603,750
	Glendale	40,144	111,348	1,468,476	54,199	1,521,889	0	190,285	697,848
	Long Beach	48,901	229,336	1,831,713	273,094	897,474	0	223,951	1,005,491
	Los Angeles	184,448	895,826	10,590,614	1,270,542	5,031,505	0	955,700	4,533,188
	Mt. San Antonio	31,113	149,543	782,900	138,977	1,448,961	0	105,423	575,225
	Pasadena	36,430	162,957	1,459,691	139,895	924,447	0	119,869	524,578
	Rio Hondo	23,619	117,171	1,309,461	105,334	468,972	0	86,076	342,583
	Santa Clarita	6,377	30,242	374,718	53,126	509,626	0	16,962	81,761
	Santa Monica	29,094	134,020	1,174,701	104,671	1,071,790	0	86,991	394,857
Los Angeles		505,345	2,372,575	23,949,662	3,787,006	15,341,869	0	2,335,390	10,762,943

EXHIBIT B-2A

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (CalWORKS)	CALWORKS
Marin	Marin	5,755	27,334	424,024	35,477	1,362,324	0	31,278	136,848
Mendocino	Mendocino-Lake	5,756	38,196	386,746	67,164	299,424	0	0	65,765
Merced	Merced	22,648	65,538	1,191,973	195,108	648,287	0	141,377	688,526
Monterey	Hartnell Joint	18,297	48,239	608,632	125,026	669,224	0	42,360	195,411
	Monterey Peninsula	11,340	24,357	801,117	111,915	735,753	0	24,775	108,464
Monterey		29,637	72,596	1,409,749	236,941	1,404,977	0	67,135	303,875
Napa	Napa Valley	6,135	30,164	564,154	84,839	1,670,961	0	27,426	119,990
Orange	Coast	43,081	222,483	2,313,018	160,050	2,331,302	842,158	130,303	570,096
	North Orange Count	61,633	171,790	1,948,846	288,685	1,846,216	0	125,472	581,938
	Rancho Santiago	30,553	166,525	1,615,893	131,701	1,654,104	0	188,926	875,160
	South Orange Count	16,073	75,688	1,285,649	146,474	1,462,861	0	37,940	128,490
Orange		151,340	636,486	7,163,406	726,910	7,294,483	842,158	482,641	2,155,684
Placer	Sierra Jt.	14,747	74,477	629,562	71,374	914,385	0	42,761	121,902
Plumas	Feather River	1,499	12,500	208,860	41,708	292,407	0	12,500	24,577
Riverside	Desert	10,540	42,383	422,718	94,980	433,833	0	50,203	94,136
	Mt. San Jacinto	12,738	74,870	603,152	172,256	446,683	0	55,264	241,779
	Palo Verde	1,550	12,500	294,889	34,786	197,910	0	12,559	81,959
	Riverside	25,770	165,999	618,044	81,027	1,174,448	0	137,471	597,880
Riverside		50,598	295,752	1,938,803	383,049	2,252,874	0	255,497	1,015,754
Sacramento	Los Rios	78,534	404,382	3,238,321	465,622	2,775,034	0	490,567	1,670,419
San Bernardino	Barstow	3,615	18,304	388,118	92,832	180,193	0	20,674	15,864
	Chaffey	37,004	99,292	753,117	107,344	1,056,354	0	81,871	434,513
	Copper Mountain	2,744	13,413	176,917	35,955	180,191	0	12,559	56,959
	San Bernardino	23,842	175,972	1,001,730	190,640	995,503	0	154,815	660,280
	Victor Valley	21,180	89,837	765,894	136,335	623,247	0	94,548	273,646
San Bernardino		88,385	396,818	3,085,776	563,106	3,035,488	0	364,467	1,441,262
San Diego	Grossmont-Cuyamaca	26,363	153,110	1,360,365	263,013	1,052,296	0	112,409	461,350
	Mira Costa	5,826	31,178	604,624	105,358	440,339	0	42,792	187,222
	Palomar	13,864	67,558	976,830	112,353	798,915	0	66,472	99,640
	San Diego	57,850	334,600	1,962,251	214,298	3,170,821	0	528,507	538,347

EXHIBIT B-2A

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (CalWORKS)	CALWORKS
San Diego	Southwestern	30,572	144,440	1,754,265	138,093	830,925	0	75,858	233,827
San Diego		134,475	730,886	6,658,335	833,115	6,293,296	0	826,038	1,520,386
San Francisco	San Francisco	26,107	114,210	1,528,879	58,115	2,142,576	0	190,091	831,689
San Joaquin	San Joaquin Delta	33,182	146,648	1,638,811	303,616	1,145,185	0	176,834	769,257
San Luis Obispo	San Luis Obispo Co	14,873	55,764	407,610	84,247	687,000	0	23,858	115,320
San Mateo	San Mateo County	16,874	89,003	1,418,262	111,372	1,388,111	0	43,071	198,446
Santa Barbara	Allan Hancock	15,896	76,915	554,441	230,185	679,348	0	75,609	846,807
	Santa Barbara	15,099	74,772	955,693	97,593	872,911	0	41,098	268,364
Santa Barbara		30,995	151,687	1,510,134	327,778	1,552,259	0	116,707	1,115,171
Santa Clara	Foothill-DeAnza	19,975	107,432	1,495,385	119,329	4,126,655	0	75,048	358,352
	Gavilan	4,604	27,759	439,080	99,831	645,605	0	21,102	117,319
	San Jose-Evergreen	25,610	149,412	1,540,482	119,942	802,788	0	109,730	580,087
	West Valley	13,453	74,786	1,037,365	93,722	1,209,433	289,129	49,411	259,182
Santa Clara		63,642	359,389	4,512,312	432,824	6,784,481	289,129	255,291	1,314,940
Santa Cruz	Cabrillo	13,109	67,296	452,786	121,807	1,469,529	0	39,949	230,781
Shasta	Shasta-Tehama-Trin	16,491	88,349	915,362	175,261	627,709	0	96,175	337,966
Siskiyou	Siskiyou Jt.	4,696	26,402	339,957	63,798	349,997	0	27,730	87,031
Solano	Solano	9,307	50,333	469,972	74,339	552,193	0	48,248	211,087
Sonoma	Sonoma County	18,991	92,127	558,171	63,915	1,664,376	0	76,852	303,740
Stanislaus	Yosemite	24,001	119,314	1,417,689	152,899	1,960,363	0	166,752	493,136
Tulare	Sequoias	21,434	93,141	906,984	185,392	700,195	0	86,552	378,846
Ventura	Ventura	34,193	165,705	1,780,217	269,304	2,435,401	0	98,064	503,337
Yuba	Yuba	16,126	105,050	923,652	195,200	689,598	0	116,076	377,833
		1,742,231	8,100,000	83,688,171	12,370,000	80,461,126	1,619,935	8,000,000	33,414,281

EXHIBIT B-2B

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	ONGOING INST. EQUIP. ALLOCATION	PART-TIME FACULTY INS.	PART-TIME FAC. OFFICE	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY
Alameda	Chabot-Las Positas	715,212	0	19,822	249,637	0	0	817,805	160,820
	Fremont-Newark	369,197	0	13,815	123,779	0	0	411,168	75,474
	Peralta	1,016,281	5,399	20,723	283,283	0	0	885,146	296,853
Alameda		2,100,690	5,399	54,360	656,699	0	0	2,114,119	533,147
Butte	Butte-Glenn	373,635	100,186	16,826	186,988	0	0	619,444	143,867
Contra Costa	Contra Costa	1,263,887	25,484	31,196	476,685	123,686	304,027	1,636,146	250,082
El Dorado	Lake Tahoe	119,451	14,166	8,971	26,452	0	0	109,000	71,756
Fresno	State Center	945,437	11,659	25,852	370,604	0	0	1,239,229	199,188
	West Hills	173,284	17,800	10,699	65,314	0	0	182,771	87,933
Fresno		1,118,721	29,459	36,551	435,918	0	0	1,422,000	287,121
Humboldt	Redwoods	230,649	0	12,065	88,952	3,941	207,053	295,324	82,498
Imperial	Imperial	264,790	0	11,492	77,780	0	0	267,471	71,055
Kern	Kern	823,023	12,386	21,452	269,486	0	0	893,100	247,344
	West Kern	294,641	2,359	8,987	27,400	0	19,065	109,000	88,663
Kern		1,117,664	14,745	30,439	296,886	0	19,065	1,002,100	336,007
Lassen	Lassen	112,400	10,591	9,729	41,181	0	0	128,560	84,024
Los Angeles	Antelope Valley	356,269	3,011	14,308	135,287	0	0	446,466	79,040
	Cerritos	692,712	47,423	20,928	265,464	0	0	884,241	93,314
	Citrus	353,899	51,651	16,372	179,080	1,604	7,553	582,540	79,674
	Compton	341,759	0	12,312	99,880	0	0	323,474	66,228
	El Camino	725,365	13,454	21,698	287,741	0	0	951,429	95,654
	Glendale	400,961	309,473	20,077	255,625	30,350	319,479	787,427	94,380
	Long Beach	738,167	83,572	22,722	308,954	0	0	1,051,279	90,319
	Los Angeles	4,259,058	350,399	84,385	1,526,125	75,227	2,075,571	4,964,721	759,207
	Mt. San Antonio	783,689	522,958	27,258	405,623	25,411	81,182	1,280,161	92,954
	Pasadena	930,502	170,171	24,313	338,472	0	0	1,119,434	94,648
	Rio Hondo	699,504	119,351	16,196	181,018	6,818	0	599,694	77,325
	Santa Clarita	373,724	0	15,042	152,469	0	0	471,192	93,557
	Santa Monica	782,971	61,797	24,437	344,723	0	0	1,121,923	89,972
Los Angeles		11,438,580	1,733,260	320,048	4,480,461	139,410	2,483,785	14,583,981	1,806,272
Marin	Marin	285,178	94,683	12,311	95,622	0	0	364,454	67,800

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	ONGOING INST. EQUIP. ALLOCATION	PART-TIME FACULTY INS.	PART-TIME FAC. OFFICE	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY
Mendocino	Mendocino-Lake	166,115	0	9,789	42,658	0	0	139,291	77,514
Merced	Merced	362,570	101,120	14,543	137,505	0	0	458,715	103,375
Monterey	Hartnell Joint	337,063	0	12,816	105,895	0	0	357,920	96,026
	Monterey Peninsula	354,661	204,688	14,218	133,325	0	9,103	443,551	64,903
Monterey		691,724	204,688	27,034	239,220	0	9,103	801,471	160,929
Napa	Napa Valley	255,400	61,381	12,071	87,714	0	25,609	295,368	69,303
Orange	Coast	1,478,330	52,392	32,766	516,841	149,305	0	1,776,828	265,696
	North Orange Count	1,112,493	643,377	33,608	528,913	9,125	736,081	1,751,097	189,130
	Rancho Santiago	1,392,085	1,094,836	31,115	483,388	0	0	1,548,710	158,687
	South Orange Count	861,943	46,711	23,974	334,681	13,755	0	1,127,159	127,421
Orange		4,844,851	1,837,316	121,463	1,863,823	172,185	736,081	6,203,794	740,934
Placer	Sierra Jt.	544,939	2,967	17,297	194,500	0	50,150	633,463	106,986
Plumas	Feather River	53,533	0	8,856	22,860	0	11,065	109,000	68,711
Riverside	Desert	266,525	73,144	12,458	99,804	0	23,224	316,390	85,512
	Mt. San Jacinto	353,092	11,229	13,039	112,366	0	0	367,018	109,255
	Palo Verde	126,183	24,698	8,798	26,372	0	0	109,000	79,589
	Riverside	857,429	0	27,020	379,990	13,263	172,364	1,215,375	116,663
Riverside		1,603,229	109,071	61,315	618,532	13,263	195,588	2,007,783	391,019
Sacramento	Los Rios	2,395,295	0	40,933	682,523	137,735	243,186	2,240,026	263,773
San Bernardino	Barstow	103,854	8,425	9,250	31,910	0	0	109,000	69,516
	Chaffey	508,572	110,599	17,656	204,249	0	0	663,378	103,045
	Copper Mountain	79,374	727	8,784	21,385	0	0	109,000	69,990
	San Bernardino	615,796	0	18,527	219,557	0	0	716,957	191,795
	Victor Valley	308,376	99,370	13,711	131,544	0	0	446,846	64,971
San Bernardino		1,615,972	219,121	67,928	608,645	0	0	2,045,181	499,317
San Diego	Grossmont-Cuyamaca	711,480	39,368	20,659	267,995	0	0	875,664	200,016
	Mira Costa	324,392	103,865	13,587	117,223	0	0	378,083	75,743
	Palomar	838,616	107,721	22,052	275,267	0	0	940,091	106,832
	San Diego	1,479,310	1,467,070	39,228	659,929	0	82,502	2,160,517	258,473
	Southwestern	550,634	24,564	18,434	222,450	1,595	0	732,666	106,474
San Diego		3,904,432	1,742,588	113,960	1,542,864	1,595	82,502	5,087,021	747,538

EXHIBIT B-2B

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	ONGOING INST. EQUIP. ALLOCATION	PART-TIME FACULTY INS.	PART-TIME FAC. OFFICE	PART-TIME FACULTY ALLOCATION	TELECOM AND TECHNOLOGY
San Francisco	San Francisco	970,393	1,104,152	35,374	553,140	0	76,591	1,891,425	131,001
San Joaquin	San Joaquin Delta	542,514	79,627	18,989	233,769	0	0	749,600	109,565
San Luis Obispo	San Luis Obispo Co	310,682	0	14,218	134,266	40,029	63,032	435,514	70,561
San Mateo	San Mateo County	910,762	0	20,606	260,907	0	0	1,052,438	248,887
Santa Barbara	Allan Hancock	353,841	131,603	14,471	137,902	0	0	468,782	78,659
	Santa Barbara	409,456	430,515	17,985	212,760	0	0	700,109	99,355
Santa Barbara		763,297	562,118	32,456	350,662	0	0	1,168,891	178,014
Santa Clara	Foothill-DeAnza	1,223,267	33,539	32,664	511,474	94,501	334,317	1,654,974	154,942
	Gavilan	248,814	0	11,177	68,664	0	0	231,343	78,043
	San Jose-Evergreen	843,784	0	18,433	219,578	16,785	568,071	747,472	160,589
	West Valley	722,273	26,923	20,614	261,066	0	0	880,563	134,679
Santa Clara		3,038,138	60,462	82,888	1,060,782	111,286	902,388	3,514,352	528,253
Santa Cruz	Cabrillo	418,731	2,611	16,098	171,013	28,605	58,023	555,271	96,051
Shasta	Shasta-Tehama-Trin	297,976	14,567	13,692	118,913	0	0	413,029	79,437
Siskiyou	Siskiyou Jt.	115,562	0	9,622	39,229	0	0	131,684	74,068
Solano	Solano	361,212	12,000	13,641	124,072	0	35,473	419,195	76,194
Sonoma	Sonoma County	896,636	189,781	22,730	308,610	119,419	1,632,174	1,032,056	115,507
Stanislaus	Yosemite	565,084	128,948	19,754	246,058	0	0	845,178	186,564
Tulare	Sequoias	314,061	1,409	14,037	131,418	0	8,260	444,712	116,588
Ventura	Ventura	1,031,943	9,627	27,134	396,291	108,846	28,845	1,354,144	295,967
Yuba	Yuba	412,689	22,087	13,834	123,845	0	0	428,799	86,421
		45,813,385	8,493,614	1,394,250	17,157,443	1,000,000	7,172,000	57,000,000	9,356,106

EXHIBIT B-3B

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	ECON DEV REVERSION ACT	STATE LEADERSHIP	TECHNICAL PREPARATION	ALLOCATIONS	NON TRADITIONAL
Alameda	Chabot-Las Positas	305,026	0	0	0	528,308	0
	Fremont-Newark	94,209	0	0	63,769	48,360	0
	Peralta	419,866	0	0	255,075	864,204	0
Alameda		819,101	0	0	318,844	1,440,872	0
Butte	Butte-Glenn	313,684	401,740	100,000	42,513	591,037	0
Contra Costa	Contra Costa	527,246	0	0	170,051	453,398	0
El Dorado	Lake Tahoe	0	0	0	85,025	87,287	0
Fresno	State Center	698,047	553,426	225,000	220,050	1,349,353	0
	West Hills	711,158	0	25,000	0	181,622	0
Fresno		1,409,205	553,426	250,000	220,050	1,530,975	0
Humboldt	Redwoods	50,626	0	0	42,513	261,424	0
Imperial	Imperial	50,626	0	0	0	387,707	0
Kern	Kern	469,008	303,372	0	255,075	551,664	0
	West Kern	158,378	0	0	0	342,076	0
Kern		627,386	303,372	0	255,075	893,740	0
Lassen	Lassen	294,444	0	0	21,256	115,957	0
Los Angeles	Antelope Valley	71,921	0	0	0	358,145	0
	Cerritos	50,626	151,686	0	63,769	675,423	0
	Citrus	348,422	0	0	42,513	286,145	0
	Compton	466,010	0	0	63,769	565,904	0
	El Camino	825,721	383,488	0	63,769	720,204	0
	Glendale	213,086	151,686	0	85,025	563,535	0
	Long Beach	452,366	151,686	0	42,513	821,457	0
	Los Angeles	1,684,045	303,372	0	552,664	4,923,799	0
	Mt. San Antonio	306,586	303,372	150,000	63,769	942,487	0
	Pasadena	214,142	151,686	0	63,769	722,264	0
	Rio Hondo	512,859	151,686	341,000	63,769	366,102	0
	Santa Clarita	52,992	151,686	0	63,769	132,154	0
	Santa Monica	347,850	0	0	63,769	510,076	0
Los Angeles		5,546,626	1,900,348	491,000	1,232,867	11,587,695	0
Marin	Marin	93,026	0	0	42,513	77,871	0

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	ECON DEV REVERSION ACT	STATE LEADERSHIP	TECHNICAL PREPARATION	ALLOCATIONS	NON TRADITIONAL
Mendocino	Mendocino-Lake	141,108	0	0	63,769	191,794	0
Merced	Merced	468,928	0	0	85,025	395,742	0
Monterey	Hartnell Joint	355,237	151,686	0	63,769	156,051	0
	Monterey Peninsula	86,117	0	0	42,513	92,472	0
Monterey		441,354	151,686	0	106,282	248,523	0
Napa	Napa Valley	172,178	0	0	63,769	151,416	0
Orange	Coast	51,809	0	156,250	255,075	819,191	0
	North Orange Count	539,710	455,058	0	85,025	564,797	0
	Rancho Santiago	583,382	151,686	0	127,538	984,616	0
	South Orange Count	51,809	303,372	0	127,538	306,849	0
Orange		1,226,710	910,116	156,250	595,176	2,675,453	0
Placer	Sierra Jt.	389,148	151,686	400,000	63,769	368,136	0
Plumas	Feather River	42,400	0	0	0	0	0
Riverside	Desert	458,073	151,686	0	0	246,798	0
	Mt. San Jacinto	93,026	0	0	63,769	260,961	0
	Palo Verde	42,400	0	0	0	0	0
	Riverside	363,663	151,686	78,500	127,538	1,102,967	0
Riverside		957,162	303,372	78,500	191,307	1,610,726	0
Sacramento	Los Rios	1,814,068	606,744	738,000	191,306	2,276,904	0
San Bernardino	Barstow	0	0	0	0	98,781	0
	Chaffey	636,163	0	0	0	446,316	0
	Copper Mountain	0	0	0	0	0	0
	San Bernardino	194,016	151,686	0	0	685,801	0
	Victor Valley	81,500	0	0	0	437,973	0
San Bernardino		911,679	151,686	0	0	1,668,871	0
San Diego	Grossmont-Cuyamaca	313,652	303,372	77,000	170,050	558,797	0
	Mira Costa	0	0	0	85,025	227,021	0
	Palomar	52,992	0	0	42,513	233,284	0
	San Diego	650,798	455,058	0	255,075	3,265,228	0
	Southwestern	616,602	0	0	85,025	763,672	0
San Diego		1,634,044	758,430	77,000	637,688	5,048,002	0

EXHIBIT B-3B

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2002-2003 SECOND PRINCIPAL APPORTIONMENT

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	ECON DEV REVERSION ACT	STATE LEADERSHIP	TECHNICAL PREPARATION	ALLOCATIONS	NON TRADITIONAL
San Francisco	San Francisco	321,498	758,430	0	63,769	1,248,306	0
San Joaquin	San Joaquin Delta	424,212	0	0	42,513	713,509	0
San Luis Obispo	San Luis Obispo Co	50,626	0	0	42,513	245,768	0
San Mateo	San Mateo County	744,854	0	120,000	191,306	245,201	0
Santa Barbara	Allan Hancock	154,162	151,686	0	42,513	701,457	0
	Santa Barbara	503,480	151,686	0	85,025	524,291	0
Santa Barbara		657,642	303,372	0	127,538	1,225,748	0
Santa Clara	Foothill-DeAnza	177,999	151,686	0	85,025	552,514	0
	Gavilan	119,186	151,368	0	63,769	124,223	0
	San Jose-Evergreen	482,389	151,686	300,000	85,025	638,625	0
	West Valley	676,899	803,480	0	127,538	286,351	0
Santa Clara		1,456,473	1,258,220	300,000	361,357	1,601,713	0
Santa Cruz	Cabrillo	382,239	0	0	85,025	325,596	0
Shasta	Shasta-Tehama-Trin	500,954	0	0	0	284,059	0
Siskiyou	Siskiyou Jt.	0	0	0	0	116,499	0
Solano	Solano	169,812	0	0	0	251,845	0
Sonoma	Sonoma County	212,212	0	0	85,025	480,617	0
Stanislaus	Yosemite	309,483	0	120,000	85,025	650,161	0
Tulare	Sequoias	185,219	0	0	85,025	446,110	0
Ventura	Ventura	689,802	303,372	75,000	148,795	404,960	0
Yuba	Yuba	1,341,194	0	0	63,769	426,128	0
		25,376,969	8,816,000	2,905,750	5,810,458	40,729,750	0

Chap 106 of 2001

Schedule - 12

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2A

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
ALAMEDA	Chabot-Las Positas	16,187	68,293	685,897	119,858	997,976	0	129,608	526,780
	Fremont-Newark	4,291	22,984	310,176	58,883	829,504	0	31,103	131,667
	Peralta	34,630	189,922	2,353,624	421,330	2,028,954	0	579,567	2,354,489
ALAMEDA		55,108	281,199	3,349,697	600,071	3,856,434	0	740,278	3,012,936
BUTTE	Butte	21,031	87,396	1,121,214	204,570	745,533	0	323,888	1,506,358
CONTRA COSTA	Contra Costa	18,733	116,612	2,166,533	412,671	1,691,926	0	318,466	1,248,831
EL DORADO	Lake Tahoe	1,152	21,485	125,134	19,571	496,347	0	25,000	100,000
FRESNO	State Center	62,206	236,965	2,123,368	241,194	1,243,767	0	474,662	1,928,313
	West Hills	8,059	30,921	386,055	120,421	346,659	0	78,272	347,799
FRESNO		70,265	267,886	2,509,423	361,615	1,590,426	0	552,934	2,276,112
HUMBOLDT	Redwoods	13,083	56,012	742,574	140,751	1,065,048	0	104,467	486,888
IMPERIAL	Imperial	18,436	63,306	968,095	102,560	521,959	0	150,749	612,449
KERN	Kern	36,360	133,412	1,872,698	332,377	1,855,548	479,067	357,328	1,480,228
	West Kern	2,662	14,301	229,014	48,532	229,370	0	81,642	331,907
KERN		39,022	147,713	2,101,712	380,909	2,084,918	479,067	438,970	1,812,135
LASSEN	Lassen	3,351	17,694	323,991	50,755	343,721	0	61,600	270,687
LOS ANGELES	Antelope Valley	12,949	91,395	680,535	218,562	603,994	0	227,471	972,402
	Cerritos	35,950	153,166	1,020,948	88,650	916,934	0	214,349	871,034
	Citrus	13,850	55,734	726,878	196,112	522,082	0	126,927	619,606
	Compton	16,316	71,849	1,032,657	633,892	264,293	0	269,417	1,390,575
	El Camino	25,349	155,238	1,260,887	220,603	1,132,809	0	262,098	1,065,536
	Glendale	23,663	89,981	1,378,669	42,022	1,281,025	0	341,628	1,388,860
	Long Beach	52,741	211,075	1,689,392	281,831	815,974	0	447,904	1,820,912
	Los Angeles	200,879	774,029	9,928,794	1,146,496	4,785,598	0	1,916,402	7,993,678
	Mt. San Antonio	29,671	127,088	752,137	131,783	1,373,566	0	210,846	904,560
	Pasadena Area	58,106	140,028	1,472,281	144,371	910,124	0	239,738	974,216
	Rio Hondo	22,891	102,931	1,207,830	114,389	438,806	0	156,573	616,225
	Santa Clarita	7,533	26,061	344,311	45,744	486,360	0	33,923	137,913
	Santa Monica	27,232	125,145	1,098,824	108,020	1,003,001	0	173,982	707,305
LOS ANGELES		527,130	2,123,720	22,594,143	3,372,475	14,534,566	0	4,621,258	19,462,822

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2A

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
MARIN	Marin	6,134	29,353	384,224	26,612	1,430,965	0	62,556	254,146
MENDOCINO	Mendocino-Lake	5,995	31,369	378,381	69,313	293,553	0	70,099	284,982
MERCED	Merced	14,533	72,819	1,100,785	201,350	610,704	0	282,755	1,148,692
MONTEREY	Hartnell	11,134	41,953	598,145	87,166	470,787	0	84,719	393,154
	Monterey Peninsula	5,552	18,314	746,178	115,495	699,354	0	49,549	201,433
MONTEREY		16,686	60,267	1,344,323	202,661	1,170,141	0	134,268	594,587
NAPA	Napa Valley	6,222	31,386	530,959	84,345	1,583,815	0	54,851	222,838
ORANGE	Coast	42,228	188,250	2,228,279	149,333	2,061,808	825,645	260,605	1,212,334
	North Orange Count	37,750	149,937	1,843,348	235,916	1,672,298	0	250,943	1,019,457
	Rancho Santiago	28,613	143,595	1,607,573	120,551	1,410,036	0	377,854	1,565,100
	South Orange Count	17,431	58,574	1,235,937	149,234	1,456,712	0	75,880	341,616
ORANGE		126,022	540,356	6,915,137	655,034	6,600,854	825,645	965,282	4,138,507
PLACER	Sierra	15,234	67,374	601,378	73,657	841,602	0	85,522	189,830
PLUMAS	Feather River	1,403	12,822	212,510	43,042	297,986	0	25,000	100,000
RIVERSIDE	Desert	9,755	42,569	397,151	94,570	442,325	0	100,406	407,921
	Mt. San Jacinto	11,839	46,573	557,410	175,703	489,467	0	110,527	449,018
	Palo Verde	1,432	11,993	299,750	35,899	183,745	0	25,117	105,781
	Riverside	26,735	148,424	598,714	50,185	1,083,083	0	274,943	1,110,348
RIVERSIDE		49,761	249,559	1,853,025	356,357	2,198,620	0	510,993	2,073,068
SACRAMENTO	Los Rios	73,469	338,176	3,020,325	496,493	2,578,394	0	981,135	3,730,690
SAN BERNARDINO	Barstow	3,520	17,116	326,027	80,988	175,766	0	41,348	168,056
SAN BERNARDINO	Chaffey	22,483	97,170	708,646	82,840	1,069,207	0	163,742	665,225
	Copper Mountain	2,483	12,500	171,413	29,387	189,199	0	25,117	83,281
	San Bernardino	23,010	142,534	959,321	191,563	828,207	0	301,842	1,226,234
	Victor Valley	17,039	69,256	724,989	136,796	638,363	0	189,095	588,199
SAN BERNARDINO		68,535	338,576	2,890,396	521,574	2,900,742	0	721,144	2,730,995
SAN DIEGO	Grossmont-Cuyamaca	27,356	123,874	1,258,051	270,978	909,354	0	224,818	1,063,321
	Mira Costa	5,452	29,851	562,568	108,729	455,015	0	85,584	352,698
	Palomar	3,775	51,486	935,003	110,338	735,593	0	132,943	490,105

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 1
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2A

COUNTY	DISTRICT	FEE WAIVER ADMIN (2%)	STUDENT FINANCIAL AID ADMIN	E.O.P.S.	C.A.R.E.	D.S.P.S.	STATE HOSPITALS	TANF (GAIN)	CALWORKS
SAN DIEGO	San Diego	62,201	311,232	1,865,070	208,188	3,126,501	0	1,057,016	3,812,267
	Southwestern	30,502	119,776	1,671,649	142,511	722,818	0	151,715	574,762
SAN DIEGO		129,286	636,219	6,292,341	840,744	5,949,281	0	1,652,076	6,293,153
SAN FRANCISCO	San Francisco	19,831	109,146	1,427,977	58,210	1,728,788	0	380,183	1,544,566
SAN JOAQUIN	San Joaquin Delta	34,198	134,965	1,592,298	289,855	1,018,493	0	353,669	1,428,621
SAN LUIS OBISPO	San Luis Obispo	13,050	46,389	384,270	76,668	704,999	0	47,716	212,899
SAN MATEO	San Mateo	15,881	76,520	1,385,023	79,662	1,397,813	0	86,142	349,971
SANTA BARBARA	Allan Hancock	16,233	68,552	557,291	225,428	701,583	0	151,217	665,903
	Santa Barbara	15,856	64,988	914,172	100,715	746,108	0	82,195	334,017
SANTA BARBARA		32,089	133,540	1,471,463	326,143	1,447,691	0	233,412	999,920
SANTA CLARA	Foothill-DeAnza	21,054	119,369	1,495,433	123,146	3,965,869	0	150,096	653,144
	Gavilan	5,036	22,913	403,243	89,631	644,783	0	42,204	171,450
	San Jose-Evergreen	28,680	147,856	1,575,249	100,572	784,702	0	219,459	891,591
	West Valley-Missio	16,241	77,188	973,623	94,132	1,248,582	283,460	98,822	431,481
SANTA CLARA		71,011	367,326	4,447,548	407,481	6,643,936	283,460	510,581	2,147,666
SANTA CRUZ	Cabrillo	14,097	61,164	421,728	108,596	1,319,780	0	79,897	324,594
SHASTA	Shasta-Tehama-Trin	16,516	73,645	874,682	180,868	643,216	0	192,350	781,423
SISKIYOU	Siskiyou	4,268	21,087	317,205	63,031	349,709	0	55,460	225,468
SOLANO	Solano	10,260	41,494	433,741	76,717	526,662	0	96,495	392,018
SONOMA	Sonoma County	20,561	87,090	535,175	65,960	1,527,516	0	153,703	624,445
STANISLAUS	Yosemite	23,029	108,380	1,340,142	169,868	2,001,178	0	333,506	1,126,282
TULARE	Sequoias	21,609	84,199	852,589	190,893	690,297	0	173,104	703,572
VENTURA	Ventura	32,282	138,005	1,733,880	266,373	2,475,347	0	188,339	799,731
YUBA	Yuba	10,388	74,751	891,838	197,543	653,022	0	232,152	788,118
		1,619,661	7,149,000	79,635,859	11,774,998	76,515,982	1,588,172	16,000,000	65,000,000

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2B

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	FACULTY & STAFF DEVELOPMENT	TELECOM AND TECHNOLOGY	ONGOING INST. EQUIP. ALLOCATION	PART-TIME FACULTY INS.	PART-TIME FAC. OFFICE
ALAMEDA	Chabot-Las Positas	993,119	0	19,917	74,456	600,726	215,771	0	0
	Fremont-Newark	512,405	0	13,813	37,115	268,023	108,483	0	0
	Peralta	1,405,329	11,436	20,823	80,004	1,053,814	233,539	0	0
ALAMEDA		2,910,853	11,436	54,553	191,575	1,922,563	557,793	0	0
BUTTE	Butte	518,995	119,477	16,546	53,833	343,236	163,435	0	11,425
CONTRA COSTA	Contra Costa	1,757,444	29,034	30,821	141,163	908,071	431,684	89,674	0
EL DORADO	Lake Tahoe	162,557	14,720	8,975	10,000	239,258	22,890	0	0
FRESNO	State Center	1,316,215	9,112	26,004	111,693	660,652	326,961	0	0
	West Hills	238,194	37,583	10,463	16,622	236,568	48,223	0	0
FRESNO		1,554,409	46,695	36,467	128,315	897,220	375,184	0	0
HUMBOLDT	Redwoods	318,432	3,750	12,014	26,108	264,543	77,919	3,915	203,947
IMPERIAL	Imperial	366,371	0	11,558	23,321	256,782	70,570	0	0
KERN	Kern	1,139,264	6,398	21,188	82,231	846,156	235,637	0	0
	West Kern	408,731	5,532	8,965	10,000	236,194	22,568	0	0
KERN		1,547,995	11,930	30,153	92,231	1,082,350	258,205	0	0
LASSEN	Lassen	152,570	12,172	9,568	10,000	237,216	33,919	0	0

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2B

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	FACULTY & STAFF DEVELOPMENT	TELECOM AND TECHNOLOGY	ONGOING INST. EQUIP. ALLOCATION	PART-TIME FACULTY INS.	PART-TIME FAC. OFFICE
LOS ANGELES	Antelope Valley	494,555	1,518	14,389	40,640	311,284	117,796	0	0
	Cerritos	966,329	36,681	21,114	81,782	314,840	233,300	0	0
	Citrus	491,249	215,035	16,247	52,008	286,682	153,699	0	0
	Compton	474,753	0	12,359	28,219	255,949	85,346	0	0
	El Camino	1,012,287	29,552	21,752	85,686	334,186	251,027	1,509	0
	Glendale	557,394	458,521	19,321	70,813	312,155	207,756	22,959	340,485
	Long Beach	1,030,882	110,201	23,376	95,619	341,527	277,372	0	0
	Los Angeles	5,998,357	478,849	82,306	456,130	2,542,819	1,309,902	0	2,831,167
	Mt. San Antonio	1,094,830	616,090	26,775	116,415	346,911	337,760	18,414	112,000
	Pasadena Area	1,466,794	217,133	24,307	101,314	330,324	295,354	0	0
	Rio Hondo	975,557	47,492	16,306	52,370	280,157	158,224	6,692	0
	Santa Clarita	556,009	0	14,750	42,852	269,537	124,320	0	0
	Santa Monica	1,092,908	119,090	24,151	100,362	341,340	296,011	92,226	97,149
LOS ANGELES		16,211,904	2,330,162	317,153	1,324,210	6,267,711	3,847,867	141,800	3,380,801
MARIN	Marin	455,137	125,080	13,011	32,208	265,948	96,158	40,983	97,346
MENDOCINO	Mendocino-Lake	228,205	7,845	9,792	12,515	243,166	36,751	0	0
MERCED	Merced	503,952	179,016	14,536	41,541	269,788	121,028	0	0
MONTEREY	Hartnell	467,587	4,258	13,018	32,251	261,302	94,434	0	0
	Monterey Peninsula	552,434	233,466	14,459	41,070	254,832	117,027	0	0
MONTEREY		1,020,021	237,724	27,477	73,321	516,134	211,461	0	0
NAPA	Napa Valley	353,459	79,131	12,103	26,654	260,174	77,931	0	0
ORANGE	Coast	2,057,927	69,529	33,964	160,393	925,804	468,802	110,598	0
	North Orange Count	1,551,517	1,127,553	33,597	158,146	705,477	462,013	7,954	919,417
	Rancho Santiago	2,006,572	1,398,558	30,937	141,872	667,264	408,615	0	0
	South Orange Count	1,199,326	136,980	24,268	101,077	576,449	297,392	8,099	0
ORANGE		6,815,342	2,732,620	122,766	561,488	2,874,994	1,636,822	126,651	919,417

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2B

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	FACULTY & STAFF DEVELOPMENT	TELECOM AND TECHNOLOGY	ONGOING INST. EQUIP. ALLOCATION	PART-TIME FACULTY INS.	PART-TIME FAC. OFFICE
PLACER	Sierra	759,389	9,275	17,006	56,649	296,565	167,134	0	0
PLUMAS	Feather River	62,250	540	8,817	10,000	231,769	19,111	0	8,246
RIVERSIDE	Desert	368,472	92,644	12,438	28,706	265,131	83,477	0	22,884
	Mt. San Jacinto	490,595	30,842	13,033	32,344	269,739	96,835	0	0
	Palo Verde	171,666	21,722	8,738	10,000	232,616	22,751	0	0
	Riverside	1,252,906	2,210	24,717	103,826	341,090	320,667	6,843	157,551
RIVERSIDE		2,283,639	147,418	58,926	174,876	1,108,576	523,730	6,843	180,435
SACRAMENTO	Los Rios	3,385,225	0	41,331	205,462	976,181	591,013	105,510	289,166
SAN BERNARDINO	Barstow	140,638	14,878	9,287	10,000	234,807	27,358	0	0
	Chaffey	708,824	84,188	17,608	60,331	289,373	175,027	0	0
	Copper Mountain	89,109	5,486	8,809	10,000	232,360	18,884	0	0
	San Bernardino	854,097	0	18,319	64,681	593,205	189,163	0	0
	Victor Valley	427,491	119,782	14,073	38,710	271,389	117,897	0	0
SAN BERNARDINO		2,220,159	224,334	68,096	183,722	1,621,134	528,329	0	0
SAN DIEGO	Grossmont-Cuyamaca	987,753	68,848	20,707	79,293	626,316	231,037	0	0
	Mira Costa	449,859	128,284	13,295	33,947	268,694	99,754	0	0
	Palomar	1,171,329	211,338	20,744	79,520	335,888	248,035	0	0
	San Diego	2,101,205	1,989,182	39,853	196,420	993,097	570,035	221,142	0
	Southwestern	767,137	29,142	18,652	66,717	314,996	193,308	1,455	0
SAN DIEGO		5,477,283	2,426,794	113,251	455,897	2,538,991	1,342,169	222,597	0
SAN FRANCISCO	San Francisco	1,355,471	1,617,975	35,769	171,435	514,430	499,037	0	138,797
SAN JOAQUIN	San Joaquin Delta	755,717	85,621	18,606	66,441	307,451	197,776	0	0
SAN LUIS OBISPO	San Luis Obispo	430,650	0	14,196	39,458	274,665	114,907	32,580	70,835

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 2
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-2B

COUNTY	DISTRICT	CREDIT MATRICULATION	NONCREDIT MATRICULATION	FACULTY & STAFF DIVERSITY	FACULTY & STAFF DEVELOPMENT	TELECOM AND TECHNOLOGY	ONGOING INST. EQUIP. ALLOCATION	PART-TIME FACULTY INS.	PART-TIME FAC. OFFICE
SAN MATEO	San Mateo	1,262,153	0	21,720	85,491	847,168	277,677	0	0
SANTA BARBARA	Allan Hancock	491,287	187,730	14,626	42,091	279,279	123,684	4,818	9,068
	Santa Barbara	569,821	561,227	18,058	63,083	299,062	184,718	0	0
SANTA BARBARA		1,061,108	748,957	32,684	105,174	578,341	308,402	4,818	9,068
SANTA CLARA	Foothill-DeAnza	1,706,142	76,424	32,450	151,130	615,057	436,652	58,510	343,834
	Gavilan	344,116	17,914	11,240	21,379	250,346	61,038	0	0
	San Jose-Evergreen	1,168,297	0	18,764	67,406	613,215	197,214	0	102,560
	West Valley-Missio	1,002,791	49,404	20,831	80,051	538,786	232,329	0	0
SANTA CLARA		4,221,346	143,742	83,285	319,966	2,017,404	927,233	58,510	446,394
SANTA CRUZ	Cabrillo	582,327	14,054	16,026	50,655	288,109	146,504	23,018	62,506
SHASTA	Shasta-Tehama-Trin	413,008	26,638	13,716	36,524	262,228	108,974	0	0
SISKIYOU	Siskiyou	184,828	3,431	9,694	11,919	240,514	34,744	0	0
SOLANO	Solano	501,506	26,636	13,886	37,561	268,085	110,601	0	33,000
SONOMA	Sonoma County	1,252,597	298,134	23,071	93,752	343,057	272,300	86,653	843,289
STANISLAUS	Yosemite	828,906	181,550	20,463	77,802	603,463	222,993	0	0
TULARE	Sequoias	435,491	0	14,255	39,821	273,248	117,334	0	12,641
VENTURA	Ventura	1,432,267	10,110	27,877	123,152	893,610	357,280	56,448	0
YUBA	Yuba	573,482	25,588	14,082	38,760	265,857	113,135	0	0
		64,356,448	11,931,589	1,394,250	5,133,000	31,600,000	15,000,000	1,000,000	6,707,313

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-3B

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	TITLE II A STATE LEADERSHIP	TITLE III E TECHNICAL PREPARATION	TITLE IIC ALLOCATIONS	NON TRADITIONAL
ALAMEDA	Chabot-Las Positas	709,701	0	0	235,868	0
	Fremont-Newark	253,559	0	71,000	72,058	0
	Peralta	495,126	0	213,000	709,226	0
ALAMEDA		1,458,386	0	284,000	1,017,152	0
BUTTE	Butte	1,023,661	67,860	35,500	434,742	0
CONTRA COSTA	Contra Costa	1,605,382	0	177,000	387,707	0
EL DORADO	Lake Tahoe	0	0	71,000	94,996	0
FRESNO	State Center	1,281,174	298,069	106,500	1,090,910	0
	West Hills	547,026	0	0	138,555	0
FRESNO		1,828,200	298,069	106,500	1,229,465	0
HUMBOLDT	Redwoods	59,701	0	71,000	198,951	0
IMPERIAL	Imperial	237,406	0	0	243,900	0
KERN	Kern	1,487,244	0	213,000	372,982	0
	West Kern	0	0	0	301,413	0
KERN		1,487,244	0	213,000	674,395	0
LASSEN	Lassen	50,000	0	71,000	39,749	0

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-3B

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	TITLE II A STATE LEADERSHIP	TITLE III E TECHNICAL PREPARATION	TITLE IIC ALLOCATIONS	NON TRADITIONAL
LOS ANGELES	Antelope Valley	84,813	0	0	155,598	0
	Cerritos	936,576	0	71,000	208,605	0
	Citrus	294,875	75,000	71,000	282,774	0
	Compton	59,701	0	71,000	399,756	0
	El Camino	1,162,351	0	53,250	185,332	0
	Glendale	541,353	25,000	53,250	107,019	0
	Long Beach	1,433,451	0	53,250	853,059	0
	Los Angeles	2,843,399	95,541	461,500	1,001,448	0
	Mt. San Antonio	795,791	140,217	53,250	592,374	0
	Pasadena Area	610,276	0	35,500	446,018	0
	Rio Hondo	574,576	317,592	71,000	222,378	0
	Santa Clarita	296,366	0	35,500	151,994	0
	Santa Monica	1,188,055	0	53,250	114,973	0
LOS ANGELES		10,821,583	653,350	1,082,750	4,721,328	0
MARIN	Marin	109,701	0	53,250	54,835	0
MENDOCINO	Mendocino-Lake	48,568	0	71,000	144,193	0
MERCED	Merced	552,981	0	53,250	276,801	0
MONTEREY	Hartnell	588,576	0	53,250	175,936	0
	Monterey Peninsula	101,553	0	17,750	72,367	0
MONTEREY		690,129	0	71,000	248,303	0
NAPA	Napa Valley	203,041	0	71,000	141,387	0
ORANGE	Coast	61,096	75,000	159,750	790,243	0
	North Orange Count	1,316,464	0	71,000	362,066	0
	Rancho Santiago	901,826	0	106,500	447,022	0
	South Orange Count	753,846	309,875	88,750	245,908	0
ORANGE		3,033,232	384,875	426,000	1,845,239	0
PLACER	Sierra	1,534,312	394,373	35,500	322,600	0

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-3B

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	TITLE II A STATE LEADERSHIP	TITLE III E TECHNICAL PREPARATION	TITLE IIC ALLOCATIONS	NON TRADITIONAL
PLUMAS	Feather River	50,000	0	0	0	0
RIVERSIDE	Desert	624,576	0	0	110,031	0
	Mt. San Jacinto	50,000	0	53,250	135,054	0
	Palo Verde	50,000	0	0	0	0
	Riverside	642,723	134,784	106,500	471,891	0
RIVERSIDE		1,367,299	134,784	159,750	716,976	0
SACRAMENTO	Los Rios	3,953,408	426,095	159,750	1,107,000	75,000
SAN BERNARDINO	Barstow	0	0	0	68,737	0
	Chaffey	480,191	0	0	432,090	0
	Copper Mountain	0	0	0	0	0
	San Bernardino	432,901	0	0	627,952	0
	Victor Valley	59,701	0	0	298,504	0
SAN BERNARDINO		972,793	0	0	1,427,283	0
SAN DIEGO	Grossmont-Cuyamaca	852,837	412,068	106,500	264,444	0
	Mira Costa	0	0	35,500	102,771	0
	Palomar	62,491	0	53,250	121,255	0
	San Diego	1,629,076	0	213,000	2,423,093	0
	Southwestern	674,001	0	53,250	373,110	0
SAN DIEGO		3,218,405	412,068	461,500	3,284,673	0
SAN FRANCISCO	San Francisco	1,671,980	75,000	35,500	1,267,952	0
SAN JOAQUIN	San Joaquin Delta	594,251	0	53,250	502,089	0
SAN LUIS OBISPO	San Luis Obispo	244,043	0	71,000	237,464	0
SAN MATEO	San Mateo	795,866	0	53,250	81,300	0

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS - PART 3
2001-2002 SECOND PRINCIPAL APPORTIONMENT

EXHIBIT B-3B

COUNTY	DISTRICT	ECONOMIC DEVELOPMENT	TITLE II A STATE LEADERSHIP	TITLE III E TECHNICAL PREPARATION	TITLE IIC ALLOCATIONS	NON TRADITIONAL
SANTA BARBARA	Allan Hancock	503,948	155,419	35,500	338,381	0
	Santa Barbara	1,161,818	0	53,250	342,990	0
SANTA BARBARA		1,665,766	155,419	88,750	681,371	0
SANTA CLARA	Foothill-DeAnza	716,493	209,128	35,500	421,690	0
	Gavilan	140,550	0	35,500	64,772	0
	San Jose-Evergreen	1,300,399	132,740	106,500	448,258	0
	West Valley-Missio	2,321,800	0	88,750	247,221	0
SANTA CLARA		4,479,242	341,868	266,250	1,181,941	0
SANTA CRUZ	Cabrillo	689,994	0	71,000	245,291	0
SHASTA	Shasta-Tehama-Trin	447,881	0	0	285,992	0
SISKIYOU	Siskiyou	0	0	0	99,373	0
SOLANO	Solano	254,872	162,710	17,750	120,740	0
SONOMA	Sonoma County	250,251	0	71,000	369,326	0
STANISLAUS	Yosemite	282,131	293,063	71,000	510,584	0
TULARE	Sequoias	480,313	113,063	71,000	356,660	0
VENTURA	Ventura	2,149,331	30,000	159,747	394,195	0
YUBA	Yuba	1,216,768	75,000	53,250	301,670	0
		49,528,121	4,017,597	4,756,497	25,247,623	75,000

Attachment 3
Employment Opportunity Funds

FSDI Categorical Report

** Verification Report **

4/29/08

Year: 2007- 08 Period: P2

District Name	Initial	Adjustment	Final
Allan Hancock Joint CCD	13,798	0	13,798
Antelope Valley CCD	14,483	0	14,483
Barstow CCD	8,864	0	8,864
Butte - Glen CCD	14,832	0	14,832
Cabrillo CCD	14,961	0	14,961
Cerritos CCD	18,637	0	18,637
Chabot-Las Positas CCD	18,817	0	18,817
Chaffey CCD	17,049	0	17,049
Citrus CCD	15,197	0	15,197
Coast CCD	31,252	0	31,252
Compton CCD	9,148	0	9,148
Contra Costa CCD	26,530	0	26,530
Copper Mountain CCD	8,209	0	8,209
Desert CCD	12,555	0	12,555
El Camino CCD	19,920	0	19,920
Feather River CCD	8,229	0	8,229
Foothill-De Anza CCD	29,735	0	29,735
Gavilan Joint CCD	10,656	0	10,656
Glendale CCD	17,275	0	17,275
Grossmont-Cuyamaca CCD	19,821	0	19,821
Hartnell Joint CCD	11,742	0	11,742
Imperial CCD	11,933	0	11,933
Kern CCD	19,842	0	19,842
Lake Tahoe CCD	8,402	0	8,402
Lassen CCD	8,399	0	8,399
Long Beach CCD	21,889	0	21,889
Los Angeles CCD	77,574	0	77,574
Los Rios CCD	41,143	0	41,143
Marin CCD	10,087	0	10,087
Mendocino-Lake CCD	9,322	0	9,322
Merced CCD	13,705	0	13,705
Mira Costa CCD	12,774	0	12,774
Monterey Peninsula CCD	13,075	0	13,075
Mt. San Antonio CCD	27,451	0	27,451
Mt. San Jacinto CCD	13,828	0	13,828
Napa Valley CCD	11,372	0	11,372
North Orange County CCD	31,360	0	31,360
Ohlone CCD	13,026	0	13,026
Palo Verde CCD	8,459	0	8,459
Palomar CCD	20,692	0	20,692
Pasadena Area CCD	22,693	0	22,693

FSDI Categorical Report

** Verification Report **

Year: 2007- 08 Period: P2

District Name	Initial	Adjustment	Final
Peralta CCD	20,054	0	20,054
Rancho Santiago CCD	28,622	0	28,622
Redwoods CCD	10,386	0	10,386
Rio Hondo CCD	16,031	0	16,031
Riverside CCD	23,541	0	23,541
San Bernardino CCD	16,683	0	16,683
San Diego CCD	35,631	0	35,631
San Francisco CCD	32,377	0	32,377
San Joaquin Delta CCD	18,065	0	18,065
San Jose-Evergreen CCD	17,255	0	17,255
San Luis Obispo County CCD	13,642	0	13,642
San Mateo County CCD	22,068	0	22,068
Santa Barbara CCD	18,028	0	18,028
Santa Clarita CCD	16,238	0	16,238
Santa Monica CCD	22,238	0	22,238
Sequoias CCD, College Of The	12,768	0	12,768
Shasta-Tehama-Trinity Joint CCD	12,187	0	12,187
Sierra Joint CCD	17,177	0	17,177
Siskiyou Joint CCD	8,882	0	8,882
Solano County CCD	13,628	0	13,628
Sonoma County Jr. Coll. District	21,404	0	21,404
South Orange County CCD	22,965	0	22,965
Southwestern CCD	17,762	0	17,762
State Center CCD	25,285	0	25,285
Ventura County CCD	24,434	0	24,434
Victor Valley CCD	13,534	0	13,534
West Hills CCD	10,701	0	10,701
West Kern CCD	8,725	0	8,725
West Valley CCD	19,749	0	19,749
Yosemite CCD	18,762	0	18,762
Yuba CCD	12,690	0	12,690
Totals ========== >	1,310,248	0	1,310,248

Certification Signature: [signature]

Title: Executive Vice Chancellor

Date: 5/7/08

FSDI Categorical Report

** Verification Report **

Year: 2006- 07 Period: R1

District Name	Initial	Adjustment	Final
Allan Hancock Joint CCD	14,164	293	14,457
Antelope Valley CCD	14,343	296	14,639
Barstow CCD	8,938	185	9,123
Butte - Glen CCD	15,421	320	15,741
Cabrillo CCD	15,233	315	15,548
Cerritos CCD	18,890	391	19,281
Chabot-Las Positas CCD	19,021	394	19,415
Chaffey CCD	17,165	355	17,520
Citrus CCD	15,360	318	15,678
Coast CCD	29,030	601	29,631
Compton CCD	10,577	219	10,796
Contra Costa CCD	27,144	562	27,706
)per Mountain CCD	8,240	171	8,411
Desert CCD	12,379	256	12,635
El Camino CCD	20,134	417	20,551
Feather River CCD	8,300	171	8,471
Foothill-De Anza CCD	29,937	620	30,557
Gavilan Joint CCD	10,653	220	10,873
ndale CCD	18,211	377	18,588
ssmont-Cuyamaca CCD	19,413	402	19,815
Hartnell Joint CCD	11,819	244	12,063
Imperial CCD	11,865	245	12,110
Kern CCD	19,837	410	20,247
Lake Tahoe CCD	8,431	175	8,606
Lassen CCD	8,523	177	8,700
g Beach CCD	20,615	427	21,042
Los Angeles CCD	74,069	1,533	75,602
Los Rios CCD	41,723	864	42,587
Marin CCD	10,089	209	10,298
Mendocino-Lake CCD	9,138	189	9,327
Merced CCD	13,904	288	14,192
Mira Costa CCD	12,646	262	12,908
Monterey Peninsula CCD	12,997	269	13,266
Mt. San Antonio CCD	27,632	573	28,205
Mt. San Jacinto CCD	13,427	278	13,705
Napa Valley CCD	11,331	235	11,566
North Orange County CCD	30,998	642	31,640
Ohlone CCD	12,959	269	13,228
Palo Verde CCD	8,394	174	8,568
omar CCD	21,062	436	21,498
Pasadena Area CCD	22,742	471	23,213

FSDI Categorical Report

** Verification Report **

Year: 2006- 07 Period: R1

District Name	Initial	Adjustment	Final
Peralta CCD	20,139	417	20,556
Rancho Santiago CCD	29,009	601	29,610
Redwoods CCD	10,801	224	11,025
Rio Hondo CCD	15,965	331	16,296
Riverside CCD	25,612	530	26,142
San Bernardino CCD	16,785	348	17,133
San Diego CCD	36,261	751	37,012
San Francisco CCD	32,151	665	32,816
San Joaquin Delta CCD	18,073	374	18,447
San Jose-Evergreen CCD	17,448	361	17,809
San Luis Obispo County CCD	13,512	279	13,791
San Mateo County CCD	19,530	405	19,935
Santa Barbara CCD	18,221	378	18,599
Santa Clarita CCD	15,955	331	16,286
Santa Monica CCD	22,228	461	22,689
Sequoias CCD, College Of The	12,668	262	12,930
Shasta-Tehama-Trinity Joint CCD	12,765	264	13,029
Sierra Joint CCD	17,202	356	17,558
Siskiyou Joint CCD	8,972	186	9,158
Solano County CCD	13,798	286	14,084
Sonoma County Jr. Coll. District	21,718	449	22,167
South Orange County CCD	21,948	455	22,403
Southwestern CCD	17,775	369	18,144
State Center CCD	26,072	539	26,611
Ventura County CCD	24,434	506	24,940
Victor Valley CCD	13,972	289	14,261
West Hills CCD	10,860	225	11,085
West Kern CCD	8,708	181	8,889
West Valley CCD	19,161	397	19,558
Yosemite CCD	19,028	394	19,422
Yuba CCD	12,725	263	12,988
Totals ========== >	1,310,250	27,130	1,337,380

Certification Signature: [signature]

Title: Exec Vice Chancellor

Date: 11/7/07

FSDI Categorical Report

** Verification Report **

Year: 2005- 06 Period: R1

District Name	Initial	Adjustment	Final
Allan Hancock Joint CCD	15,278	2,438	17,716
Antelope Valley CCD	15,551	2,529	18,080
Barstow CCD	9,310	460	9,770
Butte - Glen CCD	17,283	3,103	20,386
Cabrillo CCD	16,415	2,815	19,230
Cerritos CCD	20,791	4,265	25,056
Chabot-Las Positas CCD	20,375	4,127	24,502
Chaffey CCD	18,710	3,575	22,285
Citrus CCD	16,647	2,892	19,539
Coast CCD	33,875	8,601	42,476
Compton CCD	12,746	1,600	14,346
Contra Costa CCD	28,173	6,711	34,884
Copper Mountain CCD	9,039	370	9,409
Desert CCD	13,361	1,804	15,165
El Camino CCD	22,647	4,880	27,527
Feather River CCD	8,980	352	9,332
Foothill-De Anza CCD	31,824	7,922	39,746
Gavilan Joint CCD	11,392	1,150	12,542
Glendale CCD	19,986	3,999	23,985
Grossmont-Cuyamaca CCD	21,536	4,512	26,048
Hartnell Joint CCD	13,054	1,701	14,755
Imperial CCD	12,903	1,651	14,554
Kern CCD	22,273	4,756	27,029
Lake Tahoe CCD	9,167	413	9,580
Lassen CCD	9,430	500	9,930
Long Beach CCD	24,493	5,491	29,984
Los Angeles CCD	82,915	24,852	107,767
Los Rios CCD	43,905	11,925	55,830
Marin CCD	11,196	1,086	12,282
Mendocino-Lake CCD	10,041	703	10,744
Merced CCD	14,883	2,307	17,190
Mira Costa CCD	13,284	1,777	15,061
Monterey Peninsula CCD	14,463	2,168	16,631
Mt. San Antonio CCD	26,619	6,196	32,815
Mt. San Jacinto CCD	14,517	2,186	16,703
Napa Valley CCD	12,396	1,483	13,879
North Orange County CCD	34,128	8,685	42,813
Ohlone CCD	13,875	1,973	15,848
Palo Verde CCD	9,088	387	9,475
Palomar CCD	22,436	4,810	27,246
Pasadena Area CCD	24,978	5,653	30,631

FSDI Categorical Report

** Verification Report **

Year: 2005- 06 Period: R1

District Name	Initial	Adjustment	Final
Peralta CCD	21,357	4,453	25,810
Rancho Santiago CCD	30,531	7,493	38,024
Redwoods CCD	11,842	1,299	13,141
Rio Hondo CCD	17,483	3,169	20,652
Riverside CCD	26,783	6,250	33,033
San Bernardino CCD	18,688	3,568	22,256
San Diego CCD	38,624	10,174	48,798
San Francisco CCD	35,182	9,034	44,216
San Joaquin Delta CCD	19,569	3,860	23,429
San Jose-Evergreen CCD	18,196	3,406	21,602
San Luis Obispo County CCD	14,907	2,316	17,223
San Mateo County CCD	23,361	5,117	28,478
Santa Barbara CCD	19,147	3,721	22,868
Santa Clarita CCD	16,883	2,970	19,853
Santa Monica CCD	23,912	5,300	29,212
Sequoias CCD, College Of The	14,481	2,175	16,656
Shasta-Tehama-Trinity Joint CCD	13,726	1,924	15,650
Sierra Joint CCD	18,306	3,442	21,748
Siskiyou Joint CCD	9,759	609	10,368
Solano County CCD	14,528	2,189	16,717
Sonoma County Jr. Coll. District	23,466	5,151	28,617
South Orange County CCD	24,512	5,498	30,010
Southwestern CCD	19,253	3,756	23,009
State Center CCD	27,798	6,587	34,385
Ventura County CCD	27,503	6,489	33,992
Victor Valley CCD	14,907	2,316	17,223
West Hills CCD	11,500	1,187	12,687
West Kern CCD	9,437	502	9,939
West Valley CCD	21,180	4,394	25,574
Yosemite CCD	21,076	4,359	25,435
Yuba CCD	13,834	1,960	15,794
Totals	1,425,694	283,476	1,709,170

Certification Signature: [signature]

Title: Sr. Vice Chancellor

Date: 10-24-06

FSDI Augmentation Report
June 2005

DISTUSRS	DISTCODE	DISTNAME	FY03-04	FY04-05
69096	610	Allan Hancock	11,257	2,414
64253	620	Antelope Valley	11,313	2,426
67629	910	Barstow	7,167	1,537
61416	110	Butte	12,746	2,734
69740	410	Cabrillo	12,539	2,689
64360	810	Cerritos	15,871	3,404
61317	480	Chabot-Las Positas	15,015	3,220
67660	920	Chaffey	13,692	2,936
64386	820	Citrus	12,254	2,628
66639	830	Coast	24,189	5,188
64428	710	Compton	9,379	2,011
61689	310	Contra Costa	23,848	5,115
75606	970	Copper Mt.	6,729	1,443
67025	930	Desert	9,752	2,091
64493	720	El Camino	17,491	3,751
75143	120	Feather River	6,675	1,432
69443	420	Foothill-DeAnza	24,627	5,282
69476	440	Gavilan	8,588	1,842
73486	730	Glendale	14,898	3,195
68148	020	Grossmont-Cuyamaca	16,157	3,465
66043	450	Hartnell	9,905	2,124
63156	030	Imperial	8,961	1,922
63537	520	Kern	16,384	3,514
73775	220	Lake Tahoe	6,892	1,478
64147	130	Lassen	7,305	1,567
73494	840	Long Beach	17,744	3,805
64741	740	Los Angeles	60,188	12,908
67371	230	Los Rios	32,352	6,938
65383	330	Marin	8,920	1,913
73718	140	Mendocino-Lake	7,481	1,604
65797	530	Merced	10,970	2,353
68247	050	Mira Costa	10,082	2,162
66100	460	Monterey Peninsula	10,895	2,337
64824	850	Mt. San Antonio	19,613	4,206
67132	940	Mt. San Jacinto	10,533	2,259
66274	240	Napa Valley	9,219	1,977
66605	860	North Orange County	24,921	5,345
61184	430	Ohlone	10,579	2,269
73510	950	Palo Verde	6,753	1,448
68270	060	Palomar	16,714	3,584
64899	770	Pasadena Area	18,586	3,986
61267	340	Peralta	16,305	3,497
66688	870	Rancho Santiago	22,591	4,845
62992	160	Redwoods	9,113	1,954
64923	880	Rio Hondo	12,999	2,788
67223	960	Riverside	19,129	4,103
67884	980	San Bernardino	13,992	3,001
73528	070	San Diego	29,205	6,264
73536	360	San Francisco	26,496	5,683
68668	550	San Joaquin Delta	14,608	3,133
69658	470	San Jose-Evergreen	14,434	3,096

FSDI Augmentation Report
June 2005

68817	640	San Luis Obispo	11,103	2,381
69054	370	San Mateo	17,217	3,692
69294	650	Santa Barbara	14,179	3,041
64972	660	Santa Clarita	12,111	2,597
73502	780	Santa Monica	14,915	3,199
72124	560	Sequoias	10,751	2,306
70144	170	Shasta-Tehama-Trinity	10,252	2,199
66936	270	Sierra	13,668	2,931
70474	180	Siskiyou	7,382	1,583
70557	280	Solano	10,933	2,345
70946	260	Sonoma	17,638	3,783
66654	890	South Orange County	18,874	4,048
68429	090	Southwestern	14,258	3,058
62463	570	State Center	20,067	4,304
72660	680	Ventura	20,606	4,419
67926	990	Victor Valley	10,641	2,282
62133	580	West Hills	8,274	1,775
63867	690	West Kern	6,937	1,488
69716	490	West Valley-Mission	16,255	3,486
71340	590	Yosemite	15,733	3,374
72777	290	Yuba	9,758	2,093
		TOTAL	1,059,608	227,250

Certification Signature: Moore

Title: Vice Chancellor Govt Relations & External Affairs

Date: 6-3-05

FSDI Categorical Report

** Verification Report **

5/25/04

Year: 2003- 04 Period: P2

District Name	Initial	Adjustment	Final
Allan Hancock Joint CCD	14,232	0	14,232
Antelope Valley CCD	14,372	0	14,372
Barstow CCD	9,037	0	9,037
Butte - Glen CCD	16,134	0	16,134
Cabrillo CCD	15,668	0	15,668
Cerritos CCD	20,045	0	20,045
Chabot-Las Positas CCD	19,719	0	19,719
Chaffey CCD	17,142	0	17,142
Citrus CCD	15,870	0	15,870
Coast CCD	32,972	0	32,972
Compton CCD	11,854	0	11,854
Contra Costa CCD	30,001	0	30,001
Copper Mountain CCD	8,564	0	8,564
Desert CCD	12,292	0	12,292
El Camino CCD	21,275	0	21,275
Feather River CCD	8,570	0	8,570
Foothill-De Anza CCD	30,723	0	30,723
Fremont-Newark CCD	13,291	0	13,291
Gavilan Joint CCD	10,802	0	10,802
Glendale CCD	19,296	0	19,296
Grossmont-Cuyamaca CCD	20,581	0	20,581
Hartnell Joint CCD	12,563	0	12,563
Imperial CCD	11,158	0	11,158
Kern CCD	20,610	0	20,610
Lake Tahoe CCD	8,845	0	8,845
Lassen CCD	9,459	0	9,459
Long Beach CCD	21,017	0	21,017
Los Angeles CCD	76,451	0	76,451
Los Rios CCD	39,960	0	39,960
Marin CCD	11,795	0	11,795
Mendocino-Lake CCD	9,522	0	9,522
Merced CCD	13,980	0	13,980
Mira Costa CCD	12,734	0	12,734
Monterey Peninsula CCD	13,697	0	13,697
Mt. San Antonio CCD	25,811	0	25,811
Mt. San Jacinto CCD	13,026	0	13,026
Napa Valley CCD	11,803	0	11,803
North Orange County CCD	32,180	0	32,180
Palo Verde CCD	8,648	0	8,648
Palomar CCD	20,801	0	20,801
Pasadena Area CCD	23,147	0	23,147

FSDI Categorical Report

** Verification Report **

Year: 2003- 04 Period: P2

District Name	Initial	Adjustment	Final
Peralta CCD	21,203	0	21,203
Rancho Santiago CCD	28,812	0	28,812
Redwoods CCD	11,605	0	11,605
Rio Hondo CCD	16,062	0	16,062
Riverside CCD	24,690	0	24,690
San Bernardino CCD	18,153	0	18,153
San Diego CCD	38,956	0	38,956
San Francisco CCD	34,363	0	34,363
San Joaquin Delta CCD	18,653	0	18,653
San Jose-Evergreen CCD	17,859	0	17,859
San Luis Obispo County CCD	13,793	0	13,793
San Mateo County CCD	22,176	0	22,176
Santa Barbara CCD	17,599	0	17,599
Santa Clarita CCD	15,074	0	15,074
Santa Monica CCD	23,845	0	23,845
Sequoias CCD, College Of The	13,623	0	13,623
Shasta-Tehama-Trinity Joint CCD	13,161	0	13,161
Sierra Joint CCD	16,965	0	16,965
Siskiyou Joint CCD	9,354	0	9,354
Solano County CCD	13,509	0	13,509
Sonoma County Jr. Coll. District	22,221	0	22,221
South Orange County CCD	23,863	0	23,863
Southwestern CCD	18,515	0	18,515
State Center CCD	25,382	0	25,382
Ventura County CCD	26,166	0	26,166
Victor Valley CCD	13,622	0	13,622
West Hills CCD	10,430	0	10,430
West Kern CCD	8,747	0	8,747
West Valley CCD	20,759	0	20,759
Yosemite CCD	19,409	0	19,409
Yuba CCD	13,249	0	13,249
Totals ========== >	1,351,465	0	1,351,465

Certification Signature: _____

Title: Vice Chancellor

Date: 5/25/04

FSDI Categorical Report

** Verification Report **

Year: 2002- 03 Period: P2

District Name	Initial	Adjustment	Final
Allan Hancock Joint CCD	14,471	0	14,471
Antelope Valley CCD	14,308	0	14,308
Barstow CCD	9,250	0	9,250
Butte - Glen CCD	16,826	0	16,826
Cabrillo CCD	16,098	0	16,098
Cerritos CCD	20,928	0	20,928
Chabot-Las Positas CCD	19,822	0	19,822
Chaffey CCD	17,656	0	17,656
Citrus CCD	16,372	0	16,372
Coast CCD	32,766	0	32,766
Compton CCD	12,312	0	12,312
Contra Costa CCD	31,196	0	31,196
Copper Mountain CCD	8,784	0	8,784
Desert CCD	12,458	0	12,458
El Camino CCD	21,698	0	21,698
Feather River CCD	8,856	0	8,856
Foothill-De Anza CCD	32,664	0	32,664
Fremont-Newark CCD	13,815	0	13,815
Gavilan Joint CCD	11,177	0	11,177
Glendale CCD	20,077	0	20,077
Grossmont-Cuyamaca CCD	20,659	0	20,659
Hartnell Joint CCD	12,816	0	12,816
Imperial CCD	11,492	0	11,492
Kern CCD	21,452	0	21,452
Lake Tahoe CCD	8,971	0	8,971
Lassen CCD	9,729	0	9,729
Long Beach CCD	22,722	0	22,722
Los Angeles CCD	84,385	0	84,385
Los Rios CCD	40,933	0	40,933
Marin CCD	12,311	0	12,311
Mendocino-Lake CCD	9,789	0	9,789
Merced CCD	14,543	0	14,543
Mira Costa CCD	13,587	0	13,587
Monterey Peninsula CCD	14,218	0	14,218
Mt. San Antonio CCD	27,258	0	27,258
Mt. San Jacinto CCD	13,039	0	13,039
Napa Valley CCD	12,071	0	12,071
North Orange County CCD	33,608	0	33,608
Palo Verde CCD	8,798	0	8,798
Palomar CCD	22,052	0	22,052
Pasadena Area CCD	24,313	0	24,313

FSDI Categorical Report

** Verification Report **

Year: 2002- 03 Period: P2

District Name	Initial	Adjustment	Final
Peralta CCD	20,723	0	20,723
Rancho Santiago CCD	31,115	0	31,115
Redwoods CCD	12,065	0	12,065
Rio Hondo CCD	16,196	0	16,196
Riverside CCD	27,020	0	27,020
San Bernardino CCD	18,527	0	18,527
San Diego CCD	39,228	0	39,228
San Francisco CCD	35,374	0	35,374
San Joaquin Delta CCD	18,989	0	18,989
San Jose-Evergreen CCD	18,433	0	18,433
San Luis Obispo County CCD	14,218	0	14,218
San Mateo County CCD	20,606	0	20,606
Santa Barbara CCD	17,985	0	17,985
Santa Clarita CCD	15,042	0	15,042
Santa Monica CCD	24,437	0	24,437
Sequoias CCD, College Of The	14,037	0	14,037
Shasta-Tehama-Trinity Joint CCD	13,692	0	13,692
Sierra Joint CCD	17,297	0	17,297
Siskiyou Joint CCD	9,622	0	9,622
Solano County CCD	13,641	0	13,641
Sonoma County Jr. Coll. District	22,730	0	22,730
South Orange County CCD	23,974	0	23,974
Southwestern CCD	18,434	0	18,434
State Center CCD	25,852	0	25,852
Ventura County CCD	27,134	0	27,134
Victor Valley CCD	13,711	0	13,711
West Hills CCD	10,699	0	10,699
West Kern CCD	8,987	0	8,987
West Valley CCD	20,614	0	20,614
Yosemite CCD	19,754	0	19,754
Yuba CCD	13,834	0	13,834
Totals ========== >	1,394,250	0	1,394,250

Certification Signature: _____

Title: VC Chancellor's Office

Date: 5-23-03

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS

Program: FSDIversity

Year: 2002 Period: P1

District	Initial	Adjustment	Final
Allan Hancock Jt CCD	14,626	0	14,626
Antelope Valley CCD	14,389	0	14,389
Barstow CCD	9,287	0	9,287
Butte CCD	16,546	0	16,546
Cabrillo CCD	16,026	0	16,026
Cerritos CCD	21,114	0	21,114
Chabot-Las Positas CCD	19,917	0	19,917
Chaffey CCD	17,608	0	17,608
Citrus CCD	16,247	0	16,247
Coast CCD	33,964	0	33,964
Compton CCD	12,359	0	12,359
Contra Costa CCD	30,821	0	30,821
Copper Mountain CCD	8,809	0	8,809
Desert CCD	12,438	0	12,438
El Camino CCD	21,752	0	21,752
Feather River CCD	8,817	0	8,817
Foothill-DeAnza CCD	32,450	0	32,450
Fremont-Newark CCD	13,813	0	13,813
Gavilan Jt CCD	11,240	0	11,240
Glendale CCD	19,321	0	19,321
Grossmont-Cuyamaca CCD	20,707	0	20,707
Hartnell CCD	13,018	0	13,018
Imperial Valley CCD	11,558	0	11,558
Kern CCD	21,188	0	21,188
Lake Tahoe CCD	8,975	0	8,975
Lassen CCD	9,568	0	9,568
Long Beach CCD	23,376	0	23,376
Los Angeles CCD	82,306	0	82,306
Los Rios CCD	41,331	0	41,331
Marin CCD	13,011	0	13,011
Mendocino-Lake CCD	9,792	0	9,792
Merced CCD	14,536	0	14,536
Mira Costa CCD	13,295	0	13,295
Monterey Peninsula CCD	14,459	0	14,459
Mt. San Antonio CCD	26,775	0	26,775
Mt. San Jacinto CCD	13,033	0	13,033
Napa Valley CCD	12,103	0	12,103
North Orange County CCD	33,597	0	33,597
Palo Verde CCD	8,738	0	8,738
Palomar CCD	20,744	0	20,744
Pasadena Area CCD	24,307	0	24,307
Peralta CCD	20,823	0	20,823
Rancho Santiago CCD	30,937	0	30,937
Redwoods CCD	12,014	0	12,014
Rio Hondo CCD	16,306	0	16,306
Riverside CCD	24,717	0	24,717

CALIFORNIA COMMUNITY COLLEGES
CATEGORICAL APPORTIONMENTS

Program: FSDIversity

Year: 2002 Period: P1

District	Initial	Adjustment	Final
San Bernardino CCD	18,319	0	18,319
San Diego CCD	39,853	0	39,853
San Francisco CCD	35,769	0	35,769
San Joaquin Delta CCD	18,606	0	18,606
San Jose-Evergreen CCD	18,764	0	18,764
San Luis Obispo County CCD	14,196	0	14,196
San Mateo County CCD	21,720	0	21,720
Santa Barbara CCD	18,058	0	18,058
Santa Clarita CCD	14,750	0	14,750
Santa Monica CCD	24,151	0	24,151
College of the Sequoias CCD	14,255	0	14,255
Shasta-Tehama-Trinity Jt CCD	13,716	0	13,716
Sierra Joint CCD	17,006	0	17,006
Siskiyou Joint CCD	9,694	0	9,694
Solano County CCD	13,886	0	13,886
Sonoma County Junior CD	23,071	0	23,071
South Orange County CCD	24,268	0	24,268
Southwestern CCD	18,652	0	18,652
State Center CCD	26,004	0	26,004
Ventura County CCD	27,877	0	27,877
Victor Valley CCD	14,073	0	14,073
West Hills CCD	10,463	0	10,463
West Kern CCD	8,965	0	8,965
West Valley-Mission CCD	20,831	0	20,831
Yosemite CCD	20,463	0	20,463
Yuba CCD	14,082	0	14,082
Statewide Totals ---->	$1394250	$0	$1394250

I certify that this revised allocation is correct and does not exceed our statutory appropriation of funds pursuant to Item 6870-101-001 (h) of the 2001 Budget Act.

Certification Signature: Ralph Black

Title: INTerim - VC Human Resources

Date: 1/28/02

Contact Person: Tosh Shikasho Phone: 323-4990

Attachment 4
Program Improvement

CHANCELLOR'S OFFICE
CALIFORNIA COMMUNITY COLLEGES
1107 NINTH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 445-8752

GEORGE DEUKMEJIAN, *Governor*

FISCAL SERVICES ADMINISTRATIVE MEMO 89/037

December 19, 1989

TO: District Chief Business Officers
County Schools Chief Business Officers

FROM: Gary L. Cook, Administrator
Fiscal Services

RE: Apportionment of Funds Appropriated Pursuant to Assembly Bill 198, Chapter 83/1989.

Synopsis: An Apportionment of funds appropriated pursuant to Section 36(b)(1) of Assembly Bill 198, Chapter 83/1989, has been certified and is shown on the attached Exhibit B. Allocations are made to reimburse state mandated local program costs and to implement reforms and program improvements as set forth in Education Code Section 84755. The estimated allocations are based on each districts' average daily attendance funded in the 1988-89 Second Principal Apportionment and will be revised on the 1989-90 First Principal Apportionment.

Action/Date Requested: Information.

Contact: Roger Merle at (916) 445-1163.

Attachment

GLC:RM:tj

cc: District Superintendent
County Auditor
County Treasurer
David Mertes
Douglas W. Burris
Joseph Newmyer
Roger G. Merle

CHANCELLOR'S OFFICE
CALIFORNIA COMMUNITY COLLEGES
1107 NINTH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 445-8752

GEORGE DEUKMEJIAN, Governo

Exhibit A

NOTICE OF APPORTIONMENT

The State Controller, State Treasurer, Director of Finance, county superintendents of schools, county treasurers, county auditors, and community college districts are hereby notified that an Apportionment in the amount of $70,000,000 has been made from Section B of the State School Fund of funds appropriated pursuant to Section 36(b)(1) of Assembly Bill 198, Chapter 83/1989, for the support of the California Community Colleges.

Warrants will be drawn on the State Treasury by the State Controller in favor of the treasurer of each county for the amounts shown on Exhibit B (attached). The monthly payments have been computed pursuant to Education Code Section 84700. The schedule of apportionment and monthly distribution for February through June 1990 will be included within the 1989-90 First Principal Apportionment in February 1990.

I hereby certify that this apportionment has been made by me as required by law and that the attached abstract is a true and correct statement of such apportionment.

David Mertes

DAVID MERTES, CHANCELLOR

December 19, 1989

CALIFORNIA COMMUNITY COLLEGES
ESTIMATED PROGRAM IMPROVEMENT FUNDS
AB 198, CH 83/89, SECTION 36 (B)(1)
DECEMBER 1989 AND JANUARY 1990 PAYMENT SCHEDULE

EXHIBIT B

COUNTY	DISTRICT	ESTIMATED GENERAL ALLOCATION	ESTIMATED EQUALIZATION ALLOCATION	ESTIMATED TOTAL ALLOCATION	DECEMBER 1989 PAYMENT	JANUARY 1990 PAYMENT
ALAMEDA	FREMONT NEWARK	$343,927	$332,261	$676,188	$351,618	$54,095
	PERALTA	941,153	0	941,153	489,400	75,292
	SOUTH COUNTY	738,867	679,170	1,418,037	737,379	113,443
	COUNTY TOTAL	2,023,947	1,011,431	3,035,378	1,578,397	242,830
BUTTE	BUTTE	492,627	418,994	911,621	474,043	72,930
CONTRA COSTA	CONTRA COSTA	1,489,601	1,439,217	2,928,818	1,522,985	234,305
EL DORADO	LAKE TAHOE	125,000	0	125,000	65,000	10,000
FRESNO	STATE CENTER	854,781	774,628	1,629,409	847,293	130,353
	WEST HILLS	125,000	0	125,000	65,000	10,000
	COUNTY TOTAL	979,781	774,628	1,754,409	912,293	140,353
HUMBOLDT	REDWOODS	289,646	0	289,646	150,616	23,172
IMPERIAL	IMPERIAL	197,076	0	197,076	102,480	15,766
KERN	KERN	695,503	0	695,503	361,662	55,640
	WEST KERN	125,000	0	125,000	65,000	10,000
	COUNTY TOTAL	820,503	0	820,503	426,662	65,640
LASSEN	LASSEN	145,422	50,172	195,594	101,709	15,648
LOS ANGELES	ANTELOPE VALLEY	285,429	280,548	565,977	294,308	45,278
	CERRITOS	794,465	108,736	903,201	469,665	72,256
	CITRUS	442,306	274,999	717,305	372,999	57,384
	COMPTON	196,921	0	196,921	102,399	15,754
	EL CAMINO	953,764	560,516	1,514,280	787,426	121,142
	GLENDALE	582,723	435,667	1,018,390	529,563	81,471
	LONG BEACH	997,836	504,491	1,502,327	781,210	120,186
	LOS ANGELES	3,633,483	0	3,633,483	1,889,411	290,679
	MT. SAN ANTONIO	1,070,274	699,863	1,770,137	920,471	141,611
	PASADENA	1,033,734	803,028	1,836,762	955,116	146,941
	RIO HONDO	570,702	438,847	1,009,549	524,965	80,764
	SANTA CLARITA	174,830	0	174,830	90,912	13,986
	SANTA MONICA	808,254	715,562	1,523,816	792,384	121,905
	COUNTY TOTAL	11,544,721	4,822,257	16,366,978	8,510,829	1,309,357
MARIN	MARIN	452,314	0	452,314	235,203	36,185
MENDOCINO	MENDOCINO-LAKE	125,000	0	125,000	65,000	10,000
MERCED	MERCED	386,451	282,578	669,029	347,895	53,522

CALIFORNIA COMMUNITY COLLEGES
ESTIMATED PROGRAM IMPROVEMENT FUNDS
AB 198, CH 83/89, SECTION 36 (B)(1)
DECEMBER 1989 AND JANUARY 1990 PAYMENT SCHEDULE

EXHIBIT B

COUNTY	DISTRICT	ESTIMATED GENERAL ALLOCATION	ESTIMATED EQUALIZATION ALLOCATION	ESTIMATED TOTAL ALLOCATION	DECEMBER 1989 PAYMENT	JANUARY 1990 PAYMENT
MONTEREY	HARTNELL	293,914	0	293,914	152,835	23,513
	MONTEREY PENINSULA	355,781	270,577	626,358	325,706	50,109
	COUNTY TOTAL	649,695	270,577	920,272	478,541	73,622
NAPA	NAPA	287,970	237,571	525,541	273,281	42,043
ORANGE	COAST	1,864,029	37,253	1,901,282	988,667	152,103
	NORTH ORANGE	1,717,476	0	1,717,476	893,088	137,398
	RANCHO SANTIAGO	1,204,917	0	1,204,917	626,557	96,393
	SADDLEBACK	933,228	0	933,228	485,279	74,658
	COUNTY TOTAL	5,719,650	37,253	5,756,903	2,993,591	460,552
PLACER	SIERRA	431,271	460,624	891,895	463,785	71,352
PLUMAS	FEATHER RIVER	125,000	753	125,753	65,392	10,060
RIVERSIDE	DESERT	299,922	0	299,922	155,959	23,994
	MT. SAN JACINTO	132,368	17,858	150,226	78,118	12,018
	PALO VERDE	125,000	27,918	152,918	79,517	12,233
	RIVERSIDE	627,564	671,177	1,298,741	675,345	103,899
	COUNTY TOTAL	1,184,854	716,953	1,901,807	988,939	152,144
SACRAMENTO	LOS RIOS	1,761,235	1,539,950	3,301,185	1,716,616	264,095
SAN BERNARDINO	BARSTOW	125,000	0	125,000	65,000	10,000
	CHAFFEY	482,720	0	482,720	251,014	38,618
	SAN BERNARDINO	634,263	51,728	685,991	356,715	54,879
	VICTOR VALLEY	218,438	0	218,438	113,588	17,475
	COUNTY TOTAL	1,460,421	51,728	1,512,149	786,317	120,972
SAN DIEGO	GROSSMONT	754,722	688,246	1,442,968	750,343	115,437
	MIRA COSTA	319,494	0	319,494	166,137	25,560
	PALOMAR	726,869	689,057	1,415,926	736,282	113,274
	SAN DIEGO	2,337,607	0	2,337,607	1,215,556	187,009
	SOUTHWESTERN	557,406	569,348	1,126,754	585,912	90,140
	COUNTY TOTAL	4,696,098	1,946,651	6,642,749	3,454,230	531,420
SAN FRANCISCO	SAN FRANCISCO	2,177,122	0	2,177,122	1,132,103	174,170
SAN JOAQUIN	SAN JOAQUIN	744,085	699,299	1,443,384	750,560	115,471
SAN LUIS OBISPO	SAN LUIS OBISPO	296,366	302,917	599,283	311,627	47,943
SAN MATEO	SAN MATEO	1,053,472	0	1,053,472	547,805	84,278

CALIFORNIA COMMUNITY COLLEGES
ESTIMATED PROGRAM IMPROVEMENT FUNDS
AB 198, CH 83/89, SECTION 36 (B)(1)
DECEMBER 1989 AND JANUARY 1990 PAYMENT SCHEDULE

EXHIBIT B

COUNTY	DISTRICT	ESTIMATED GENERAL ALLOCATION	ESTIMATED EQUALIZATION ALLOCATION	ESTIMATED TOTAL ALLOCATION	DECEMBER 1989 PAYMENT	JANUARY 1990 PAYMENT
SANTA BARBARA	ALLAN HANCOCK	427,516	154,988	582,504	302,902	46,600
	SANTA BARBARA	643,255	444,922	1,088,177	565,852	87,054
	COUNTY TOTAL	1,070,771	599,910	1,670,681	868,754	133,654
SANTA CLARA	FOOTHILL	1,694,967	1,525,703	3,220,670	1,674,748	257,654
	GAVILAN	195,763	42,919	238,682	124,115	19,095
	SAN JOSE	746,940	11	746,951	388,415	59,756
	WEST VALLEY	835,502	632,044	1,467,546	763,124	117,404
	COUNTY TOTAL	3,473,172	2,200,677	5,673,849	2,950,402	453,909
SANTA CRUZ	CABRILLO	474,568	447,640	922,208	479,548	73,777
SHASTA	SHASTA-TE-TR	375,872	306,910	682,782	355,047	54,623
SISKIYOU	SISKIYOU	125,000	0	125,000	65,000	10,000
SOLANO	SOLANO	367,278	358,056	725,334	377,174	58,027
SONOMA	SONOMA	918,071	694,077	1,612,148	838,317	128,972
STANISLAUS	YOSEMITE	678,446	0	678,446	352,792	54,276
TULARE	SEQUOIAS	370,975	321,737	692,712	360,210	55,417
VENTURA	VENTURA	1,108,202	1,007,440	2,115,642	1,100,134	169,251
YUBA	YUBA	378,317	0	378,317	196,725	30,265
STATEWIDE TOTAL		$49,000,000	$21,000,000	$70,000,000	$36,400,002	$5,600,001

Notes:
1. The general allocation is equal to approximately $70.10 per total funded ADA from the 1988-89 Second Principal Apportionment, Exhibit "C", dated 6/17/89, with a minimum allocation of $125,000. This allocation will be revised with the 1988-89 First Recalculation in February 1990.
2. The equalization allocation is based on the 1989-90 Advance Apportionment and does not include the effects of Supplemental Equalization. The allocations will be revised based on the 1989-90 First Principal Apportionment which will include Supplemental Equalization.
3. The December payment is 52% of the district's total allocation, which is equivalent to the amount that would have been distributed by December if the monthly payments had started in July 1989. The January 1990 payment is eight percent of the total allocation. Payments for the remainder of the fiscal year will be specified with the 1989-90 First Principal Apportionment.

Fiscal Services: 12/13/89: RM
pgmimp.doc

LIST OF STATUTES AND EXECUTIVE ORDERS PLED
CONSOLIDATED TEST CLAIM: *MINIMUM CONDITIONS FOR STATE AID*
(02-TC-25 AND 02-TC-31)

STATUTES

Chaptered Bills:

Statutes 1975, Chapter 802;
Statutes 1976, Chapters 275, 783, 1010, and 1176;
Statutes 1977, Chapters 36, 967;
Statutes 1979, Chapters 797 and 977;
Statutes 1980, Chapter 910;
Statutes 1981, Chapters 470 and 891;
Statutes 1982, Chapters 1117 and 1329;
Statutes 1983, Chapters 143 and 537;
Statutes 1984, Chapter 1371;
Statutes 1986, Chapter 1467;
Statutes 1988, Chapters 973 and 1514;
Statutes 1990, Chapters 1372 and 1667;
Statutes 1991, Chapters 1038, 1188, and 1198;
Statutes 1995, Chapters 493 and 758;
Statutes 1998, Chapter 365, 914, and 1023;
Statutes 1999, Chapter 587;
Statutes 2000, Chapter 187; and
Statutes 2002, Chapter 1169

Education Code Sections:

212	66030	66270	66722	66742	72014	81820
212.5	66251	66271.7	66722.5	66743	78015	81821
213	66252	66281.5	66731	70901	78016	81823
214	66261	66290	66732	70901.5	78211.5	87101
221.5	66261.5	66291	66736	70902	78212	87102
221.7	66262	66292	66737	71027	78213	87482.6
66010.2	66262.5	66292.3	66738	72011	78214	87482.7
66010.7	66263	66721	66740	72012	78215	
66016	66264	66721.5	66741	72013	78216	

California Code of Regulations, Title 5, Sections:

51000	53002	53309	55201	55502	55620	55800.5
51002	53003	53310	55202	55510	55630	55801
51004	53004	53311	55205	55512	55750	55805
51006	53005	53312	55207	55514	55751	55805.5
51008	53006	53314	55209	55516	55752	55806
51010	53020	54220	55211	55518	55753	55807
51012	53021	54626	55213	55520	55753.5	55808
51014	53022	54805	55215	55521	55753.7	55809
51016	53023	55000	55217	55522	55754	55825
51018	53024	55000.5	55219	55523	55755	55827
51020	53025	55001	55300	55524	55756	55828
51021	53026	55002	55316	55525	55756.5	55829
51022	53033	55002.5	55316.5	55526	55757	55830
51023	53034	55004	55320	55530	55758	55831
51023.5	53200	55005	55321	55532	55758.5	58102
51023.7	53202	55006	55322	55534	55759	58104
51024	53203	55100	55340	55600	55760	58106
51025	53204	55130	55350	55601	55761	58107
51026	53207	55150	55401	55602	55762	58108
51027	53300	55160	55402	55602.5	55763	59404
51100	53301	55170	55403	55603	55764	59410
51102	53302	55182	55404	55605	55765	
53001	53308	55200	55500	55607	55800	

Implementing Guidelines Handbooks:

Handbook of Accreditation and Policy Manual,
Accrediting Commission for Community and Junior Colleges (Summer 2002)

"Program and Course Approval Handbook"
Chancellor's Office California Community Colleges (September 2001)

"Student Equity Guidelines for Developing a Plan"
Fall 2002, The Academic Senate for California Community Colleges
(Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions")
(Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, adopted by the Academic Senate fall 2002)

Commission on State Mandates

Original List Date: 6/26/2003
Last Updated: 4/26/2007
List Print Date: 07/07/2008
Claim Number: 02-TC-31
Issue: Minimum Conditions for State Aid

Mailing Information: Other

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Mr. Erik Skinner
California Community Colleges
Chancellor's Office (G-01)
1102 Q Street, Suite 300
Sacramento, CA 95814-6549

Tel: (916) 322-4005
Fax: (916) 323-8245

Mr. Jim Spano
State Controller's Office (B-08)
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Tel: (916) 323-5849
Fax: (916) 327-0832

Mr. Douglas R. Brinkley
State Center Community College District
1525 East Weldon
Fresno, CA 93704-6398

Tel: (916) 000-0000
Fax: (916) 000-0000

Ms. Kelly Hargreaves
Department of Rehabilitation
721 Capitol Mall
Sacramento, CA 95814

Tel: 916-58-5825
Fax:

Mr. Joe Rombold
School Innovations & Advocacy
11130 Sun Center Drive, Suite 100
Rancho Cordova, CA 95670

Tel: (916) 669-5116
Fax: (888) 487-6441

Mr. Allan Burdick
MAXIMUS
4320 Auburn Blvd., Suite 2000
Sacramento, CA 95841

Tel: (916) 485-8102
Fax: (916) 485-0111

Mr. Jon Sharpe
Los Rios Community College District
1919 Spanos Court
Sacramento, CA 95825

Claimant

Tel: (559) 244-5910

Fax (559) 243-1949

Mr. William Duncan
West Kern Community College District
29 Emmons Park Drive
Taft, CA 93268

Claimant

Tel: (661) 763-7700

Fax

Ms. Carla Castaneda
Department of Finance (A-15)
915 L Street, 11th Floor
Sacramento, CA 95814

Tel: (916) 445-3274

Fax (916) 323-9584

Mr. Thomas Todd
Department of Finance (A-15)
Education Systems Unit
915 L Street, 7th Floor
Sacramento, CA 95814

Tel:

Fax

Mr. Thomas J. Donner
Santa Monica Community College District
1900 Pico Blvd.
Santa Monica, CA 90405-1628

Claimant

Tel: (310) 434-4201

Fax (310) 434-8200

Ms. Harmeet Barkschat
Mandate Resource Services
5325 Elkhorn Blvd. #307
Sacramento, CA 95842

Tel: (916) 727-1350

Fax (916) 727-1734

Ms. Sandy Reynolds
Reynolds Consulting Group, Inc.
P.O. Box 894059
Temecula, CA 92589

Tel: (951) 303-3034

Fax (951) 303-6607

Mr. Steve Smith
Steve Smith Enterprises, Inc.
2200 Sunrise Blvd., Suite 220
Gold River, CA 95670

Tel: (916) 852-8970

Fax (916) 852-8978

Mr. Arthur Palkowitz
San Diego Unified School District
Office of Resource Development
4100 Normal Street, Room 3209
San Diego, CA 92103-8363

Tel: (619) 725-7785

Fax (619) 725-7564

Mr. Robert Miyashiro Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: Fax:	(916) 446-7517 (916) 446-2011
Ms. Beth Hunter Centration, Inc. 8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730	Tel: Fax:	(866) 481-2621 (866) 481-2682
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: Fax:	(916) 454-7310 (916) 454-7312
Ms. Carol Bingham California Department of Education (E-08) Fiscal Policy Division 1430 N Street, Suite 5602 Sacramento, CA 95814	Tel: Fax:	(916) 324-4728 (916) 319-0116
Mr. David E. Scribner Scribner & Smith, Inc. 2200 Sunrise Boulevard, Suite 220 Gold River, CA 95670	Tel: Fax:	(916) 852-8970 (916) 852-8978
Ms. Ginny Brummels State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 500 Sacramento, CA 95816	Tel: Fax:	(916) 324-0256 (916) 323-6527
Ms. Jeannie Oropeza Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-0328 (916) 323-9530
Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1190 Sacramento, CA 95814	Tel: Fax:	(916) 445-3274 (916) 324-4888
Ms. Jolene Tollenaar MGT of America 455 Capitol Mall, Suite 600 Sacramento, CA 95814	Tel: Fax:	(916) 712-4490 (916) 290-0121

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Blvd., Suite 170
Sacramento, CA 95834

Claimant Representative

Tel: (916) 565-6104

Fax: (916) 564-6103

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EXHIBIT S

June 22, 2010

Mr. Keith Petersen
SixTen and Associates
3270 Arena Blvd., Suite 400-363
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: NOTICE OF SEVERANCE:
Education Code Sections 212, 212.5, 213, 214, 221.5, 221.7, 66010.2, 66010.7, 66016, 66030, 66251, 66252, 66261, 66261.5, 66262, 66262.5, 66263, 66264, 66270, 66271.7, 66281.5, 66290, 66291, 66292, 66292.3, 72011-72014, 87101, and 87102; California Code of Regulations, Title 5, Sections 53001, 53002, 53003, 53004, 53005, 53006, 53020, 53021, 53022, 53023, 53024, 53025, 53026, 53033, 53034, and 54220; and "Student Equity: Guidelines for Developing a Plan" Fall 2002, The Academic Senate for California Community Colleges (Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions"), (Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, Adopted by the Academic Senate Fall 2002)

Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
(See enclosed list for statutes and regulations pled)
Los Rios Community College District,
Santa Monica Community College District, and
West Kern Community College District, Co-claimants

AND CONSOLIDATION WITH:
Discrimination Complaint Procedures (02-TC-46)
Government Code Sections 11135, 11136, 11137, 11138, 11139
California Code of Regulations, Title 5, Sections 59300, 59303, 59304, 59310, 59311, 59320, 59322, 59324, 59326, 59327, 59328, 59329, 59330, 59332, 59334, 59336, 59338, 59339, 59340, 59342, 59350, 59351, 59352, 59354, 59356, 59358, 59360, and 59362.
Santa Monica Community College District, Claimant

Dear Mr. Petersen:

After review of *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) and *Discrimination Complaint Procedures* (02-TC-46), it has been determined that the test claims share common issues and allegations. Specifically, the test claims address statutes, administrative regulations,

and alleged executive orders regarding the prohibition against discrimination in community college employment and programs. In addition, these test claims raise similar issues regarding federal antidiscrimination laws.

For the sake of efficiency, Education Code sections 212, 212.5, 213, 214, 221.5, 221.7, 66010.2, 66010.7, 66016, 66030, 66251, 66252, 66261, 66261.5, 66262, 66262.5, 66263, 66264, 66270, 66271.7, 66281.5, 66290, 66291, 66292, 66292.3, 72011-72014, 87101, and 87102; California Code of Regulations, title 5, sections 53001, 53002, 53003, 53004, 53005, 53006, 53020, 53021, 53022, 53023, 53024, 53025, 53026, 53033, 53034, and 54220; and "Student Equity: Guidelines for Developing a Plan" Fall 2002, The Academic Senate for California Community Colleges (Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions"), (Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, Adopted by the Academic Senate Fall 2002) will be severed from the *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim and consolidated with the *Discrimination Complaint Procedures* (02-TC-46) test claim. This action is being taken pursuant to my authority under Government Code section 17530 and California Code of Regulations, title 2, section 1183.06, and will be effective 10 days from the service of this letter.

All future references to the *Discrimination Complaint Procedures* (02-TC-46) test claim will include Los Rios Community College District and West Kern Community College District as co-claimants with Santa Monica Community College District. A consolidated mailing list is enclosed.

As provided in the Commission's regulations this action and decision of the executive director may be appealed to the Commission for review. Please refer to California Code of Regulations, title 2, section 1181, subdivision (c).

Please contact Kenny Louie at (916) 323-2611 if you have any questions or concerns regarding this matter.

Sincerely,

Paula Higashi

PAULA HIGASHI
Executive Director

Enclosures: List of Statutes and Executive Orders Pled, Consolidated Test Claim: *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) and Consolidated Mailing List

J:mandates/2002/tc/02tc25/consolidatedtc/severeltr062210

LIST OF STATUTES AND EXECUTIVE ORDERS PLED
CONSOLIDATED TEST CLAIM: *MINIMUM CONDITIONS FOR STATE AID*
(02-TC-25 AND 02-TC-31)

STATUTES

Chaptered Bills:

Statutes 1975, Chapter 802;
Statutes 1976, Chapters 275, 783, 1010, and 1176;
Statutes 1977, Chapters 36, 967;
Statutes 1979, Chapters 797 and 977;
Statutes 1980, Chapter 910;
Statutes 1981, Chapters 470 and 891;
Statutes 1982, Chapters 1117 and 1329;
Statutes 1983, Chapters 143 and 537;
Statutes 1984, Chapter 1371;
Statutes 1986, Chapter 1467;
Statutes 1988, Chapters 973 and 1514;
Statutes 1990, Chapters 1372 and 1667;
Statutes 1991, Chapters 1038, 1188, and 1198;
Statutes 1995, Chapters 493 and 758;
Statutes 1998, Chapter 365, 914, and 1023;
Statutes 1999, Chapter 587;
Statutes 2000, Chapter 187; and
Statutes 2002, Chapter 1169

Education Code Sections:

212	66030	66270	66722	66742	72014	81820
212.5	66251	66271.7	66722.5	66743	78015	81821
213	66252	66281.5	66731	70901	78016	81823
214	66261	66290	66732	70901.5	78211.5	87101
221.5	66261.5	66291	66736	70902	78212	87102
221.7	66262	66292	66737	71027	78213	87482.6
66010.2	66262.5	66292.3	66738	72011	78214	87482.7
66010.7	66263	66721	66740	72012	78215	
66016	66264	66721.5	66741	72013	78216	

California Code of Regulations, Title 5, Sections:

51000	53002	53309	55201	55502	55620	55800.5
51002	53003	53310	55202	55510	55630	55801
51004	53004	53311	55205	55512	55750	55805
51006	53005	53312	55207	55514	55751	55805.5
51008	53006	53314	55209	55516	55752	55806
51010	53020	54220	55211	55518	55753	55807
51012	53021	54626	55213	55520	55753.5	55808
51014	53022	54805	55215	55521	55753.7	55809
51016	53023	55000	55217	55522	55754	55825
51018	53024	55000.5	55219	55523	55755	55827
51020	53025	55001	55300	55524	55756	55828
51021	53026	55002	55316	55525	55756.5	55829
51022	53033	55002.5	55316.5	55526	55757	55830
51023	53034	55004	55320	55530	55758	55831
51023.5	53200	55005	55321	55532	55758.5	58102
51023.7	53202	55006	55322	55534	55759	58104
51024	53203	55100	55340	55600	55760	58106
51025	53204	55130	55350	55601	55761	58107
51026	53207	55150	55401	55602	55762	58108
51027	53300	55160	55402	55602.5	55763	59404
51100	53301	55170	55403	55603	55764	59410
51102	53302	55182	55404	55605	55765	
53001	53308	55200	55500	55607	55800	

Implementing Guidelines Handbooks:

Handbook of Accreditation and Policy Manual,
Accrediting Commission for Community and Junior Colleges (Summer 2002)

"Program and Course Approval Handbook"
Chancellor's Office California Community Colleges (September 2001)

"Student Equity Guidelines for Developing a Plan"
Fall 2002, The Academic Senate for California Community Colleges
(Appendix 1: Chancellor's Office "Student Equity Plan Review Procedures and Instructions")
(Appendix 3: Chancellor's Office "Student Equity: Regulations and Guidelines," Revised May 14, 1997, adopted by the Academic Senate Fall 2002)

Commission on State Mandates

Original List Date: 6/22/2010
Last Updated:
List Print Date: 06/22/2010
Claim Number: 02-TC-25, 31, 46
Issue: Notice to Students/Minimum Conditions for State Aid/ Discrimination Complaint Procedures (CCD)

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Ms. Harmeet Barkschat Mandate Resource Services, LLC 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: Fax:	(916) 727-1350 (916) 727-1734
Mr. David E. Scribner Max8550 2200 Sunrise Boulevard, Suite 240 Gold River, California 95670	Tel: Fax:	(916) 852-8970 (916) 852-8978
Mr. Jeff Carosone Department of Finance (A-15))15 L Street, 8th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-8913
Mr. Douglas R. Brinkley State Center Community College District 1525 East Weldon Avenue Fresno, CA 93704-6398	Tel: Fax:	(916) 000-0000 (916) 000-0000
Mr. Arthur Palkowitz Stutz Artiano Shinoff & Holtz 2488 Historic Decatur Road, Suite 200 San Diego, CA 92106	Tel: Fax:	(619) 232-3122 (619) 232-3264
Mr. Steve Bruckman California Community Colleges Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Tel: Fax:	(916) 323-7007 (916) 322-4783
Mr. Allan Burdick MAXIMUS 3130 Kilgore Road, Suite 400 Rancho Cordova, CA 95670	Tel: Fax:	(916) 471-5538 (916) 366-4838
Ms. Angie Teng State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Fax:	(916) 323-0706

Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Fax:	(916) 322-9891
Mr. Paul Steenhausen Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: Fax:	(916) 319-8324 (916) 324-4281
Mr. Jon Sharpe Los Rios Community College District 1919 Spanos Court Sacramento, CA 95825	Tel: Fax:	(559) 244-5910 (559) 243-1949
Ms. Sandy Reynolds Reynolds Consulting Group, Inc. P.O. Box 894059 Temecula, CA 92589	Tel: Fax:	(951) 303-3034 (951) 303-6607
Ms. Beth Hunter Centration, Inc. 8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730	Tel: Fax:	(866) 481-2621 (866) 481-2682
Ms. Jolene Tollenaar MGT of America 2001 P Street, Suite 200 Sacramento, CA 95811	Tel: Fax:	(916) 443-9136 (916) 443-1766
Mr. Andy Nichols Nichols Consulting 1857 44th Street Sacramento, CA 95819	Tel: Fax:	(916) 455-3939 (916) 739-8712
Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1280 Sacramento, CA 95814	Tel: Fax:	(916) 445-3274 (916) 449-5252
Mr. William Duncan West Kern Community College District 29 Emmons Park Drive Taft, CA 93268	Tel: Fax:	(661) 763-7700
Mr. Mike Brown School Innovations & Advocacy 11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670	Tel: Fax:	(916) 669-5116 (888) 487-6441
Mr. J. Bradley Burgess Public Resource Management Group 895 La Sierra Drive Sacramento, CA 95864	Tel: Fax:	(916)595-2646
Mr. Erik Skinner California Community Colleges Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Tel: Fax:	(916) 323-7007 (916) 322-4783
Mr. Jim Spano State Controller's Office (B-08) Division of Audits 300 Capitol Mall, Suite 518	Tel: Fax:	(916) 323-5849 (916) 327-0832

Sacramento, CA 95814		
Mr. Robert Miyashiro Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: Fax:	(916) 446-7517 (916) 446-2011
Ms. Sandra Thornton California Teachers Association 9548 Duchess Lane Stockton, CA 95209	Tel: Fax:	(209) 473-2850
Mr. Keith B. Petersen SixTen & Associates 3270 Arena Blvd., Suite 400-363 Sacramento, CA 95834	Tel: Fax:	(916) 419-7093 (916) 263-9701
Ms. Cheryl Miller CLM Financial Consultants, Inc. 1241 North Fairvale Avenue Covina, CA 91722	Tel: Fax:	(626) 484-0660 (626) 332-4886
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: Fax:	(916) 454-7310 (916) 454-7312
Ms. Jeannie Oropeza Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-0328 (916) 323-9530
Ms. Juliana Morozumi Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-0328
Mr. Chris Bonvenuto Santa Monica Community College District 1900 Pico Blvd. Santa Monica, CA 90405-1628	Tel: Fax:	(310) 434-4201 (310) 434-8200
Mr. Ed Hanson Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-0328

Exhibit T

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EDMUND G. BROWN JR., Governor

January 19, 2011

Mr. Keith Petersen
SixTen and Associates
3270 Arena Blvd., Suite 400-363
Sacramento, CA 95834

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: NOTICE OF SEVERANCE:
Education Code Sections 81820, 81821, and 81823

Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
Los Rios Community College District and
Santa Monica Community College District, Co-claimants

AND CONSOLIDATION WITH:
Community College Construction (02-TC-47)
Santa Monica Community College District, Claimant

Dear Mr. Petersen:

After review of *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) and *Community College Construction* (02-TC-47), it has been determined that both test claims have pled Education Code sections 81820, 81821 and 81823, which address the preparation of capital construction plans by community college districts and the submission of these plans to the Board of Governors of the California Community Colleges.

For the sake of efficiency, Education Code sections 81820, 81821 and 81823 will be severed from the *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim and consolidated with the *Community College Construction* (02-TC-47) test claim. This action is being taken pursuant to my authority under Government Code section 17530 and California Code of Regulations, title 2, section 1183.06, and will be effective 10 days from the service of this letter.

As provided in the Commission's regulations this action and decision of the executive director may be appealed to the Commission for review. Please refer to California Code of Regulations, title 2, section 1181, subdivision (c).

Please contact Eric Feller at (916) 323-3562 if you have any questions or concerns regarding this matter.

Sincerely,

Drew Bohan
Executive Director

J:mandates/2002/tc/02tc25/consolidatedtc/correspondence/severeltr011911

Commission on State Mandates

Original List Date: 7/9/2003
Last Updated: 10/5/2010
List Print Date: 01/20/2011
Claim Number: 02-TC-47
Issue: Community College Construction

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Ms. Angie Teng State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Email Fax:	(916) 323-0706 ateng@sco.ca.gov
Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Email Fax:	(916) 322-9891 jkanemasu@sco.ca.gov
Mr. Steve Bruckman California Community Colleges Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Tel: Email Fax:	(916) 323-7007 sbruckman@cccco.edu (916) 322-4783
Ms. Cheryl Miller CLM Financial Consultants, Inc. 1241 North Fairvale Avenue Covina, CA 91722	Tel: Email Fax:	(626) 484-0660 Cheryl_Miller1241@ca.rr.com (626) 332-4886
Mr. Jim Spano State Controller's Office (B-08) Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Email Fax:	(916) 323-5849 jspano@sco.ca.gov (916) 327-0832
Mr. Douglas R. Brinkley State Center Community College District 1525 East Weldon Avenue Fresno, CA 93704-6398	Tel: Email Fax:	(559) 244-5901 doug.brinkley@scccd.edu (559) 243-1949
Mr. Paul Steenhausen Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: Email Fax:	(916) 319-8324 Paul.Steenhausen@lao.ca.gov (916) 324-4281
Mr. Mike Brown School Innovations & Advocacy 11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670	Tel: Email Fax:	(916) 669-5116 mikeb@sia-us.com (888) 487-6441

Mr. Robert Miyashiro Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: Email Fax:	(916) 446-7517 robertm@sscal.com (916) 446-2011
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: Email Fax:	(916) 454-7310 steve@shieldscg.com (916) 454-7312
Ms. Beth Hunter Centration, Inc. 8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730	Tel: Email Fax:	(866) 481-2621 bhunter@centration.com (866) 481-2682
Mr. Chris Bonvenuto Santa Monica Community College District 1900 Pico Blvd. Santa Monica, CA 90405-1628	Tel: Email Fax:	(310) 434-4201 Bonvenuto_chris@smc.edu (310) 434-8200
Mr. Frederick E. Harris California Community Colleges Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Tel: Email Fax:	(916) 324-9508 fharris@cccco.edu (916) 322-4783
Ms. Harmeet Barkschat Mandate Resource Services, LLC 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: Email Fax:	(916) 727-1350 harmeet@calsdrc.com (916) 727-1734
Ms. Sandy Reynolds Reynolds Consulting Group, Inc. P.O. Box 894059 Temecula, CA 92589	Tel: Email Fax:	(951) 303-3034 sandrareynolds_30@msn.com (951) 303-6607
Mr. David E. Scribner Max8550 2200 Sunrise Boulevard, Suite 240 Gold River, California 95670	Tel: Email Fax:	(916) 852-8970 dscribner@max8550.com (916) 852-8978
Mr. Michael Johnston Clovis Unified School District 1450 Herndon Ave Clovis, CA 93611-0599	Tel: Email Fax:	(559) 327-9000 michaeljohnston@clovisusd.k12.ca.us (559) 327-9129
Mr. Jay Lal State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Email Fax:	(916) 324-0256 JLal@sco.ca.gov (916) 323-6527
Ms. Carol Bingham California Department of Education (E-08) Fiscal Policy Division 1430 N Street, Suite 5602 Sacramento, CA 95814	Tel: Email Fax:	(916) 324-4728 cbingham@cde.ca.gov (916) 319-0116
Ms. Jeannie Oropeza Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Email Fax:	(916) 445-0328 jeannie.oropeza@dof.ca.gov (916) 323-9530

Ms. Susan Geanacou	Tel:	(916) 445-3274
Department of Finance (A-15)	Email	susan.geanacou@dof.ca.gov
915 L Street, Suite 1280 Sacramento, CA 95814	Fax:	(916) 449-5252
Ms. Jolene Tollenaar	Tel:	(916) 443-9136
MGT of America	Email	jolene_tollenaar@mgtamer.com
2001 P Street, Suite 200 Sacramento, CA 95811	Fax:	(916) 443-1766
Mr. Keith B. Petersen	Tel:	(916) 419-7093
SixTen & Associates	Email	kbpsixten@aol.com
3270 Arena Blvd., Suite 400-363 Sacramento, CA 95834	Fax:	(916) 263-9701

Commission on State Mandates

Original List Date: 6/22/2010
Last Updated: 12/29/2010
List Print Date: 01/20/2011
Claim Number: 02-TC-25, 31, 46
Issue: Notice to Students/Minimum Conditions for State Aid/ Discrimination Complaint Procedures (CCD)

Mailing List

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Ms. Harmeet Barkschat Mandate Resource Services, LLC 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: Email Fax:	(916) 727-1350 harmeet@calsdrc.com (916) 727-1734
Mr. David E. Scribner Max8550 2200 Sunrise Boulevard, Suite 240 Gold River, California 95670	Tel: Email Fax:	(916) 852-8970 dscribner@max8550.com (916) 852-8978
Mr. Jeff Carosone Department of Finance (A-15) 915 L Street, 8th Floor Sacramento, CA 95814	Tel: Email Fax:	(916) 445-8913 jeff.carosone@dof.ca.gov
Mr. Douglas R. Brinkley State Center Community College District 1525 East Weldon Avenue Fresno, CA 93704-6398	Tel: Email Fax:	(559) 244-5901 doug.brinkley@scccd.edu (559) 243-1949
Mr. Arthur Palkowitz Stutz Artiano Shinoff & Holtz 2488 Historic Decatur Road, Suite 200 San Diego, CA 92106	Tel: Email Fax:	(619) 232-3122 apalkowitz@stutzartiano.com (619) 232-3264
Mr. Steve Bruckman California Community Colleges Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Tel: Email Fax:	(916) 323-7007 sbruckman@cccco.edu (916) 322-4783
Mr. Allan Burdick CSAC-SB 90 Service 2001 P Street, Suite 200 Sacramento, CA 95811	Tel: Email Fax:	(916) 443-9136 allan_burdick@mgtamer.com (916) 443-1766
Ms. Angie Teng State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Email Fax:	(916) 323-0706 ateng@sco.ca.gov

Ms. Jill Kanemasu	Tel:	(916) 322-9891
State Controller's Office (B-08)	Email	jkanemasu@sco.ca.gov
Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Fax:	
Mr. Paul Steenhausen	Tel:	(916) 319-8324
Legislative Analyst's Office (B-29)	Email	Paul.Steenhausen@lao.ca.gov
925 L Street, Suite 1000 Sacramento, CA 95814	Fax:	(916) 324-4281
Mr. Jon Sharpe	Tel:	(559) 244-5910
Los Rios Community College District	Email	sharpej@losrios.edu
1919 Spanos Court Sacramento, CA 95825	Fax:	(559) 243-1949
Ms. Sandy Reynolds	Tel:	(951) 303-3034
Reynolds Consulting Group, Inc.	Email	sandrareynolds_30@msn.com
P.O. Box 894059 Temecula, CA 92589	Fax:	(951) 303-6607
Ms. Beth Hunter	Tel:	(866) 481-2621
Centration, Inc.	Email	bhunter@centration.com
8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730	Fax:	(866) 481-2682
Ms. Jolene Tollenaar	Tel:	(916) 443-9136
MGT of America	Email	jolene_tollenaar@mgtamer.com
2001 P Street, Suite 200 Sacramento, CA 95811	Fax:	(916) 443-1766
Mr. Andy Nichols	Tel:	(916) 455-3939
Nichols Consulting	Email	andy@nichols-consulting.com
1857 44th Street Sacramento, CA 95819	Fax:	(916) 739-8712
Ms. Kimberley Nguyen	Tel:	(916) 471-5516
MAXIMUS	Email	kimberleynguyen@maximus.com
3130 Kilgore Road, Suite 400 Rancho Cordova, CA 95670	Fax:	(916) 366-4838
Ms. Susan Geanacou	Tel:	(916) 445-3274
Department of Finance (A-15)	Email	susan.geanacou@dof.ca.gov
915 L Street, Suite 1280 Sacramento, CA 95814	Fax:	(916) 449-5252
Mr. William Duncan	Tel:	(661) 763-7700
West Kern Community College District	Email	wduncan@pastcollege.edu
29 Emmons Park Drive Taft, CA 93268	Fax:	
Mr. Mike Brown	Tel:	(916) 669-5116
School Innovations & Advocacy	Email	mikeb@sia-us.com
11130 Sun Center Drive, Suite 100 Rancho Cordova, CA 95670	Fax:	(888) 487-6441
Mr. J. Bradley Burgess	Tel:	(916)595-2646
Public Resource Management Group	Email	Bburgess@mgtamer.com
895 La Sierra Drive Sacramento, CA 95864	Fax:	
Mr. Frederick E. Harris	Tel:	(916) 324-9508
California Community Colleges	Email	fharris@cccco.edu
Chancellor's Office (G-01) 1102 Q Street Sacramento, CA 95814-6511	Fax:	(916) 322-4783

Mr. Jim Spano State Controller's Office (B-08) Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: Email Fax:	(916) 323-5849 jspano@sco.ca.gov (916) 327-0832
Mr. Robert Miyashiro Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: Email Fax:	(916) 446-7517 robertm@sscal.com (916) 446-2011
Ms. Sandra Thornton California Teachers Association 9548 Duchess Lane Stockton, CA 95209	Tel: Email Fax:	(209) 473-2850 sandythorn@sbcglobal.net
Mr. Keith B. Petersen SixTen & Associates 3270 Arena Blvd., Suite 400-363 Sacramento, CA 95834	Tel: Email Fax:	(916) 419-7093 kbpsixten@aol.com (916) 263-9701
Ms. Cheryl Miller CLM Financial Consultants, Inc. 1241 North Fairvale Avenue Covina, CA 91722	Tel: Email Fax:	(626) 484-0660 Cheryl_Miller1241@ca.rr.com (626) 332-4886
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: Email Fax:	(916) 454-7310 steve@shieldscg.com (916) 454-7312
Ms. Jeannie Oropeza Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Email Fax:	(916) 445-0328 jeannie.oropeza@dof.ca.gov (916) 323-9530
Ms. Juliana Morozumi Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Email Fax:	(916) 445-0328 juliana.morozumi@dof.ca.gov
Mr. Chris Bonvenuto Santa Monica Community College District 1900 Pico Blvd. Santa Monica, CA 90405-1628	Tel: Email Fax:	(310) 434-4201 Bonvenuto_chris@smc.edu (310) 434-8200
Mr. Ed Hanson Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: Email Fax:	(916) 445-0328 ed.hanson@dof.ca.gov

Hearing Date: March 24, 2011

J:\MANDATES\2002\tc\02-tc-25\formal outline 02-TC-25-31.doc

OUTLINE OF STAFF ANALYSIS FOR
MINIMUM CONDITIONS FOR STATE AID
02-TC-25 and 02-TC-31

I. Background 16

A. Overview of the role and governance of community colleges in California 17

B. Claimants' Position 20

C. California Community Colleges-Chancellor's Office Position (Chancellor's Office) 21

D. Department of Finance's Position (Finance) 21

II. Discussion 22

A. The "Handbook of Accreditation and Policy Manual" does not constitute executive orders subject to article XIII B, section 6 and therefore are not within the Commission's jurisdiction. The "Program and Course Approval Handbook" constitutes an executive order subject to article XIII B, section 6, and is within the Commission's jurisdiction. 23

(1) "Handbook of Accreditation and Policy Manual" 24

(2) "Program and Course Approval Handbook" 24

B. The executive order, test claim statutes, and regulations impose some state-mandated new programs or higher levels of service on community college districts subject to article XIII B, section 6 of the California Constitution 25

(1) Delineation of Functions of the Board of Governors of the California Community Colleges and the Governing Boards of Community College Districts (Ed. Code, §§ 70901, 70901.5, and 70902) 26

(2) Minimum Conditions Entitling Community College Districts to State Aid and Investigation and Enforcement of Minimum Conditions (Cal. Code Regs., tit. 5, §§ 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, and 51102) 27

a. Not all of the test claim statutes and administrative regulations pled by the claimants constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6) 28

b. California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027 do not impose any state-mandated activities 32

c. The regulations providing for the investigation and enforcement of minimum conditions do not impose any state-mandated activities (Cal. Code Regs., tit. 5, §§ 51100 and 51102) 35

d. The pre-existing duty of community college districts to comply with the "minimum standards" adopted by the Board of Governors does not preclude a finding of a new program or higher level of service regarding a new regulation adopted as a "minimum standard" that requires new activities....36

(3) Approval of New Colleges and Educational Centers (Cal. Code Regs., tit. 5, §§ 55825, 55827, 55828, 55829, 55830, and 55831) 38

a. Title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831, do not impose state-mandated activities 38

(4) Master Plans for Academics (Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404) 39

a. Not all of the statutes and regulations in the "Comprehensive or Master Plans for Academics" impose state-mandated activities....39

b. The activities mandated by California Code of Regulations, title 5, section 55401, 55402, 55403, and 55404, do not constitute a reimbursable new program or higher level of service....39

(5) Faculty Participation in District and College Governance (Cal. Code Regs., tit. 5, §§ 53200, 53202-53204, and 53207) 40

a. Title 5, sections 53202, 53203, and 53207, impose state-mandated activities....40

b. The activities mandated by California Code of Regulations, title 5, sections 53202, 53203, and 53207, constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution....42

(i) Summary of state-mandate new program or higher level of service....43

(6) Full-time/Part-time Faculty Ratio (Ed. Code, §§ 87482.6 and 87482.7; and Cal. Code Regs., tit. 5, §§ 51025, 53300-53302, 53308-53312, and 53314)....44

a. Education Code sections 87482.6 and 87482.7, and California Code of Regulations, title 5, sections 53300-53302, 53308-53312, and 53314, do not impose any state-mandated activities....45

(7) Matriculation (Ed. Code, §§ 78211.5, 78212, 78213, 78214, 78215, and 78216; and Cal. Code Regs., tit. 5, §§ 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, and 55534) 47

a. Education Code sections 78211.5, 78212, and 78213 – 78216, and California Code of Regulations, title 5, sections 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520 – 55526, 55530, 55532, and 55534 do not impose any state-mandated activities.....48

(8) Transfer Centers (Ed. Code, §§ 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, and 71027) 49

a. Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 impose state-mandated activities.....50

(i) Summary of state-mandated activities 61

b. The activities mandated by Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution 63

(i) Summary of state-mandated new program or higher level of service.....64

(9) Vocational Education (Ed. Code, §§ 78015 and 78016; and Cal. Code Regs., tit. 5, §§ 55600-55603, 55605, 55607, 55620, and 55630) 66

a. Education Code sections 78015 and 78016, and California Code of Regulations, title 5, section 55601, impose state-mandated activities on community college districts; however, California Code of Regulations, title 5, sections 55600, 55602-55603, 55605, 55607, 55620, and 55630 do not.....66

b. The state-mandated activities imposed by Education Code sections 78015 and 78016 constitute a new program or higher level of service; however, the activity mandated by California Code of Regulations, title 5, section 55601 does not 68

(i) Summary of state-mandated new program or higher level of service.....69

(10) Standards of Scholarship (Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765) 71

a. California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 requires community college districts to engage in state-mandated activities....71

(i) Summary of state-mandated activities....83

b. California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 constitute a new program or higher level of service....86

(i) Summary of state-mandated new program or higher level of service....89

(11) Curriculum (Cal. Code Regs., tit. 5, §§ 55000-55002.5, 55004-55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200-55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320-55322, 55340, and 55350; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001)) 92

a. California Code of Regulations, title 5, sections 55001, 55002, 55004, 55005, and 55006, and the "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001) impose state-mandated activities....92

(i) Summary of state-mandated activities....104

b. Parts of California Code of Regulations, title 5, sections 55001, 55002, 55005, 55006, 55100, 55150, 55201, and 55202, constitute a new program or higher level of service....110

(i) Summary of state-mandated new program or higher level of service....114

(12) Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809) 118

a. California Code of Regulations, title 5, sections 55800, 55800.5, 55805, 55805.5, 55806, 55808, and 55809 impose state-mandated activities....119

(i) Summary of state-mandated activities....124

b. The state-mandated activities imposed by California Code of Regulations, title 5, sections 55800, 55805, 55805.5, and 55806 (Register 83, No. 29; Register 88, No. 42; Register 91, No. 43) constitute a new program or higher level of service....125

(i) Summary of state-mandated new program or higher level of service....127

(13) Open Courses (Cal. Code Regs., tit. 5, §§ 58102, 58104, 58106, 58107, and 58108) 129
a. California Code of Regulations, title 5, sections 58102 and 58104, impose state-mandated activities.....129
(i) Summary of state-mandated activities 133
b. California Code of Regulations, title 5, sections 58102 and 58104, constitute a new program or higher level of service 134
(i) Summary of state-mandated new program or higher level of service.....135
(14) Notice to Students (Cal. Code Regs., tit. 5, 54626, 54805, 59404, and 59410) 135
a. Student Directory Information (Cal. Code Regs., tit. 5, § 54626 (Register 83, No. 18)) 135
(i) California Code of Regulations, title 5, section 54626, imposes a requirement on community college districts 135
(ii) The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute a federal mandate.....136
(iii) The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), constitutes a state mandate 137
(iv) The mandate of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute new program or higher level of service 137
b. Student Representation Fee (Cal. Code Regs., tit. 5, § 54805).....138
(i) California Code of Regulations, title 5, section 54805, does not impose state-mandated activities 138
c. District Policies and Regulations for Instructional and Other Materials (Cal. Code Regs., tit. 5, § 59404) 139
(i) California Code of Regulations, title 5, section 59404, does not impose state-mandated activities 139
d. Withholding Grades, Transcripts, Diplomas, and Registration Privileges (Cal. Code Regs., tit. 5, § 59410) 140
(i) California Code of Regulations, title 5, section 59410, does not impose state-mandated activities 140

C. The state-mandated new program or higher level of service impose costs mandated by the state on community college districts within the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556 140

III. Conclusion 142

IV. Recommendation 155

ITEM _

TEST CLAIM

DRAFT STAFF ANALYSIS

Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7

Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169

California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410

Register 71, number 27; Register 76, number 10; Register 77, number 45; Register 78, number 51; Register 81, number 52; Register 82, number 31; Register 83, number 18; Register 83, number 29; Register 83, number 53; Register 84, number 26; Register 85, number 20; Register 88, number 20; Register 88, number 42; Register 90, number 37; Register 90, number 49; Register 91, number 23; Register 91, number 45; Register 91, number 46; Register 92, number 4; Register 92, number 7; Register 92, number 15; Register 92, number 17; Register 92, number 34; Register 93, number 25; Register 93, number 42; Register 94, number 18; Register 94, number 38; Register 98, number 7; Register 98, number 14; Register 2000, number 26; Register 2000, number 50; Register 2001, number 43; Register 2002, number 8; Register 2002, number 26; and Register 2003, number 18.

Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); “Program and Course Approval Handbook” Chancellor’s Office California Community Colleges (September 2001)

EXECUTIVE SUMMARY

Overview

This consolidated test claim filed by Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District addresses Education Code sections, title 5 regulations, and an executive order that prescribe standards for the formation and basic operation of the California Community Colleges, and set forth minimum conditions, satisfaction of which entitles community college districts to receive state aid.

These conditions and standards cover various areas of operation and formation of community colleges including, but not limited to, the following: (1) standards of scholarship, (2) degrees and certificates, (3) open courses, (4) comprehensive or master plans for academics and facilities, (5) student fees, (6) approval of new colleges and educational centers, (7) accreditation, (8) counseling programs, (9) objectives for instructional programs, (10) curriculum, (11) instructional programs, (12) course articulation, (13) academic freedom, (14) staff, faculty, and student participation in district and college governance, (15) matriculation, (16) full-time/part-time faculty ratio, (17) transfer centers, and (18) investigation and enforcement of the minimum conditions by the Chancellor and the Board of Governors.

In addition, this test claim addresses regulations which provide that community college districts adopt policies or provide students with information or notices regarding: (1) student directory information, (2) student representation fees, (3) the provision of course materials, and (4) possible consequences of failing to pay a proper financial obligation due to the district or college.

The California Community Colleges Chancellor's Office (Chancellor's Office) asserts generally that community college districts are not entitled to reimbursement for any of the pled activities, and that the test claim should be rejected in its entirety. The Chancellor's Office argues that the activities alleged by the claimants are conditions for receipt of state aid and that the claimants are not required to accept state aid, and therefore the claimants are not mandated to engage in any of the claimed activities. In addition, if the claimants have complied with the challenged provisions in order to receive state aid and have received state aid, the claimants have already been compensated for compliance and no further reimbursement is warranted. In addition, the Chancellor's Office also argues that some of the regulations are not new requirements, and that some of the activities are mandated by federal law.

The Department of Finance (Finance) has chosen to reserve comments in regard to the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim. However, in regard to the Education Code sections and title 5 regulations pled in the *Notice to Students* (02-TC-25) test claim, Finance argues that any costs associated with the code sections and title 5 regulations are fully supported by the general purpose apportionment funding allocated annually to community colleges in Schedule (1) Apportionments, of Item 6870-101-0001 of the Budget Act.

Procedural History

The consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim was filed during the 2002-2003 fiscal year. As a result, the reimbursement period for any reimbursable state-mandated new programs or higher level of service found in this test claim begins on July 1, 2001.

Between 2003 and 2010 various parties requested and received multiple extensions to file comments on the *Notice to Students* (02-TC-25) and *Minimum Conditions for State Aid* (02-TC-31) test claims. During this period the Commission has received comments from the claimants and the Chancellor's Office on both test claims. Finance has submitted comments on the *Notice to Students* test claim, but notified the Commission of its intent to reserve comments on the *Minimum Conditions for State Aid* test claim until after a draft analysis has been issued by the Commission.

On January 9, 2008 the Commission consolidated the *Notice to Students* (02-TC-25) and *Minimum Conditions for State Aid* (02-TC-31) test claims to form the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim. On April 2, 2008, the Commission severed a portion of the *Disabled Student Program and Services* (02-TC-22) test claim and consolidated it with the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim. On June 22, 2010, the Commission severed a portion of the consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31), and consolidated the severed portion with the *Discrimination Complaint Procedures* (02-TC-46) test claim.

Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local governments and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local governments or school districts to be eligible for reimbursement, one or more similarly situated local governments or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.

Claims

The following chart provides a brief summary of the claims and issues raised by the claimant, and staff's recommendation.

Subject of Claim	Description of statutes/regulations/executive orders	Issues	Staff Recommendation
Handbook of Accreditation and Policy Manual	The Handbook of Accreditation and Policy Manual sets forth the eligibility requirements and standards for accreditation with the Accrediting Commission For Community and Junior Colleges (ACCJC).	The claimants allege that the Handbook of Accreditation and Policy Manual constitutes an "executive order" subject to the Commission's jurisdiction, and it imposes reimbursable state-mandated costs.	*Denied*: The ACCJC is not a state agency, and as a result, the Accreditation and Policy Manual is not an "executive order" under Government Code section 17516.
Program and Course Approval Handbook (Handbook)	The Handbook is intended to assist individuals at community colleges responsible for designing new programs or courses in seeking program or course approval from the Chancellor's Office.	The claimants allege that the Handbook issued by the Chancellor's Office constitutes an "executive order" subject to the Commission's jurisdiction, and that it imposes reimbursable state-mandated costs.	*Denied*: Although the Handbook constitutes an executive order , it does not impose a new program or higher level of service. See "Curriculum" section of the analysis.
Delineation of Functions	The Education Code sections pled in this section delineate the roles and functions of the state and the local community college districts in postsecondary education.	The claimants do not allege any specific activities associated with these code sections.	*Denied*
Minimum Conditions and the Investigation and Enforcement of Minimum Conditions	As a condition for entitlement to state aid, the Title 5 regulations require community college operation activities including, but not limited to: standards of scholarship, student fees, accreditation, counseling programs, faculty, and transfer centers.	The claimants allege that the conditions for entitlement for state aid impose reimbursable state-mandated costs.	*Denied*: There is no evidence in the record that community college districts are legally or practically compelled to become entitled to state aid.
Approval of New Colleges and Educational Centers	The title 5 regulations pled in this section address the process to obtain the Board of Governors' approval of a proposed new college or educational center by a community college district.	The claimants allege that districts are required to engage in activities associated with receiving approval of proposed new colleges or educational centers.	*Denied*: Districts are not required to propose new colleges or educational centers. As a result, districts are not mandated to comply with the regulations.

Master Plans for Academics	The title 5 regulations pled in this section address the preparation of a community college district's educational master plan, which includes a district's educational objectives, plans for transfer programs, occupational programs, etc.	The claimants allege that the title 5 regulations pled in this section impose reimbursable state-mandated costs.	*Denied*: The activities are not new.
Faculty Participation in District and College Governance	The title 5 regulations pled in this section address faculty participation in district and college governance through the formation of academic senates.	The claimants allege that the title 5 regulations impose reimbursable state-mandated costs.	*Partial Approve*: Some of the regulations impose reimbursable state-mandated costs, but some of the activities imposed by the regulations are not new or are fully funded.
Full-time/Part-time Faculty Ratio	The Education Code sections and title 5 regulations address the Board of Governors' goal that community college districts have a full-time faculty percentage of 75 percent.	The claimants allege that these code sections and regulations impose reimbursable state-mandated costs.	*Denied*: Districts do not face legal or practical compulsion to meet the 75 percent goal.
Matriculation	This section addresses the provision of matriculation programs pursuant to the Seymour-Campbell Matriculation Act of 1986. Matriculation is a process that brings a college and a student into an agreement for the purpose of realizing the student's educational goal.	The claimants allege that the Seymour-Matriculation Act impose reimbursable state-mandated costs.	*Denied*: Districts are not legally or practically compelled to participate in the Act.
Transfer Centers	This section addresses activities associated with the transfer system between the three segments of California's higher education system (Community Colleges, University of California, and California State University).	The claimants allege that all of the code sections pled impose reimbursable state-mandated costs. The Chancellor's Office argues that the distribution of the transfer core curriculum does not constitute a new program or higher level of service.	*Partial Approve*: Some of the code sections do not mandate any activities on community college districts. The distribution of the transfer core curriculum does constitute a new program or higher level of service.

Vocational Education	This section addresses activities that must be done prior to and after the establishment of vocational or occupational training programs.	The claimants allege all of the code sections and title 5 regulations impose reimbursable state-mandated costs.	*Partial Approve*: Although districts are required to engage in activities associated with vocational or occupational training, some of the activities are not mandated and some of the activities are not new.
Standards of Scholarship	The regulations address community college districts' standards regarding things such as district grading practices, credit-no credit options, advanced placement examinations, and standards of probation.	The claimants allege all of the regulations addressing standards of scholarship impose reimbursable state-mandated costs.	*Partial Approve*: Some of the regulations do not impose state-mandated activities.
Curriculum	The regulations address requirements and procedures for securing approval of proposed courses and programs.	The claimants allege all of the regulations impose reimbursable state-mandated costs.	*Partial Approve*: Some of the regulations do not impose state-mandated activities on community college districts.
Degrees and Certificates	The regulations address the award of degrees, certificates, and diplomas by community college districts.	The claimants allege all of the regulations impose reimbursable state-mandated costs.	*Partial Approve*: Some of the regulations do not impose state-mandated activities. In addition, some of the activities are not new.
Open Courses	The regulations address the provision of courses that are open to enrollment by any student admitted to the community college.	The claimants allege all of the regulations impose reimbursable state-mandated costs.	*Partial Approve*: Some of the regulations do not impose any activities on districts.
Notices to Students	The regulations address the adoption of policies or the provision of notices to students regarding issues including: student directory information, student representation fees, the provision of instructional or other materials, and the possible consequences of failing to pay a proper financial obligation due to the district or college.	The claimants allege that these regulations impose reimbursable state-mandated costs.	*Denied*: The regulations either are not new or do not impose state-mandated activities on community college districts.

Staff Analysis

Staff makes the following findings:

- The "Handbook of Accreditation and Policy Manual"
  The Handbook of Accreditation and Policy Manual is issued by the Accrediting Commission for Community and Junior Colleges (ACCJC). The "Handbook of Accreditation and Policy Manual" sets forth the eligibility requirements and standards for accreditation with the ACCJC.

  The claimants argue that the Handbook of Accreditation and Policy Manual constitutes an executive order. However, the ACCJC is one of three commissions that make up the Western Association of Schools and Colleges (WASC), a *non-governmental* corporate entity whose commissions evaluate and accredit public and private educational institutions. Thus, the "Handbook of Accreditation and Policy Manual" does not constitute an executive order issued by any agency, department, board, or commission of *state* government. As a result, the "Handbook of Accreditation and Policy Manual" does not constitute an executive order subject to article XIII B, section 6, and therefore, is not within the Commission's jurisdiction.

- The "Program and Course Approval Handbook"
  The Program and Course Approval Handbook is issued by the Chancellor's Office and is intended to assist California community college administrators, staff, and faculty who are responsible for designing and submitting new programs or courses to the Chancellor's Office for approval.

  The Program and Course Approval Handbook provides that colleges are expected to follow the procedures and instructions contained in the Handbook in order to have proposed courses and programs approved by the Chancellor's Office. As provided in statute and regulation, community colleges are required to offer courses of instruction and programs. As a result, community college districts, which are required to offer courses and programs, are also required to follow the procedures and instructions contained in the Handbook when it is necessary to obtain the approval of the Chancellor's Office. However, to the extent that the Handbook provides guidelines and explanations of statutes and regulations, community college districts are not required to comply with the Handbook because these "statements … are not law." Therefore, the procedures and instructions contained in the Handbook constitute an executive order subject to article XIII B, section 6 of the California Constitution, and thus, subject to the Commission's jurisdiction.

- Delineation of Functions (Ed. Code, §§ 70901, 70901.5, and 70902
  This section addresses Education Code sections 70901, 70901.5, and 70902, which delineate the roles and functions of the state and the local community college districts in postsecondary education.

  Many of the title 5 regulations pled in this test claim were adopted by the Board of Governors pursuant to Education Code section 70901 and fulfill the duty of the Board of Governors to establish standards regarding the operation of community colleges and the duty to establish conditions, satisfaction of which entitle districts to receive state aid. The claimants do not allege that Education Code sections 70901, 70901.5, and 70902 require any specific activities. Instead, the claimants cite to these code sections as the authoritative source for the title 5 regulations that the claimants allege impose specific state-mandated activities in this test claim. Thus, staff finds that Education Code sections

70901, 70901.5, and 70902 do not impose reimbursable state-mandated activities. Whether the title 5 regulations pled in this test claim constitute reimbursable state-mandated new programs or higher levels of service will be addressed throughout the rest of this test claim analysis.

- Minimum Conditions Entitling Community College Districts to State Aid and Investigation and Enforcement of Minimum Conditions (Cal. Code Regs., tit. 5, §§ 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, and 51102)
  The title 5 regulations in this section set forth the minimum conditions, satisfaction of which entitles community college districts to receive state aid. These conditions cover the following areas of basic operation: standards of scholarship, degrees and certificates, open courses, comprehensive plans, student fees, approval of new colleges and educational centers, accreditation, counseling programs, objectives, curriculum, instructional programs, faculty, staff, students, matriculation services, full-time/part-time faculty, and transfer centers. In addition, the regulations set forth the Chancellor's Office role in investigating and enforcing the minimum conditions.

  The claimants have pled all of the Education Code sections and title 5 regulations as minimum condition, satisfaction of which entitles a community college district to state aid. In addition the claimants allege that the minimum conditions impose state-mandated activities that are reimbursable under article XIII B, section 6 of the California constitution.

  The California Supreme Court held in *Department of Finance v. Commission on State Mandates* (*Kern High School Dist*.) that when analyzing state mandate claims, the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[1] The court also held open the possibility that a reimbursable state mandate might be found in circumstances short of legal compulsion; where "'certain and severe … penalties', such as 'double … taxation' and other 'draconian' consequences,'"[2] would result if the local entity did not comply with the program.

  Based on the plain language of the code sections and title 5 regulations staff finds that only title 5 sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027 constitute minimum conditions, satisfaction of which entitles a community college district to state aid. However, because community college districts perform the activities in the title 5 regulations as conditions for entitlement to state aid and there is no evidence in the record that districts are legally or practically compelled to become entitled to state aid, staff finds that the title 5 regulations do not impose activities mandated by the state pursuant to *Kern High School Dist*.

  Title 5, sections 51100 and 51102, require the Chancellor's Office to engage in activities, however, they do not impose any activities on community college districts.

---

[1] *Department of Finance v. Commission on State Mandates* (*Kern High School Dist*.) (2003) 30 Cal.4th 727, 743.

[2] *Id*. at p. 751.

- Approval of New Colleges and Educational Centers (Cal. Code Regs., tit. 5, §§ 55825, 55827, 55828, 55829, 55830, and 55831)
  The title 5 regulations set forth the process to obtain the Board of Governors' approval of a community college district's proposed new college or educational center.

  The initial decision to create a new college or educational center, which triggers the activities required by section 55825-55831, is left to the discretion of the community college district. As a result, pursuant to *Kern High School Dist*. staff finds that California Code of Regulations, title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831 do not impose state-mandated activities subject to article XIII B, section 6 of the California Constitution.

- Master Plans for Academics (Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404)
  The title 5 regulations address the preparation of a community college districts education master plan. This includes activities such as establishing policies for current and long range educational plans and programs for each community college in the district, updating these plans, and submitting these plans to the Chancellor.

  The claimants have pled sections 55401, 55402, 55403, and 55404 as added in 1971 and last amended in 1991. However, the language of sections 55401, 55402, 55403, and 55404 has remained unchanged since the adoption of the sections in 1971. As a result, staff finds that the activities mandated by California Code of Regulations, title 5, sections 55401, 55402, 55403, and 55404 do not constitute a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

- Faculty Participation in District and College Governance (Cal. Code Regs., tit. 5, §§ 53200, 53202-53204, and 53207)
  The title 5 regulations address faculty participation in district and college governance through the formation of academic senates. The activities that arise include the recognition of academic senates formed within colleges or districts, the adoption of policies for the delegation of authority and responsibility to the academic senates, consultation with the academic senate, and the release of college faculty that are elected to serve on the state-wide academic senate.

  To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy. In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public. To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.

  The provisions provided for the release or reassignment of college faculty elected to serve on the state-wide academic senate are only operative when fully funded, and as a result, does not impose any reimbursable state-mandated activities. In addition, the requirement to recognize the college or district-wide academic senate formed in colleges or districts is not a new program or higher level of service. However, the remaining state-mandated activities found in this section of the analysis constitute a reimbursable new program or higher level of service.

- Full-time/Part-time Faculty Ratio (Ed. Code, §§ 87482.6 and 87482.7; and Cal. Code Regs., tit. 5, §§ 53300-53302, 53308-53312, and 53314)
  The Education Code sections and title 5 regulations address the attempt of the Legislature and the Board of Governors to achieve the goal of the Board of Governors that community college districts have a full-time faculty percentage of 75 percent. The Legislature and the Board of Governors established a statutory and regulatory scheme in which community college districts are to use specified funds for the purpose of achieving a full-time faculty percentage of 75 percent. If a district fails to do so, the funds provided for this purpose will be withheld and redirected to community college districts for the purpose of promoting equal employment opportunity in districts.

  Thus, if a district chooses not to improve its full-time faculty percentage it will forgo funds that were to be used toward achieving the 75 percent standard. As a result, community college districts only forgo funds provided for this program, and do not face a substantial penalty independent of the program funds at issue. As a result, under *Kern High School Dist*., the Education Code sections and title 5 regulations not impose any state-mandated activities.

- Matriculation (Ed. Code, §§ 78211.5, 78212, 78213, 78214, 78215, and 78216; and Cal. Code Regs., tit. 5, §§ 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, and 55534)
  This section addresses the provision of matriculation programs by community college districts pursuant to the Seymour-Campbell Matriculation Act of 1986 and its implementing regulations. As defined by the code sections and title 5 regulations "matriculation" is a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements.

  Compliance with the provisions of the Act and its implementing regulations are triggered by the underlying discretionary decisions made by community colleges or districts to participate in the Act in order to receive funds under the Act, and therefore, community colleges and districts are not legally compelled to comply with the provisions of the Act or its implementing regulations. Thus, staff finds that the Education Code sections and title 5 regulations do not impose any state-mandated activities upon community college districts, and therefore, do not mandate a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

- Transfer Centers (Ed. Code, §§ 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, and 71027)
  This section addresses the transfer system between the three segments of California's higher education system and the functions of various entities involved in the transfer system. The activities that arise in this section include the distribution of the current transfer core curriculum to community college students, designing and implementing policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University, maintaining student transfer counseling centers, and the development of discipline-specific articulation agreements between the community colleges and the campuses of the University of California and the California State University.

Although some of the activities claimed by the claimants are not mandated by the code sections, some of the code sections impose a reimbursable state-mandated activities new program or higher level of service.

- Vocational Education (Ed. Code, §§ 78015 and 78016; and Cal. Code Regs., tit. 5, §§ 55600-55603, 55605, 55607, 55620, and 55630)
  This section addresses the activities that must be done prior to and after the establishment of vocational or occupational training programs, the appointment of a vocational education advisory committee for each community college district, and the ability of community college districts to contract with private postsecondary schools, activity centers, work activity centers, or sheltered workshops to provide vocational skill training.

  Pursuant to *Kern High School Dist*., districts are not required to comply with the title 5 regulations that impose contracting requirements associated with contracting with private postsecondary schools, activity centers, work activity centers, or sheltered workshops to provide vocational skill training, because community college districts are not required to contract with private post secondary schools to provide vocational skills training.

  In addition, the appointment of a vocational education advisory committee does not constitute a new program or higher level of service, because districts were required to appoint the advisory committee in 1973.

  The remaining state-mandated activities found in this section of the analysis constitute a reimbursable new program or higher level of service.

- Standards of Scholarship (Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765)
  This section addresses regulations that set forth standards addressing the basic operation of community college districts regarding standards of scholarship, including but not limited to the following areas of scholarship: grading practices, credit-no credit options, advanced placement examinations, standards for probation, academic record symbols, and grade point average.

  Although some of the title 5 regulations do not impose state-mandated activities, the state-mandated activities imposed by the title 5 regulations constitute a reimbursable new program or higher level of service.

- Curriculum (Cal. Code Regs., tit. 5, §§ 55000-55002.5, 55004-55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200-55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320-55322, 55340, and 55350; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001))
  This section addresses title 5 regulations and the "Program and Course Approval Handbook" (Handbook) addressing the requirements and procedures for securing approval of courses and programs proposed by community colleges or community college districts. The process for course approval begins with a recommendation for approval by the community college curriculum or district curriculum committee to the district governing board. The recommended course then needs approval by the district governing board, followed by the approval of the Chancellor.

  Community college districts have broad discretion over the governance of community colleges. This discretion extends to the courses and programs the community colleges offer. However, as provided in statute, the primary mission of community college districts is to provide academic and vocational instruction. In addition, community

college districts by definition are degree-granting institutions. Thus, although community college districts maintain discretion in the curriculum the districts' offer, districts at a minimum must offer courses, and as a result, districts must comply with the regulations and procedures necessary to offer courses.

Many of the title 5 regulations do not impose state-mandated activities or do not constitute a new program or higher level of service. In addition, the Handbook was issued in 2001, however, the requirements in the Handbook existed prior to the 2001, and as a result, the Handbook does not impose a new program or higher level of service. However, the state-mandated activities imposed by the title 5 regulations in this section constitute a reimbursable new program or higher level of service.

- Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809)
  This section addresses regulations pertaining to the award of degrees, certificates, and diplomas by community college districts upon the completion of standards specified by the Board of Governors and the governing board of the community college district. The activities that arise in this section include the establishment of criteria to determine which courses may be used in implementing the district philosophy on General Education, conferring a degree on students who have successfully completed the requirements established by the district, and designing specific courses that are needed to receive a degree.

  Some of the title 5 regulations do not impose state-mandated activities. In addition, the requirement to confer a degree upon a student is not a new program or higher level of service. However, the other state-mandated activities imposed by the title 5 regulations constitute a reimbursable new program or higher level of service.

- Open Courses (Cal. Code Regs., tit. 5, §§ 58102, 58104, 58106, 58107, and 58108)
  This section addresses regulations that set forth standards regarding the provision of courses open to enrollment by any student admitted to the community college. Many of the regulations pled in this section do not impose any state-mandated activities. However, the regulations do impose the following reimbursable state-mandated new program or higher level of service on community districts:

  1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, or schedule of classes, or addenda.

  2. List all courses to be conducted in the schedules of classes

- Notice to Students (Cal. Code Regs., tit. 5, 54626, 54805, 59404, and 59410)
  This section addresses the adoption of policies or the provision notices to students regarding various issues related to the operation and governing of community colleges and community college districts, including: (1) student directory information; (2) student representation fees; (3) the provision of instructional or other materials; and (4) the possible consequences of failing to pay a proper financial obligation due to the district or college.

  The title 5 regulations either are not new or do not impose state-mandated activities on community college districts.

Conclusion

For the reasons discussed in the analysis, staff finds that the activities listed under section III of this analysis titled "Conclusion" constitute a reimbursable state-mandated new program or higher

level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 and 17556.

Finally, staff finds that all other test claim statutes, regulations, and alleged executive orders do not constitute a reimbursable state-mandated program because they either do not require any activities on community college districts, are voluntary or are downstream of a voluntary activity, or are not new as compared to the legal requirements in effect immediately prior to their enactment.

Recommendation

Staff recommends that the Commission adopt this analysis to partially approve this test claim.

STAFF ANALYSIS

STAFF ANALYSIS

Co-Claimants

Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District

Chronology

06/05/03	Claimant, Los Rios Community College District, files test claim *Notice to Students* (02-TC-25) with the Commission on State Mandates (Commission)
06/23/03	Claimant, Santa Monica Community College District, files test claim *Minimum Conditions for State Aid* (02-TC-31) with the Commission
06/16/03	Claimant files revised test claim form for 02-TC-25[3]
06/19/03	Commission staff issues completeness letter and requests comments for 02-TC-25
07/03/03	Commission staff issues completeness letter and requests comments for 02-TC-31
07/07/03	The California Community Colleges, Chancellor's Office (Chancellor's Office) requests an extension of time for comments for 02-TC-25
07/08/03	Commission staff grants extension of time for comments for 02-TC-25 to August 18, 2003
08/21/03	The Chancellor's Office requests an extension of time for comment for 02-TC-25 and 02-TC-31
08/28/03	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to October 11, 2003
09/02/03	The Attorney General, on behalf of the Department of Finance (Finance), requests an extension of time for comments for 02-TC-25
09/03/03	Commission staff grants extension of time for comments for 02-TC-25 to October 18, 2003
09/08/03	The Attorney General, on behalf of Finance, requests an extension of time for comments for 02-TC-31
09/09/03	Commission staff grants extension of time for comments for 02-TC-31 to October 11, 2003
10/10/03	The Chancellor's Office requests an extension of time for comment for 02-TC-25 and 02-TC-31
10/17/03	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to December 15, 2003

[3] Potential period of reimbursement begins on July 1, 2001, the start of the 2001-2002 fiscal year. See Government Code section 17557, subdivision (e).

10/28/03	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
11/07/03	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to February 7, 2004
02/13/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
02/18/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to May 18, 2004
03/11/04	The Chancellor's Office files comments to 02-TC-31
03/16/04	The Chancellor's Office files comments to 02-TC-25
04/19/04	Claimant files response to the Chancellor's Office comments to 02-TC-25
05/05/04	Claimant files response to the Chancellor's Office comments to 02-TC-31
06/09/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
06/14/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to August 9, 2004
09/08/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
09/14/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to December 9, 2004
09/21/04	Claimant files additional response to the Chancellor's Office comments to 02-TC-31
12/21/04	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
12/28/04	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to March 9, 2005
03/14/05	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
03/17/05	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to June 9, 2005
09/22/05	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
10/03/05	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to December 1, 2005
02/03/06	Finance requests an extension of time for comments for 02-TC-25 and 02-TC-31
02/07/06	Commission staff grants extension of time for comments for 02-TC-25 and 02-TC-31 to April 3, 2006
10/02/07	Commission staff issues request for additional information to claimant for 02-TC-25

10/19/07	Commission staff issues request for additional information to the Chancellor's Office and Finance for 02-TC-25
10/22/07	Claimant files response to request for additional information for 02-TC-25
10/31/07	Chancellor's Office files response to request for additional information for 02-TC-25
11/14/07	Finance files comments on 02-TC-25
01/09/08	Commission staff issues Notice of Consolidation of 02-TC-25 and 02-TC-31
01/11/08	Commission staff requests comments for 02-TC-31
03/14/08	Claimant files supplement to 02-TC-31
04/02/08	Commission staff issues Notice of Severance and Consolidation of California Code of Regulations, title 5, sections 55522 and 55602.5 from test claim *Disabled Student Programs and Services* (02-TC-22) originally filed May 23, 2003
04/21/08	Commission staff requests additional information from Finance and the Chancellor's Office regarding the consolidated test claims 02-TC-25 and 02-TC-31
05/06/08	Finance files response reserving comments to 02-TC-31, and deferring to the Chancellor's Office to provide the request for additional information issued on April 21, 2008
06/23/08	Commission staff issues follow up request for additional information from the Chancellor's Office regarding the consolidated test claims.
06/22/10	Commission staff issues Notice of Severance and Consolidation of statutes and administrative regulations from consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) originally filed June 5, 2003 and June 13, 2003, to *Discrimination Complaint Procedures* (02-TC-46)
01/19/11	Commission staff issues Notice of Severance and Consolidation of statutes from consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) to *Community College Construction* (02-TC-47)

I. Background

This claim addresses 27 statutes, 141 title 5 regulations, and two alleged executive orders that prescribe minimum standards for the formation and basic operation of community colleges and community college districts.[4] [5] Some of the standards also constitute minimum conditions, satisfaction of which entitles community college districts to receive state aid. In addition, some of the administrative regulations address the adoption of policies or notification of students by community colleges of information related to the operation and governing of community colleges and community college districts.

---

[4] On June 22, 2010, the Commission severed a portion of the consolidated test claim *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31), and consolidated the severed portion with the *Discrimination Complaint Procedures* (02-TC-46) test claim.

[5] References to "title 5" are to the California Code of Regulations, unless otherwise stated.

On June 23, 2003 Santa Monica Community College District filed the *Minimum Conditions for State Aid* (02-TC-31) test claim, seeking reimbursement for costs associated with statutes, title 5 regulations, and alleged executive orders that prescribe standards for the formation and basic operation of the California Community Colleges, and set forth minimum conditions, satisfaction of which, entitles community college districts to receive state aid.

These conditions and standards cover various areas of operation and formation of community colleges including, but not limited to, the following: (1) standards of scholarship, (2) degrees and certificates, (3) open courses, (4) comprehensive or master plans for academics and facilities, (5) student fees, (6) approval of new colleges and educational centers, (7) accreditation, (8) counseling programs, (9) objectives for instructional programs, (10) curriculum, (11) instructional programs, (12) course articulation, (13) academic freedom, (14) staff, faculty, and student participation in district and college governance, (15) matriculation, (16) full-time/part-time faculty ratio, (17) transfer centers, and (18) investigation and enforcement of the minimum conditions by the Chancellor and the Board of Governors.[6]

On June 5, 2003 Los Rios Community College District filed the *Notice to Students* (02-TC-25) test claim seeking reimbursement for costs associated with statutes and title 5 regulations, many of which were pled in 02-TC-31.[7] In addition, Los Rios Community College District seeks reimbursement for administrative regulations which provide that community college districts adopt policies or provide students with information or notices regarding: (1) student directory information, (2) student representation fees, (3) the provision of course materials, and (4) possible consequences of failing to pay a proper financial obligation due to the district or college.

On January 9, 2008 the 02-TC-25 and 02-TC-31 test claims were consolidated into the *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim due to the fact that both claims pled many of the same statutes and administrative regulations that prescribe standards for the formation and basic operation of community college districts, some of which also entitle community college districts to receive state aid when satisfied.

Because the test claim statutes, regulations, and alleged executive orders pled in this test claim deal with some of the basic functions of community colleges, it is helpful to have a brief overview of the role and governance of community colleges in California in order to address the various issues that arise in this test claim analysis.

A. Overview of the role and governance of community colleges in California

In California, community colleges were originally established as extensions of local high schools.[8] In 1907, high schools were authorized to provide courses that were equivalent to the

---

[6] West Kern Community College District filed the *Disabled Student Programs and Services* (02-TC-22) test claim alleging costs associated with the provision of services to disabled students within the California community colleges system. The 02-TC-22 test claim was heard and decided on September 26, 2008. However, prior to being heard and decided, title 5, sections 55522 and 55602.5, which address student matriculation and vocational education programs, were severed from the 02-TC-22 test claim and consolidated with the *Minimum Conditions for State Aid* (02-TC-22 and 02-TC-31) test claim on April 2, 2008.

[7] Education Code sections 66281.5 and 66721.5, and California Code of Regulations, title 5, sections 51006, 54805, 55005, 55202, 55530, 55534, 55750, 55752, 55753, 55758, 55759, 55760, 55761, 55762, 55764, 55765, 55800, 58102, 58104, 59404, and 59410.

[8] Former Political Code section 1681, as added by Statutes 1907, chapter 69.

first two years of a collegiate curriculum.[9] In 1917, community colleges were designated, along with high schools and technical schools, as part of the secondary school system of the state.[10] The duties of high school boards that elected to offer community college courses included: (1) adopting regulations governing the organization of community college courses, (2) keeping attendance records of students enrolled in community college courses as required by the regulations of the state board of education, (3) including the average daily attendance of students in community college courses in the annual report of the average daily attendance of the high school district which was used in apportioning state high school funds, and (4) receiving approval for courses by the state board of education in order to receive funding for students attending those courses.[11]

In regard to the curriculum offered by a community college, the state authorized high school boards to prescribe a variety of courses, providing:

> [Community college] courses of study may include such studies as are required for the junior certificate at the University of California, and such other courses of training in the mechanical and industrial arts, household economy, agriculture, civic education and commerce as the high school board may deem it advisable to establish.[12]

Rapidly increasing enrollments and a need to differentiate the functions of the segments of higher education prompted the Legislature to request the preparation of a master plan for the development, expansion, and integration of the facilities, curriculum, and standards of higher education in community colleges, state colleges, the University of California, and other institutions of higher education of the state.[13] In preparing this master plan a study titled, "A Master Plan for Higher Education in California, 1960-75" (Master Plan) was created. The Master Plan was originally prepared in 1959, and its recommendations were approved in principle by the affected governing boards of the higher education segments.

In 1960, legislation was enacted to implement some of the recommendations in the Master Plan, including the Donahoe Higher Education Act.[14] The Donahoe Higher Education Act addressed the mission and governance of California's public higher education system.[15] With the adoption of the Donahoe Higher Education Act, which defined public higher education to include all public community colleges, state colleges, and the University of California, the place of community colleges in the public education system shifted from secondary education to postsecondary education.[16] The role of and services provided by community colleges in public

---

[9] *Ibid*.

[10] Former Political Code section 1720, as added by Statutes 1917, chapter 304.

[11] Former Political Code section 1750b, as added by Statutes 1917, chapter 304.

[12] *Ibid*.

[13] Assembly Concurrent Resolution No. 88, Statutes 1959 (_____ Reg. Sess.) resolution chapter 200, pp. 5769-5770.

[14] Education Code sections 66000 – 67400, formerly Education Code sections 22500-22705 (Stats. 1960, 1st Ex. Sess., ch.49); renumbered Education Code sections 66000 – 67007 (Stats. 1976, c. 1010).

[15] Former Education Code sections 22500-22705, as added by Statutes 1960, chapter 49.

[16] Former Education Code section 22500, *supra*.

education, however, remained largely the same.[17] In addition to delineating the role of community colleges in higher education, the Donahoe Higher Education Act assigned to the State Board of Education the duty to exercise general supervision over community colleges and to prescribe minimum standards for the formation and operation of community colleges.[18] In 1967, the Legislature transferred the supervision and the establishment of minimum standards for the community colleges from the State Board of Education to the Board of Governors of the California Community Colleges (Board of Governors) and the California Community Colleges Chancellor's Office (Chancellor's Office).[19] [20]

After the creation of the original Master Plan in 1959, reviews of the Master Plan and the higher education system continued. These reviews resulted in the reaffirmation of the principles and achievements of the original Master Plan and set forth new recommendations to improve higher education.[21] As with the original Master Plan, legislation necessary to implement some of the recommendations was enacted largely through amendments to the Donahoe Higher Education Act.[22] As will be discussed in the test claim analysis below, some of the legislation enacted during these reviews of the Master Plan amended certain activities that were previously expressed as intent language or suggestions into *required* activities.

Although primary authority over public education is vested in the Legislature, the Legislature has ceded substantial discretionary control to local school districts as authorized by the California Constitution.[23] In 1976 the Legislature utilized its authority under article IX, section 14 of the California Constitution to authorize community college districts to initiate and carry on any program, activity, or to otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school

---

[17] Former Education Code section 22651, as added by Statutes 1960, chapter 49, providing that community colleges are to "offer instruction through but not beyond the 14th grade level, which instruction may include, but shall not be limited to, … the following categories: (1) standard collegiate courses for transfer to higher institutions; (2) vocational and technical fields leading to employment; and (3) general or liberal arts courses. Studies in these fields may lead to the associate in arts or associate in science degree."

[18] Former Education Code sections 22650, as added by Statutes 1960, chapter 49.

[19] Former Education Code section 197, as added Statutes 1967, chapter 1549.

[20] The Chancellor's Office is the administrative branch of the California Community Colleges system and is responsible for allocating state funding to the community colleges and districts. The Chancellor's Office operates under the direction of the state chancellor who is guided by the Board of Governors.

[21] Joint Committee on the Master Plan for Higher Education "Report of the Joint Committee on the Master Plan for Higher Education" (Sept. 1973); Postsecondary Education Commission for the Review of the Master Plan for Higher Education "The Master Plan Renewed: Unity, Equity, Quality, and Efficiency in California" (July 1987); and Joint Committee for the Review of the Master Plan for Higher Education "California Faces…California's Future: Education for Citizenship in a Multicultural Democracy," (Mar. 1989).

[22] See Education Code section 66002, subdivision (b), setting forth legislative findings regarding the history of the Donahoe Higher Education Act.

[23] *Dawson v. East Side Union High School Dist.* (1994) 28 Cal.App.4th 998, 1017.

districts are established.[24] This general authority that is embodied in current Education Code section 70902 became known as the "permissive code" concept under which a district's governing board can act under its general authority without specific statutory authorization.[25] While local districts possess great authority in the governance of community colleges within the districts, the state has maintained general supervision of the governance of community colleges.[26] Much of this supervision can be found in the test claim statutes and title 5 regulations pled in this test claim.

It is in the context of the long established provision of postsecondary education by local educational districts, the broad authority given to community college districts to engage in any activity not inconsistent with state law and regulations, and the general supervision of community college districts by the Board of Governors that the Commission must determine whether the activities addressing various areas of operation of community college districts are state-mandated new programs or higher levels of service.

B. Claimants' Position

Los Rios Community College District, Santa Monica Community College District, and West Kern Community College District's consolidated test claim sets out a list of activities spanning over 220 pages[27] alleged to be newly required by 30 California Education Code sections, 143 California Code of Regulation sections, and two alleged executive orders.[28] The claimants allege that the state has required community college districts to "comply with a variety of state code and regulatory requirements (minimum requirements) the satisfaction of which entitles a college district to receive state aid and for which noncompliance results in fiscal and other penalties."[29]

In addition, the claimants assert that meeting the new requirements of some of the test claim statutes and regulations required increased costs to establish and implement policies and procedures, and periodically update those policies and procedures, for the notification of students regarding various issues related to the operation and governing of community colleges.[30]

The claimants acknowledge that community college districts may have received funding for some of the claimed activities. However, the claimants question the sufficiency of this funding,

---

[24] Former Education Code section 72233, as added by Statutes 1976, chapter 1010. See also, article IX, section 14 of the California Constitution, which provides, "The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established."

[25] *Barnhart v. Cabrillo Community College* (1999) 76 Cal.App.4th 818, 824-825.

[26] See Education Code section 70901.

[27] Exhibit A, Test Claim 02-TC-25, pgs. 12 – 19; see also, Exhibit B, Test Claim 02-TC-31, pgs. 164 – 381.

[28] Prior to the severance and consolidation with the *Discrimination Complaint Procedures* (02-TC-46) test claim, the consolidated *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim addressed 61 California Education Code sections, 159 California Code of Regulation sections, and 3 alleged executive orders.

[29] Exhibit B, Test Claim 02-TC-31, p. 4.

[30] Exhibit A, Test Claim 02-TC-25, p. 12.

arguing that such funding might reduce the reimbursable costs associated with the activities alleged in this test claim, but the funding does not preclude reimbursement of the whole claim.[31]

The claimants filed comments, dated April 19, 2004, May 5, 2004 and September 21, 2004 in rebuttal to the Chancellor's Office comments set forth immediately below. The claimants' arguments will be addressed as necessary in the discussion below.

C. California Community Colleges-Chancellor's Office Position (Chancellor's Office)

On March 11, 2004 and March 16, 2004 the Chancellor's Office submitted comments on the *Minimum Conditions for State Aid* (02-TC-31) and *Notice to Students* (02-TC-25) test claims, respectively. The Chancellor's Office asserts generally for both claims that community college districts are not entitled to reimbursement for any of the pled activities, and that the test claims should be rejected in their entirety.

Regarding the *Minimum Conditions for State Aid* (02-TC-31) test claim, the Chancellor's Office argues: (1) If the claimants have complied with the challenged provisions in order to receive state aid and have received state aid, claimants have already been compensated for compliance and no further reimbursement is warranted, (2) the claimants are not required to collect state aid and to the extent that the claimants choose to do so that choice negates the finding of a state mandate for activities that are necessary to make claimants eligible for state aid, (3) minimum standards (statutes and regulations) are not eligible for reimbursement if they were required by legislative action that predated January 1, 1975, (4) a number of the regulations address areas that are already required by federal laws, and (5) a number of the regulations address areas of general law that are not based on a claimant's status as a local governmental body.

Regarding the *Notice to Students* (02-TC-25) test claim, the Chancellor's Office provides many of the same arguments provided for the *Minimum Conditions for State Aid* (02-TC-31) test claim.[32] However, the Chancellor's Office additionally argues that the notice requirements regarding educational programs do not carry out the governmental function of providing services to the public and therefore do not constitute a "program" under article XIII B of the California Constitution. In addition, the Chancellor's Office argues that the costs of the notices can be covered by funds already received from the state.[33]

The Chancellor's Office comments will be addressed, as necessary, in the discussion below.

D. Department of Finance's Position (Finance)

On November 9, 2007, Finance submitted comments on the *Notice to Students* (02-TC-25) test claim, but has chosen to reserve comments on the *Minimum Conditions for State Aid* (02-TC-31) test claim until after a draft staff analysis is issued. In regard to the *Notice to Students* (02-TC-25) test claim, Finance concurs with the Chancellor's Office conclusion that the test claim should be denied in its entirety. Finance argues the following:

- Any costs associated with Education Code section 66721.5 are "relatively minor, and fall well within the established purposes of each community college districts [*sic*] current general purpose funding provided in Schedule (1) of Item 6870-101-0001 of the annual

[31] *Id* at pgs. 385 – 386.

[32] Exhibit D, Chancellor's Office Comments on 02-TC-25, dated March 16, 2004, p. 4-6.

[33] *Id*. at p. 6-26.

Budget Act, pursuant to Chapter 5, of Part 50, of Division 7, of Title 3 of the Education Code."[34]

- In regard to the regulations, "[c]ommunity college districts receive general purpose funding from the state to support broad instructional services and programs of study for their students. As such, this source of funding is available and appropriate to support any costs of implementing the requirements set forth by the regulations. As in *Kern*, these are "reasonable" expenses that can be incurred. We further contend that the activities outlined in these notice regulations are more than just a general framework. These regulations provide a guideline for fundamental activities that are integral to providing instructional services and operating instructional programs, and in our view are fully supported by general purpose apportionment funding allocated annually to community colleges in Schedule (1) Apportionments, of Item 6870-101-0001 of the Budget Act pursuant to [Chapter 5, of Part 50, of Division 7, of Title 3 of the Education Code]."[35]

Finance's comments will be addressed, as necessary, in the discussion below.

II. Discussion

The courts have found that article XIII B, section 6 of the California Constitution[36] recognizes the state constitutional restrictions on the powers of local government to tax and spend.[37] "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[38] A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.[39] In addition, the required activity or task must be new, constituting a "new program," and it must create a "higher level of service" over the previously required level of service.[40]

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state

---

[34] Exhibit J, Finance Comments, dated November 9, 2007, p. 2.

[35] *Id*. at p. 3.

[36] California Constitution, article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

[37] *Kern High School Dist., supra*, 30 Cal.4th at 735.

[38] *County of San Diego v. State of California* (1997) 15 Cal.4th 68, 81.

[39] *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

[40] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist*.); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

policy, but does not apply generally to all residents and entities in the state.[41] To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.[42] A "higher level of service" occurs when there is "an increase in the actual level or quality of governmental services provided."[43]

Finally, the newly required activity or increased level of service must impose costs mandated by the state.[44]

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[45] In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[46]

A. The "Handbook of Accreditation and Policy Manual" does not constitute an executive order subject to article XIII B, section 6 and therefore is not within the Commission's jurisdiction. The "Program and Course Approval Handbook" constitutes an executive order subject to article XIII B, section 6, and is within the Commission's jurisdiction.

The claimants have pled the "Handbook of Accreditation and Policy Manual" and "Program and Course Approval Handbook" as "executive orders" and argue that these documents impose reimbursable state-mandated activities. However, in order to make this determination, it must be determined if these documents are executive orders such that the Commission has jurisdiction over them.

Pursuant to Government Code section 17551, the Commission hears and decides claims for reimbursement of costs mandated by the state. Government Code section 17514 defines "costs mandated by the state" as increased costs a school district is required to incur as a result of an enacted statute or an issued executive order which mandates a new program or higher level of service. An "executive order" is defined as any order, plan, requirement, rule, or regulation issued by: (1) the Governor; (2) any officer or official serving at the pleasure of the Governor; or (3) any agency, department, board, or commission of state government.[47]

---

[41] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 (*Los Angeles I*); *Lucia Mar, supra*, 44 Cal.3d 830, 835).

[42] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra,* 44 Cal.3d 830, 835.

[43] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 877.

[44] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

[45] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[46] *County of Sonoma, supra*, 84 Cal.App.4th 1264, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

[47] Government Code section 17516.

(1) "Handbook of Accreditation and Policy Manual"

The claimants assert that community college districts incur reimbursable costs resulting from the "Revised Summer 2002" edition of the "Handbook of Accreditation and Policy Manual" issued by the Accrediting Commission for Community and Junior Colleges (ACCJC). The "Handbook of Accreditation and Policy Manual" sets forth the eligibility requirements and standards established by the ACCJC for accreditation with the ACCJC. The ACCJC is one of three commissions that make up the Western Association of Schools and Colleges (WASC), a *non-governmental* corporate entity whose commissions evaluate and accredit public and private educational institutions.[48] Thus, the "Handbook of Accreditation and Policy Manual" does not constitute an executive order issued by any agency, department, board, or commission of *state* government.[49] As a result, the "Handbook of Accreditation and Policy Manual" does not constitute an executive order subject to article XIII B, section 6, and therefore, is not within the Commission's jurisdiction.

(2) "Program and Course Approval Handbook"

The September 2001 "Program and Course Approval Handbook" (Handbook) issued by the Chancellor's Office is a document "intended to assist California community college administrators, staff, and faculty who are responsible for designing and submitting new programs or courses to the Chancellor's Office for approval."[50] The Chancellor's Office issued the Handbook pursuant to California Code of Regulations, title 5, section 55000.5, which provides:

> The Chancellor shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

In compliance with this duty, the Handbook includes guidelines and explanations of statutory and regulatory requirements and duties of both the state and community college districts. In addition, the Handbook includes the procedures and forms for the approval process of new programs and courses.

The introduction to the Handbook provides that "[s]tatements in this handbook are not law, except for the regulations and statutes quoted in it."[51] The Handbook also provides that colleges are expected to follow the procedures and instructions contained in the Handbook in order to have proposed courses and programs approved by the Chancellor's Office.[52] As provided in statute and regulation, community colleges are required to offer courses of instruction and

---

[48] Western Association of Schools and Colleges indicates that it is a 501(c)(3) nonprofit organization at <http://www.wascweb.org/> as of September 15, 2010. "501(c)(3) organization" refers to Title 26 of the United States Code section 501(c)(3), which exempts from taxation specific types of corporations, community chests, funds, or foundations.

[49] Staff notes that California Code of Regulations, Title 5, section 51016 assigns the ACCJC the duty to determine accreditation of California Community Colleges, and will address this issue in the "Minimum Conditions Entitling Community College Districts to State Aid" section of this analysis.

[50] Exhibit B, Test Claim 02-TC-31, "Program and Course Approval Handbook."

[51] *Ibid.*

[52] *Ibid.*

programs.[53] As a result, community college districts, which are required to offer courses and programs, are also required to follow the procedures and instructions contained in the Handbook when it is necessary to obtain the approval of the Chancellor's Office. However, to the extent that the Handbook provides guidelines and explanations of statutes and regulations, community college districts are not required to comply with the Handbook because these "statements … are not law." Therefore, the procedures and instructions contained in the Handbook constitute an executive order subject to article XIII B, section 6 of the California Constitution, and thus, subject to the Commission's jurisdiction.

Because the Handbook is subject to the Commission's jurisdiction it is necessary to determine whether or not the Handbook imposes a reimbursable state-mandated new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution. This discussion will occur below in the "Curriculum" section of this analysis.

B. The executive order, test claim statutes, and regulations impose some state-mandated new programs or higher levels of service on community college districts subject to article XIII B, section 6 of the California Constitution

To be subject to article XIII B, section 6 of the California Constitution, the test claim statutes, regulations, and executive order must (1) mandate a new activity upon the claimant, which (2) constitutes a new program or higher level of service.

To meet the first prong, the language of the test claim statutes and regulations must mandate an activity or task on a local governmental entity or school district. If the language does not mandate or require the claimant to perform a task, article XIII B, section 6, does not apply.

> In statutory construction cases, our fundamental task is to ascertain the intent of lawmakers so as to effectuate the purpose of the statute. [Citations.] We begin by examining the statutory language, giving the words their usual and ordinary meaning. [Citations.] If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs.[54]

This rule of statutory construction is applicable to administrative regulations, as courts have held that, in general, the same rules of construction apply when interpreting administrative regulations as apply when interpreting statutes.[55]

In addition, the California Supreme Court held in *Kern High School Dist*. that when analyzing state mandate claims, the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[56] The court also held open the possibility that a reimbursable state mandate might be found in circumstances short of legal compulsion; where certain and severe penalties, such as double taxation and other draconian consequences would result if the local entity did not comply with the program.[57]

---

[53] Education Code section 66010.4, subdivision (a)(1), as amended by Statutes 1996, chapter 1057. California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25); California Code of Regulations, title 5, section 55000, subdivision (g) (Register 2007, No. 35).

[54] *Estate of Griswold*, (2001) 25 Cal.4th 904, 910-911.

[55] *Cal. Drive-In Restaurant Assn. v. Clark* (1943) 22 Cal.2d 287, 292.

[56] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 743.

[57] *Id*. at p. 751.

In order to meet the second prong, the state-mandated activities must constitute a "new program or higher level of service." To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[58] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[59] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[60]

When making this comparison courts have held:

> When a statute, although new in form, re-enacts an older statute without substantial change, even though it repeals the older statute, the new statute is but a continuation of the old. There is no break in the continuous operation of the old statute, and no abatement of any of the legal consequences of acts done under the old statute. Especially does this rule apply to the consolidation, revision, or codification of statutes, because, obviously, in such event the intent of the Legislature is to secure clarification, a new arrangement of clauses, and to delete superseded provisions, and not to affect the continuous operation of the law.[61]

For ease of discussion, the test claim statutes, regulations, and executive orders will be analyzed pursuant to the following sections: (1) delineation of functions of the Board of Governors of the California Community Colleges and the governing boards of community college districts; (2) minimum conditions entitling community colleges to state aid and the investigation and enforcement of minimum conditions; (3) approval of new colleges and educational centers; (4) comprehensive or master plans for academics and facilities; (5) faculty participation in district and college governance; (6) full-time/part-time faculty ratio; (7) matriculation; (8) transfer centers; (9) vocational education; (10) standards of scholarship; (11) curriculum; (12) degrees and certificates; (13) open courses; and (14) notices to students.

(1) Delineation of Functions of the Board of Governors of the California Community Colleges and the Governing Boards of Community College Districts (Ed. Code, §§ 70901, 70901.5, and 70902)

This section addresses Education Code sections 70901, 70901.5, and 70902. Section 70901 sets forth the duties and authority given to the Board of Governors of the California Community Colleges and section 70902 sets forth the duties and authority given to the governing boards of local community college districts. In doing so, the Legislature delineates the roles and functions of the state and the local community college districts in postsecondary education. Education Code section 70901.5 sets forth the rulemaking process which the Board of Governors must engage in to adopt regulations.

Included in the duties and authority set forth in Education Code section 70901 is the duty of the Board of Governors to provide general supervision over community college districts. In

---

[58] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

[59] *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[60] *Ibid*.

[61] *In re Dapper* (1969) 71 Cal.2d 184, 189-190, quoting *Sobey v. Molony* (1940) 40 Cal.App.2d 381, 385.

furtherance of this duty, the Board of Governors is directed to establish minimum standards for various areas of operation for community colleges including student academic standards, employment of academic and administrative staff, the formation of community colleges and districts, and faculty, student and staff participation in the district and college governance. In addition, the Board of Governors is directed to adopt minimum conditions entitling districts to receive state aid for the support of community colleges.

Many of the title 5 regulations pled in this test claim were adopted by the Board of Governors pursuant to Education Code section 70901 and fulfill the duty of the Board of Governors to establish standards regarding the operation of community colleges and the duty to establish conditions, satisfaction of which entitle districts to receive state aid. The claimants do not allege that Education Code sections 70901, 70901.5, and 70902 require any specific activities. Instead, the claimants cite to these code sections as the authoritative source for the title 5 regulations that the claimants allege impose specific state-mandated activities in this test claim. Thus, staff finds that Education Code sections 70901, 70901.5, and 70902 do not impose reimbursable state-mandated activities. Whether the title 5 regulations pled in this test claim constitute reimbursable state-mandated new programs or higher levels of service will be addressed throughout the rest of this test claim analysis.

(2) Minimum Conditions Entitling Community College Districts to State Aid and Investigation and Enforcement of Minimum Conditions (Cal. Code Regs., tit. 5, §§ 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, and 51102)

This section addresses California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027, which set forth minimum conditions, satisfaction of which entitles community college districts to receive state aid. In addition, this section addresses title 5, sections 51100 and 51102, which address the investigation and enforcement of the minimum conditions.

As discussed above, the Board of Governors is required to establish "minimum conditions" *and* "minimum standards." The claimants and the Chancellor's Office disagree as to the scope of what constitutes a "minimum condition" established pursuant to Education Code section 70901, subdivision (b)(6), and what constitutes a "minimum standard" established pursuant to Education Code section 70901, subdivision (b)(1). The claimants assert that the whole of this test claim addresses "minimum conditions" and the Chancellor's Office asserts that the whole of this test claim deals with "minimum standards" or makes no distinction between the two. In addition, the Chancellor's Office argues as a general matter that community college districts have a pre-existing duty to comply with "minimum conditions" or "minimum standards" established by the Board of Governors, and therefore none of the "minimum conditions" or "minimum standards" constitute a new program or higher level of service regardless of the content of the "minimum conditions" or "minimum standards."

The following discussion will first address what title 5 regulations constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6). Second, the discussion will address whether the title 5 regulations that constitute "minimum conditions" impose state-mandated activities on community college districts. Third, the discussion will address whether the title 5 regulations addressing the investigation and enforcement of the "minimum conditions" impose state-mandated activities on community college districts. Finally, the discussion will address whether a pre-existing duty to comply with "minimum standards" adopted by the Board of Governors precludes a finding of a new program or higher level of service regardless of the content of the "minimum standards."

a. Not all of the test claim statutes and administrative regulations pled by the claimants constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6)

The claimants have pled 27 Education Code sections, 141 regulations, and two alleged executive orders alleging state-mandated costs resulting from these statutes, regulations, and executive orders. The claimants have pled all of the Education Code sections, most of the administrative regulations,[62] and the alleged executive orders as "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6).[63]

Education Code section 70901 provides in relevant part:

> [¶] … [¶]
>
> (b) … the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:
>
> (1) Establish minimum standards as required by law, including, but not limited to, the following:
>
> (A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.
>
> (B) Minimum standards for the employment of academic and administrative staff in community colleges.
>
> (C) Minimum standards for the formation of community colleges and districts.
>
> (D) Minimum standards for credit and noncredit classes.
>
> (E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.
>
> [¶] … [¶]
>
> (6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.
>
> [¶] … [¶].

When discussing the regulations pled by the claimants, the Chancellor's Office makes no distinction between "minimum standards" adopted under Education Code section 70901,

---

[62] Excluding California Code of Regulations, title 5, sections 54626, 54805, 59404, and 59410, which were the regulations pled in 02-TC-25 that did not overlap with the regulations pled in 02-TC-31.

[63] Exhibit A, Test Claim 02-TC-25, p. 25; Exhibit B, Test Claim 02-TC-31; see also Exhibit F, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, dated May 5, 2004, p. 8 – 13.

subdivision (b)(1) and "minimum conditions" adopted under Education Code section 70901, subdivision (b)(6).[64] The claimants, however, argue that there is a distinction between the establishment of "minimum conditions" and the establishment of "minimum standards."[65]

Generally, when interpreting statutory language the plain meaning of the language governs.[66] In addition, where the Legislature uses a different word or phrase in one part of a statute than it does in other sections or in a similar statute concerning a related subject, it must be presumed that the Legislature intended a different meaning.[67] "Standard" is defined as, "A degree or level of requirement, excellence, or attainment."[68] In contrast, "condition" is defined as, "A proposition upon which another proposition depends; the antecedent of a conditional proposition."[69] The Legislature's decision to use "standard" in one section and "condition" in another, and the different meanings of these words, lead to the presumption that a distinction exists between "minimum standards" and "minimum conditions" as used in section 70901, subdivisions (b)(1) and (b)(6).

In addition to the distinction between "minimum standards" and "minimum conditions," the claimants further assert that the "minimum standards" established by the Board of Governors under Education Code section 70901, subdivision (b)(1), "are *only* applicable to" the areas of community college operation set forth by subdivisions (b)(1)(A) – (E).[70] The claimants appear to argue that the test claim statutes and executive orders claimed in this test claim do not constitute "minimum standards," rather "[t]his test claim is about the 'minimum conditions' for the receipt of state aid which were established in 1988."[71]

Although staff agrees that there is a distinction between the "minimum standards" established pursuant to subdivision (b)(1) and the "minimum conditions" established pursuant to subdivision (b)(6), the claimants' broad interpretation of subdivision (b)(6) is contrary to the plain language of Education Code section 70901 and the plain language of the regulations implementing subdivision (b)(6).

Subdivision (b)(1) provides, in relevant part, that the Board of Governors shall "[e]stablish minimum standards as required by law, *including, but not limited to*, [subdivision (b)(1)(A) – (E)]."[72] Thus, contrary to the claimants' assertion that the minimum standards established pursuant to Education Code section 70901, subdivision (b)(1), "are only applicable to" the areas of community college operation set forth in subdivisions (b)(1)(A) – (E), subdivision (b)(1) provides the Board of Governors with broad authority to establish "minimum standards" regarding the general operation of community colleges.

---

[64] Exhibit C, Chancellor's Office Comments on Test Claim 02-TC-31, dated March 11, 2004, p. 4.

[65] Exhibit F, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, *supra*, p. 8.

[66] *Estate of Griswold*, *supra*, 25 Cal.4th at pgs. 910-911.

[67] *Campbell v. Zolin* (1995) 33 Cal.App.4th 489, 497.

[68] American Heritage Dictionary (new college ed. 1979) p. 1256.

[69] American Heritage Dictionary (new college ed. 1979) p. 277.

[70] *Id*. at p. 12. (Emphasis added.)

[71] *Id*. at p. 13.

[72] Education Code section 70901, subdivision (b)(1). (Emphasis added.)

Although the language of Education Code section 70901, subdivision (b)(6), also provides the Board of Governors with broad authority to establish "minimum conditions" entitling districts to receive state aid, within the regulations that implement subdivision (b)(6) the Board of Governors has chosen to limit the scope of what constitutes a "minimum condition." California Code of Regulations, title 5, section 51000, which sets forth the scope of what constitutes minimum conditions established by the Board of Governors pursuant to Education Code section 70901, subdivision (b)(6), provides:

> The provisions of this Chapter are adopted under the authority of Education Code Section 70901(b)(6) and *comprise* the rules and regulations fixing and affirming the *minimum conditions*, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges. (Emphasis added.)

Based on the plain language of section 51000, the scope of what "comprise[s] the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district…to receive state aid…" is limited to the "provisions of this Chapter." The "Chapter" referenced in section 51000, consists of California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020-51025, 51027, 51100, and 51102. As a result, pursuant to the plain language of section 51000, 121 of the 141 California Code of Regulation sections, the 27 Education Code sections[73] and the executive order pled by the claimants do not constitute "minimum conditions" established pursuant to Education Code section 70901, subdivision (b)(6). According to the plain language of section 51000, only California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51010, 51012, 51014, 51016, 51018, 51020 – 51027, 51100, and 51102 comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a community college district to receive state aid.

The Office of Administrative Law, however, issued a Nomenclature Cross-Reference for title 5 of the California Code of Regulations,[74] effective April 1, 1990, that provides:

> Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross-Reference Table for the new organizational headings used in this Title.[75]

The Cross-Reference Table then provides that "Part" should be read as "Division," "Division" as "Chapter," "Chapter" as "Subchapter," "Subchapter" as "Article," "Article" as "Subarticle," and "Section" remains as "Section."

California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51010, 51012, 51014, 51016, 51018, 51020-51027, 51100, and 51102, are located under "Chapter 2. Community College Standards." "Chapter 2. Community College Standards" consists of two subchapters, "Subchapter 1. Minimum Conditions," and "Subchapter 2. Investigation and

---

[73] The Education Code sections pled by the claimants also cannot constitute "minimum conditions" established by the Board of Governors because the Board of Governors lack the authority to adopt Education Code sections.

[74] Nomenclature Cross-Reference was issued under the authority of the Office of Administrative Law pursuant to Government Code sections Government Code section 11344.

[75] Office of Administrative Law, *Nomenclature Cross Reference*, effective April 1, 1990.

Enforcement of Minimum Conditions." "Subchapter 1. Minimum Conditions" consists of sections 51000, 51002, 51004, 51006, 51008, 51010, 51012, 51014, 51016, 51018, and 51020-51027. "Subchapter 2. Investigation and Enforcement of Minimum Conditions" consists of sections 51100 and 51102.

From a plain reading of section 51000 it is unclear whether the Board of Governors has implemented the changes in hierarchical headings in section 51000. As a result, an ambiguity arises as to whether the provisions of "Chapter 2. Community College Standards" (Cal. Code Regs. §§ 51000 – 51102), or only the provisions of "Subchapter 1. Minimum Conditions," (Cal. Code Regs. §§ 51000-51027), "comprise the rules and regulations fixing and affirming the minimum conditions … ."

In order to determine whether the Board of Governors implemented the changes in hierarchical headings, it is necessary to look at the hierarchical headings and the language used in section 51000 prior to and after the effective date of the Nomenclature Cross-Reference for title 5. Immediately prior to the effective date of the Nomenclature Cross-Reference for title 5, section 51000 was part of "Chapter 1. Minimum Standards," while sections 51100 and 51102 were part of "Chapter 2. Investigation and Enforcement of Minimum Standards."[76]

In 1991, "Chapter 1. Minimum Standards" and "Chapter 2. Investigation and Enforcement of Minimum Standards" were brought under "Chapter 2. Community College Standards" and were renamed to "Subchapter 1. Minimum Conditions" and "Subchapter 2. Investigation and Enforcement of Minimum Conditions" by the Office of Administrative Law.[77] However, the language of section 51000 continued to provide, before and after the effective date of the Nomenclature Cross-Reference, "The provisions of this *chapter* … ."[78] As a result, it is evident that the Board of Governors has not implemented the changes in hierarchical headings in regard to section 51000, and thus, pursuant to the Nomenclature Cross-Reference for title 5, "Chapter" should be read as "Subchapter," and thus, limiting the scope of what constitutes a "minimum condition" established pursuant to Education Code section 70901, subdivision (b)(6), to "Subchapter 1. Minimum Conditions."

Therefore, staff finds that the scope of what constitutes a "minimum condition," pursuant to Education Code section 70901, subdivision (b)(6), is limited to California Code of Regulations, title 5, Chapter 2, Subchapter 1, sections 51000 – 51027. Title 5, sections 51100 and 51102, which address the enforcement of the minimum conditions by the Chancellor's Office, are outside the scope of what constitutes a "minimum condition" pursuant to Education Code section 70901, subdivision (b)(6) and will be discussed later in this analysis. Similarly, the remaining title 5 regulations pled by the claimants are outside of the scope of what constitutes a "minimum condition." Instead, these title 5 regulations were adopted under the broad authority to adopt minimum standards provided by Education Code section 70901, subdivision (b)(1), or by other legislation requiring the adoption of implementing regulations. These regulations and the test claim statutes and executive order will be discussed later in this analysis.

---

[76] California Code of Regulations, title 5, sections 51000 and 51100 (Register 83, No. 29 (July 16, 1983)).

[77] California Code of Regulations, title 5, section 51000 and 51100 (Register 91, No. 23 (June 7, 1991)).

[78] California Code of Regulations, title 5, section 51000 has underwent subsequent amendments, and still provides that the "provisions of this *chapter* … ."

b. California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027 do not impose any state-mandated activities.

This section addresses California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027. These regulations, established pursuant to Education Code section 70901, subdivision (b), set forth the minimum conditions, satisfaction of which entitles community college districts to receive state aid. These conditions cover the following areas of basic operation: standards of scholarship, degrees and certificates, open courses, comprehensive plans, student fees, approval of new colleges and educational centers, accreditation, counseling programs, objectives, curriculum, instructional programs, faculty, staff, students, matriculation services, full-time/part-time faculty, and transfer centers.

In reference to sections 51000-51027, section 51000 provides:

> The provisions of this [Subchapter] [sections 51000-51027] are adopted under the authority of Education Code Section 70901(b)(6) and comprise the rules and regulations fixing and affirming the minimum conditions, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of its community colleges.[79]

The Chancellor's Office and the claimants both describe the language of section 51000 as providing that most of the regulations pled by the claimants[80] establish minimum conditions *for the receipt of* state aid.[81] Read in this manner, section 51000 conditions the receipt of state aid by community college districts on compliance with the minimum conditions. The resulting implication is that a failure to comply with the minimum conditions results in forgoing the receipt of state aid.

It is generally recognized that an agency's interpretation of its own regulations becomes of controlling weight unless the agency's interpretation is plainly erroneous or inconsistent with the regulation.[82] In addition, an agency does not acquire special authority to interpret its own words when, instead of using its expertise and experience to formulate a regulation, it has elected merely to paraphrase the statutory language which it aims to implement.[83] California Code of Regulations, title 5, section 51000 paraphrases Education Code section 70901, subdivision (b)(6), which provides that the Board of Governors are to, "[e]stablish minimum conditions *entitling* districts to receive state aid for support of community colleges."[84] However, contrary to the plain language of section 51000 and Education Code section 70901, subdivision (b)(6), the

---

[79] California Code of Regulations, title 5, section 51000 (Register 95, No. 15 (April 14, 1995)).

[80] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*; Exhibit D, Chancellor's Office Comments on 02-TC-25, *supra*, pages 8-10; and Exhibit B, Test Claim Filing and Attachments for 02-TC-31.

[81] Exhibit C, Chancellor's Office Comments on 02-TC-31, dated March 11, 2004; Chancellor's Office Comments on 02-TC-25, dated March 16, 2004, p. 8 -10; Test Claim 02-TC-31.

[82] *U.S. v Larionoff* (1977) 431 U.S. 864, 872.

[83] *Gonzales v. Oregon* (2006) 546 U.S. 243, 257.

[84] Emphasis added.

Chancellor's Office response to the test claim appears to have interpreted the language of section 51000 as requiring compliance with the minimum conditions in order to *receive* state aid.[85]

When interpreting regulations, if the terms of the regulation are unambiguous, the plain meaning of the language governs, and an intent that cannot be found in the words of the regulation cannot be found to exist.[86] Additionally, an interpretation of a regulation should not render any language mere surplusage, and the language must be considered in the context of the regulatory framework as a whole.[87]

The plain language of section 51000 indicates that sections 51000-51027 are minimum conditions, "satisfaction of which *entitles*" a community college district to state aid. In addition, the plain language of section 51000 does not preclude a community college district which has not satisfied the minimum conditions, and therefore is not *entitled* to state aid, from receiving state aid. As discussed below, the Chancellor is authorized to take various actions if a district is found to not be in compliance with the minimum conditions. All of the actions the Chancellor may take allow for the continued receipt of state aid by community college districts. The intent that a community college that is not in compliance with the minimum conditions must forgo all state aid cannot be found to exist absent language indicating such intent. As a result, section 51000 provides only that satisfaction of the minimum conditions leads to an *entitlement* to state aid by a community college district.

In addition, interpreting section 51000 as providing that sections 51000-51027 constitute minimum conditions *for the receipt* of state aid, would render the language of section 51000 that provides, "…satisfaction of which entitles…" unnecessary and mere surplusage. Giving effect to the usual and ordinary import of this language leads to an interpretation that satisfaction of the minimum conditions results in an *entitlement* to receive state aid.

The plain language interpretation of section 51000 is also consistent with the regulatory scheme regarding minimum conditions. California Code of Regulations, title 5, section 51102, which addresses enforcement of the minimum conditions by the Chancellor, provides that after the Chancellor has notified a district of the Chancellor's finding of the district's noncompliance, and the district has responded or the time for a response has lapsed, the Chancellor shall take one or more of the following actions:

> (1) accept in whole or part the district's response regarding noncompliance;
>
> (2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;
>
> (3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.

The Chancellor has discretion on which action or actions to take upon a finding that a community college district is not in compliance with the "minimum conditions." Each of these actions that the Chancellor is authorized to take allow for the possible provision of state aid to a community college district. Accordingly, even if the Chancellor finds a community college district to be in noncompliance with title 5, sections 51000-51027, a community college district may receive state aid. Thus, compliance with the minimum conditions (Cal. Code Regs., tit. 5,

---

[85] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*.

[86] *Riebe v. Budget Financial Corp.* (1968) 264 Cal.App.2d 576, 585.

[87] *Fontana Unified School Dist. v. Burman* (1988) 45 Cal.3d 208, 218.

§§ 51000-51027) is a downstream activity of becoming *entitled* to receive state aid. As a result, pursuant to *Kern High School Dist*., the underlying issue that must be addressed to determine whether title 5, sections 51000-51027, mandate any activities is whether community college districts are mandated to become *entitled* to receive state aid, and not whether community college districts are mandated to *receive* state aid as discussed by the Chancellor's Office and the claimants.[88]

Pursuant to *Kern High School Dist*., the Commission must look at the underlying program to determine if a claimant's participation in the underlying program is legally compelled. In addition, the court in *Kern High School Dist*. left open the possibility that a state mandate might be found in circumstances of practical compulsion, where a local entity faced certain and severe penalties as a result of noncompliance with a program that is not legally compelled. The court in *Dept of Finance v. Commission on State Mandates* (*POBRA*) (2009) 170 Cal.App.4th 1355, explained further that a finding of "practical compulsion" requires a concrete showing in the record that a failure to engage in the activity/activities at issue will result in certain and severe penalties.[89]

Here, there is nothing in the governing statutes, regulations, or in the record that indicates that community college districts are required to become entitled to state aid. As a result, pursuant to *Kern High School Dist*. community college districts do not face *legal* compulsion to become entitled to state aid. In addition, as discussed above, even if the Chancellor finds a community college district to be in noncompliance with the minimum conditions (Cal. Code Regs., tit. 5, §§ 51000-51027), and therefore not entitled to receive state aid, the district may still receive state aid. If a district's state aid is withheld, there being no evidence in the record that this has occurred, the extent of any withholding is uncertain. Thus, there is no concrete showing in the record that community college districts face certain and severe penalties as a result of not becoming entitled to receive state aid, and as a result, districts do not face *practical* compulsion to comply with title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, and 51027, as "minimum conditions."[90]

As a result, staff finds that California Code of Regulations, title 5, sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7,

---

[88] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*, p. 2; Exhibit D, Chancellor's Office Comments on 02-TC-25, *supra*, p. 9 – 10; Exhibit E, Clamaint Response to Chancellor's Office Comments on Test Claim, 02-TC-25, *supra*, p. 13; and Exhibit F, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, *supra*, pgs. 3-7.

[89] *POBRA*, *supra*, 170 Cal.App.4th at pgs. 1366-1369.

[90] California Code of Regulations, title 5, section 51025, directs community college districts to use specified funding (i.e. growth revenues and program improvement allocations) to increase full-time faculty numbers. A failure to achieve a specific increase in full-time faculty numbers using growth revenues and program improvement allocations, as determined by the Chancellor, a district's revenue is reduced by the "average replacement costs" times the deficiency in the number of full-time faculty. The revenue that is "taken," however, is redirected to community college districts for other purposes. See California Code of Regulations, title 5, section 51025, subdivision (d) (Register 2000, No. 26). See also, Exhibit _, Test Claim 02-TC-31, *supra*, at p. 115-116, in which the claimants state that "districts that fail to meet or maintain the full-time faculty ratios shall have their revenues reduced by the amount computed by the Chancellor, and those funds shall be utilized by the district, …, for the purposes of faculty and staff."

51024, 51025, and 51027 do not impose any state-mandated activities upon community college districts, and therefore do not mandate a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

c. The regulations providing for the investigation and enforcement of minimum conditions do not impose any state-mandated activities (Cal. Code Regs., tit. 5, §§ 51100 and 51102)

This section addresses the investigation and enforcement of the minimum conditions, satisfaction of which entitles a district to receive state aid for the support of its community colleges.

Section 51100, subdivision (a), requires the Chancellor to review each community college at least once every seven years "to determine whether it has met the minimum conditions contained in Subchapter 1 (commencing with Section 51000) of Chapter 2." Subdivision (b) requires the Chancellor to inform the chief executive officer of a district if the Chancellor determines that a visit to a college in the district is necessary to investigate compliance. In addition, the Chancellor is required to specify the particular minimum conditions which will be investigated.

The plain language of section 51100 does not require community college districts or community colleges to engage in any activities. Rather, the plain language sets forth the duty of the Chancellor to review whether each community college has met the minimum conditions satisfaction of which entitles a district to receive state aid for the support of its community colleges. As a result, staff finds that California Code of Regulations, title 5, section 51100 does not impose any state-mandated activities on community college districts or colleges.

Section 51102 requires the Chancellor to notify the chief executive officer of a district in writing if a review conducted pursuant to section 51100 discloses that a college in the district is not in compliance "with the provisions of Subchapter 1 (commencing with Section 51100[91]) of Chapter 2." In addition, the Chancellor is required to request an official written response from the district by a date which the Chancellor is to specify. Subdivision (b) of section 51102 provides that after the Chancellor has received the district's response or if the time for a response has lapsed, the Chancellor is required to take one or more of the following actions:

> (1) accept in whole or part the district's response regarding noncompliance;
>
> (2) require the district to submit and adhere to a plan and timetable for achieving compliance as a condition for continued receipt of state aid;
>
> (3) withhold all or part of the district's state aid. The amount of withholding shall be related to the extent and gravity of noncompliance and shall require approval of the Board of Governors.[92]

Subdivision (c) of section 51102 requires the Chancellor to report to the Board of Governors on any of the above actions taken. If the Chancellor decides to withhold all or a portion of a district's state aid, the Chancellor shall inform and obtain the approval of the Board prior to the withholding.

The claimants allege that community college districts are required to: (1) adopt and implement policies and procedures to comply with any enforcement orders that the Chancellor may issue to

---

[91] The intended citation is to California Code of Regulations, title 5, section 51000, as "Subchapter 1 of Chapter 2" does not commence with section 51100. In addition, there are no activities in section 51100 directed at community college districts such that a district would be required to comply with its provisions.

[92] California Code of Regulations, title 5, section 51102, subdivision (b).

the district regarding district compliance with the "minimum conditions" (pursuant to Cal. Code Regs., tit. 5, § 51102); (2) prepare and submit to the Chancellor an official written response by a date specified by the Chancellor (pursuant to Cal. Code Regs., tit. 5, § 51102, subd. (a)); and (3) prepare, submit, and implement a plan and timetable for achieving compliance as a condition for continued receipt of state aid if the Chancellor requires (pursuant to Cal. Code Regs., tit. 5, § 51102, subd. (b)).[93] However, based on the plain language of section 51102, community college districts are not required to engage in any of these activities.

Upon a plain reading of section 51102, there is no language in the section that requires community college districts to implement policies and procedures to comply with enforcement orders that the Chancellor may issue. Thus, section 51102 does not impose a state mandate to implement policies and procedures to comply with enforcement orders that the Chancellor may issue.

In addition, although section 51102, subdivision (a), requires that the Chancellor request an official written response from a district found to be in noncompliance with the "minimum conditions," the plain language of section 51102 does not include a requirement on districts to prepare and submit an official written response to the Chancellor. In fact, subdivision (b) of section 51102 provides that the Chancellor can only take action "[a]fter receiving the district's written response, *or after the time for response has lapsed … .*"[94] Thus, not only does the language of section 51102 not require community college districts to prepare and submit an official written response, the language of section 51102 acknowledges the possibility of a district's failure to submit an official written response. As a result, section 51102 does not impose a state mandate to prepare and submit an official written response to the Chancellor.

Also, the plain language of section 51102, subdivision (b), does not impose any activities on community college districts. Instead, section 51102 provides the Chancellor authority to pursue various courses of actions if the Chancellor makes a determination that a community college district is not in compliance with the minimum conditions. No actual action by a community college district is required by section 51102, subdivision (b).

As a result, staff finds that California Code of Regulations, title 5, section 51102 does not impose any state-mandated activities on community college districts or colleges.

d. <u>The pre-existing duty of community college districts to comply with the "minimum standards" adopted by the Board of Governors does not preclude a finding of a new program or higher level of service regarding a new regulation adopted as a "minimum standard" that requires new activities.</u>

The Chancellor's Office argues that the "…minimum standards of the Board of Governors do not constitute a new program or higher level of service if the Board of Governors was statutorily obligated to set minimum standards in these areas prior to 1975."[95] The Chancellor's Office cites as its authority the California Attorney General's opinion number 99-1214.[96] As relevant to this discussion, opinion number 99-1214 addresses the following question:

---

[93] Exhibit B, Test Claim 02-TC-31, p. 381.

[94] California Code of Regulations, title 5, section 51102, subdivision (b).

[95] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*, pgs. 3-5.

[96] 83 Ops.Cal.Atty.Gen. 111 (2000).

> When a local agency brings a particular juvenile facility into compliance with the minimum standards established by the Board of Corrections, is the state required to reimburse the local agency for the costs incurred in meeting the standards?

The Attorney General found that local agencies are not entitled to reimbursement, pursuant to article XIII B, section 6 of the California Constitution, for bringing a juvenile detention facility into compliance with the "minimum standards" established by the Board of Corrections.[97] The Attorney General reasoned that the minimum standards adopted by the Board of Corrections establish what constitutes a "suitable" place for the detention of minors. In addition, counties have been required to maintain a "suitable" place for the detention of minors prior to 1975, and setting the minimum standards for what is "suitable" does not create a "higher" level of service because it has long been the level of service that has been required of local agencies.[98] The Attorney General notes that the minimum standards set by the Board of Corrections for local detention facilities reflect constitutional requirements.[99]

The Chancellor's Office argues that similarly the Board of Governors were required to establish "minimum standards" for the formation, operation, and governing of a community college prior to 1975, and that community college districts have been obligated to adhere to these "minimum standards" prior to 1975.[100] The Chancellor's Office concludes that pursuant to the Attorney General's analysis, "such minimum standards cannot be the basis for a mandate claim."[101]

Although an opinion of the Attorney General is entitled to great weight, it is not controlling legal authority.[102] Without making a finding on the specific statutes analyzed by the Attorney General, the application of the Attorney General's opinion in this instance would be contrary to the intent of article XIII B, section 6 of the California Constitution and prior case law.

Article XIII B, section 6 of the California Constitution was intended to preclude the state from shifting to local agencies and school districts the financial responsibility for providing public services in view of the restrictions on the taxing and spending power of local entities under article XIII B and article XIII A of the California Constitution.[103] The intent of article XIII B, section 6, would be violated if the state, through the Board of Governors, could avoid reimbursing community college districts for individual regulations that impose a "new program or higher level of service" by simply adopting those regulations as part of the "minimum standards."

In addition, in *Long Beach Unified School Dist*., the Long Beach Unified School District sought reimbursement for regulations which required certain school districts to develop and adopt plans for the alleviation and prevention of racial and ethnic segregation of minority students in the district.[104] The state argued that the regulations did not mandate a new program or higher level

---

[97] *Ibid*.

[98] *Id*. at p. 119.

[99] *Ibid*.

[100] Exhibit C, Chancellor's Office Comments on 02-TC-31, *supra*, at pgs. 3-4.

[101] *Id*. at p. 5.

[102] *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.* (2002) 100 Cal.App.4th 1066, 1075.

[103] *Lucia Mar, supra,* 44 Cal.3d 830, 835-836.

[104] *Long Beach Unified School Dist. v. State of California, supra*, 225 Cal.App.3d 155.

of service because school districts have a pre-existing constitutional duty to make an effort to eliminate racial segregation in public schools.[105] The court, however, found that specific requirements imposed by the state to ensure compliance with this constitutional duty constituted a "higher level of service."[106] Thus, even with a pre-existing duty to adhere to constitutional requirements or minimum standards established by a state governing agency, a new specific requirement added to the constitutional requirements or minimum standards could result in a reimbursable state mandate if the new requirement increases the level of service to the public.

To the extent that any of the remaining regulations pled by the claimants constitute "minimum standards" and impose any state-mandated increases to the level of service to the public, staff finds that the pre-existing duty of community college districts to comply with the "minimum standards" adopted by the Board of Governors does not preclude a finding of a new program or higher level of service.

(3) Approval of New Colleges and Educational Centers (Cal. Code Regs., tit. 5, §§ 55825, 55827, 55828, 55829, 55830, and 55831)

This section addresses title 5, sections 55825 and 55827-55831. These regulations set forth the process to obtain the Board of Governors' approval of a community college district's proposed new college or educational center.

a. Title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831, do not impose state-mandated activities.

Section 55825 sets forth the responsibilities of a district's governing board seeking approval of a proposed new college or educational center. Section 55825 provides:

> The governing board of a community college district planning the formation of a new college or educational center as defined in section 55827 shall employ and comply with the standards contained in sections 55829, 55830 and 55831.

Section 55827 sets forth the definitions of "college" and "educational center" as used by sections 55825-55831. Section 55828 sets forth the responsibilities of the Chancellor's Office and Board of Governors in the approval process. In addition, section 55828 further specifies the responsibilities of community college districts that are planning the formation of a new college or educational center. If a community college district is planning a new college or educational center, section 55828 requires the district to prepare and submit to the Chancellor's Office a proposal that "should contain at least" the following elements: (1) an assessment of needs and preferences, (2) an identification of objectives, and (3) an analysis of alternative delivery systems. Sections 55829, 55830 and 55831 specify what these three elements must contain.

Read in the context of the whole regulatory scheme rather than individual parts or words standing alone,[107] sections 55825, 55827, 55828, 55829, 55830, and 55831 do not impose any mandated activities on community college districts. As noted above, section 55825 et seq. sets forth requirements for a community college district planning the formation of a new college or educational center. However, pursuant to *Kern High School Dist.* a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity. Here, the initial decision to create a new college or educational center, which triggers any activities

---

[105] *Long Beach Unified School Dist. v. State of California*, *supra*, 225 Cal.App.3d at pgs. 172-173.

[106] *Id*. at p. 173.

[107] *Fontana Unified School Dist. v. Burman*, *supra*, 45 Cal.3d at p. 218.

required by section 55825-55831, is left to the discretion of the community college district. As a result, staff finds that California Code of Regulations, title 5, sections 55825, 55827, 55828, 55829, 55830, and 55831 do not impose state-mandated activities subject to article XIII B, section 6 of the California Constitution.

(4) Master Plans for Academics (Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404)

This section addresses regulations regarding the preparation of a community college district's educational master plan.

a. Not all of the statutes and regulations in the "Master Plans for Academics" impose state-mandated activities.

Educational Master Plan (Cal. Code Regs., tit. 5, §§ 55401, 55402, 55403, and 55404)

Sections 55401-55404 address the establishment of a community college district's current and long range educational plans for each community college within the district and for the district as a whole. The plain language of sections 55401-55404 require community college districts to engage in the following activities:

1. Establish policies for, and approve, current and long range educational plans and programs for each community college that the district maintains and for the district as a whole. (Cal. Code Regs., tit. 5, § 55401.)
2. Submit to the chancellor an educational master plan for each community college that it maintains and for the district as a whole on or before November 1 of each year. (Cal. Code Regs., tit. 5, § 55402.)
3. Modify and bring up to date annually each educational master plan. (Cal. Code Regs., tit. 5, § 55402.)
4. Submit each educational master plan on a form provided by the Chancellor and with information required by the Chancellor. (Cal. Code Regs., tit. 5, § 55403.)
5. Include in each educational master plan the educational objectives of the community college or district and the future plans for transfer programs, occupational programs, continuing education courses, and remedial and developmental programs. (Cal. Code Regs., tit. 5, § 55404.)
6. Include in each educational master plan, plans for the development and expansion of ancillary services, including services in the library and for counseling, placement, and financial aid on the basis of current and future enrollment. (Cal. Code Regs., tit. 5, § 55404.)

b. The activities mandated by California Code of Regulations, title 5, section 55401, 55402, 55403, and 55404, do not constitute a reimbursable new program or higher level of service

In order to be reimbursable under article XIII B, section 6, of the California Constitution, sections 55401, 55402, 55403, and 55404 have to have been adopted on or after 1975.[108] The claimants have pled sections 55401, 55402, 55403, and 55404 as added in 1971 and last amended in 1991. However, the language of sections 55401, 55402, 55403, and 55404 has remained unchanged since the adoption of the sections in 1971. As a result, staff finds that the activities mandated by California Code of Regulations, title 5, sections 55401, 55402, 55403, and

[108] Government Code section 17514.

55404 do not constitute a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

(5) Faculty Participation in District and College Governance (Cal. Code Regs., tit. 5, §§ 53200, 53202-53204, and 53207)

This section discusses title 5, sections 53200, 53202-53204, and 53027, which addresses faculty participation in district and college governance through the formation of academic senates. Section 53200 contains the definitions of terms used in the title 5 regulations pled in this section of the analysis. Sections 53202 and 53203 provide for the formation of academic senates and the adoption of policies by the district delegating authority and responsibilities to an academic senate. Section 53204 sets forth the Board of Governors' intent in regard to the title 5 regulations pled in this section of the analysis. Section 53207 addresses the release of faculty members to serve on the Academic Senate of the California Community Colleges (ASCCC).

a. Title 5, sections 53202, 53203, and 53207, impose state-mandated activities

Formation and Powers of an Academic Senate (Cal. Code Regs., tit. 5, §§ 53202 and 53203)

In order to provide faculty with a formal and effective procedure for participating in the formation and implementation of district policies on academic and professional matters, title 5, section 53201, authorizes the formation of academic senates at the college or district level. Section 53202 provides that the formation of an academic senate occurs by a vote to form an academic senate by the full-time faculty of a community college or district.[109] After the formation of the college or district academic senate, the district must recognize the academic senate and authorize the academic senate to engage in specific activities. Section 53203, requires community college districts to establish policies for the delegation of specific authority and responsibilities to the academic senates upon the formation of the academic senates. Reading section 53201 in context with section 53202, it is clear that the initial decision to establish a college or district academic senate lies with the faculty of the colleges and is not a decision made by the district itself. As a result, if the faculty of a college chooses to establish an academic senate, the district is mandated by the plain language of the regulations to recognize the academic senate and establish policies for the delegation of specific authority and responsibilities.

Pursuant to the above discussion, staff finds that title 5, sections 53202 and 53203, impose the following state-mandated activities:

1. Recognize the college or district-wide academic senate formed by the full-time faculty (or part-time faculty in the absence of any full-time faculty in the college) and authorize the faculty to:
    a. Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate, and
    b. Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate. (Cal. Code Regs., tit. 5, § 53202 (Register 90, No. 49).)
2. Adopt policies for appropriate delegation of authority and responsibility to its college or district academic senate.

---

[109] California Code of Regulations, title 5, section 53202, subdivision (e), provides for the formation of an academic senate by part-time faculty in the event that a college does not have any full-time faculty.

Policies must provide, at a minimum, that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. (Cal. Code Regs., tit. 5, § 53203, subd. (a) (Register 94, No. 38).)

3. Consult collegially with representatives of the academic senate when adopting the policies for appropriate delegation of authority and responsibility to its college or district academic senate pursuant to California Code of Regulations, title 5, section 53202, subd. (a). (Cal. Code Regs., tit. 5, § 53203, subd. (b) (Register 94, No. 38).)

4. Adopt procedures for responding to recommendations of the academic senate that incorporate the following:

    a. In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendation not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(1) (Register 94, No. 38).)

    b. In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(2) (Register 94, No. 38).)

Scope of Regulations (Cal. Code Regs., tit. 5, § 53204)

Title 5, section 53204, provides the Board of Governors' intent to limit the application of title 5, section 53200 et seq. Specifically, section 53204 provides:

> Nothing in [Cal. Code Regs., tit. 5, § 53200 et seq.] shall be construed to impinge upon the due process rights of faculty, nor to detract from any negotiated agreements between collective bargaining representatives and district governing boards. It is the intent of the Board of Governors to respect agreements between academic senates and collective bargaining representatives as to how they will consult, collaborate, share, or delegate among themselves the responsibilities that are or may be delegated to the academic senate pursuant to these regulations.

As can be seen by the language quoted above, section 53204 does not impose any mandated activities on community college districts.

Release or Reassignment of Faculty Members to the Academic Senate of the California Community Colleges (ASCCC) (Cal. Code Regs., tit. 5, § 53207)

The ASCCC has been established through ratification by local academic senates, and that the ASCCC is recognized by the Board of Governors as the representative of community college academic senates before the Board of Governors.[110] The purpose of the ASCCC is to provide

[110] California Code of Regulations, title 5, section 53206.

community college faculty with a formal and effective procedure for participating in the formation of *state* policies on academic and professional matters.

Title 5, section 53207, provides for the release or reassignment of faculty members elected to serve as president and vice president of the ASCCC, and for the reimbursement of the districts employing the faculty members elected by the ASCCC. However, section 53207 also provides, "This section shall only be operative during any fiscal year in which sufficient funds are provided therefore to the ASCCC in the annual Budget Act for that fiscal year or other legislation."[111] Thus, any required activities found in section 53207 are only operative when the activities are fully funded. In the event that insufficient funds are provided, section 53207 is not operative and therefore none of the activities in section 53207 are required. As a result, section 53207 does not impose reimbursable state-mandated activities.

b. <u>The activities mandated by California Code of Regulations, title 5, sections 53202, 53203, and 53207, constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution.</u>

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[112] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[113] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[114]

The activities mandated by title 5, sections 53202, 53203, and 53207, constitute a "program" within the meaning of article XIII B of the California Constitution by carrying out the governmental function of education through providing an avenue for faculty to participate in the formation of state policies on academics and professional matters.

The claimants have pled title 5, section 53202, as last amended in 1990.[115] Section 53202 mandates community college districts to engage in the following activity:

> Recognize the college or district-wide academic senate formed by the full-time faculty (or part-time faculty in the absence of any full-time faculty in the college) and authorize the faculty to:
>
> a. Fix and amend by vote of the full-time faculty the composition, structure, and procedures of the academic senate, and

---

[111] California Code section 53207, subdivision (f). During the fiscal year in which the reimbursement period for this test claim begins (2001-2002 fiscal year), $497,000 was provided for reimbursement per California Code of Regulations, title 5, section 53207 (see, the 2001-02 Budget Act line-item 6870-101-0001, schedule (13)).

[112] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

[113] *San Diego Unified School Dist*., *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[114] *Ibid*.

[115] Exhibit B, Test Claim 02-TC-31, page 89. This date coincides with Register 90, number 49.

b. Provide for the selection, in accordance with accepted democratic election procedures, the members of the academic senate. (Cal. Code Regs., tit. 5, § 53202 (Register 90, No. 49).)

However, since 1974, community college districts have been required to engage in this activity, and as a result, the activity mandated by title 5, section 53202, does not constitute a new program or higher level of service.[116]

The claimants have pled title 5, section 53203, as added in 1990 and last amended in 1994; and section 53207, as added in 2003.[117] Immediately prior to 1990 and 2003, community college districts were not required to engage in the activities mandated by sections 53203 and 53207, respectively. As a result, the activities mandated by title 5, sections 53203 and 53207, constitute a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that the following activities relating to faculty participation in district and college governance constitute a state-mandated new program or higher level of service:

1. Adopt policies for appropriate delegation of authority and responsibility to its college or district academic senate.

   Policies must provide, at a minimum, that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. (Cal. Code Regs., tit. 5, § 53203, subd. (a) (Register 94, No. 38).)

2. Consult collegially with representatives of the academic senate when adopting the policies for appropriate delegation of authority and responsibility to its college or district academic senate pursuant to California Code of Regulations, title 5, section 53202, subd. (a). (Cal. Code Regs., tit. 5, § 53203, subd. (b) (Register 94, No. 38).)

3. Adopt procedures for responding to recommendations of the academic senate that incorporate the following:

   a. In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendation not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(1) (Register 94, No. 38).)

   b. In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial

---

[116] California Code of Regulations, title 5, section 53202, as added by Register 74, number 17 (April 27, 1974).

[117] Exhibit B, Test Claim 02-TC-31, pages 89-90. These dates coincide with Register 90, number 49; Register 94, number 38; and Register 2003, number 18.

fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(2) (Register 94, No. 38).)

(6) Full-time/Part-time Faculty Ratio (Ed. Code, §§ 87482.6 and 87482.7; and Cal. Code Regs., tit. 5, §§ 53300-53302, 53308-53312, and 53314)

In 1988, the Legislature adopted Assembly Bill 1725 (A.B. 1725)[118] with the intent to reform and improve community college education programs and the allocation of education funds to community colleges. Included as part of these improvements was the initiation of "program-based funding," (Ed. Code, § 84750 et seq.) which the Legislature declared would more adequately and accountably fund the costs of providing community college education.[119] The Legislature noted, however, that program-based funding would not be implemented until fiscal year 1991-1992. As a result of the delayed implementation of program-based funding and the number of reforms community colleges were to face, the Legislature provided transitional funding for program improvements and mandates imposed as part of the A.B. 1725 reform that could operate until program-based funding was implemented.[120]

One of the reforms to be funded by the transitional program improvement funds addressed the policy of the Board of Governors to have at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors.[121] To effectuate the reform the Legislature adopted Education Code sections 87482.6 in 1988 and 87482.7 in 1991.[122] Education Code section 87482.6 requires the Board of Governors to adopt regulations governing the percentage of full-time instructors employed by a district and specifies the content of the regulations.[123] Education Code section 87482.7 addresses a related issue, requiring community college districts to adopt minimum condition regulations regarding the percentage of hours of credit instruction taught by full-time instructors.[124]

---

[118] Statutes 1988, chapter 973.

[119] Education Code section 84755.

[120] *Ibid*.

[121] Education Code sections 87455, subdivision (b)(12); and 87482.6, added by Statutes 1988, chapter 973.

[122] Education Code sections 87482.6 (Stats. 1988, ch. 973); and section 87482.7 (Stats. 1991, ch. 1038).

[123] Education Code section 87482.6, subdivision (b).

[124] Education Code section 87482.7, subdivision (a). Staff notes that Education Code section 87482.7 directs the Board of Governors to establish "minimum standards" pursuant to "paragraph (6) of subdivision (b) of Section 70901;" however, section 70901, subdivision (b)(6), directs the Board of Governors to adopt "minimum conditions." Courts have held that, "where the context of a statute, or other considerations arising therefrom, show that a word was erroneously used by the legislature for another word which, if substituted, will harmonize the statute with its obvious purpose and intent, the statute will be read as though the intended word had been used." (*Southern Pac. Co. v. Riverside County* (1939) 35 Cal.App.2d. 380, 388. Here, Education Code section 87482.7 cites directly to Education Code section 70901, subdivision (b)(6), which addresses "minimum conditions." In addition, Education Code section 87482.6, which was enacted prior to Education Code section 87482.7, directed the Board of Governors to

In 1990, the Board of Governors adopted California Code of Regulations, title 5, sections 53300 et seq. to implement Education Code section 87482.6.[125] These regulations largely restated the content of Education Code section 87482.6, by providing for the Chancellor's calculation of full-time faculty to be hired by districts using specific funding, and a specific reduction of funding for failing to hire the calculated amount. In 1991, the Board of Governors adopted California Code of Regulations, title 5, section 51025, to implement Education Code section 87482.7.[126] By 2001, title 5, sections 51025 and 53300 et seq., had been amended to be read in conjunction with one another. In effect, section 51025 directs community college districts to use growth and program improvement allocations to secure full-time faculty. The number of faculty is to be determined by the Chancellor using the methods of calculation set forth in title 5, sections 53300-53314, which use the percentage of credit instruction hours taught by faculty as a factor.[127]

a. Education Code sections 87482.6 and 87482.7, and California Code of Regulations, title 5, sections 53300-53302, 53308-53312, and 53314, do not impose any state-mandated activities

In section 87482.6 the Legislature established a scheme governing the percentage of credit instruction taught by full-time instructors and linked the program improvement funds received by community college districts with the maintenance of the percentage. Subdivision (a) of section 87482.6 directs community college districts that have less than 75 percent of their hours of credit instruction taught by full-time instructors to apply a portion of the program improvement allocation as follows:

> (1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.
>
> (2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent

---

adopt regulations governing the percentage of credit instruction taught by full-time faculty, but did not require these regulations to be adopted as minimum conditions. Interpreting Education Code section 87482.7 as requiring the Board of Governors to adopt "minimum standards" instead of "minimum conditions" would be duplicative of Education Code section 87482.6. Thus, in context with the above it is clear that the Legislature intended Education Code section 87482.7 to direct the Board of Governors to adopt "minimum conditions."

[125] California Code of Regulations, title 5, section 53300 et seq. (Register 90, Nos. 32-37).

[126] California Code of Regulations, title 5, section 51025 (Register 91, No. 46). California Code of Regulations, title 5, section 51025, has been found to not constitute a reimbursable state-mandated new program or higher level of service in the "Minimum Conditions Entitling Community College Districts to State Aid" section of this analysis.

[127] Staff notes that it has already found that title 5, section 51025, does not impose any state-mandated activities on community college districts, however, it is helpful to include a discussion of section 51025 for purposes of the below analysis. See the "Minimum Conditions Entitling Community College Districts to State Aid" section of the test claim analysis.

> standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation. Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.[128]

Under *Kern High School Dist*., the Commission must look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[129] In addition, in order to make a finding of practical compulsion the claimant must face certain and severe penalties independent of the program funds at issue, and that a loss of the program funds at issue does not constitute a severe penalty.[130]

The plain language of subdivision (a) of section 87482.6 directs how community college districts, which have less than 75 percent of their hours of credit instruction taught by full-time instructors, are to expend program improvement funds. However, as shown by the plain language of the subdivisions (a)(1) and (a)(2) of section 87482.6, districts have the ability to choose "instead not to improve its percentage." If a district chooses not to improve its full-time instructor percentage it will forgo the percentage of its program improvement funds that were to be used toward achieving the 75 percent standard. Thus, the claimants only face the loss of funding for an optional program, and do not face a "substantial penalty independent of the program funds at issue."[131] As a result, under *Kern High School Dist*., subdivision (a) of section 87482.6 does not impose any state-mandated activities.

Title 5, section 51025, which implements Education Code section 87482.6, contains provisions similar to subdivision (a) of section 87482.6. Specifically, title 5, section 51025, directs community college districts that have a full-time faculty percentage under 75 percent to use specified amounts of growth and program improvement allocations to increase the number of full-time faculty in the districts. If a district chooses not to increase its full-time faculty it is subject to a reduction of revenue equal to the average replacement cost of the faculty not hired, which would have been covered by the growth and program improvement allocations provided by the state. The revenue that is taken from community college districts is then redirected back to community college districts for purposes of faculty and staff diversity. Thus, like Education Code section 87482.6, the claimants do not face a "substantial penalty independent of the program funds at issue."[132] As a result, consistent with the finding in the "Minimum Conditions Entitling Community College Districts to State Aid" section of this test claim analysis, title 5, section 51025, does not impose any state-mandated activities on community college district.

Subdivision (b) of section 87482.6 provides, "The board of governors shall adopt regulations for the effective administration of this section [Ed. Code, § 87482.6]. Unless and until amended by the board of governors, the regulations shall provide as follows … ." Subdivision (b) proceeds to set forth the content of the regulations that the Board of Governors must adopt unless and until the Board of Governors decides to amend the content. Subdivision (b) does not impose any activities on community college districts. Instead, the plain language of subdivision (b) directs

---

[128] Education Code section 87482.6, subdivision (a), as added by Statutes 1988, chapter 973.

[129] *Kern High School Dist*., *supra*, 30 Cal 4th 727, 743.

[130] *Id*. at pgs.731 and 751-754.

[131] *Id.* at p. 731.

[132] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 731.

the Board of Governors to engage in a specified activity (i.e. adopt regulations to implement Ed. Code, § 87482.6). As a result, staff finds that Education Code section 87482.6 does not impose any state-mandated activities on community college districts.

Education Code section 87482.7 addresses the adoption of regulations by the Board of Governors and the transfer of program improvement funds by the Department of Finance from community college districts, which do not maintain the percentage of their hours of credit instruction taught by full-time instructors at 75 percent, to the Employment Opportunity Fund. Section 87482.7 provides:

> (a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.
>
> (b) Upon notification by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Employment Opportunity Fund pursuant to Section 87107.

The plain language of section 87482.7, quoted above, directs the Board of Governors to engage in specified activities; however, it does not impose any activities on community college districts. Thus, staff finds that Education Code section 87482.7 does not impose any state-mandated activities on community college districts.

As discussed above, title 5, sections 53300-53314, set forth the methods of calculation used by the *Chancellor* to determine the number of full-time faculty which each district is to secure using growth and program improvement revenue pursuant to title 5, section 51025.[133] Thus, the activities contained in title 5, sections 53300-53314, do not impose any state-mandated activities on community college districts; rather, these activities are imposed on the Chancellor.

Pursuant to the above discussion, staff finds that Education Code sections 87482.6 and 87482.7, and California Code of Regulations, title 5, sections 53300-53302, 53308-53312, and 53314, do not impose any state-mandated activities subject to article XIII B, section 6 of the California Constitution.

(7) Matriculation (Ed. Code, §§ 78211.5, 78212, 78213, 78214, 78215, and 78216; and Cal. Code Regs., tit. 5, §§ 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, and 55534)

This section addresses the provision of matriculation programs by community college districts pursuant to the Seymour-Campbell Matriculation Act of 1986 (Ed. Code §§ 78210-78218) and its implementing regulations (Cal. Code Regs., tit. 5, § 55500 et seq.). As defined by the Seymour-Campbell Matriculation Act of 1986 and its implementing regulations, matriculation is "a process that brings a college and a student who enrolls for credit into an agreement for the purpose of realizing the student's educational goal through the college's established programs, policies, and requirements."[134] For purposes of this section only, the Seymour-Campbell Matriculation Act of 1986 shall be referred to as "the Act."

---

[133] California Code of Regulations, title 5, section 53312, subdivision (a) (Register 2000, No. 26).

[134] California Code of Regulations, title 5, section 55502, and Education Code section 78212.

a. Education Code sections 78211.5, 78212, and 78213 – 78216, and California Code of Regulations, title 5, sections 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520 – 55526, 55530, 55532, and 55534 do not impose any state-mandated activities

Under *Kern High School Dist*., it is necessary to look at the underlying program, the Act (Education Code sections 78210 – 78218) and its implementing regulations (Cal. Code Regs., tit. 5, §§ 55500 – 55534), to determine if the claimants' participation is legally compelled.

Although the claimants point to various sections of the Act that allegedly mandate activities upon the claimants, these sections must be read in the context of the whole statutory scheme and not as individual parts or words standing alone.[135] Education Code section 78211.5 provides in relevant part:

> (a) The Board of Governors of the California Community Colleges shall initially provide for full implementation of the matriculation services specified in Section 78212 in *as many community colleges as the funds appropriated for this purpose allow*.
>
> (b) Because of the need to develop and evaluate data on a standard statewide basis concerning the implementation and effectiveness of the matriculation services described in this article [Education Code sections 78210 – 78218], *any college or district receiving funding under this article* shall *agree* to carry out its provisions as specified, *but shall be bound to that agreement only for the period during which funding is received pursuant to this article*. … . (Emphasis added.)

In addition, California Code of Regulations, title 5, section 55500, provides in relevant part:

> (a) This [subchapter (Cal. Code Regs., tit. 5, §§ 55500-55534)][136] implements and should be read in conjunction with the provisions of the [Act of 1986], c. 1467, Stats. 1986, codified as Education Code Sections 78210, et seq. … .[¶]
>
> (b) The requirements of this [subchapter] *apply only to districts receiving funds pursuant to Education Code Section 78216* for the period of time during which such funds are received. … . (Emphasis added.)

The plain language of Education Code section 78211.5 and California Code of Regulations, title 5, section 55500, show the voluntary nature of participation in, and as a result, compliance with the provisions of the Act and its implementing regulations. Education Code section 78211.5, subdivision (a), indicates an acknowledgement of the possibility that not all community colleges will receive funds pursuant to the Act. Pursuant to Education Code section 78211.5, subdivision (b), community colleges or districts must *agree* to carry out the provisions of the Act as a condition to receive funding under the Act. Also, community colleges and districts are not bound by this *agreement* to carry out the provisions of the Act when funding is not received under the Act. Thus, compliance with the provisions of the Act and its implementing regulations are triggered by the underlying discretionary decisions made by community colleges or districts to participate in the Act in order to receive funds under the Act,

---

[135] *Fontana Unified School Dist. v. Burman, supra*, 45 Cal.3d 208, 218.

[136] See "Minimum Conditions Entitling Community College Districts to State Aid" section, regarding the discussion of the Nomenclature Cross-Reference issued by the Office of Administrative Law.

and therefore, community colleges and districts are not legally compelled to comply with the provisions of the Act or its implementing regulations.

The claimants assert that the Act (Ed. Code §§ 78210-78218), and the title 5 regulations pled by the claimants regarding matriculation programs (Cal. Code Regs., tit. 5, §§ 55500-55534) are two separate sources that require community college districts to provide matriculation services.[137] The claimants argue that, "[i]ndependently of the [Act], community college districts are required to comply with the Title 5 regulations mandating matriculation services."[138] However, this is contrary to the plain language of California Code of Regulations, title 5, section 55500, which provides that California Code of Regulations, title 5, sections 55500-55534 "implement and should be read in conjunction with the provisions of the [Act]." Therefore, the requirements found in California Code of Regulations, title 5, sections 55500-55534 cannot be read independently of the Act. In addition, pursuant to the plain language of section 55500, subdivision (b), the requirements of sections 55500-55534 only apply to districts in receipt of funds under the Act. As a result, the requirements of California Code of Regulations, title 5, sections 55500-55534 are inextricably tied to the Act, participation in which is discretionary.

There is no evidence in the record of, nor have the claimants alleged, certain and severe penalties resulting from noncompliance with the Act or its implementing regulations. Outside of forgoing funds provided pursuant to the Act, claimants do not face a "substantial penalty independent of the program funds at issue."[139] As a result, the claimants do not face practical compulsion to comply with the provisions of the Act or its implementing regulations. Thus, staff finds that Education Code sections 78211.5, 78212, and 78213 – 78216, and California Code of Regulations, title 5, sections 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520 – 55526, 55530, 55532, and 55534 do not impose any state-mandated activities upon community college districts, and therefore, do not mandate a new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

(8) Transfer Centers (Ed. Code, §§ 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, and 71027)

This section addresses the transfer system between the three segments of California's higher education system and the functions of various entities involved in the transfer system. The word "matriculation" as used in this section of the analysis does not refer to the Seymour-Campbell Matriculation Act of 1986. Instead for purposes of this section "matriculation" refers to the transfer of students between the three segments of California's higher education system.

In addition, as used in this section, "governing boards" is defined as the local boards of trustees *and* the Board of Governors of the California Community Colleges, the Trustees of the California State University, and the Regents of the University of California.[140]

---

[137] Exhibit C, Claimant Response to Chancellor's Office Comments on Test Claim, 02-TC-31, *supra*, p. 42.

[138] *Id*. at p. 46.

[139] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 731.

[140] Education Code section 66011, subdivision (b).

a. Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 impose state-mandated activities

Transfer System: Transfer Core Curriculum, Transfer Function, and Transfer Agreement (Ed. Code, §§ 66721, 66721.5, 66722, and 66722.5)

Sections 66721, 66721.5, 66722, and 66722.5 address the development and distribution of a "transfer core curriculum" for use by students for the purpose of transferring from the California Community College system to the University of California (UC) or California State University (CSU) systems.

The plain language of section 66721 does not impose any state-mandated activities on community college districts. Rather, section 66721 sets forth the duty of the *Board of Governors*, the Regents of the UC, and the Trustees of the CSU, to jointly cause the transfer core curriculum to be published and distributed to each public school in the state that provides instruction in grades 7 to 12 and to each community college in this state. In addition, section 66721 requires the Board of Governors to distribute the transfer core curriculum to the State Board of Education.

Also, sections 66722 and 66722.5 do not impose any state-mandated activities on community college districts. Instead, sections 66722 and 66722.5 set forth statements of legislative intent. Specifically section 66722 provides:

> It is the intent of the Legislature that the transfer function shall be a central institutional priority of all segments of higher education in California, and that the segments shall have as a fundamental policy and practice the maintenance of an effective transfer system.

Section 66722.5 provides:

> It is the intent of the Legislature that the segments of higher education shall pursue the development of transfer agreement programs that specify the curricular requirements that must be met, and the level of achievement that must be attained, by community college students in order for those students to transfer to the campus, undergraduate college, or major of choice in the public four-year segments.

As a result, staff finds that sections 66721, 66722, and 66722.5 do not impose any state-mandated activities on community college districts.

Education Code section 66721.5, as added by Statutes 2000, chapter 187, was enacted as part of the Access to Transfer Information for Community College Students Act. Section 66721.5 addresses the distribution of the transfer core curriculum established by the California Community Colleges, CSU, and the UC. The plain language of section 66721.5, subdivision (a)(1), requires each community college district to direct each community college in the district to provide each student with a copy of the current transfer core curriculum. As defined by subdivision (a)(2), "transfer core curriculum" means the lower-division, general education transfer curriculum that is articulated between the California Community Colleges and the CSU and UC. Subdivision (b) provides that a copy of the current core curriculum shall be distributed to each newly admitted community college student who is enrolled in a degree or certification program and is physically in attendance at the institution. Subdivisions (c) and (d) provide:

> (c) The governing board of a community college district shall ensure that the text of the current transfer core curriculum is included in the published class schedule of each academic term. Copies of the transfer core curriculum may also be made

available in other locations on each campus, including, but not, necessarily limited to, all of the following:

(1) The admissions office.

(2) The bookstore.

(3) The career counseling center.

(4) The veteran's affairs office.

(d) Notwithstanding subdivision (c), the governing board of a community college may, as an alternative to the methods of distribution set forth in subdivision (c), distribute copies of the current transfer core curriculum by any of the following means:

(1) During the registration process.

(2) By mail, with the registration materials or the enrollment materials, or both, or with other items sent to students.

(3) During the issuance of student identification cards.

(4) During student orientation programs.

The claimant asserts that section 66721.5, subdivision (c), requires making the current transfer core curriculum available at, but not limited to, the following locations: (1) the admissions office, (2) the bookstore, (3) the career counseling center, and (4) the veteran's affairs office. However, the plain language of subdivision (c) provides that "[c]opies of the transfer core curriculum *may* also be made available in other locations on each campus" including but not limited to the locations stated above. Thus, making the current transfer core curriculum available at "other locations" is discretionary and not mandated by the state.

Subdivision (d) sets forth alternatives to the "methods of distribution set forth in subdivision (c)." However, it is unclear whether "methods of distribution set forth in subdivision (c)" refers to the required act of including the transfer core curriculum in the published class schedule each academic term *or* to the discretionary methods of distribution set forth in subdivision (c). If subdivision (d) intends the former, then section 66721.5 requires the current transfer core curriculum to be distributed by either including the transfer core curriculum in the published class schedule each academic term or by one of the alternatives set forth in subdivision (d). If, however, "methods of distribution set forth in subdivision (c)" refers to the discretionary methods of distribution set forth in subdivision (c), then subdivision (d) does not require any activities, because the alternatives set forth in subdivision (d) would be alternatives to a discretionary act, and thus, would also be discretionary.

Courts have held that where the provisions of a statute are ambiguous or conflict, the court may look to the legislative record and committee reports to determine the legislative intent.[141] The Senate Rules Committee issued a report explaining that section 66271.5:

[¶] … [¶]

3. Requires [California Community College] governing boards to publish the current transfer core curriculum in the class schedule each academic term.

[141] *DuBois v. Workers' Comp. Appeals Bd.*, *supra*, 5 Cal. 4th 382, 394.

4. Allows, as an alternative to publishing the transfer core curriculum in the class schedule pursuant to #3 above, [California Community College] governing boards to distribute copies by any of the following means:

A. During the registration process.

B. By mail, as specified.

C. Along with the issuance of student identification cards.

D. During student orientation programs.[142]

This report indicates that the Legislature intended that "methods of distribution set forth in subdivision (c)" refers to including the transfer core curriculum in the published class schedule each academic term, rather than the discretionary methods set forth in subdivision (c). As a result, subdivisions (c) and (d) require community college districts distribute the transfer core curriculum using one of the following methods: (1) including the transfer core curriculum in the published class schedule each academic term, (2) during the registration process, (3) by mail, with the registration materials or the enrollment materials, or both, or with other items sent to students, (4) during the issuance of student identification cards, or (5) during student orientation programs.

Staff finds that Education Code section 66721.5 imposes the following state-mandated activities:

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum (Ed. Code § 66721.5, subd. (a)(1))
2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution (Ed. Code § 66721.5, subd. (b)).
3. Including the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs (Ed. Code § 66721.5, subd. (c) and (d)).

<u>Transfer Functions: Student Matriculation, Policies, Counseling Services, Outreach Programs, Articulation Agreements, Transfer Agreements, Annual Statistics, and Intersegmental Advisory Committee (Education Code section 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, and 66743</u>

Sections 66731, 66732, 66736-66738, and 66740-66743 address the functions of various entities involved in the transfer system between the three segments of California's system of higher education.

Section 66731 addresses the role of transferring from community colleges to the UC or the CSU in California's higher education system. The plain language of section 66731 mandates community college district governing boards to:

> Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731.)

---

[142] Senate Rules Committee, Office of Senate Floor Analysis, Third Reading Analysis of Assembly Bill 1918 (1999-2000 Reg. Sess.) as amended April 24, 2000.

Section 66732 addresses the policy of the governing boards of each segment of higher education regarding transferring and its role in achieving student diversity. Section 66732 provides:

> The governing boards of each segment shall declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. The governing boards of each segment shall design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University.

As defined by Education Code section 66011, "governing boards" means the local board of trustees and the Board of Governors of the California Community Colleges, the Trustees of the CSU, and the Regents of the UC. Pursuant to the plain language of section 66732, community college districts are mandated to engage in the following activities:

1. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732.)
2. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732.)

Section 66736 addresses the counseling, advising, and monitoring of students seeking to transfer. Section 66736 requires community college districts to engage in the following activity:

1. Ensure that its colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students. (Ed. Code, § 66736.)
2. All policies and procedures adopted for the purpose of ensuring the maintenance of student transfer counseling and student services pursuant to Education Code section 66736 must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736.)

Section 66737 addresses the expectation that the Regents of the UC, the Trustees of the CSU, and the Board of Governors develop programs to facilitate the successful transfer of students between community colleges and the universities. Specifically, section 66737 provides:

> The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges are expected to develop new programs of outreach, recruitment, and cooperation between and among the three segments of public higher education to facilitate the successful transfer of students between the community colleges and the universities. Every community college student who successfully completes the transfer agreement programs, as defined in Section 66738, in a community college shall have an appropriate place in an upper division university program.

Section 66737 does not impose any activities on community college districts. Instead, the plain language of section 66737 sets forth the expectation that the Regents of the UC, the Trustees of

the CSU, and the Board of Governors engage in specific activities. As a result, staff finds that Education Code section 66737 does not impose any state-mandated activities on community college districts.

Section 66738 addresses the development and implementation of formal systemwide articulation agreements and transfer agreement programs. Specifically, section 66738 provides:

> (a) The governing board of each public postsecondary education segment shall be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function.
>
> (b) The elements in a comprehensive transfer system shall include, but not be limited to, the following:
>
> (1) Enrollment and resource planning; intersegmental faculty curricular efforts.
>
> (2) Coordinated counseling.
>
> (3) Financial aid and transfer services.
>
> (4) Transfer articulation agreements and programs.
>
> (5) Specific efforts to improve diversity.
>
> (6) Early outreach activities.
>
> (7) Expansion of current practices relating to concurrent enrollment of community college students in appropriate university courses.
>
> (8) Centers.
>
> (c) The governing board of each segment shall expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available; and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus.

The plain language of section 66738, subdivision (a) requires the governing board of each public postsecondary education segment, including local governing boards of community college districts,[143] to be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs. Subdivision (c) requires the governing board of each segment, including the governing boards of community college districts, to expand existing practices related to concurrent enrollment and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. Subdivision (b), however, does not impose any state-mandated activities on community college districts. Rather, subdivision (b) sets forth the elements of a comprehensive transfer system, but makes no reference to community college districts' role in developing or implementing these elements. As a result, staff finds that Education Code section 66738 imposes the following state-mandated activities on community college districts:

1. Be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general

[143] Education Code section 66011, defining "governing board."

education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a).)

2. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c).)

Section 66740 addresses the development of discipline-specific articulation agreements, transfer programs, and discipline-based agreements. The section sets forth specific roles of the three segments of higher education. Specifically, section 66740 provides:

> Each department, school, and major in the University of California and California State University shall develop, in conjunction with community college faculty in appropriate and associated departments, discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. Faculty from the community colleges and university campuses shall participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency.
>
> Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major.
>
> Community college districts, in conjunction with the California State University and the University of California, shall develop discipline-based agreements with as many campuses of the two university segments as feasible, and no fewer than three University of California campuses and five California State University campuses.
>
> The development of these agreements shall be the mutual responsibility of all three segments, and no one segment should bear the organizational or financial responsibility for accomplishing these goals.
>
> The Chancellor of the California Community Colleges and the President of the University of California shall begin the process of setting priorities to determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to the University of California. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.
>
> The Chancellor of the California Community Colleges and the Chancellor of the California State University system shall begin the process of setting priorities to

> determine which community colleges will receive first attention for the development of agreements. Criteria for priority determination shall include, but not be limited to, the percentage and number of students from economically disadvantaged families and underrepresented racial and ethnic minorities, and community colleges which traditionally have not transferred many students to California State Universities. The priority list shall be completed by March 1, 1992. These considerations shall not be used in any way to displace current agreements between any community college and the University of California or the California State University.

The first paragraph of section 66740 requires community college faculty in appropriate and associated departments to act in conjunction with each department, school, and major in the UC and CSU to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. In doing so, community college faculty shall participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency.

The third paragraph of section 66740 requires community college districts, in conjunction with the CSU and the UC, to develop discipline-based agreements with as many campuses of the two university segments as feasible, but no fewer than three UC campuses and five CSU campuses.

The remaining paragraphs (paragraphs 2 and 4-6) of section 66740 do not impose any activities on community college districts. The second paragraph of section 66740 provides:

> Where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis. In cases where the prescribed course of study is altered by the university department, notice of the modification shall be communicated to appropriate community college faculty and counselors at least one year prior to the deadline for application to that major and implementation by the department responsible for teaching that major.

The claimants assert that the first sentence of the second paragraph of section 66740 requires community college districts to implement policies and procedures to ensure that, where specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors are made readily available to community college counselors, faculty, and students on an annual basis.[144] In addition, the claimants assert that the second sentence of this paragraph is directed at community college districts, and therefore, requires notification of a modification of prescribed courses of study made by university departments prior to implementation by the department.[145]

The plain language of the first sentence of the second paragraph does not provide for the implementation of policies and procedures. Instead, the language of the second paragraph requires that specified information be *made readily available* to community college counselors, faculty, and students on an annual basis. The language of the second paragraph, however, is silent as to which entities are required to engage in the activities set forth in the first and second sentences of the paragraph. Because of this ambiguity, it is necessary to give a reasonable and

---

[144] Exhibit B, Test Claim 02-TC-31, p. 371.

[145] *Ibid.*

commonsense interpretation of the statutory provisions consistent with the apparent legislative purpose and intent.[146] A reasonable and commonsense interpretation is that the second paragraph is directed at the entities from which the information regarding impacted or over-subscribed majors or changes made to prescribed courses of study by the CSU or UC departments originates. Here, the CSU and UC are the entities which would first know whether or not majors within the CSU and UC are impacted or over-subscribed. In addition, the CSU and UC, or the departments within the CSU and UC, would be the entities which prescribe the course of study and minimum grade point average for admission to the majors within the CSU and UC. Also, when prescribed courses of study are altered by the CSU and UC departments, the CSU and UC would be the entities with the information required to be communicated to appropriate community college faculty and counselors. As a result, staff finds that the second paragraph of section 66740 does not impose any state-mandated activities on community college districts.

The fourth paragraph of section 66740 sets forth that the development of the agreements described in the first and third paragraphs of section 66740 are the mutual responsibility of all three segments of higher education, and the legislative intent that no one segment should bear the organizational or financial responsibility for accomplishing these goals.

The fifth and sixth paragraphs provide that the Chancellor is required to begin the process of setting priorities with the CSU and UC to determine which community colleges will receive first attention for the development of agreements. As a result, the fifth and sixth paragraphs do not impose any state-mandated activities on community college districts.

Staff finds that the Education Code section 66740 mandates community college districts to engage in the following activities:

1. Act in conjunction with each department, school, and major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites.

   In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph.)

2. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph.)

Section 66741 sets forth the expected results and the rights resulting from the system wide and interinstitutional agreements developed by the CSU, UC, and community colleges pursuant to Education Code section 66740. Section 66741 provides:

> As a result of system wide and interinstitutional agreements, each community college student shall be assured of the opportunity to enter into a transfer agreement program enabling a student to receive high priority consideration, attain equivalent special treatment, or enter into a contract when applying for university admission at the advanced standing level. It is recognized that eligibility for transfer agreement programs will require completion of certain requirements as defined in interinstitutional agreements. It is also recognized that

[146] *American Buildings Co. v. Bay Commercial Construction, Inc.*, *supra*, 99 Cal. App. 4th 1193.

> access to majors of choice will, in most cases, require completion of additional requirements, such as specialized coursework and attainment of a specialized grade point average.
>
> Transfer agreement programs also shall carry high priority access to majors of choice. The University of California and the California State University shall require that continuing undergraduate students and community college transfer students are assessed against a common set of criteria for upper division standing to a specific major. However, generally speaking, access to these programs shall require completion of specialized coursework and attainment of a grade point average above the minimums defined in general admission requirements, such as those used in supplementary admission criteria for impacted or over-subscribed programs.
>
> Alternatively, students may also, by meeting the University of California or California State University requirements for admission at the advanced standing level, simply wish to apply as required. All students meeting these admission requirements shall be guaranteed a place somewhere in the University of California or California State University system, as appropriate.

The claimants assert that community college districts are required to ensure that each community college student is assured of the opportunity to enter into a transfer agreement program enabling a student to (1) receive high priority consideration, (2) attain equivalent special treatment, or (3) enter into a contract when applying for university admission at the advanced standing level.[147] The plain language of section 66741, however, does not require community college districts to engage in any activity. Instead, section 66741 sets forth what will result from the agreements made by the CSU, UC, California Community Colleges, and local community college districts. As a result, staff finds that Education Code section 66741 does not impose any state-mandated activities.

Section 66742 addresses the presentation of annual statistical reports on transfer patterns to the Governor and the Legislature. Specifically, section 66742 provides:

> The governing boards of the three public segments of higher education shall present annual statistical reports on transfer patterns via the California Postsecondary Education Commission to the Governor and Legislature. The reports shall include recent statistics on student enrollments by campus, segment, gender, ethnicity, and the ratio of upper division to lower division, including information on both freshman and transfer student access to the system. These reports should include, to the extent that data are available or become available, data on application, admission and enrollment information for all students by sex, ethnicity, and campus. For transfer students, this data shall indicate the segment of origin for all students. In addition, data shall be separately identified for transfer students from California Community Colleges, and shall identify the subset of applications which are completed together with admission, enrollment, and declared major information for that group. The reports shall describe the number of transfer agreements, if any, whose terms and conditions were not satisfied by either the California State University or the University of California, the number of California Community College transfer students denied either admission to the student's first choice of a particular campus of the California

[147] Exhibit B, Test Claim 02-TC-31, p. 372.

State University or the University of California or the student's first choice of a major field of study, and, among those students, the number of students who, upon denial of either of the student's first choices, immediately enrolled at another campus of the California State University or the University of California. The reports shall also include information by sex and ethnicity on retention and degree completion for transfer students as well as for native students, and the number and percentage of baccalaureate degree recipients who transferred from a community college.

The plain language of section 66742 mandates community college districts to engage in the following activity:

> Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission.
>
> Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742.)

Section 66743 addresses the presentation of a biennial report by an intersegmental advisory committee convened by the California Postsecondary Education Commission to the Governor and the Legislature. Specifically, section 66743 provides:

> The California Postsecondary Education Commission is requested to convene an intersegmental advisory committee on transfer access and performance for the purposes of presenting biennial reports to the Governor and the Legislature on the status of transfer policies and programs, the diligence of each segment's board, and the effectiveness of these programs in meeting the state's goals for transfer. The report shall include information about all of the following:
>
> (a) The effectiveness of transfer agreement programs and activities in enhancing the transfer function overall as well as the extent to which transfer program activities have been directed at students who have been historically underrepresented in the University of California and the California State University.
>
> (b) The status of the implementation of the transfer core curriculum as described in Section 66720 for each community college, including information about the extent to which sophomore level courses needed for transfer are available on all community college campuses.
>
> (c) Progress that has been made in achieving articulation agreements in those specific majors that have lower division prerequisites, and the dissemination of this information. The committee shall also explore methods to systematically measure the extent to which the state's goals of freshmen and transfer student access are being met, including analyses of the number of fully eligible freshmen or transfer students who are denied access to the system, and the reasons for that denial. The committee shall also address ways in which sharing of information about transfer students among the segments can be improved, including early identification of potential transfer students for intensive recruitment purposes.
>
> The Governor and the Legislature shall monitor the success of the University of California and the California State University in achieving their targeted enrollment levels and in implementing these reforms. A substantial failure to

implement reform, to achieve the 60/40 ratio by the designated dates, or to improve the transfer rate of historically underrepresented groups significantly, shall precipitate legislative hearings to determine the reasons why any one or all of these goals have not been met.

The claimants assert that section 66743 requires community college districts to compile, prepare and make available data required by the California Postsecondary Education Commission's intersegmental advisory committee on transfer access and performance so that the committee may present biennial reports to the Governor and the Legislature on the status of transfer policies and programs.[148] The plain language of section 66743, however, does not require community college district to engage in any activities. Rather, section 66743 requires an "intersegmental advisory committee" convened by the California Postsecondary Education Commission to engage in a specified activity. As a result, staff finds that section 66743 does not impose any state-mandated activities on community college districts.

In summary staff finds that Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742 require community college districts to engage in the following state-mandated activities:

1. Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731.)

2. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732.)

3. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732.)

4. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students.

   All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736.)

5. Be accountable for the development and implementation of formal system wide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a).)

6. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c).)

---

[148] Exhibit B, Test Claim 02-TC-31, p. 374.

7. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites.

   In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph.)

8. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph.)

9. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission.

   Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742.)

General Common Course Numbering System (Ed. Code, § 71027)

Section 71027 addresses the Board of Governors' duty regarding a general common course numbering system. Specifically, section71027 provides:

> (a) The Board of Governors of the California Community Colleges shall develop, maintain, and disseminate a general common course numbering system for use by the community college districts.
>
> (b) The office of the Chancellor of the California Community Colleges shall absorb the costs of developing, maintaining, and disseminating a general common course numbering system pursuant to this section within the office's existing resources

The claimants assert that section 71027 requires community college districts "[t]o implement policies and procedures to comply with the statewide common course numbering system adopted and disseminated by the Board of Governors … ."[149] However, the plain language of section 71027 does not impose any activities on community college districts. Rather, section 71027 requires the Board of Governors to engage in specific activities and for the Chancellor's Office to absorb all costs of these activities within its existing resources. As a result, staff finds that Education Code section 71027 does not impose any state-mandated activities on community college districts.

(i) Summary of state-mandated activities

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum (Ed. Code § 66721.5, subd. (a)(1))

2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution (Ed. Code § 66721.5, subd. (b)).

[149] Exhibit B, Test Claim 02-TC-31, p. 366.

3. Including the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs (Ed. Code § 66721.5, subd. (c) and (d)).

4. Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731.)

5. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732.)

6. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732.)

7. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students.

   All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736.)

8. Be accountable for the development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a).)

9. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c).)

10. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites.

    In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph.)

11. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph.)

12. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission.

Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742.)

b. The activities mandated by Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742 constitute new programs or higher levels of service subject to article XIIIB, section 6 of the California Constitution

As found by the court in *Long Beach Unified School Dist.*, education is a peculiarly governmental function.[150] In addition, the Legislature has found:

> Student matriculation, from community colleges through the University of California and the California State University, is recognized by the Governor, Legislature, and the governing boards of each of the segments of California's system of public postsecondary education as a central institutional priority of all segments of higher education.[151]

The requirements of Education Code section 66721.5 carry out the governmental function of education and the central institutional priority of higher education by ensuring that all students are clearly and fully informed as to which community college courses and units are transferable so as to improve the opportunity of community college students to transfer.

Citing to *County of Los Angeles v. Department of Industrial Relations* (1989) 214 Cal.App.3d 1538, the Chancellor's Office argues that although education is a "program" subject to article XIII B, and transfer principles are a part of the "program," the means by which students learn of the transfer core curriculum is not a "program."[152] As relevant to this discussion, the county in *County of Los Angeles v. Department of Industrial Relations* argued that elevator safety regulations that required specific activities in regard to elevators constituted a "program" under article XIII B because elevators in county owned and leased buildings are necessary to provide access to services to the public. However, the court held, "In determining whether these regulations are a program, the critical question is whether the *mandated program* carries out the governmental function of providing services to the public, not whether the elevators can be used to obtain these services."[153] The court concluded that providing elevators equipped with fire and earthquake safety features is not a "governmental function of providing services to the public" and therefore not a "program" under article XIII B.[154]

The Chancellor's Office asserts that the distribution of copies of the current transfer core curriculum is "more akin to the elevators [discussed in *County of Los Angeles v. Department of Industrial Relations*] that provide a means of obtaining the program services."[155] As a result, the Chancellor's Office argues that the activities required by section 66721.5 do not constitute a "program." *County of Los Angeles v. Department of Industrial Relations,* however, is factually distinguishable from this situation. In *County of Los Angeles v. Department of Industrial Relations* the regulations at issue imposed requirements on all public buildings regarding

---

[150] *Long Beach Unified School Dist., supra*, 225 Cal.App.3d. at p. 172.

[151] Statutes 2000, chapter 187, section 2, subdivision (a) (A.B. 1918). Restating Education Code section 66731, added by Statutes 1991, chapter 1188.

[152] Exhibit D, Chancellor's Office on 02-TC-25, *supra*, p. 5.

[153] *County of Los Angeles v. Department of Industrial Relations, supra,* 214 Cal.App.3d at p. 1546. Original emphasis.

[154] *Ibid.*

[155] *Ibid.*

elevator safety which were completely separate and unrelated to the public services provided by the county in the buildings owned and leased by the county. Here, section 66721.5 is directly related to the governmental function of education and higher education's central institutional priority of transferring students. Thus, the requirements imposed by section 66721.5 do not merely serve as a means to access a program (i.e. education) unrelated to section 66721.5. Rather, the distribution of the current transfer core curriculum carries out the governmental function of education and higher education's central institutional priority. As a result, the activities required by section 66721.5 constitute a "program" subject to article XIII B.

Similarly, the state-mandated activities imposed by Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742 carry out the governmental function of education by promoting student matriculation between the three segments of public higher education, and as a result constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The claimants have pled Education Code section 66721.5, as added by Statutes 2000, chapter 187.[156] Prior to the enactment of Statutes 2000, chapter 187, Education Code section 66721.5 did not exist, nor did the section's requirements exist as a different code section. As a result, Education Code section 66721.5, as added by Statutes 2000, chapter 1867, constitutes a "new program or higher level of service."

The claimants have pled Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742, as added by Statutes 1991, chapter 1188.[157] Prior to the enactment of Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742 in 1991, community college districts were not required to engage in the activities imposed by the sections. As a result, the state-mandated activities imposed by Education Code sections 66731, 66732, 66736, 66738, 66740, and 66742, as added by Statutes 1991, chapter 1188, constitute "new programs or higher levels of service."

(i) Summary of state-mandated new program or higher level of service

In summary, staff finds that the test claim statutes of the "Transfer Centers" section of this analysis impose the following state-mandated new programs or higher levels of service:

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum. (Ed. Code § 66721.5, subd. (a)(1) (Stats. 2000, ch. 187).)
2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution. (Ed. Code § 66721.5, subd. (b) (Stats. 2000, ch. 187).)
3. Include the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs. (Ed. Code § 66721.5, subd. (c) and (d) (Stats. 2000, ch. 187).)
4. Recognize student matriculation from community colleges through the University of California and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731 (Stats. 1991, ch. 1188).)

---

[156] Exhibit B, Test Claim 02-TC-31 pg. 159.

[157] *Id.* at pgs. 148-155.

5. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732 (Stats. 1991, ch. 1188).)
6. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732(Stats. 1991, ch. 1188).)
7. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students. All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736 (Stats. 1991, ch. 1188).)
8. Be accountable for the development and implementation of formal system wide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a) (Stats. 1991, ch. 1188).)
9. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c) (Stats. 1991, ch. 1188).)
10. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected levels of student competency. (Ed. Code, § 66740, first paragraph (Stats. 1991, ch. 1188).)
11. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph (Stats. 1991, ch. 1188).)
12. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission. Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742 (Stats. 1991, ch. 1188).)

(9) Vocational Education (Ed. Code, §§ 78015 and 78016; and Cal. Code Regs., tit. 5, §§ 55600-55603, 55605, 55607, 55620, and 55630)

This section addresses the activities that must be done prior to and after the establishment of vocational or occupational training programs, and the ability of community college districts to contract with private postsecondary schools, activity centers, work activity centers, or sheltered workshops to provide vocational skill training.

a. Education Code sections 78015 and 78016, and California Code of Regulations, title 5, section 55601, impose state-mandated activities on community college districts; however, California Code of Regulations, title 5, sections 55600, 55602-55603, 55605, 55607, 55620, and 55630 do not

Establishment and Review of Vocational Education Programs (Ed. Code, §§ 78015 and 78016)

Sections 78015 and 78016 address activities that must be done prior to and after the establishment of vocational or occupational training programs. Section 78015 sets forth activities that a community college district must engage in prior to establishing a vocational or occupational training program. The plain language of section 78015 requires a community college district to engage in the following activities:

1. Conduct a job market study of the labor market area, as defined by Education Code section 52301.5, in which it proposes to establish the program prior to establishing the program.[158]

   The labor market study must use the State-Local Cooperative Labor Market Information Program established by Unemployment Insurance Code section 10533, or if this program is not available for the labor market area, the study must use other sources of labor market information.

   The study must include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction. (Ed. Code, § 78015, subd. (a)(1) (Stats. 1998, ch. 365).)

2. Make copies of each job market study available to the public. (Ed. Code, § 78015, subd. (a)(2) (Stats. 1998, ch. 365).)

3. Determine whether or not the job market study justifies the proposed vocational education program. (Ed. Code, § 78015, subd. (b) (Stats. 1998, ch. 365).)

4. Determine by resolution whether the program will be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Education Code section 8092, if the district determines that the job market study justifies the initiation of the proposed program. (Ed. Code, § 78015, subd. (c) (Stats. 1998, ch. 365).)

[158] Education Code section 52301.5 defines "Labor Market Area" as "a county or aggregation of counties designated by the Employment Development Department (EDD) that has one or more central core cities and that meets criteria of population, population density, commute patterns, and social and economic integration specified by the EDD.

However, when analyzing whether section 78015 mandates any activities it is necessary to look at the underlying program to determine if the claimant's participation in the underlying program is voluntary.[159] Here, a community college district is required to engage in the activities stated above *only* if it establishes a vocational or occupational training program. As a result, it is necessary to determine if community college districts are required to offer vocational or occupational training program.

Education Code section 66010.4 sets forth the "missions and functions" of California's institutions of higher education. Subdivision (a) of section 66010.4 delineates the primary mission of community colleges, and provides in relevant part, "The California Community Colleges shall, as a primary mission, offer academic and vocational instruction … ." Thus, community college districts are required to establish vocational programs, and as a result, are mandated to engage in the activities set forth in Education Code section 78015.

Section 78016 addresses the review of vocational or occupational training programs. Specifically, section 78016 mandates community college districts to engage in the following activities:

1. Review every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, every two years to ensure that each program: (1) meets a documented labor market demand; (2) does not represent unnecessary duplication of other manpower training programs in the area; and (3) is of demonstrated effectiveness as measured by the employment and completion success of its students.

   These three requirements are to be demonstrated by the California Occupational Information System, including State-Local Cooperative Labor Market Information Program established in Unemployment Insurance Code section 10533, or if this program is not available in the labor market area, other available sources of labor market information. (Ed. Code, § 78016, subd. (a) (Stats. 1998, ch. 365).)

2. Terminate any program that does not meet the requirements of Education Code section 78016, subdivision (a), and the standards promulgated by the governing board within one year after the review conducted pursuant to section 78016. (Ed. Code, § 78016, subd. (b) (Stats. 1998, ch. 365).)

3. Include the review and comments by the local Private Industry Council, established pursuant to Unemployment Insurance Code section 15000 et seq., in the review process of every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, the review and comments by the Private Industry Council shall occur prior to any decision by the district governing board. (Ed. Code, § 78016, subd. (c) (Stats. 1998, ch. 365).)

4. Make a written summary of the findings of each review available to the public. (Ed. Code, § 78016, subd. (e) (Stats. 1998, ch. 365).)

Appointment of Vocational Education Advisory Committee (Cal. Code Regs., tit. 5, § 55601)

Title 5, section 55601, addresses the appointment of a vocational education advisory committee by community college districts participating in a vocational education program. Title 5, section 55601, provides:

> The governing board of each community college district participating in a vocational education program shall appoint a vocational education advisory

[159] *Kern High School Dist., supra*, 30 Cal.4th 727, 743.

committee to develop recommendations on the program and to provide liaison between the district and potential employers.

The committee shall consist of one or more representative of the general public knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development.[160]

As discussed above, community college districts are required to establish vocational education programs. Thus, title 5, section 55601, mandates community college districts to engage in the following activity:

> Appoint a vocational education advisory committee, consisting of one or more members of the general public, to develop recommendations on the program and to provide a liaison between the district and potential employers. The members must be knowledgeable about the disadvantaged, students, teachers, business, industry, school administration, and the field office of the Department of Employment Development. (Cal. Code Regs., tit. 5, § 55601 (Register 93, No. 25).)

Vocational Education Contracts (Cal. Code Regs., tit. 5, §§ 55600, 55602, 55603, 55605, 55607, 55620, and 55630)

Title 5, sections 55600, 55602-55607, 55620, and 55630, address the ability of community college districts to contract with private post secondary schools to provide vocational skills training, and the corresponding contracting requirements if a district chooses to contract with a private post secondary school. However, pursuant to *Kern High School Dist*. a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity.[161] Title 5, section 55602, provides, "Any community college district or districts may contract with a private post secondary school … to provide vocational skill training … ."[162] Pursuant to title 5, section 55602, community college districts have the authority to contract with a private post secondary school, but are not required to use this authority. Thus, it is a community college district's decision to utilize its authority that triggers any subsequent requirements within title 5, sections 55602-55607, 55620, and 55630, which set forth requirements regarding contracting with a private post secondary school for the provision of vocational skills training. As a result, the requirements of title 5, sections 55600, 55602, 55603, 55605, 55607, 55620, and 55630 do not constitute state-mandated activities.

b. The state-mandated activities imposed by Education Code sections 78015 and 78016 constitute a new program or higher level of service; however, the activity mandated by California Code of Regulations, title 5, section 55601 does not

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[163] In addition, the requirements must be new in comparison with the pre-existing

---

[160] California Code of Regulations, title 5, section 55601 (Register 93, No. 25).

[161] *Kern High School Dist*., *supra*, 30 Cal.4th 727, 743.

[162] California Code of Regulations, title 5, section 55602 (Register 95, No. 22).

[163] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

scheme and must be intended to provide an enhanced service to the public.[164] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[165]

The state-mandated activities imposed by Education Code sections 78015 and 78016 carry out the governmental function of providing education by setting forth the steps necessary to establish vocational education programs, the provision of which is a primary mission of the California Community Colleges. In addition, the claimants have pled Education Code sections 78015 and 78016 as added in 1979 and last amended in 1998.[166] Immediately prior to 1979, community college districts were not required to engage in the state-mandated program within Education Code sections 78015 and 78016. Thus, Education Code sections 78015 and 78016 constitute a new program or higher level of service.

California Code of Regulations, title 5, section 55601, carries out a governmental function by requiring the appointment of a vocational education advisory committee for each community college district to advise community college districts on the creation of vocational education programs, the provision of which, as noted above, are a primary mission of community colleges. The claimants have pled title 5, section 55601, as added in 1993.[167] However, the requirement to appoint a vocational education advisory committee existed in 1973 under former Education Code section 6257.[168] This requirement was renumbered to Education Code section 8070 in 1976.[169] In 1990, the Board of Governors were directed to incorporate the text of Education Code section 8070 into the title 5 regulations governing community college districts, noting that if the Board of Governors fails to adopt and put into effect regulations containing the language of Education Code section 8070, the Education Code section shall remain operative until the Board of Governors does so.[170] Thus, even though there was a two year delay to incorporate the provisions of Education Code section 8070 into the title 5 regulations in the form of title 5, section 55601, there was never a lapse in the requirement. As a result, the requirement of California Code of Regulations, title 5, section 55601, does not constitute a state-mandated new program or higher level of service.

(i) Summary of state-mandated new program or higher level of service

1. Conduct a job market study of the labor market area, as defined by Education Code section 52301.5, in which it proposes to establish the program prior to establishing the program.[171]

---

[164] *San Diego Unified School Dist*., *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[165] *Ibid*.

[166] Statutes 1979, chapter 977; and Statutes 1998, chapter 365.

[167] Exhibit B, Test Claim 02-TC-31, p.82. The 1993 date cited by the claimants coincides with Register 93, number 25.

[168] Statutes 1973, chapter 1207.

[169] Statutes 1976, chapter 1010.

[170] Statutes 1990, chapter 1372, section 708.

[171] Education Code section 52301.5 defines "Labor Market Area" as "a county or aggregation of counties designated by the Employment Development Department (EDD) that has one or more central core cities and that meets criteria of population, population density, commute patterns, and social and economic integration specified by the EDD.

The labor market study must use the State-Local Cooperative Labor Market Information Program established by Unemployment Insurance Code section 10533, or if this program is not available for the labor market area, the study must use other sources of labor market information.

The study must include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction. (Ed. Code, § 78015, subd. (a)(1) (Stats. 1998, ch. 365).)

2. Make copies of each job market study available to the public. (Ed. Code, § 78015, subd. (a)(2) (Stats. 1998, ch. 365).)

3. Determine whether or not the job market study justifies the proposed vocational education program. (Ed. Code, § 78015, subd. (b) (Stats. 1998, ch. 365).)

4. Determine by resolution whether the program will be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Education Code section 8092, if the district determines that the job market study justifies the initiation of the proposed program. (Ed. Code, § 78015, subd. (c) (Stats. 1998, ch. 365).)

5. Review every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, every two years to ensure that each program: (1) meets a documented labor market demand; (2) does not represent unnecessary duplication of other manpower training programs in the area; and (3) is of demonstrated effectiveness as measured by the employment and completion success of its students.

   These three requirements are to be demonstrated by the California Occupational Information System, including State-Local Cooperative Labor Market Information Program established in Unemployment Insurance Code section 10533, or if this program is not available in the labor market area, other available sources of labor market information. (Ed. Code, § 78016, subd. (a) (Stats. 1998, ch. 365).)

6. Terminate any program that does not meet the requirements of Education Code section 78016, subdivision (a), and the standards promulgated by the governing board within one year after the review conducted pursuant to section 78016. (Ed. Code, § 78016, subd. (b) (Stats. 1998, ch. 365).)

7. Include the review and comments by the local Private Industry Council, established pursuant to Unemployment Insurance Code section 15000 et seq., in the review process of every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, the review and comments by the Private Industry Council shall occur prior to any decision by the district governing board. (Ed. Code, § 78016, subd. (c) (Stats. 1998, ch. 365).)

8. Make a written summary of the findings of each review available to the public. (Ed. Code, § 78016, subd. (e) (Stats. 1998, ch. 365).)

(10) Standards of Scholarship (Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765)

This section addresses regulations that set forth standards addressing the basic operation of community college districts regarding standards of scholarship, including but not limited to the following areas of scholarship: grading practices, credit-no credit options, advanced placement examinations, standards for probation, academic record symbols, and grade point average.

a. California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 requires community college districts to engage in state-mandated activities

Regulations (Cal. Code Regs., tit. 5, § 55750)

Section 55750 provides:

> The governing board of a district maintaining a community college shall adopt regulations consistent with this [subchapter].[172] The regulations shall be published in the college catalog under appropriate headings and filed with the Chancellor's Office as required by section 51002 of this [division].[173]

The plain language of section 55750 requires community college districts to adopt regulations consistent with the subchapter on "Standards of Scholarship." In addition, these regulations are required to be published in the college catalog under appropriate headings. The language of section 55750 also provides that the district file the regulations with the Chancellor's office as required by section 51002. As discussed in the "Minimum Conditions Entitling Community College Districts to State Aid" section of this analysis staff found that title 5, section 51002, does not mandate any activity because it is triggered by an underlying discretionary decision. For the same reason, community college districts are not required to file a copy of its regulations and amendments with the Chancellor."[174] Thus, the plain language of section 55750 requires community college districts to engage in the following state-mandated activities:

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[175] (Cal. Code Regs., tit. 5, § 55750.)
2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750.)

---

[172] See "Minimum Conditions Entitling Community College Districts to State Aid" section, regarding the discussion of the Nomenclature Cross-Reference issued by the Office of Administrative Law.

[173] *Ibid.*

[174] California Code of Regulations, title 5, section 51002, subdivision (b) (Register 95, No. 15).

[175] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

Grading Practices (Cal. Code Regs., tit. 5, § 55751)

Section 55751 addresses the grading practices of community college districts. The plain language of section 55751 requires community college districts to determine a uniform grading practice for the district based on sound academic principles. In addition, the uniform grading practices must conform to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). As a result, staff finds that California Code of Regulations, title 5, section 55751 imposes the following state-mandated activities:

1. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751.)
2. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b).)

Credit-No Credit Option (Cal. Code Regs., tit. 5, § 55752)

Section 55752 addresses the "credit-no credit" options regarding classes offered by a community college. Section 55752, subdivision (a), provides that the "governing board of a community college district may by resolution and regulation offer courses" in which all students are evaluated on a "credit- no credit" basis, or in which students may choose to be evaluated on a "credit-no credit" basis or a letter grade. In addition, subdivision (a) provides that if such a course is offered, a community college must specify in its catalog the category into which the course falls.

As a result, the plain language of section 55752 authorizes the governing boards of community college districts to offer courses on a "credit-no credit" basis, but does not require the governing boards to do so. If "credit-no credit" courses are not offered, there would be no requirement to specify the type of "credit-no credit" course in the district catalog, adopt regulations, or file the regulations with the Chancellor's Office. As a result, any requirement of section 55752 is a downstream activity resulting from a community college district's voluntary decision to offer courses wherein all students are evaluated on a "credit-no credit" basis or wherein each student may elect whether the basis of evaluation is to be "credit-no credit" or letter grade. Thus, staff finds that California Code of Regulations, title 5, section 55752, does not impose any state-mandated activities on community colleges, and therefore, is not subject to article XIII B, section 6 of the California Constitution.

Credit by Examination (Cal. Code Regs., tit. 5, § 55753)

Section 55753 addresses the option of credit by examination for a community college course. Section 55753, as added by Register 83, Number 29 (July 16, 1983) provides:

> (a) The governing board maintaining one or more community colleges shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of this section and the provisions of Sections 55751, 55752, 55758, 55760, 55761, 55762, and 55764.

(b) The governing board may grant credit to any student who satisfactorily passes an examination approved or conducted by proper authorities of the college. Such credit may be granted only to a student who is registered at the college and in good standing and only for a course listed in the catalog of the community college.

(c) The student's academic record shall be clearly annotated to reflect that credit was earned by examination.

(d) Units for which credit is given pursuant to the provisions of this section shall not be counted in determining the 12 semester hours of credit in residence required for an associate degree.

In 2002, section 55753 was amended by Register 2002, Number 8 (Feb. 22, 2002) to provide:

(a) The governing board of each community college district shall adopt and publish procedures and regulations pertaining to credit by examination in accordance with the provisions of [the "Standards of Scholarship" subchapter].

(b) [As quoted above (Register 83, No. 29 (July 16, 1983))].

(c) The nature and content of the examination shall be determined solely by faculty in the discipline that normally teaches the course for which credit is to be granted in accordance with policies and procedures approved by the curriculum committee established pursuant to Section 55002. The faculty shall determine that the examination adequately measures mastery of the course content as set forth in the outline of record. The faculty may accept an examination conducted at a location other than the community college for this purpose.

(d) A separate examination shall be conducted for each course for which credit is to be granted. Credit may be awarded for prior experience or prior learning only in terms of individually identified courses for which examinations are conducted pursuant to this section.

(e) [Identical to the above quoted subdivision (c), as added by Register 83, Number 29 (July 16, 1983)]

(f) Grading shall be according to the regular grading scale approved by the governing board pursuant to Section 55758, except that students shall be offered a credit-no credit option if that option is ordinarily available for the course.

(g) [Identical to the above quoted subdivision (d), as added by Register 83, Number 29 (July 16, 1983)]

The plain language of subdivision (a) provides that community college districts shall adopt and publish *procedures* and *regulations* pertaining to credit by examination. However, courts have held that the intent of a regulation should be ascertained from the entire regulation and regulatory scheme rather than from isolated parts or words.[176] Additionally, under *Kern High School Dist*. a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity.

Here, subdivision (b) authorizes, but does not require, community college districts to offer credit by examination. In addition, the usual and ordinary meaning of the word "procedures" is, "a

[176] *DuBois v. Workers' Comp. Appeals Bd.*, *supra*, 5 Cal. 4th 382, 388; *Cal. Drive-In Restaurant Assn. v. Clark*, *supra*, 22 Cal.2d 287, 292.

way of performing or effecting something."[177] In light of the discretionary nature of offering credit by examination, and the usual and ordinary meaning of "procedures," the activity of adopting and publishing *procedures*, or a way of performing or effecting credit by examination, would only be necessary if a community college district made the initial decision to offer credit by examination. Thus, the requirement of adopting and publishing *procedures* regarding credit by examination is triggered by a community college district's initial discretionary decision to offer credit by examination, and therefore under *Kern High School Dist.*, is not mandated by the state. Likewise, the subsequent activities set forth in section 55753, subdivisions (c)-(g) are downstream activities of a community college district's decision to offer credit-by examination, and therefore not state-mandated.

As distinguished from "procedures," the usual and ordinary meaning of the word "regulations" is, "A principle, rule, or law designed to control or govern behavior."[178] Adopting and publishing *regulations* regarding credit by examination, or rules to control or govern credit by examination is not dependent on actually offering credit by examination. Thus, staff finds that California Code of Regulations, title 5, section 55753, subdivision (a) imposes the following state-mandated activities:

> Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a).)

Articulation of High School Courses (Cal. Code Regs., tit. 5, § 55753.5)

Section 55753.5 addresses the use of articulated high school courses to satisfy community college course requirements. Section 55753.5 provides in relevant part:

> The governing board of a community college district may adopt policies to permit articulated high school courses to be applied to community college requirements in accordance with this Section. …

The remaining portions of section 55753.5 set forth what articulated high school courses can and cannot be used in lieu of comparable community college courses, and the requirements resulting from the application of articulated high school courses toward community college requirements. Reading section 55753.5 as a whole and "not as individual parts or words standing alone,"[179] any activities required are a result of a community college district's decision to permit articulated high school courses to be applied to community college requirements. As a result, under *Kern High School Dist*., California Code of Regulations, title 5, section 55753.5, does not impose any state-mandated activities on community college districts, and therefore, is not subject to article XIII B, section 6 of the California Constitution.

---

[177] Webster's 2d New College Dictionary. (1999) p.881.

[178] American Heritage Dictionary (new college ed. 1979) p. 1096.

[179] *Fontana Unified School Dist. v. Burman, supra*, 45 Cal.3d 208, 218.

Advanced Placement Examinations (Cal. Code Regs., tit. 5, § 55753.7)

Section 55753.7 addresses the granting of credit for satisfactory completion of advanced placement examinations. Section 55753.7 provides in relevant part:

> The governing board of a community college district may adopt policies to grant credit for satisfactory completion of advanced placement examinations typically recognized by colleges and universities as measuring competencies comparable to those achieved in baccalaureate leave courses.

The remaining portions of section 55753.7 set forth activities resulting from the granting of credit for satisfactory completion of advanced placement examinations. Read as a whole, any activities required by section 55753.7 are downstream activities resulting from a community college district's decision to adopt policies to grant credit for satisfactory completion of advanced placement examinations. As a result, under *Kern High School Dist*., California Code or Regulations, title 5, section 55753.7, does not impose any state-mandated activities on community college districts, and therefore, is not subject to article XIII B, section 6 of the California Constitution.

Standards for Probation (Cal. Code Regs., tit. 5, § 55754)

Section 55754 addresses the standards for academic and progress probation. Pursuant to the plain language of the section 55754, subdivision (a), community colleges are required to place student on academic probation if the student has attempted at least 12 semester or 18 quarter units and has earned a grade point average below 2.0 in all units which were graded. The plain language of subdivision (b), similarly provides that a community college is to place a student on progress probation if the student has enrolled in a total of at least 12 semester or 18 quarter units and the percentage of all units in which the student has enrolled and for which entries of "Withdrawal," "Incomplete," and "No Credit" have been recorded reaches or exceeds 50 percent. However, subdivision (b) must be read in the context of the regulatory scheme as a whole.[180] Under the California Code of Regulations, title 5, sections 55752 and 55758, community college districts are not required to offer courses on a "credit – no credit" basis, nor are community college districts required to authorize the use of "Withdrawal" or "Incomplete" as academic record symbols.[181] As a result, the requirement to place a student on "progress probation" is a downstream activity of a community college's decision to offer courses on a "credit – no credit" basis and to authorize the use of "Withdrawal" or "Incomplete" as academic record symbols. Therefore, under *Kern High School District*, subdivision (b) does not mandate any activity upon community colleges or districts. In addition, the plain language of subdivision (c) authorizes community college districts to adopt standards for probation higher than those set forth by subdivisions (a) and (b); however, districts are not required to do so. Thus, staff finds that subdivision (a) of section 55754 of title 5 of the California Code of Regulations imposes the following state-mandated activity:

> Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned

---

[180] *Ibid*.

[181] California Code of Regulations, title 5, section 55752 addresses the "credit – no credit" grading option. California Code of Regulations, title 5, section 55758 addresses academic record symbols, including the use of "Withdrawal" and "Incomplete." Section 55758 will be addressed in more detail below.

a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal. Code Regs., tit. 5, § 55754, subd. (a).)

Removal from Probation (Cal. Code Regs., tit. 5, § 55755)

Section 55755 addresses the removal of students from probation. Pursuant to the plain language of section 55755, subdivision (a), community colleges are required to remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher.

Subdivision (b) provides that community colleges are required to remove a student from progress probation when the percentage of units for which "Withdrawal," "Incomplete," and "No Credit" entries have been recorded drops below 50 percent. However, as discussed with section 55754, districts are not required to offer courses on a "credit-no credit" basis or to use "Withdrawal" or "Incomplete" as academic record symbols. Thus, under *Kern High School Dist.*, subdivision (b) does not mandate any activities on community college districts.

Subdivision (c) requires community college districts to adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. In addition, subdivision (c) authorizes a community college district to establish standards higher than those specified in subdivisions (a) and (b), but the district is not required to do so.

For the reasons discussed above staff finds that subdivisions (a) and (c) of section 55755 of title 5 of the California Code of Regulations impose the state-mandated activities summarized below.

1. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a).)
2. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c).)

Standards for Dismissal (Cal. Code Regs., tit. 5, § 55756)

Section 55756 addresses community college district standards for dismissal. Pursuant to the plain language of section 55756, subdivision (a), community colleges are required to make a student on academic probation subject to dismissal if the student earned a cumulative grade point average of less than 1.75 in all units attempted in each of three consecutive semesters or 5 quarters which were graded. Subdivision (b) provides that a student on progress probation is required to be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of "Withdrawal," "Incomplete," and "No Credit" have been recorded for 3 consecutive semesters or 5 consecutive quarters reaches or exceeds 50 percent. However, for the same reasons discussed above, subdivision (b) of section 55756 does not impose any state-mandated activities. Subdivision (c) requires a community college district to adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. Subdivision (d) requires community college districts to adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal, and to file a copy of the rules with the Chancellor. As a result, staff finds that subdivisions (a), (c) and (d) of section 55756 of title 5 of the California Code of Regulations impose the following state-mandated activities:

1. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a).)
2. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c).)

3. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)

4. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)

Remedial Coursework Limit (Cal. Code Regs., tit. 5, § 55756.5)

Section 55756.5 addresses the remedial coursework limit of community colleges which, with exceptions,[182] is set at 30 semester units or 45 quarter units. "Remedial course work" refers to precollegiate basic skills courses which are defined as those courses in reading, writing, computation, and English as a Second Language which are designated by the community college district as nondegree credit courses.[183] Subdivision (b) of section 55756.5, provides:

> A student's need for remedial coursework shall be determined using appropriate assessment instruments, methods, or procedures administered pursuant to [subchapter] 6 (commencing with section 55500) of [chapter] 6 of this [division].

The plain language of subdivision (b) requires community college districts to use appropriate assessment instruments, methods, or procedures used pursuant to the regulations implementing the Seymour-Campbell Matriculation Act of 1986 (Cal. Code Regs., tit. 5, §§ 55500 – 55534). The "assessment instruments, methods, or procedures" used in the Seymour-Campbell Matriculation Act of 1986 include, but are not limited to: interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. As a result, pursuant to subdivision (b), community colleges are required to use these "assessment instruments, methods, or procedures" to determine a student's need for remedial coursework.

In addition, subdivisions (b) and (e) of section 55756.5 require community colleges to dismiss and refer students that have exhausted the unit limitation to appropriate adult noncredit education services provided by college, adult school, community-based organization, or other appropriate local provider with which the district has an established referral agreement. Also, pursuant to subdivision (g) community college districts are required to submit, through the established Management Information System, information necessary to enable the Chancellor to determine: (1) the effect of section 55765.5 on students by sex, age, and ethnicity; and (2) the success rates for students enrolled in "remedial coursework."

The claimants allege that subdivision (c) of section 55756.5 requires community college districts to track and ensure that students enrolled in English as a Second Language classes and those students identified by the districts as having a learning disability are exempted from the remedial coursework limit.[184] However, the plain language of subdivision (c) does not require community college districts to *track* or *ensure* exemption of students that fit within these categories. Rather, the plain language of subdivision (c) only provides that students that fit within these categories

---

[182] See California Code of Regulations, title 5, section 55756.5, subdivision (c).

[183] "Precollegiate basic skills courses" defined by California Code of Regulations, title 5, section 55502, subdivision (b).

[184] Exhibit B, Test Claim 02-TC-31, p. 174.

are exempt. As a result, tracking or ensuring that students are exempt is not required by section 55756.5.

The claimants also allege that subdivision (d) of section 55756.5 requires:

> … the governing board [of a community college district] to review and approve any locally developed standards which provide for a waiver of the limitation on remedial coursework with respect to any student, and for the standards to include provisions which ensure that waivers are only given for specified periods of time or for specified numbers of units … .[185]

However, the plain language of subdivision (d) provides in relevant part that the "governing board of a district *may* provide a waiver of the limitation on remedial coursework … ."[186] Subdivision (d) then sets forth requirements if the district decides to provide a waiver. As a result, any activities required under subdivision (d) are downstream activities of a district's voluntary decision to provide a waiver to the remedial coursework limit, and therefore are not required by the section.

In addition, the claimants allege that subdivision (f) requires community college districts:

> [t]o allow a student who has successfully completed all appropriate "remedial coursework," or has demonstrated the level of skills which reasonably assures success in college-level courses, to request reinstatement to proceed with college-level coursework … .[187]

However, the plain language of subdivision (f) does not impose the activity of allowing a student to request reinstatement on a community college or district. Rather, subdivision (f) allows students to make a request for reinstatement to proceed with college-level courses if certain conditions are met. Subdivision (f) does not require any activities of community college districts. As a result, staff finds that subdivisions (b), (e) and (g) of section 55756.5 of title 5 of the California Code of Regulations impose the following state-mandated activities:

1. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b).)
2. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e).)
3. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5 on students by sex, age and ethnicity, and the success rates for

---

[185] *Ibid.*

[186] Emphasis added.

[187] Exhibit B, Test Claim 02-TC-31, p. 174 – 175.

students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g).)

Units Attempted (Cal. Code Regs., tit. 5, § 55757)

Section 55757 provides:

> For the purposes of sections 55754 and 55756, "all units attempted" means all units of credit for which the student is enrolled in the current community college of attendance. The governing board of each district shall adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board.

The first sentence of section 55757 defines "all units attempted" for purposes of sections 55754 and 55756. As discussed above, sections 55754 and 55756 address a community college district's standards for probation and dismissal of students for academic reasons. Read in this context, the second sentence of section 55757 requires the governing board of a district to adopt rules and regulations governing the inclusion in or exclusion of units in which a student did not receive a grade or "credit-no credit" or from which the student withdrew when determining whether a student should be placed on probation or dismissed.

Although, as discussed above, community college districts are not required to offer courses on a "credit – no credit" basis, nor are they required to authorize the use of "Withdrawal" or "Incomplete" as academic record symbols,[188] they are still required to adopt rules and regulations governing the inclusion or exclusion of units received on these bases. As a result, staff finds that California Code of Regulations, title 5, section 55757 imposes the following state-mandated activity:

> Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757.)

Academic Record Symbols and Grade Point Average (Cal. Code Regs., tit. 5, § 55758)

Section 55758 addresses the academic record symbols and grade point average used by community college districts. Subdivision (a) of section 55758 provides in relevant part:

> Grades from a grading scale shall be averaged on the basis of the point equivalencies to determine a student's grade point average using only the following evaluative symbols …

Subdivision (a) than sets forth the evaluative symbols "A" through "F" with the grade point equivalencies of "4" through "0" respectively. Subdivision (d) requires the governing board of each community college district to publish in the catalogs of community colleges the point equivalencies for the grades in the grading scale used in section 55758, subdivision (a), as part of its grading practices. Subdivisions (b), (c), and (e), authorize the governing board of community college districts to use "plus," "minus," "FW" designations, and nonevaluative symbols.

---

[188] California Code of Regulations, title 5, section 55752 addresses the "credit – no credit" grading option. California Code of Regulations, title 5, section 55758 addresses academic record symbols, including the use of "Withdrawal" and "Incomplete." Section 55758 will be addressed in more detail below.

The plain language of section 55758 imposes a state mandate on community college districts to determine a student's grade point average using grades from the grading scale set forth in subdivision (a). In addition, subdivision (d) requires community college districts to publish in the catalogs of community colleges the point equivalencies for the grades in the grading scale used in section 55758, subdivision (a). However, pursuant to the plain language of the section 55758 and interpreting the regulatory scheme as a whole, the inclusion of the academic record symbols "CR" and "NC" are not required to be published pursuant to section 55758, subdivision (d). Subdivision (d) provides that a district "shall publish the *point equivalencies* for the *grades* used in [subdivision] (a) … in the catalog."[189] As set forth in subdivision (a), the symbols "CR" and "NC" do not have corresponding point equivalencies. In fact, it is noted in subdivision (a) that units awarded a "CR" or "NC" are not to be counted in a student's grade point average. In addition, as discussed above in the section regarding section 55752, community college districts are not required to offer courses on a "credit – no credit" ("CR" – "NC") basis. As a result, the inclusion of "CR" or "NC" in the published grading scale is not required by subdivision (d) of section 55758.

In addition, section 55758 authorizes, but does not require, the governing board of a community college district to use "plus", "minuses", "FW" designations, and nonevaluative symbols. The plain language of section 55758 provides that "plus", "minus", and "FW" designations, and nonevaluative symbols need to be published *if* they are used. As a result, staff finds community college districts are not mandated by the state to publish as part of their grading practices "plus", "minuses", "FW" designations, and nonevaluative symbols in their catalogs.

Thus, staff finds that only California Code Regulations, title 5, section 55758, subdivisions (a) and (d) impose state-mandated activities, which are summarized below.

1. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a).)
2. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d).)

Grade Point Average Calculation (Cal. Cod Regs., tit. 5 § 55758.5)

Section 55758.5 addresses the calculation of a student's degree applicable grade point averages. Section 55758.5 provides in relevant part, "In calculating students' degree applicable grade point averages, grades earned in nondegree credit courses shall not be included." The claimants assert that community college districts are required "[t]o ensure that grades earned in nondegree credit courses are not included in calculating students' degree applicable grade point averages." However, the plain language of section 55758.5 does not impose any activities on community college districts; rather it prohibits a community college district from engaging in an activity. Specifically, community college districts are prohibited from including grades earned in nondegree credit courses when calculating a student's degree applicable grade point average.

Thus, staff finds that California Code of Regulations, title 5, section 55758.5 does not impose any state-mandated activities.

[189] Emphasis added.

Notification of Probation and Dismissal (Cal. Code Regs., tit. 5, § 55759)

Section 55759 addresses the notification of students of academic probation and dismissal. Section 55759 requires each community college to make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter in which it will take effect, but no later than the start of the fall semester or quarter. Each community college must also make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. In addition, section 55759 requires the policies and procedures regarding probation and dismissal to be published in the college catalog. In addition, each community college shall make a reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties.

Thus, staff finds that California Code of Regulations, title 5, section 55759 imposes the following state-mandated activities:

1. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759.)
2. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759.)
3. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs., tit. 5, § 55759.)

Grade Changes and Course Repetition (Cal. Code Regs., tit. 5, §§ 55760, 55761, and 55762)

Sections 55760, 55761, and 55762 address grade changes, the district policy for course repetition, and the requirements when adopting regulations to implement the policy.

Section 55760, subdivision (a), provides that the instructor of a course shall determine the grade to be awarded to each student in any course of instruction for which grades are awarded. In addition, subdivision (a) requires districts to include expunging incorrect grades from the record in the procedures for the correction of grades given in error. Subdivision (b) provides that the governing board of a district must adopt and publish procedures and regulations in accordance with sections 55761 and 55762, which pertain to the repetition of courses for which substandard work has been recorded. In addition, subdivision (b) requires appropriate annotations to be made in a student's permanent academic record when grade changes are made in accordance to sections 55761 and 55762.

Section 55761 requires the governing board of a community college district to adopt and publish procedures or regulations pertaining to the repetition of courses for which substandard work has been recorded. Section 55761 also provides that the procedures or regulations may allow such courses to be repeated and the previous grade and credit to be disregarded in the computation of grade point averages.

Section 55762 sets forth rules pertaining to the adoption and publishing of policies and procedures or regulations that permit the repetition of courses. Section 55762, subdivision (a), prohibits a community college district from adopting regulations or procedures that conflict with existing law pertaining to the finality of grades assigned by instructors, and the retention and destruction of records. Subdivision (b) provides that the governing board of a community college district may permit repetition of any course which was taken at an accredited college or university and for which substandard work has been recorded. Subdivision (c) provides that when the governing board of a community college district permits course repetition, the

governing board must indicate any specific courses or categories of courses which are exempt from course repetition. Subdivision (d) provides that courses that are repeated must be clearly indicated on the student's permanent academic record. Subdivision (e) provides that when course repetition is allowed, specific procedures must be published to implement section 55762. Subdivision (g) provides that the governing board must maintain a careful record of actions taken under course repetition procedures or regulations.

Although sections 55760 and 55761 require the adoption and publication of procedures and regulations pertaining to the repetition of courses for which substandard work has been recorded, community college districts are not required to allow such repetition. Section 55761 provides in relevant part, "The procedures or regulations *may* allow [courses for which substandard work has been recorded] to be repeated and the previous grade and credit to be disregarded … ."[190] In addition, the language throughout section 55762 indicates the voluntary nature of allowing course repetition for which substandard work has been recorded.[191] Similar to the analysis in section 55753 regarding the adoption of "procedures," the activity of adopting and publishing procedures (defined as a way of performing or effecting something) for the repetition of courses for which substandard work has been recorded is unnecessary if a community college district chooses not to offer repetition of courses. As a result, pursuant to *Kern High School Dist*. the adoption and publication of *procedures* pertaining to the repetition of courses is not a state-mandated activity. In addition, the activities set forth in section 55762 are also downstream activities resulting from a community college district's decision to offer repetition of courses, and not a result of a state mandate.

As distinguished from the activity of adopting *procedures*, adopting and publishing *regulations* regarding the repetition of courses for which substandard work has been recorded is not dependent on actually offering the repetition of courses. Thus, staff finds that California Code of Regulations, title 5, sections 55760 and 55761 impose the following state-mandated activities:

1. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a).)
2. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a).)
3. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b), and 55761.)

Academic Renewal without Course Repetition (Cal. Code Regs., tit. 5, §§ 55764 and 55765)

Sections 55764 and 55765 address a community college district's policy regarding academic renewal without course repetition and the requirements when adopting procedures or regulations to implement the policy.

Section 55764 requires the district of a community college to adopt and publish procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. The procedures or regulations must include a clear statement of the educational principles upon which they are based, and must be referred to as academic renewal regulations. When procedures or regulations

---

[190] Emphasis added.

[191] See California Code of Regulations, title 5, section 55762, subdivisions (b), (c), and (e).

permit recorded substandard course work to be disregarded in the computation of grade point averages, the permanent academic record shall be annotated so that all work remains legible.

Section 55765, subdivision (a), prohibits a community college district from adopting regulations or procedures that conflict with existing law pertaining to the finality of grades assigned by instructors, and the retention and destruction of records. Subdivision (b) provides that when adopted procedures or regulations permit the alleviation of previously recorded substandard performance that is not reflective of a student's demonstrated ability, the governing board of a community college district must state: (1) the amount of coursework that may be alleviated, (2) the amount of academic work to have been completed at a satisfactory level subsequent to the coursework to be alleviated, (3) the length of time that is to elapse since the substandard coursework was recorded, and (4) any courses exempt from academic renewal. Subdivision (c) provides that when alleviation is permitted, the governing board must publish specific procedures to be followed in implementing the procedures or regulations adopted pursuant to section 55765 and 55764 that allow alleviation. These implementing procedures must state, at a minimum, the procedures to be followed by students petitioning for alleviation, and the officers or personnel responsible for implementing the procedures or regulations.

Although section 55764 requires the adoption and publication of procedures or regulations pertaining to the alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability, community college districts are not required to allow alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. For the same reasons discussed in the analysis of section 55753, the adoption and publication of *procedures* is a downstream activity triggered by a community college district's decision to offer alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. Similarly, the activities set forth in section 55765 are also downstream activities resulting from a community college district's decision to offer alleviation of previously recorded substandard academic performance, and not a result of a state mandate.

However, for the same reasons as discussed in the analysis of section 55753, adopting and publishing *regulations* regarding the alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability is not dependent on offering alleviation of previously recorded substandard academic performance. Thus, staff finds that California Code of Regulations, title 5, section 55764, imposes the following state-mandated activity:

> Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764.)

(i) Summary of state-mandated activities

In summary, staff finds that California Code of Regulations, title 5, subchapter 9, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764, impose the following state-mandated activities:

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[192] (Cal. Code Regs., tit. 5, § 55750.)

[192] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross

2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750.)
3. File a copy of the community college district's regulations regarding standards of scholarship, and any amendments of the regulations, with the Chancellor. (Cal. Code Regs., tit. 5, § 55750.)
4. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751.)
5. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b).)
6. Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a).)
7. Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal. Code Regs., tit. 5, § 55754, subd. (a).)
8. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a).)
9. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c).)
10. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a).)
11. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c).)
12. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)
13. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d).)
14. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the

---

Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b).)

15. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e).)
16. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g).)
17. Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757.)
18. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a).)
19. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d).)
20. Make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter which it will take effect, but no later than the start of the fall semester or quarter. (Cal. Code Regs., tit. 5, § 55759.)
21. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759.)
22. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759.)
23. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs., tit. 5, § 55759.)
24. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a).)
25. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a).)
26. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b), and 55761.)

27. Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764.)

b. California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 constitute a new program or higher level of service

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[193] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[194] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[195]

As discussed and summarized above, the activities required by sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 include, but are not limited to, activities related to the grading practices, academic probation and dismissal, and remedial coursework. The activities required by these sections carry out the governmental function of providing education. As the court held in *Long Beach Unified School Dist*., a case involving a kindergarten through 12th grade (K-12) school district, "although numerous private schools exist, education in our society is considered to be a peculiarly governmental function."[196] Despite the distinct differences between postsecondary education and K-12 education, namely that postsecondary education is not compulsory or a fundamental right,[197] education remains a peculiarly governmental function. The Legislature has acknowledged postsecondary education as a governmental function of providing service to the public with the enactment of the Donahoe Higher Education Act. The Donahoe Higher Education Act sets forth the system of postsecondary education including community colleges, state colleges, and the University of California. Education Code section 66002, which sets forth the legislative findings of the Donahoe Higher Education Act, provides:

> California must support an educational system which prepares all Californians for responsible citizenship and meaningful careers in a multicultural society; this requires a commitment from all to make quality education available and affordable for every Californian.[198]

The legislative findings indicate the need for state government to support a higher educational system for a public purpose. Thus, education, whether provided in K-12 or community college districts, provides a service to the public and therefore is a peculiarly governmental function. As a result, the activities mandated by sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 carry out a governmental function and

---

[193] *County of Los Angeles, supra*, 43 Cal.3d 46, 56.

[194] *San Diego Unified School Dist*., *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[195] *Ibid*.

[196] *Long Beach Unified School Dist. v. State of California*, *supra*, 225 Cal.App.3d at 172.

[197] *Gurfinkel v. Los Angeles Community College Dist.* (1981) 121 Cal.App.3d 1, 5-7.

[198] Education Code section 66002, subdivision (e)(3).

constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The following discussion will address whether these sections constitute new programs or higher levels of service by looking at the legal requirements in effect immediately prior to the enactment of the sections.

Remedial Coursework Limit (Cal. Code Regs., tit. 5, § 55756.5)

Section 55756.5 mandates community college districts to engage in the following activities:

1. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test scores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b) (Register 91, No. 23).)
2. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e) (Register 91, No. 23).)
3. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g) (Register 91, No. 23).)

The claimants have pled section 55756.5 of title 5 of the California Code of Regulations, as added in 1990.[199] Prior to the adoption of section 55756.5, community colleges were not required to engage in the activities required by section 55756.5, and as a result, the activities are new as compared to pre-existing legal requirements. As a result, staff finds that the above activities mandated by section 55756.5 of title 5 of the California Code of Regulations constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution. In 2007, section 55756.5 was renumbered to California Code of Regulations, title 5, section 55035; however, the state-mandated "new program or higher level of service" found above continued after the 2007 amendment.[200]

Standards of Scholarship (Cal. Code Regs., tit. 5, § 55750, 55751, 55753, 55754, 55755, 55756, 55757, 55758, 55759, 55760, 55761, and 55764)

The claimants have pled sections 55750, 55751, 55754, 55755, 55756, 55757, 55759, 55760, 55761, and 55764 of title 5 of the California Code of Regulations, as added in 1983 and last

---

[199] Exhibit B, Test Claim 02-TC-31, p. 16 – 17. This date coincides with Register 91, number 23.

[200] California Code of Regulations, title 5, section 55035 (Register 2007, No. 35 (Aug. 16, 2007).)

amended in 1991.[201] In addition, the claimants have pled title 5, section 55753, as added in 1983 and last amended in 2002, and title 5, section 55758, as added in 1983 and last amended in 2001.[202] The activities mandated by these title 5 sections are derived from former title 5 regulations existing prior to 1983.[203] However, the former title 5 sections were all part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[204]

Thus, the former title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not impose state-mandated activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the former title 5 regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. As a result, immediately prior to the adoption of title 5, sections 55750, 55751, 55754, 55755, 55756, 55757, 55759, 55760, 55761, and 55764, community college districts were not required to engage in the activities mandated by the sections, and therefore, these sections constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution. In 2007, the title 5 regulations pled in this section of the test claim analysis were repealed and renumbered to title 5, section 55020 et seq.; however, the

---

[201] Exhibit B, Test Claim 02-TC-31, p. 13, 15-19. These dates coincide with Register 83, number 29; and Register 91, number 23.

[202] Exhibit B, Test Claim 02-TC-31, p. 14 and 17. These dates coincide with Register 83, number 29; Register 2000, number 50 (operative Jan. 1, 2001); and Register 2002, number 8;

[203] Title 5, section 55750, addressing the adoption of regulations, was derived from former title 5, section 51300, added in 1971 by Register 71, number 27. Title 5, section 55751, addressing grading practices, was derived from former title 5, section 51301, as amended in 1977 by Register 77, number 45. Title 5, section 55753, addressing credit by examination, was derived from former title 5, section 51302.5, as amended in 1980 by Register 80, number 11. Title 5, section 55754, addressing standards for probation, was derived from former title 5, section 51303, as added in 1971 by Register 71, number 27. Title 5, section 55755, addressing removal from probation, was derived from former title 5, section 51303.5, as added in 1980 by Register 80, number 19. Title 5, section 55756, addressing standards for dismissal, was derived from former title 5, section 51304, as added in 1971 by Register 71, number 27. Title 5, section 55757, addressing units attempted, was derived from former title 5, section 51305, as added in 1971 by Register 71, number 27. Title 5, section 55758, addressing academic record symbols and grade point average, was derived from former title 5, section 51306, as added in 1971 by Register 71, number 27. Title 5, section 55759, addressing notification of probation and dismissal, was derived from former title 5, sections 51503 and 51507, as 1970 and 1971 by Registers 70 and 71, numbers 16 and 27. Title 5, sections 55760 and 55761, addressing grade changes and course repetition, were derived from former title 5, sections 51308 and 51315, as amended in 1977 and 1980 by Registers 80 and 77, numbers 11 and 46. Title 5, section 55764, addressing academic renewal without course repetition, was derived from former title 5, section 51318, as amended in 1977 by Register 77, number 18.

[204] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

state-mandated new program or higher level of service found above continued after the 2007 amendment.[205]

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 mandate new programs or higher levels of service subject to article XIII B, section 6 of the California Constitution. Specifically, California Code of Regulations, title 5, sections 55750, 55751, 55753, 55754, 55755, 55756, 55756.5, 55757, 55758, 55759, 55760, 55761, and 55764 mandate the following new program or higher level of service:

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[206] (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
3. File a copy of the community college district's regulations regarding standards of scholarship, and any amendments of the regulations, with the Chancellor. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
4. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (a) (Register 2007, No. 35).)
5. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (c) (Register 2007, No. 35).)
6. Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a) (Register 2002, No. 8); for current requirement see Cal. Code Regs., tit. 5, § 55050, subd. (a) (Register 2007, No. 35).)
7. Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal.

---

[205] Register 2007, number 35, operative August 16, 2007.

[206] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

Code Regs., tit. 5, § 55754, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55031, subd. (a) (Register 2007, No. 35).)

8. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (a) (Register 2007, No. 35).)
9. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (c) (Register 2007, No. 35).)
10. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (a) (Register 2007, No. 35).)
11. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (c) (Register 2007, No. 35).)
12. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23) ending August 16, 2007.)
13. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (d) (Register 2007, No. 35).)
14. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) (Register 2007, No. 35).)
15. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) and (e) (Register 2007, No. 35).)
16. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations,

title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (g) (Register 2007, No. 35).)

17. Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55030, subd. (a) (Register 2007, No. 35).)

18. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (a) (Register 2007, No. 35).)

19. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (d) (Register 2007, No. 35).)

20. Make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter which it will take effect, but no later than the start of the fall semester or quarter. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

21. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

22. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

23. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

24. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (a) (Register 2007, No. 35).)

25. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (d) (Register 2007, No. 35).)

26. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b); and 55761 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55040, subd. (a), and 55042, subd. (a) (Register 2007, No. 35).)

27. Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55046, subd. (a) (Register 2007, No. 35).)

(11) Curriculum (Cal. Code Regs., tit. 5, §§ 55000-55002.5, 55004-55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200-55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320-55322, 55340, and 55350; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001))

The "Curriculum" section of the staff analysis addresses 33 title 5 regulations and the 135-page "Program and Course Approval Handbook" (Handbook) addressing the requirements and procedures for securing approval of courses and programs proposed by community colleges or community college districts. The process for course approval begins with a recommendation for approval by the community college curriculum or district curriculum committee to the district governing board. The recommended course then needs approval by the district governing board, followed by the approval of the Chancellor.

As discussed throughout this analysis, community college districts have broad discretion over the governance of community colleges. This discretion extends to the courses and programs the community colleges offer. However, as provided in statute, the primary mission of community college districts is to provide academic and vocational instruction.[207] In addition, community college districts by definition are degree-granting institutions.[208] Thus, although community college districts maintain discretion in the curriculum the districts' offer, districts at a minimum must offer courses, and as a result, districts must comply with the regulations and procedures necessary to offer courses.

a. California Code of Regulations, title 5, sections 55001, 55002, 55004, 55005, and 55006, and the "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001) impose state-mandated activities.

Definition of Terms and Content of Social Science Courses (Cal. Code Regs., tit. 5, §§ 55000, 55000.5, 55002.5, and 55004)

Title 5, section 55000, defines specified terms as used in the title 5 regulations addressing "Curriculum and Instruction."[209] Title 5, section 55000.5, imposes a requirement on the Chancellor's Office to issue and maintain a handbook containing course approval criteria and

[207] Education Code section 66010.4.

[208] California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25).

[209] California Code of Regulations, title 5, section 55000, defines the terms "course," "educational program," and "class."

procedures for securing course and program approval.[210] Title 5, section 55002.5, defines a "credit hour," and authorizes variances from the definition in the event that a term is more or less than 16 weeks. Title 5, section 55004, describes the content that courses of instruction in social sciences are required to include.

Title 5, sections 55000, 55000.5, and 55002.5, do not impose any activities on community college districts. Rather, these sections define terms and impose activities on the Chancellor's Office. Title 5, section 55004, however, requires community college districts to engage in the following activity:

> Include in social science courses a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States. (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23).)

Recommendation and Approval of Proposed Courses at the Community College/Community College District Level (Cal. Code Regs., tit. 5, §§ 55001, 55002, 55005, and 55006)

Title 5, sections 55001, 55002, 55005, and 55006, address the standards and criteria for receiving district approval for proposed courses, the publication of information regarding the classes offered, and the reporting and record keeping requirements for courses offered.

Title 5, section 55002, sets forth the standards and criteria that proposed courses must meet in order to be recommended and approved as associate degree credit courses, nondegree credit courses, noncredit courses, and community service classes. In addition, section 55002 requires that a college or district curriculum committee be established by the mutual agreement of the college or district administration and the academic senate. Title 5, section 55001, outlines and describes the types of educational programs that community colleges are authorized to provide. Specifically, section 55001 describes the type of courses that fall within the realm of "instructional services" and "community services." In addition, title 5, section 55001, requires community college districts to report the classification of all courses, classes, and activities offered by the district to the Chancellor's Office. Title 5, section 55005, requires community colleges to publish the following course information for students: (1) whether the course is offered as a credit or noncredit course, or a community service class; (2) whether it is transferable to a four-year college or university; (3) whether the course fulfills a major or general education requirement; and (4) whether the course is offered on the basis of credit-no credit. Title 5, section 55006, requires community college districts to keep and submit records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities.

In order to determine if an activity is mandated by the state it is necessary to look at the underlying program to determine if the claimant's participation in the underlying program is voluntary or legally compelled.[211] For many of the activities required by the title 5 regulations at issue here the underlying program is the offering of courses as associate degree credit courses, nondegree credit courses, noncredit courses, and community service classes.

---

[210] The 2001 version of the handbook issued by the Chancellor's Office, titled "Program and Course Approval Handbook," has been pled by the claimants as an executive order imposing state-mandated activities.

[211] *Kern High School Dist., supra,* 30 Cal. 4th at p. 743.

In regard to associate degree credit courses, community colleges are defined by the Board of Governors' regulations as degree-granting institutions, and thus, colleges must offer associate degree credit courses.[212] Regarding nondegree credit courses and noncredit courses, the primary mission of community colleges has been defined to include offering instruction and courses to achieve:

> The provision of remedial instruction for those in need of it and, in conjunction with the school districts, instruction in English as a second language, adult noncredit instruction, and support services which help students succeed at the postsecondary level are reaffirmed and supported as essential and important functions of the community colleges.[213]

Nondegree credit courses are defined by title 5, section 55002, subdivision (b), to include precollegiate basic skills courses, which are courses in reading, writing, computation, and English as a second language.[214] Thus, pursuant to the primary mission of community colleges, community colleges are required to offer nondegree credit courses and noncredit courses. However, in regard to community service classes, Education Code section 66010.4, which sets forth the primary mission of community colleges, provides:

> The provision of community services courses and programs is an authorized function of the community colleges so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions.[215]

Thus, community colleges are authorized, but not required, to offer community service classes. As a result, the activities required by title 5, sections 55001, 55002, 55005, and 55006, constitute state-mandated activities as they apply to associate degree credit courses, nondegree credit courses, and noncredit courses. However, the activities do not constitute state-mandated activities, to the extent that the required activities apply to community service classes.

Pursuant to the above discussion, staff finds that title 5, sections 55001, 55002, 55005, and 55006, impose the following state-mandated activities:

1. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:
    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38).)

---

[212] Former California Code of Regulations, title 5, section 55827 (Register 83, No. 29); current California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25)

[213] Education Code section 66010.4, subdivision (a)(2)(A).

[214] California Code of Regulations, title 5, section 55002, subdivision (b), cites to title 5, section 55502, subdivision (d), which defines "precollegiate basic skills courses" as "courses in reading, writing, computation, and English as a Second Language which are designated by community college district as nondegree credit courses pursuant to section 55002, subdivision (b).

[215] Education Code section 66010.4, subdivision (a)(2)(C).

b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38).)

c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38).)

d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38).)

2. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)

3. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)

4. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)

5. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:

   a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the academic record symbols and associated grade points to be used by community colleges.

      The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

   b. Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

      The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

6. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

   a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

   b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

   c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

7. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

   For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

   For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42).)

8. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)

9. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23))
10. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, § 55006 (Register 91, No. 23).)

Approval of Courses and Programs by the Chancellor (Cal. Code Regs., tit. 5, §§ 55100, 55130, 55150, 55160, 55170, and 55182; and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001))

Title 5, sections 55100, 55130, 55160, 55170, and 55182, and the Program and Course Approval Handbook (Handbook), address the approval requirements for credit courses and programs, noncredit courses and programs, and community service classes.

Sections 55100, 55130, and 55150, requires each course or program to be offered by a community college to be approved by the Chancellor before the course is offered by the college, and specifies that approval is sought by submitting the course on forms provided by the Chancellor's Office to the Chancellor. Section 55100 also requires community college districts to establish policies for local approval of individual courses offered as part of a program previously approved by the Chancellor. In addition, section 55130 sets forth the information to be included on the forms requesting approval of credit programs, and provides that the development, establishment, and evaluation of an education program shall include representative faculty involvement. Pursuant to section 55130, districts are to include specified information including, but not limited to: (1) an explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning; (2) the need for the proposed program; and (3) the need for and present adequacy of college/district resources.[216]

Section 55160 provides that community college districts are authorized to approve and conduct community services classes without the approval of the Chancellor and requires that such classes be reported to the Chancellor in accordance with title 5, section 55001, which identifies the types of community service classes and specifies what information must be reported to the Chancellor. However, as discussed above, community college districts are not required to offer community service classes. Thus, pursuant to *Kern High School Dist.*, community college districts are not mandated by the state to engage in any activity required by title 5, section 55160.

Section 55170 addresses the approval of contract classes. Contract education refers to situations in which a community college district contracts with a public or private entity for the purposes of providing instruction or services or both by the community college.[217] Section 55170, however, provides that districts must seek approval of contract classes if the district claims state support for the class. In addition, community college districts are authorized, but not required, to establish contract education programs. Thus, the underlying decisions of a community college district to establish contract education programs, and subsequently seek state support for the classes in the program, which triggers the approval requirement found in section 55170, are

---

[216] California Code of Regulations, title 5, section 55130, subdivisions (b)(5)-(7) (Register 91, No. 23).

[217] Education Code section 78020, subdivision (a).

discretionary. As a result, title 5 section 55170 does not impose any state-mandated activities on community college districts.

Section 55182 authorizes community college districts to reinstate courses which were deleted from the credit or noncredit curriculum during the 1982-83 fiscal year in response to a reduction in funding to community colleges in the Budget Act of 1982. Section 55182 conditions reinstatement of classes terminated in the 1982-83 fiscal year on community colleges following specified criteria and procedures set forth in section 55182. However, because community college districts are authorized, and not required, to reinstate courses deleted in the 1982-83 fiscal year, districts are not mandated by the state to comply with any requirements of section 55182.

The Handbook provides explanations of the content of the forms referred to in title 5, sections 55100, 55130, and 55150. In addition, the appendix of the Handbook contains the forms that are to be submitted when requesting approval of proposed courses and programs. Although staff has found that the Handbook constitutes an executive order within the jurisdiction of the Commission, it is necessary to determine which parts of the Handbook impose mandated activities on community college districts. Of the 135 pages of the Handbook, the claimants have alleged mandated activities from pages 16-18, 24-25, and A-1 through A-54 of Appendix A of the Handbook.[218]

Pages 16-18 of the Handbook discuss the five criteria, derived from statute and the title 5 regulations, used by the Chancellor's Office to approve programs and courses, specifically: (1) appropriateness to mission; (2) need; (3) quality; (4) feasibility; and (5) compliance. However, these criteria are essentially reiterations and explanations of the requirements contained in title 5, sections 55002, 55100-55150, and 55805.5.[219] As a result, the criteria listed on pages 16-18 do not mandate any activities on community college districts. Instead the criteria provide clarification and guidelines on the content of the requirements of the regulations pled by the claimants.

Pages 24-25 of the Handbook discuss blanket approval of stand-alone courses, which exempts community college districts from seeking approval to offer a course from the Chancellor. The process laid out on pages 24-25 of the Handbook do not require community college districts to engage in any activity; rather it authorizes districts to offer courses without engaging in the approval process normally required of proposed courses. Thus, pages 24-25 of the Handbook do not impose any state-mandated activities on community college districts.

Pages A-1 through A-54 contain the course and program approval forms that community colleges and community college districts must submit to the Chancellor, pursuant to title 5, sections 55100, 55130, and 55150, an explanation of the information requested in the form, and a description of the documentation required to be submitted with the form showing the proposed course or program meets criteria of appropriateness to mission, need, quality, feasibility, and compliance. The following forms are contained in pages A-1 through A-44 of the appendix of the Handbook: (1) Application for Approval-New Occupational Program (pages A-1 through A-20); (2) Application for Approval-New Transfer Program (pages A-21 through A-35); (3)

---

[218] Exhibit B, Test Claim 02-TC-31, pgs. 292-296.

[219] California Code of Regulations, title 5, section 55002, 55100-55150, which generally address the approval requirements for credit courses and programs, noncredit courses and programs, are discussed above within this section. Title 5, section 55805.5, which addresses the types of courses appropriate for an associate degree, is discussed below in the "Degrees and Certificates" section of the staff analysis.

Request to Add New Option or Certificate Within Existing Program to Inventory (pages A-36 through A-42); (4) Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program) (pages A-43 through A-46); and (5) Application for Approval-New or Revised Apprenticeship Program (pages A-47 through A-54).

The "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms are used to seek approval of new academic, vocational, and transfer programs. As noted above and further discussed in the "Degrees and Certificates" section of the staff analysis, community college districts are degree-granting institutions which are required to offer academic and vocational instruction. In addition, as discussed in the "Transfer Centers" section of the staff analysis, transferring from community colleges through the University of California and California State University is a central institutional priority, and community college districts are required to have a core transfer curriculum. In order to offer degree programs, vocational programs, or transfer programs, community college districts are mandated to submit the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program," and provide documentation showing that the course or program meets the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix.

However, as discussed in the "Degrees and Certificates" section of the staff analysis, districts are not required to offer certificates. Also, there is no evidence in the record that community college districts are required to add a new option, emphasis, or specialization to an existing degree program. As a result, community college districts are not mandated to submit the "Request to Add New Option or Certificate Within Existing Program to Inventory" or to provide the documentation stated on pages A-36 through A-42 of the appendix. Similarly, community college districts are not required to establish contract education programs. The "Application for Approval-New or Revised Apprenticeship Program" is the form used to request approval for contract education programs, and as a result, the submission of this form and the documentation stated on pages A-47 through A-54 of the appendix is not mandated by the state.

The "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)" form is used by community colleges that desire to have non-substantial changes to approved programs reflected immediately in the Inventory of Approved and Projected Programs maintained and updated by the Chancellor's Office. However, the Chancellor's Office conducts periodic college program inventory updates, which gives colleges the opportunity to update such information for all their programs at once. As a result, the use of this form is triggered by a college's discretionary decision to have non-substantial changes to approved programs reflected immediately in the Inventory of Approved and Projected Programs, which is not required. Thus, community colleges and districts are not mandated to submit the "Non-Substantial Changes to Approved Program (or Reactivation of Inactive Program)" found at pages A-43 through A-46 of the appendix.

Pursuant to the above discussion, staff finds that title 5, sections 55100, 55130, and 55150, and the Handbook require community college districts to engage in the following state-mandated activities:

1. Seek approval of proposed courses and programs on forms provided by the Chancellor's Office. Specifically, the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms, which require the provision of the documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix of the "Program and Course Approval Handbook" (2001). (Cal. Code Regs., tit. 5, §§ 55100, subd. (a); 55130, subd. (a); and

55150, subd. (a) (Register 91, No. 23); and "Program and Course Approval Handbook" (2001) pages A-1 through A-35.)

2. Include in the application for program approval the following information:
    a. The name of the proposed program
    b. The description of the proposed program
    c. The purposes and specific objectives of the proposed program
    d. The place of the proposed program in the district master plan
    e. An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning
    f. The need for the proposed program based on the following factors: (a) other community colleges in the area currently offering the proposed program, (b) other programs closely related to the proposed program offered by the college, (c) the relation of the proposed program to job market analysis, (d) enrollment projection for the proposed program, (e) recommendations of area vocational master plan committees when applicable, and (f) the classification of the courses in the program in accordance with California Code of Regulations, title 5, section 55001 (Register 94, No. 38)
    g. The need for and present adequacy of the following resources in relation to the proposed program: (a) library and media center resources, (b) facilities and equipment required to initiate and sustain the program, (c) availability of adequate or proposed financial support, and (d) availability of faculty. (Cal. Code Regs., tit. 5, § 55130, subdivision (b) (Register 91, No. 23).)
3. Establish policies for approval of individual courses offered as part of a program that has already been approved by the Chancellor. (Cal. Code Regs., tit. 5, § 55100, subd. (b) (Register 91, No. 23).)
4. Include representative faculty involvement in the development, establishment, and evaluation of an education program. (Cal. Code Regs., tit. 5, § 55130, subd. (c) (Register 91, No. 23).)
5. Keep on file at the community college offering the course the course outlines for all noncredit courses offered. (Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)
6. Keep such current records and reports as may be required by the Chancellor. (Cal. Code Regs., tit. 5, § 55150, subd. (c) (Register 91, No. 23).)

<u>Prerequisites, Corequisites, and Advisories on Recommended Preparation (Cal. Code Regs., tit. 5, §§ 55200, 55201, and 55202)</u>

The regulations discussed in this section address the authority to establish prerequisites, corequisites, and advisories on recommended preparation courses, the requirements associated with establishment of these courses, and the limitation on a district's authority to establish these courses. Prerequisites and corequisites are conditions that must be met to enroll in another

course or educational program.[220] Advisories on recommended preparation are suggested courses to be taken in conjunction with or before enrolling in a course or educational program.[221]

Title 5, section 55201, provides "[n]othing in this subchapter [addressing programs, courses and classes (Cal. Code Regs., tit. 5, §§55000-55202)] shall be construed to require a district to establish prerequisites, corequisites, or advisories on recommended preparation," except when the course is offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to title 5, section 55002, subdivisions (a)(2)(D) or (a)(2)(E).[222] Subdivisions (a)(2)(D) and (a)(2)(E) require the establishment of prerequisites or corequisites for an associate degree credit course whenever: (1) the college or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (2) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English or mathematics. Thus, any activities required by the title 5 regulations pled by the claimants (particularly sections 55201 and 55202) regarding the establishment of prerequisites or corequisites are only mandated by the state when applicable to prerequisites and corequisites established for the above purposes. Also, any activities required by these sections in regard to the establishment of advisories on recommended preparation are not mandated by the state, because community college districts are authorized but not required to establish advisories on recommended preparation.

Title 5, section 55201, also contains a provision referencing a title 5 regulation (Cal. Code Regs., tit. 5, § 55510) that implements the Seymour-Campbell Matriculation Act of 1986 (Ed. Code §§ 78210-78218). Specifically, section 55201, subdivision (h), requires "[d]istrict [prerequisite and corequisite policies] adopted pursuant to this section … be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510." However, as discussed in the "Matriculation" section of this analysis, the Seymour-Campbell Matriculation Act and its implementing regulations do not impose any state-mandated activities on community college districts. As a result, the requirement of subdivision (h) of section 55201 does not impose activities on community college districts.

Staff finds that title 5, sections 55201 and 55202, impose the following state-mandated activities on community college districts:

1. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate degree credit course as required by California Code of Regulations, title 5, section 55002, subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

    a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type

---

[220] California Code of Regulations, title 5, section 55200, subdivisions (a) and (b) (Register 93, No. 42).

[221] California Code of Regulations, title 5, section 55200, subdivision (c) (Register 93, No. 42).

[222] California Code of Regulations, title 5, section 55201, subdivision (a) (Register 98, No. 7).

of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7).)

b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7).)

c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(3) (Register 98, No. 7).)

d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7).)

2. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

This data gathering requirement does not apply when:

a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a

disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7).)

3. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7).)
4. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42).)
5. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42).)
6. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42).)
7. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)
8. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)
9. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42).)

Distance Education and Independent Study (Cal. Code Regs., tit. 5, §§ 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, and 55350)

Distance education is instruction in which the instructor and the student are separated by distance and interact through the assistance of communication technology.[223] Independent study is a mode of instruction in which students are not required to be under the immediate supervision and control of a qualified academic employee.[224] The title 5 regulations pled in this section address the requirements associated with offering courses and programs designed and conducted as distance education and independent study. The requirements address issues including, but not

[223] California Code of Regulations, title 5, section 55205 (Register 2002, No. 26).

[224] California Code of Regulations, title 5, section 55302, subd. (d), (Register 79, No 46); see also, Exhibit _, Test Claim 02-TC-31, "Program and Course Approval Handbook" (2002), p. 47.

limited to, the following: (1) instructor contact or availability; (2) maintenance and reporting of information regarding distance education and independent study courses and programs to the Chancellor; (3) accepting courses toward the completion of a degree; (4) course quality and criteria; and (5) the establishment of procedures to evaluate student progress in independent study courses or programs.

Under *Kern High School Dist*., when analyzing state mandate claims it is necessary for the Commission to look at the underlying program to determine if a claimant's participation in the underlying program is voluntary or legally compelled.[225] Here, community college districts are authorized under the "permissive code" to offer distance education and independent study, however, districts are not required to offer instruction using distance education or independent study.[226] Thus, any activities required by title 5 regulations pled in this section of the staff analysis are downstream activities triggered by a community college district's decision to offer distance education or independent study. As a result, staff finds that title 5, sections 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, and 55350, do not impose state-mandated activities.

(i) Summary of state-mandate activities

Because the regulations pled in this section of the analysis are interrelated, some of the activities mandated by one title 5 regulation section are also required in a different title 5 regulation, as a result, where appropriate duplicate activities will be combined. California Code of Regulations, title 5, sections 55001, 55002, 55004, 55005, 55006, 55100, 55130, 55150, 55201, and 55202; and "Program and Course Approval Handbook" (2001) pages A-1 through A-44, impose the following state-mandated activities:

1. Include in social science courses a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States. (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23).)
2. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:
    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38).)
    b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38).)
    c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38).)

---

[225] *Kern High School Dist.*, *supra*, 30 Cal.4th at p. 743.

[226] Former Education Code section 78310 (Stats. 1981, ch. 470) specifically authorized districts to offer independent study courses. Currently, however, specific authorization for independent study or distance education is not required under the "permissive code."

d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38).)

3. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)

4. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)

5. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)

6. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:

    a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the academic record symbols and associated grade points to be used by community colleges.

        The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

    b. (2) Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

        The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

    c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments

will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

7. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

    a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

    b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

    c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

8. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

    For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

    For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42); and Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)

9. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)

10. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year

colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23))

11. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)

12. Seek approval of proposed courses and programs on forms provided by the Chancellor's Office. Specifically, the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms, which require the provision of the documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix of the "Program and Course Approval Handbook" (2001). (Cal. Code Regs., tit. 5, §§ 55100, subd. (a); 55130, subd. (a); and 55150, subd. (a) (Register 91, No. 23); and "Program and Course Approval Handbook" (2001) pages A-1 through A-35.)

13. Include in the application for program approval the following information:

    a. The name of the proposed program

    b. The description of the proposed program

    c. The purposes and specific objectives of the proposed program

    d. The place of the proposed program in the district master plan

    e. An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning

    f. The need for the proposed program based on the following factors: (a) other community colleges in the area currently offering the proposed program, (b) other programs closely related to the proposed program offered by the college, (c) the relation of the proposed program to job market analysis, (d) enrollment projection for the proposed program, (e) recommendations of area vocational master plan committees when applicable, and (f) the classification of the courses in the program in accordance with California Code of Regulations, title 5, section 55001 (Register 94, No. 38)

    g. The need for and present adequacy of the following resources in relation to the proposed program: (a) library and media center resources, (b) facilities and equipment required to initiate and sustain the program, (c) availability of adequate or proposed financial support, and (d) availability of faculty. (Cal. Code Regs., tit. 5, § 55130, subd. (b) (Register 91, No. 23).)

14. Establish policies for approval of individual courses offered as part of a program that has already been approved by the Chancellor. (Cal. Code Regs., tit. 5, § 55100, subd. (b) (Register 91, No. 23).)

15. Include representative faculty involvement in the development, establishment, and evaluation of an education program. (Cal. Code Regs., tit. 5, § 55130, subd. (c) (Register 91, No. 23).)

16. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate

degree credit course as required by California Code of Regulations, title 5, section 55002, subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7).)

b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7).)

c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(3) (Register 98, No. 7).)

d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

    i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

    ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

    iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

    iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

    v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7).)

17. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

    This data gathering requirement does not apply when:

    a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7).)

18. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7).)

19. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42).)

20. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42).)

21. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42).)

22. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)

23. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42).)

24. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42).)

b. Parts of California Code of Regulations, title 5, sections 55001, 55002, 55005, 55006, 55150, 55201, and 55202, constitute a new program or higher level of service.

The activities mandated by title 5, sections 55001, 55002, 55004, 55005, 55006, 55100, 55130, 55150, 55201, and 55202; and "Program and Course Approval Handbook" (2001) pages A-1 through A-44, carry out the governmental function of education, and as a result, the activities mandated by these title 5 regulations and the Handbook constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

Although the activities mandated by the title 5 regulations constitute a "program" it is necessary to determine if the mandates are new in comparison with the pre-existing scheme and provide an enhanced service to the public. To make this determination, the mandates must be compared with the legal requirements in effect immediately prior to their enactment.[227]

Content of Social Science Courses (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23))

The claimants have pled title 5, section 55004, as added in 1991.[228] As added in 1991, section 55004 mandates community college districts to engage in the following activity:

> Include in social science courses a study of the role, participation, and contribution of both men and women, black Americans, American Indians, Mexicans, Asians, Pacific Island people, and other ethnic groups to the economic, political, and social development of California and the United States. (Cal. Code Regs., tit. 5, § 55004 (Register 91, No. 23).)

However, immediately prior to adoption of title 5, section 55004, in 1991, former Education Code section 78202, required the same activity. Although former Education Code section 78202 was repealed in 1990, the Legislature directed the Board of Governors to incorporate the text of former Education Code section 78202 into its regulations and until such incorporation occurs, former Education Code section 78202 shall remain operative.[229] In addition, the Legislature states specifically that there "be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained" in former Education Code section 78202.[230] Thus, the mandated activity imposed by title 5, section 55004, does not constitute a new program or higher level of service.[231]

---

[227] *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

[228] The date coincides with Register 91, number 23.

[229] Statutes 1990, chapter 1372, section 708.

[230] *Ibid.*

[231] Staff notes that the activity mandated by title 5, section 55004, traces back to former Education Code section 25516.3, as added in Statutes 1971, chapter 1245.

Recommendation and Approval of Proposed Courses (Cal. Code Regs., tit. 5, §§ 55001, 55002, 55005, 55006, 55100, 55130, and 55150 (Register 81, No. 52; Register 88, No. 42; Register 91, No. 23; Register 93, No. 42; and Register 94, No. 38); and "Program and Course Approval Handbook," Chancellor's Office California Community Colleges (September 2001) pages A-1 through A-35)

The claimants have pled title 5, section 55001, as added in 1981 and last amended in 1994.[232] In addition, title 5, section 55002, was pled as added in 1988 and last amended in 1993.[233] Section 55001 mandates activities involving the identification, classification, and description of courses offered by community college districts, and transmitting such information to the Chancellor's Office. Section 55002 mandates activities involving the development and approval of proposed associate degree credit courses, nondegree credit courses, and noncredit courses. These activities include establishing a district or college curriculum committee, and maintaining a course outline of record for proposed courses. The activities mandated by title 5, sections 55001 and 55002, were not mandated prior to 1981 and 1988, respectively. As a result, the activities mandated by title 5, sections 55001 and 55002, constitute a new program or higher level of service. On April 14, 2006, title 5, section 55001 was repealed, and as a result, the state-mandated activities required by this section ends on that date.[234]

Title 5, section 55005, requires the publication of specific information for students regarding the courses offered. This information includes whether the course is offered as a credit or noncredit course, the course is transferable to four-year colleges and universities, and whether the course fulfills a major or general education requirement. The claimants have pled title 5, section 55005, as added in 1981 and last amended in 1991.[235] The activities mandated by title 5, section 55005, are derived from former title 5, sections 51102 and 51103, as added in 1971 by Register 71, number 27. However, former title 5, sections 51102 and 51103, are part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[236]

Thus, the former title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not impose state-mandated activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the former title 5 regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. As a result, immediately prior to the adoption of title 5, section 55005, community college districts were not required to engage in the activities mandated by the section, and therefore, the activities mandated by title 5, section 55005, constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution.

---

[232] The dates coincide with Register 81, number 52; and Register 94, number 38.

[233] The dates coincide with Register 88, number 42; and Register 93, number 42.

[234] Register 2006, number 17, operative April 14, 2006.

[235] The dates coincide with Register 81, number 52; and Register 91, number 23.

[236] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

Title 5, sections 55006 and 55150, subdivision (c), requires community college districts to engage in the following activity:

> Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)

The claimants have pled title 5, sections 55006 and 55150, as added in 1981 and last amended in 1991.[237] Immediately prior to the adoption of title 5, sections 55006 and 55150, in 1981 community college districts were not required to engage in the above-stated activity. As a result, the activity mandated by title5, sections 55006 and 55150, subdivision (c), constitute a new program or higher level of service.

Title 5, sections 55100, subdivision (a); 55130, subdivision (a); and 55150, subdivision (a); and the "Program and Course Approval Handbook" (Handbook) pages A-1 through A-35 (consisting of the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms), require community college districts to engage in the following activity:

> Seek approval of proposed courses and programs on forms provided by the Chancellor's Office. Specifically, the "Application for Approval-New Occupational Programs" and the "Application for Approval-New Transfer Program" forms, which require the provision of the documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance as stated on pages A-1 through A-35 of the appendix of the "Program and Course Approval Handbook" (2001). (Cal. Code Regs., tit. 5, §§ 55100, subd. (a); 55130, subd. (a); and 55150, subd. (a) (Register 91, No. 23); and "Program and Course Approval Handbook" (2001) pages A-1 through A-35.)

The claimants have pled title 5, sections 55100, 55130, and 55150, as added in 1981 and last amended in 1991.[238] In addition, the claimants have pled the "Program and Course Approval Handbook" (Handbook) as issued in 2001. However, since 1971 community college districts have been required to seek approval of proposed courses and programs on forms provided by the Chancellor's Office.[239] In addition, immediately prior to 2001 the Chancellor's Office provided the form for program and course approval in the appendix of the "Curriculum Standards Handbook" issued in 1995, which required community colleges and community college districts to provide documentation showing that the proposed courses and programs meet the criteria of appropriateness to mission, need, quality, feasibility, and compliance.[240] As a result, the above activity mandated by Title 5, sections 55100, subdivision (a); 55130, subdivision (a); and 55150, subdivision (a); and the "Program and Course Approval Handbook" (Handbook) pages A-1 through A-35 (consisting of the "Application for Approval-New Occupational Programs" and the

---

[237] The dates coincide with Register 81, number 52; and Register 91, number 23.

[238] The dates coincide with Register 81, number 52; and Register 91, number 23.

[239] California Code of Regulations, title 5, section 55100 (Register 71, No. 9 (Feb. 27, 1998).) Former California Code of Regulations, title 5, sections 55131 and 55135 (Register 71, No. 9 (Feb. 27, 1998).)

[240] "The Curriculum Standards Handbook for the California Community College" (1995) Chancellor's Office.

"Application for Approval-New Transfer Program" forms), does not constitute a new program or higher level of service.

Title 5, section 55130, subdivision (b), requires community colleges or districts to include specific information in the application for program approval, including the name, description, purpose, specific objectives, need, and adequacy of facilities. The claimants have pled title 5, section 55130, as added in 1981 and last amended in 1991. However, since 1971 community college districts were required to include this information in their application for program approval to the Chancellor.[241] As a result, including the information specified by title 5, section 55130, subdivision (b), in the application seeking program approval does not constitute a new program or higher level of service.

Similarly, since 1971 community college districts have been required to engage in the activities mandated by title 5, sections 55100, subdivision (b); and 55130, subdivision (c).[242] These sections require districts to establish policies for approval of individual courses offered as part of a program that has already been approved by the Chancellor, and the inclusion of representative faculty involvement in the development, establishment, and evaluation of an education program. As a result, the activities mandated by title 5, sections 55100, subdivision (b); and 55130, subdivision (c), do not constitute a new program or higher level of service.

Prerequisites and Corequisites (Cal. Code Regs., tit. 5, §§ 55201 and 55202 (Register 93, No. 42; and Register 98, No. 7)

Title 5, sections 55201 and 55202, mandate activities associated with the establishment of prerequisites and corequisites for associate degree programs. The claimants have pled title 5, sections 55201 and 55202, as added in 1993, and section 55201 as last amended in 1998.[243] Immediately prior to 1993, community college districts were not required to engage in the activities mandated by title 5, sections 55201 and 55202, and as a result, the activities mandated by title 5, sections 55201 and 55202, constitute a new program or higher level of service.

In 2007, sections 55201 and 55202 were combined and renumbered to title 5, section 55003, without any substantive changes to the new program or higher level of service found above.[244]

---

[241] Former California Code of Regulations, title 5, sections 55135, 55136, 55140-55143 (Register 71, No. 9 (Feb. 27, 1971).)

[242] Former California Code of Regulations, title 5, sections 55132 and 55144 (Register 71, No. 9 (Feb. 27, 1971).)

[243] The dates coincide with Register 93, number 42; and Register 98, number 7. Staff notes that the claimants have pled title 5, section 55201, as added in 1983. However, in 1983 title 5, section 55201, did not exist, instead it was added in 1993. From the claimants' narrative, it is clear that the claimants intended to plead title 5, section 55201, as added in 1993. Thus, staff will treat section 55201 as pled as added in 1993.

[244] California Code of Regulations, title 5, section 55003 (Register 2007, No. 35 (Aug. 16, 2007).)

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that the following state-mandated activities constitute a new program or higher level of service subject to article XII B, section 6 of the California Constitution:

1. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:
    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38) ending April 14, 2006.)
    b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38) ending April 14, 2006.)
    c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38) ending April 14, 2006.)
    d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38) ending April 14, 2006.)
2. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)
3. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)
4. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)
5. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:
    a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the academic record symbols and associated grade points to be used by community colleges.

The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

b. Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

   The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

6. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

   a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

   b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

   c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

7. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42); and Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)

8. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)

9. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23).)

10. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)

11. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate degree credit course as required by California Code of Regulations, title 5, section 55002, subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

    a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(1) (Register 2007, No. 35).)

    b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) (Register 2007, No. 35).)

    c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201,

subd. (b)(3) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(3) (Register 2007, No. 35).)

d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

   i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

   ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

   iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

   iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

   v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) and (m)(1)-(5) (Register 2007, No. 35).)

12. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

    This data gathering requirement does not apply when:

    a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

    b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

       i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

       ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (e) (Register 2007, No. 35).)

13. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (n) (Register 2007, No. 35).)

14. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (f) (Register 2007, No. 35).)

15. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (h) (Register 2007, No. 35).)

16. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (i) (Register 2007, No. 35).)

17. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)

18. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)

19. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (l) (Register 2007, No. 35).)

(12) Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809)

This section addresses regulations pertaining to the award of degrees, certificates, and diplomas by community college districts upon the completion of standards specified by the Board of Governors and the governing board of the community college district.

Prior to analyzing title 5, sections 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, and 55809, it is necessary to review the authority, missions, and functions of California Community Colleges. As noted above, since 1976 community college districts have been given broad authority in the governance of community colleges. This authority known as the "permissive code" allows community college districts to initiate and carry on any program, activity, or to otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts

are established.[245] Although local districts have been granted broad authority to govern community colleges, the Legislature has maintained general supervision of the governance of community colleges.[246] As part of this supervision the Legislature has defined the missions and functions of community colleges in Education Code section 66010.4, which provides in relevant part:

> The California Community Colleges shall, as a primary mission, offer academic and vocational instruction at the lower division level for both younger and older students, including those persons returning to school. Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree.[247]

Taking this grant of authority to offer associate degrees further, the Board of Governors defined "'college' [to mean] a degree-granting institution intended to provide instruction through the fourteenth grade."[248] Thus, although the Education Code authorizes, but does not require, community college districts to grant associate degrees, as defined by the Board of Governors' regulations community colleges are required to grant degrees.[249]

a. California Code of Regulations, title 5, sections 55800, 55800.5, 55805, 55805.5, 55806, 55808, and 55809 impose state-mandated activities[250]

Policy Regarding Degrees and Certificates (Cal. Code Regs., tit. 5, § 55800):

Section 55800 addresses the adoption of policy regarding the degrees and certificates awarded by the community college district. Section 55800 provides:

---

[245] Former Education Code section 72233, as added by Statutes 1976, chapter 1010. See also, *Barnhart v. Cabrillo Community College*, *supra*, 76 Cal.App.4th 818, 824-825.

[246] *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1579. See footnote 5, providing:

> While the Legislature has chosen to encourage local responsibility for control of public education through local school districts, that is a matter of legislative choice rather than constitutional compulsion and the authority that the Legislature has given to local districts remains subject to the ultimate and nondelegable responsibility of the Legislature.

[247] Education Code section 66010.4, subdivision (a)(1), as amended by Statutes 1996, chapter 1057; and derived from former Education Code Section 22651, as added by Statutes 1960, chapter 49, 1st extraordinary session.

[248] Former California Code of Regulations, title 5, section 51802 (Register 75, no.26); renumbered to former California Code of Regulations, title 5, section 55827 (Register 83, No. 29); current California Code of Regulations, title 5, section 55180, subdivision (a) (Register 2008, No. 25).

[249] In 2010, the Legislature added Education Code 66746 (Stats. 2010, ch. 428 (S.B. 1440)), which conditions receipt of state apportionment funding upon the development and granting of associate degrees for transfer to the California State University.

[250] Exhibit B, Test Claim 02-TC-31, p. 24. The claimants have pled the title 5 regulations in the "Degrees and Certificates" section of the test claim analysis as last amended in 1991, which coincides with Register 91, number 23. As a result, the language analyzed in this section will address the Register 91, number 23, version of the regulations.

> The governing board of community college districts shall adopt policy consistent with the provisions of this [subchapter].[251] The policy shall be published in the college catalog under appropriate headings, and filed with the Chancellor's Office as required by section 51004 of this [division].[252]

The plain language of section 55800 requires community college districts to adopt policy consistent with the subchapter on "Degrees and Certificates" (Cal. Code Regs., tit. 5, §§ 55800-55810). In addition, the policy is required to be published in the college catalog under appropriate headings. The language of section 55800 also provides that the district file the regulations with the Chancellor's office as required by section 51004. However, as discussed above in the "Minimum Conditions Entitling Community College Districts to State Aid" section, section 51004 does not mandate any activities of community college districts. As a result, community college districts are not mandated to file the regulations adopted pursuant to section 55800 with the Chancellor's Office. Therefore, staff finds that California Code of Regulations, title 5, section 55800 mandates community college districts to engage in the following activities:

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810.[253] (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)
2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)

Philosophy and Criteria for Associate Degree and General Education (Cal. Code Regs., tit. 5, §§ 55805 and 55805.5):

Sections 55805 and 55805.5 address the philosophies and criteria for associate degrees and general education of community college districts.

Section 55805, subdivision (a), provides, "[t]he governing board of a community college district shall adopt a policy which states its specific philosophy on General Education." When developing this policy the governing board is to consider the policy of the Board of Governors specified in subdivision (a) of section 55805 which generally states that an associate degree is more than just an accumulation of units, and that general education is central to an associate degree.[254] Subdivision (b) of section 55805 provides that the governing board of a community college district shall establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education. Subdivision (c) of section 55805

---

[251] See "Minimum Conditions Entitling Community College Districts to State Aid" section, regarding the discussion of the Nomenclature Cross-Reference issued by the Office of Administrative Law.

[252] *Ibid.*

[253] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

[254] For the text of the Board of Governors' policy see California Code of Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23).

provides that the governing board of a community college district shall, on a regular basis, review the policy and criteria.

Section 55805.5 defines the scope of the type of courses that may be permitted by the criteria established by the governing board of a community college district pursuant to section 55805, subdivision (b). Section 55805.5 provides:

> The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in [California Code of Regulations, title 5,] section 55002 (a) and that fall into the following categories to be offered for associate degree credit:
>
> (a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.
>
> (b) Courses that apply to the major in non-baccalaureate occupational fields.
>
> (c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.
>
> (d) All mathematics courses above and including Elementary Algebra.
>
> (e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board require entrance skills at a level equivalent to those necessary for the courses specified in subsections (c) and (d) above.

As a result, staff finds that California Code of Regulations, title 5, sections 55805 and 55805.5 mandate community college districts to engage in the following activities:

1. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
2. Consider the General Education policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
3. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23).)
4. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23).)

Duty to Grant a Degree or Certificate of Achievement and the Minimum Requirements for the Associate Degree (Cal. Code Regs., tit. 5, §§ 55800.5, 55806, 55808, and 55809):

Title 5, sections 55800.5 and 55806, address the duty of community college districts to award an associate degree to students upon the successful completion of the course of study required by the students' majors and the criteria and minimum requirements that a student must satisfy as a condition to trigger the duty of community college districts. Section 55808 addresses the duty to issue a certificate of achievement when a student successfully completes a course of study for

which a certificate of achievement is offered. Section 55809 clarifies that the duty to grant a diploma, degree, or certificate exists whenever a student has completed all requirements for the degree, diploma, or certificate without regard to length of time actually taken by the student to complete such requirements. Similarly, section 55809 clarifies that students who have satisfactorily completed the requirements of any course of study in less than the prescribed time are to receive credit for the full number of semester hours scheduled for such course.

When analyzing state mandate claims it is necessary for the Commission to look at the underlying program to determine if a claimant's participation in the underlying program is voluntary or legally compelled.[255] As discussed above, community colleges by definition are degree granting institutions. Thus, the requirements of title 5, sections 55800.5, 55806, and 55809, as they address and apply to associate degree standards or granting associate degrees constitute state-mandated activities.

However, absent from the regulatory definition of "colleges" and from the governing statutes and regulations, is a legal requirement to offer courses of study or curricula for which a certificate of achievement or diploma is offered. The duty to issue a certificate of achievement or diploma is triggered by the discretionary decision to offer a certificate of achievement or diploma. Thus, the requirements of title 5, sections 55808 and 55809, as they address and apply to certificates of achievement and diplomas, do not constitute state-mandated activities.

Pursuant to the above discussion, staff finds that California Code of Regulations, title 5, sections 55800.5, 55806, and 55809, mandate community college districts to engage in the following activities:

1. Confer a degree of associate in arts or associate in science upon a student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average; demonstrated competence in reading, in written expression, and in mathematics. The degree shall be conferred to a student without regard to how long it takes for the student to complete the requirements. Credit for the full number of semester hours scheduled for a course shall be granted, even when the student has satisfactorily completed the requirements of any course of study in less than the prescribed time. (Cal. Code Regs., tit. 5, §§ 55800.5, 55806, and 55809 (Register 91, No. 23).)

2. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

   The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

   The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

---

[255] *Kern High School Dist., supra*, 30 Cal.4th at p. 743.

The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23).)

3. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) ((Register 91, No. 23).)
4. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23).)
5. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23).)
6. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23).)
7. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23).)
8. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23).)

Conversion of Noncredit Courses to Credit Counted Toward an Associate Degree (Cal. Code Regs., tit. 5, § 55807):

Title 5, section 55807, addresses the conversion of noncredit courses to credit courses counted toward an associate degree. Section 55807 provides:

> Upon student petition to and certification by a governing board of credit-level achievement and prescribed academic rigor, and evidence of prescribed competence as approved by the faculty, noncredit courses may count toward associate degrees.

The claimants assert that section 55807 requires community colleges to establish and implement a process to respond to a student petition requesting that non credit courses be counted toward associate degrees.[256] However, the plain language of section 55807 does not require community colleges to engage in any activities, including those asserted by the claimants. Rather, the plain language of section 55807 provides community colleges the authority to count noncredit courses

[256] Test Claim 02-TC-31, p. 192.

toward associate degrees upon the occurrence of specified actions by a student and the governing board of a community college. The language of section 55807 does not require a community college to allow the conversion of noncredit courses to credit courses counted toward an associate degree. As a result, staff finds that California Code of Regulations, title 5, section 55807, does not impose any state-mandated activities upon community colleges.

(i) Summary of state-mandated activities

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)
2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23).)
3. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
4. Consider the policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23).)
5. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23).)
6. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23).)
7. Confer a degree of associate in arts or associate in science upon a student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average; demonstrated competence in reading, in written expression, and in mathematics. The degree shall be conferred to a student without regard to how long it takes for the student to complete the requirements. Credit for the full number of semester hours scheduled for a course shall be granted, even when the student has satisfactorily completed the requirements of any course of study in less than the prescribed time. (Cal. Code Regs., tit. 5, §§ 55800.5, 55806, and 55809 (Register 91, No. 23).)
8. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

   The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

   The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language

and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23).)

9. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) ((Register 91, No. 23).)
10. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23).)
11. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23).)
12. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23).)
13. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23).)
14. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23).)

b. The state-mandated activities imposed by California Code of Regulations, title 5, sections 55800, 55805, 55805.5, and 55806 (Register 83, No. 29; Register 88, No. 42; Register 91, No. 43) constitute a new program or higher level of service

The activities mandated by title 5, sections 55800, 55800.5, 55805, 55806, and 55809, carry out the governmental function of education, and as a result, the activities mandated by sections 55800, 55800.5, 55805, 55806, and 55809, constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The claimants have pled title 5, sections 55800, 55805, 55806, and 55809, as added in 1983 and last amended in 1991; section 55800.5, as added in 1991; and section 55805.5, as added in 1988.[257] Many of the activities mandated by these title 5 sections are derived from former title 5

[257] Exhibit B, Test Claim 02-TC-31, pgs. 20-24. The dates coincide with Register 83, number 29, Register 88, number 42, and Register 91, number 43. Staff notes that the claimants have pled

regulations existing prior to 1983.[258] However, the former title 5 regulations were all part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[259]

Thus, the pre-1983 title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not legally require community college districts to engage in activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the pre-1983 title 5 regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. In addition, with one exception, community college districts were not practically compelled to engage in the activities contained in the pre-1983 regulations, and thus constitute a new program or higher level of service.[260] In 2007, the title 5 regulations pled in this section of the analysis were repealed and renumbered to title 5, section 55060 et seq., without any substantive changes to the new program or higher level of service found above.[261]

The exception to the above finding of a new program or higher level of service is the requirement for community college districts to confer an associate degree. The court in *Kern High School Dist*. left open the possibility that a state mandate might be found in circumstances of practical compulsion, where a local entity faced certain and severe penalties such as double taxation or other draconian consequences as a result of noncompliance with a program that is not legally compelled.[262] In 1975, former title 5, section 51802, defined "colleges" as degree-granting institutions.[263] In other words, to *exist* community colleges were required to grant

---

title 5, sections 55806 and 55808, as added in 1988, and title 5, section 55805.5, as added in 1983. However, in 1983 title 5, section 55805.5 did not exist, instead it was added in 1988. In addition, both title 5, sections 55806 and 55808, were added in 1983. From the claimants' narrative, it is clear that the claimants have transposed the adoption dates for title 5, sections 55806 and 55808, with the adoption date of title 5, section 55805.5. Thus, staff will treat sections 55806 and 55808 as pled as added in 1983, and section 55805.5 as pled as added in 1988.

[258] California Code of Regulations, title 5, section 55800, addressing a district's policy regarding degrees and certificates, was derived from former title 5, section 51621, as added in 1971 by Register 71, number 40. Title 5, sections 55800.5 and 55809, which addresses a district's duty to award an associate degree, was derived from former title 5, section 51626, as added in 1977 by Register 77, number 45. Title 5, section 55806, was derived from former title 5, section 55626, as amended in 1982 by Register 82, number 24. Title 5, section 55808, was derived from former title 5, section 51625, as added in 1971 by Register 71, number 40.

[259] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

[260] *POBRA*, *supra*, 170 Cal.App.4th at pgs. 1366-1369, in which the court explained that a finding of "practical compulsion" requires a concrete showing in the record that a failure to engage in the activity/activities at issue will result in certain and severe penalties.

[261] Register 2007, number 35, operative August 16, 2007.

[262] *Kern High School Dist., supra,* 30 Cal.4th 727, 751.

[263] Former California Code of Regulations, title 5, section 51802 (Register 75, no.26).

degrees. Thus, community colleges districts were practically compelled to grant degrees, rather than face the draconian consequence of not existing, *before and after 1983*. As a result, the mandate to confer a degree does not constitute a *new program or higher level* of service subject to article XIII B, section 6 of the California Constitution.

(i) Summary of state-mandated new program or higher level of service

Pursuant to the above discussion, staff finds that the following state-mandated activities constitute a new program or higher level of service subject to article XII B, section 6 of the California Constitution:

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)
2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)
3. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)
4. Consider the policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)
5. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55061, subd. (b), and 55062 (Register 2007, No. 35).)
6. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (c) (Register 2007, No. 35).)
7. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

   The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

   The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language

and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (a) and (b) (Register 2007, No. 35).)

8. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(2) (Register 2007, No. 35).)
9. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(A) (Register 2007, No. 35).)
10. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(B) (Register 2007, No. 35).)
11. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(C) (Register 2007, No. 35).)
12. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(1) (Register 2007, No. 35).)
13. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(2) (Register 2007, No. 35).)

(13) Open Courses (Cal. Code Regs., tit. 5, §§ 58102, 58104, 58106, 58107, and 58108)

This section addresses regulations that set forth standards regarding the provision of courses open to enrollment by any student admitted to the community college.

a. California Code of Regulations, title 5, sections 58102 and 58104, impose state-mandated activities

Course Description (Cal. Code Regs., tit. 5, § 58102)

Section 58102 addresses the description of each course offered by a community college. Section 58102 provides:

> The description of each course shall be clear and understandable to the prospective student and shall be published in the official catalog, and/or schedule of classes, and/or addenda.
>
> A course description may indicate that the course is designed to meet certain specialized needs. If so indicated, the availability of the course to all qualified students must also be affirmed.

The claimants assert that section 58102 mandates community college districts to: (1) publish a clear description of each course, which is understandable to the prospective student, in the official catalog, and/or schedule of classes, and/or addenda; and (2) establish and implement procedures to ensure, if a course description indicates a course is designed to meet certain specialized needs, that the district affirms the availability of the course to all qualified students.[264]

Pursuant to the plain language of the section 58102 community college districts are required to publish a description of each course that is clear and understandable to the prospective student in the "official catalog, *and/or* schedule of classes, *and/or* addenda." As a result, community college districts have an option to publish the description of each course in the official catalog, schedule of classes, *or* addenda; however, districts are not mandated to publish the description in all three.

In addition, the plain language of the second paragraph of section 58102 does not mandate any activities on community college districts as alleged by the claimants. As quoted above, section 58102 provides that a "course description *may* indicate that the course is designed to meet specialized needs;" however, districts are not required to make this indication. Only when districts decide to indicate that a course meets specialized needs are the districts then required to affirm the availability of the course. Under *Kern High School Dist*., a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity. As a result, staff finds that the second paragraph of section 58102 does not mandate any activity on community college districts.

Thus, staff finds that California Code of Regulations, title 5, section 58102 imposes the following state-mandated activity:

> Publish a description of each course that is clear and understandable to the prospective student in the official catalog, or schedule of classes, or addenda (Cal. Code Regs., tit. 5, § 58102).

---

[264] Exhibit B, Test Claim 02-TC-31, p. 194.

Dissemination of Information (Cal. Code Regs., tit. 5, § 58104)

Section 58104 addresses the dissemination of information regarding courses to students. Section 58104 provides:

> All courses to be conducted shall be described in the official general catalog and/or addenda and listed in the schedules of classes.
>
> Courses which are established or conducted after publication of the general catalog or regular schedule of classes shall be reasonably well publicized.
>
> Announcements of course offerings shall not be limited to a specialized clientele, nor shall any group or individual receive notice prior to the general public for the purposes of preferential enrollment, limiting accessibility, or exclusion of qualified students.

Like section 58102, section 58104 requires community college districts to describe each course to be conducted in the official catalog or addenda. However, unlike section 58102, section 58104 requires community college districts to list each course in the schedule of classes.

The remaining portions of section 58104 do not mandate any activities on community college districts. The second paragraph requires community college districts to publicize courses reasonably well if the courses are established or conducted after publication of the general catalog or regular schedule of classes. However, community college districts are not required to establish or conduct courses after the general catalog or regular schedule of classes are published. Publicizing courses reasonably well is an activity triggered by a community college district's decision to establish or conduct a course after the publication of the general catalog or regular schedule of classes. Thus, under *Kern High School Dist.*, the second paragraph does not mandate any activities.

The third paragraph of section 58104 prohibits a community college district from engaging in specified activities, and as a result, does not impose any state-mandated activities on community college districts.

Staff finds that California Code of Regulations, title 5, section 58104 imposes the following state-mandated activities:

1. Describe all courses to be conducted in the official general catalog or addenda (Cal. Code Regs., tit. 5, § 58104).
2. List all courses to be conducted in the schedules of classes (Cal. Code Regs., tit. 5, § 58104).

Limitations on Enrollment (Cal. Code Regs., tit. 5, § 58106)

Section 58106 addresses the ability of community college districts to limit enrollment in courses offered by the district. Section 58106 provides:

> In order to be claimed for purposes of state apportionment, all courses shall be open to enrollment by any student who has been admitted to the college, provided that enrollment in specific courses or programs may be limited as follows:
>
> (a) Enrollment may be limited to students meeting prerequisites and corequisites established pursuant to Sections 55200-55202 of this Division,
>
> (b) Enrollment may be limited due to health and safety considerations, facility limitations, faculty workload, the availability of qualified instructors, funding

limitations, the constraints of regional planning or legal requirements imposed by statutes, regulations, or contracts. The governing board shall adopt policies identifying any such limitations and requiring fair and equitable procedures for determining who may enroll in affected courses or programs. Such procedures shall be consistent with one or more of the following approaches:

(1) limiting enrollment to a "first-come, first-served" basis or using other nonevaluative selection techniques to determine who may enroll; or

(2) limiting enrollment using a registration procedure authorized by Section 58108; or

(3) in the case of intercollegiate completion, honors courses, or public performance courses, allocating available seats to those students judged most qualified; or

(4) limiting enrollment in one or more sections of a course to a cohort of students enrolled in one or more other courses, provided however, that a reasonable percentage of all sections of the course do not have such restrictions; or

(5) with respect to students on probation or subject to dismissal, the governing board may, consistent with the provisions of Sections 55754-55755 of this Part, limit enrollment to a total number of units or to selected courses, or require students to follow a prescribed educational plan.

(c) A student may challenge an enrollment limitation established pursuant to Subsection (b) of this Section on any of the following grounds:

(1) the enrollment limitation is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(2) the district is not following its policy on enrollment limitations;

(3) the basis upon which the district has established an enrollment limitation does not in fact exist; or

(4) any other criteria established by the district.

(d) The student shall bear the burden of showing that grounds exists for the challenge. Challenges shall be handled in a timely manner, and if the challenge is upheld, the district shall waive the enrollment limitation with respect to that student.

(e) In the case of a challenge under Subsection (c)(1) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

The claimants assert that section 58106 requires community college districts to:

> [E]stablish and implement policies and procedures to ensure that, as a condition to be claimed for purposes of state apportionment, all community college courses are open to enrollment by any student who has been admitted to the college … .[265]

The claimants further argue that the remaining portion of section 58106 (i.e. subd. (a)-(e)) requires community college districts "to permit enrollment to be limited" and to comply with specified procedures when enrollment is limited.[266] However, the plain language of section 58106 does not impose any activities on community college districts, including those asserted by the claimants.

The first paragraph of section 58106 provides as a condition of claiming a course for apportionment purposes that the course must be open to enrollment to any student who has been admitted to the college. However, the language of section 58106 does not require community college districts to establish or implement policies to ensure open enrollment. In addition, the language of section 58106 does not require courses to be claimed for apportionment purposes. As a result, the first paragraph of section 58106 does not impose any activity on community college districts.

The remaining portion of section 58106 sets forth exceptions to the "open enrollment rule." The exceptions provided by section 58106 authorize community college districts to limit enrollment in specified circumstances if the districts comply with specified procedures. However, the language of section 58106 does not require community college districts to limit enrollment. As a result, any activity required by section 58106 is a result of a community college district's underlying discretionary decision to limit enrollment, and pursuant to *Kern High School Dist*. is not mandated by the state.

Thus, staff finds that California Code of Regulations, title 5, section 58106 does not impose any state-mandated activities.

Facilities and Opportunities for Participation (Cal. Code Regs., tit. 5, § 58107)

Section 58107 addresses the use of public funds for athletic programs and the provision of facilities and opportunities for participation in the programs. In relevant part, section 58107 provides:

> Notwithstanding any other provision of law, no public funds shall be used in connection with athletic programs conducted under the auspices of a community college district governing board or any student organization within the district, which do not provide facilities and opportunities for participation by both sexes on an equitable basis. … .

The plain language of section 58107 sets forth a prohibited activity, specifically the use of public funds in connection with athletic programs that do not provide facilities and opportunities to participate in the programs by both sexes on an equitable basis. As a result, section 58107 does not require any activities of community college districts. Rather, section 58107 prohibits community college districts from engaging in a specified activity. Thus, staff finds that California Code of Regulations, title 5, section 58107, does not impose any state-mandated activities.

---

[265] Exhibit B, Test Claim 02-TC-31, p. 195.

[266] *Id*. at pgs. 195-199.

Registration and Standards for Enrollment (Cal. Code Regs., tit. 5, § 58108)

Section 58108 addresses the procedures for registration and standards for enrollment in courses offered by community colleges. Section 58108 provides:

> Procedures for registration and standards for enrollment in any course shall be only those which are consistent with these and other sections of Title 5 and uniformly administered by appropriately authorized employees of the district.
>
> Except as otherwise provided by state law, no student shall be required to confer or consult with or be required to receive permission to enroll in any class from any person other than those employed by the college in the district.
>
> Students will not be required to participate in any preregistration activity not uniformly required; nor shall the college or district allow anyone to place or enforce nonacademic requisites as barriers to enrollment in or the successful completion of a class.
>
> No registration procedures shall be used that result in restricting enrollment to a specialized clientele.
>
> The following registration procedures are permissible: special registration assistance to the handicapped or disadvantaged student as defined by statute, for the purpose of providing equalization of educational opportunity; and enrollment of students in accordance with a priority system established pursuant to legal authority by the local board of trustees.
>
> With respect to accessibility to off-campus sites and facilities, no student is to be required to make any special effort not required of all students to register in any class or course section. Once enrolled in the class, all students must have equal access to the site.

The plain language of section 58108 does not impose any state-mandated activities on community college districts. The first paragraph prohibits community college district procedures for registration and standards for enrollment from being in noncompliance with the Board of Governor's regulations, and from being inconsistently administered by unauthorized employees. The prohibitive nature of the first paragraph is indicated by the usage of the language "shall be only those" with reference to district procedures for registration and standards for enrollment. This language indicates intent to limit a district's authority in regard to establishing procedures for registration and standards for enrollment. Similarly, the remaining language of section 58108 prohibits community college districts from engaging in specified activities. As a result, staff finds that California Code of Regulations, title 5, section 58108 does not impose any state-mandated activities.

(i) Summary of state-mandated activities:

Pursuant to the above discussion, staff finds that California Code of Regulations, title 5, sections 58102 and 58104, impose the following state-mandated activities:

1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, or schedule of classes, or addenda (Cal. Code Regs., tit. 5, §§ 58102 and 58104).
2. List all courses to be conducted in the schedules of classes (Cal. Code Regs., tit. 5, § 58104).

b. California Code of Regulations, title 5, sections 58102 and 58104, constitute a new program or higher level of service

To constitute a "new program or higher level of service" the activities must carry out the governmental function of providing a service to the public, or impose unique requirements on local governments that do not apply to all residents and entities in the state in order to implement a state policy.[267] In addition, the requirements must be new in comparison with the pre-existing scheme and must be intended to provide an enhanced service to the public.[268] To make this determination, the requirements must initially be compared with the legal requirements in effect immediately prior to its enactment.[269]

The activities mandated by sections 58102 and 58104 carry out the governmental function of education by assisting students in enrollment and registration. As a result, the activities mandated by sections 58102 and 58104 constitute a "program" within the meaning of article XIII B, section 6 of the California Constitution.

The claimants have pled sections 58102 and 58104 of title 5 of the California Code of Regulations, as added in 1982 and last amended in 1993.[270] Sections 58102 and 58104 mandate community college districts to engage in the following activities:

1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, or schedule of classes, or addenda (Cal. Code Regs., tit. 5, §§ 58102 and 58104).
2. List all courses to be conducted in the schedules of classes (Cal. Code Regs., tit. 5, § 58104).

The activities mandated by title 5, sections 58102 and 58104, are derived from former title 5, sections 51822 and 51824, as added in 1976 by Register 76, number 51. However, former title 5, sections 51822 and 51824, are part of former "Division 2" of the title 5 regulations, the provisions of which:

> [C]omprise the rules and regulations affirming and fixing the minimum standards, satisfaction of which entitles a district maintaining community colleges to receive state aid for the support of their community colleges.[271]

Thus, the former title 5 regulations which contain the same requirements as the regulations pled in this section of the staff analysis did not impose state-mandated activities prior to 1983 for the same reasons that the regulations pled in the "Minimum Conditions" section of the staff analysis did not impose state-mandated activities. Specifically, the requirements of the former title 5 regulations are downstream activities triggered by the discretionary decision to become *entitled to receive state aid*. As a result, immediately prior to the adoption of title 5, sections 51822 and 51824, community college districts were not required to engage in the activities mandated by the

---

[267] *County of Los Angeles*, *supra*, 43 Cal.3d 46, 56.

[268] *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

[269] *Ibid*.

[270] Exhibit B, Test Claim 02-TC-31, p. 25. These dates coincide with Register 82, number 31; and Register 93, number 25.

[271] Former California Code of Regulations, title 5, section 51000 (Register 80, number 11).

sections, and therefore, title 5, sections 58102 and 58104, constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution.

(i) Summary of state-mandated new program or higher level of service

1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, or schedule of classes, or addenda (Cal. Code Regs., tit. 5, §§ 58102 and 58104 (Register 93, No. 25).)
2. List all courses to be conducted in the schedules of classes (Cal. Code Regs., tit. 5, § 58104 (Register 93, No. 25).)

(14) Notice to Students (Cal. Code Regs., tit. 5, 54626, 54805, 59404, and 59410)

This section addresses California Code of Regulations, title 5, sections 54626, 54805, 59404, and 59410. These regulations address the adoption of policies or the provision of information or notices to students regarding various issues related to the operation and governing of community colleges and community college districts, including: (1) student directory information (Cal. Code Regs., tit. 5, § 54626); (2) student representation fees (Cal. Code Regs., tit. 5, § 54805); (3) the provision of instructional or other materials (Cal. Code Regs., tit. 5, § 59404); and (4) the possible consequences of failing to pay a proper financial obligation due to the district or college (Cal. Code Regs., tit. 5, § 59410).

a. Student Directory Information (Cal. Code Regs., tit. 5, § 54626 (Register 83, No. 18))

Title 5, section 54626, addresses the ability of community college districts to release student directory information and the steps that a community college district must take in order to so.

(i) California Code of Regulations, Title 5, Section 54626, imposes a requirement on community college districts

Section 54626 addresses the release of student directory information. Section 54626, subdivision (a), requires a community college district engage in the one-time activity of adopting a policy identifying, from a specified list provided in subdivision (a) of section 54626, categories of student directory information that the district's local governing board decides may be released.

Subdivision (b) provides in part:

> Directory information, as established by the local governing board, *may be* released as to any student or former student currently attending the community college, provided that public notice is given at least annually of the categories of information which the district plans to release and of the recipients. (Emphasis added.)

Subdivision (b) further provides that the notice must specify the period of time within which a student must inform the district in writing that such personally identifiable information is not to be designated as directory information with respect to that student. The plain language of subdivision (b) does not require community college districts to engage in any activity. Instead, the language of subdivision (b) authorizes community college districts to release directory information on the condition that it provides public notice. The language does not, however, require districts to use this authority, and thus, staff finds that subdivision (b) does not impose any requirements on community college districts.

Similarly, the plain language of subdivision (c) does not require community college districts to engage in any activities. Subdivision (c) provides that "[o]ther information may be added to the categories set forth in [Cal. Code Regs., tit. 5, § 54626, subd. (a),] provided that release of such information shall be authorized in writing by the student." Thus, as indicated by the word "may"

districts are authorized to add other information if the district receives authorization from the student. Districts, however, are not required to utilize this authority.

Subdivision (d) provides that the district has the discretion to limit or deny the release of specific information to specific organizations based on the best interest of students. In addition, the names and addresses of students may be provided to certain private schools or colleges. Thus, the plain language of subdivision (d) does not require community college districts to engage in any activities.

In summary, staff finds that California Code of Regulations, title 5, section 54626, requires community college districts to do the following:

> Adopt a policy identifying, from a specified list provided in California Code of Regulations, title 5, subdivision (a) (Register 83,subdivision (a), categories of student directory information that the district's local governing board decides may be released. (Cal. Code Regs., title 5, § 54626, subd. (a) (One-time activity.)

(ii) The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute a federal mandate

The Chancellor's Office asserts that the activities contained in section 54626 are federally mandated activities, and thus, not reimbursable pursuant to Government Code section 17556, subdivision (c). The Chancellor's Office argues that the claimant "undoubtedly receives federal funds and is therefore bound by [Family Educational Rights and Privacy Act (FERPA) and its implementing regulations."[272]

FERPA (20 U.S.C., § 1232g) and its implementing regulations (34 C.F.R. § 99.1 et seq.), as with many other federal laws, condition federal funding to educational agencies and institutions on compliance with the provisions of FERPA and its implementing regulations. Because the California Legislature adopted section 54626 with the intent that it conform to FERPA and its implementing regulations, the requirements of section 54626 generally contain the same requirements as FERPA and its implementing regulations.[273] The exception is that FERPA and its implementing regulations do not require educational agencies to specifically adopt a policy identifying what directory information it decides to release.

Government Code section 17556, subdivision (c), provides that the Commission shall not find costs mandated by the state if the test claim statute imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, *unless* the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. In addition, in *Hayes v. Commission on State Mandates*, the court, while discussing the Education of the Handicapped Act, found:

> While the act includes certain substantive and procedural requirements which must be included in the state's plan for implementation of the act, it leaves primary responsibility for implementation to the state … In short, even though the state had no real choice in deciding whether to comply with the federal act, the act did not necessarily require the state to impose all of the costs of implementation upon local school districts. To the extent the state implemented the act by freely choosing to impose new programs or higher levels of service upon local school

---

[272] Exhibit D, Chancellor's Office Comments on Test Claim 02-TC-25, *supra*, p. 13.

[273] See Education Code section 76200 et seq. See also, 20 United States Code section 1232g (a)(5) and (6), and 34 Code of Federal Regulations part 99.37.

districts, the costs of such programs or higher levels of services are state mandated and subject to subvention."[274] (Citations omitted.)

Here, the state has chosen to require community college districts to specifically adopt a policy identifying what information it decides to release. Thus, the requirements of section 54626 exceed those of FERPA and its implementing regulations. As a result, the requirement of California Code of Regulations, title 5, section 54626 is not federally mandated pursuant to Government Code section 17556, subdivision (c).

(iii) The requirement of California Code of Regulations, title 5, section 54626, subdivision (a), constitutes a state mandate

Pursuant to the language of section 54626, community college districts are required to adopt a policy identifying student directory information that the district decides to release, if any. As a result, staff finds that California Code of Regulations, title 5, section 54626 imposes the following state-mandated activity on community college districts:

> Adopt a policy identifying, from a specified list provided in California Code of Regulations, title 5, subdivision (a) (Register 83,subdivision (a), categories of student directory information that the district's local governing board decides may be released (Cal. Code Regs., title 5, § 54626, subd. (a) (One-time activity).)

(iv) The mandate of California Code of Regulations, title 5, section 54626, subdivision (a), does not constitute new program or higher level of service

The claimant has pled section 54626, as added in 1976 and last amended in 1983.[275] Section 54626 was filed on March 5, 1976 and effective on the 30th day thereafter (April 4, 1976).[276] Section 54626 was adopted to implement Education Code section 76240, which was originally enacted as former Education Code section 25430.12 in 1975.[277] Former Education Code section 25430.12 required a community college district to adopt a policy identifying, from a specified list identical to section 54626, subdivision (a),[278] categories of student directory information that the district's local governing board decides may be released. The effective date of former Education Code section 25430.12 was January 1, 1976.[279] As a result, pre-existing law already required community college districts to adopt a policy identifying categories of student directory information that the district's local governing board decides may be released. Therefore, the requirement of California Code of Regulations, title 5, section 54626 does not constitute a "new program or higher level of service" subject to article XIII B, section 6 of the California Constitution.

In addition, any costs associated with the alleged state-mandated program incurred before July 1, 2001 are not reimbursable, as the reimbursement period begins with the 2001-2002 fiscal year. As a result, costs associated with one-time activities occurring before July 1, 2001, are not

---

[274] *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1594.

[275] Exhibit A, Test Claim 02-TC-25, pg. 5. These dates coincide with Register 76, Number 10 (March 6, 1976), and Register 83, Number 18 (April 30, 1983).

[276] See History for California Code of Regulations, title 5, section 54600 (Register 76, No. 10 (March 6, 1976)).

[277] Former Education Code section 25430.12 (Stats. 1975, ch. 816).

[278] Former Education Code section 25430.1, subdivision (c) (Stats. 1975, ch. 816).

[279] See Government Code section 9600.

reimbursable. As noted above, the activity mandated by California Code of Regulations, title 5, section 54626, subdivision (a), is a one-time activity. As such, any policy adopted by a community college district, pursuant to California Code of Regulations, title 5, section 54626, subdivision (a), prior to July 1, 2001 would not be reimbursable.

b. Student Representation Fee (Cal. Code Regs., tit. 5, § 54805)

(i) California Code of Regulations, title 5, section 54805, does not impose state-mandated activities

Section 54805 addresses the "student representation fee" that is used to provide support for student organizations. Section 54805 provides:

> District governing boards shall include in the materials given to each student at registration, information pertaining to the representation fee. The form used by a college for the purpose of collecting the fee shall contain, at minimum, the following:
>
> (a) a statement indicating that the money collected pursuant to this article shall be expended to provide support for students or representatives who may be stating their positions and viewpoints before city, county, and district government, and before offices and agencies of the state and federal government;
>
> (b) the amount of the fee;
>
> (c) a statement informing the students of their right to refuse to pay the fee for religious, political, moral, or financial reasons.

The claimants assert that section 54805 requires community college districts to include in the materials given to each student at registration, information pertaining to the student representation fee which shall include the information set forth in subdivisions (a)-(c) of section 54805.[280]

The language of section 54805, however, must be read in context with the whole statutory and regulatory scheme surrounding section 54805.[281] In addition, pursuant to *Kern High School Dist*. a requirement resulting from an underlying discretionary decision does not constitute a state-mandated activity.[282] Section 54805 was adopted as part of "Article 1. Student Representation Fee" of title 5 of the California Code of Regulations, which consists of regulation sections 54801, 54803, and 54805. Section 54801 et seq., was adopted to implement Education Code sections 76060 and 76060.5. Education Code section 76060 provides, "the governing board of a community college district *may* authorize the students of a college to organize a student body association."[283] Education Code section 76060.5 provides, "*If* a student body association has been established at a community college as authorized by Section 76060, the governing body of the association may order that an election be held for the purpose of establishing a student representation fee of one dollar ($1) per semester."[284] California Code of Regulations, title 5, sections 54801 and 54803 set forth the election procedures with which student body associations may establish and terminate a student representation fee. Thus, a student body association may

---

[280] Exhibit A, Test Claim 02-TC-25, p. 15

[281] *Fontana Unified School Dist. v. Burman, supra*, 45 Cal.3d 208, 218.

[282] *Kern High School Dist., supra*, 30 Cal.4th 727, 743.

[283] Education Code section 76060. (Emphasis added.)

[284] Education Code section 76060.5. (Emphasis added.)

establish a student representation fee *only if* a community college district decides to authorize students of a college to organize a student body association.

It is in the context of the community college district's discretion to authorize the formation of a student body association and subsequently the possible imposition of a student representation fee that California Code of Regulations, title 5, sections 54801 and 54803, set forth procedures to hold an election to vote on the establishment and termination of a representation fee. It is also in this context that California Code of Regulations, title 5, section 54805, provides that district governing boards are to include in the materials given to each student at registration, "information pertaining to the representation fee." In addition, it is in this context that the form used by a college for the purpose of collecting the fee is required to include specific information.[285] Without a community college district's authorization to organize a student body association, the subsequent activities of calling an election for the creation or termination of a student representation fee, the provision of information regarding the representation fee, and collection of the representation fee are not required. Thus, the activities required by section 54805 is triggered by a community college district's underlying decision to authorize the organization of a student body association, and therefore under *Kern High School Dist*., is not mandated by the state.

As a result, staff finds that California Code of Regulations, title 5, section 54805, does not impose any state-mandated new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

c. District Policies and Regulations for Instructional and Other Materials (Cal. Code Regs., tit. 5, § 59404)

(i) California Code of Regulations, title 5, section 59404, does not impose state-mandated activities

Section 59404 addresses a district's policies or regulations regarding instructional and other materials that the district requires a student to provide. Subdivision (a) provides that when a student is required by the district to provide instructional and other materials, the district must adopt policies or regulations which specify the conditions under which such materials will be required. Subdivision (b) requires the policies or regulations to be adopted no later than January 1, 1986, forwarded to the Chancellor's Office upon adoption, and published in each college catalog developed after the date of adoption.

The plain language of section 59404 indicates that the requirements of section 59404 are only applicable to a "community college district which requires that students provide instructional or other materials… ." Education Code section 76365, which is implemented by section 59404, provides that "[t]hese regulations shall specify the conditions under which districts *may* require students to provide those materials…"[286] Thus, the requirements of section 59404 are downstream activities resulting from a community college district's decision to require students provide instructional and other materials.

Staff finds that California Code of Regulations, title 5, section 59404 does not impose any state-mandated new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

---

[285] California Code of Regulations, title 5, section 54805, subds. (a)-(c).

[286] Education Code section 76365. (Emphasis added.)

d. Withholding Grades, Transcripts, Diplomas, and Registration Privileges (Cal. Code Regs., tit. 5, § 59410)

(i) California Code of Regulations, title 5, section 59410, does not impose state-mandated activities

Section 59410 provides that a community college district may withhold the grades, transcripts, diplomas, and registration privileges of a student who has been provided with written notice of his or her failure to pay a financial obligation due to the district or college.

The plain language of section 59410 does not require community college districts to issue written notices to students regarding a failure to pay a financial obligation. Rather, the language of section 59410 authorizes, but does not require, community college districts to withhold grades, transcripts, diplomas, and registration privileges on the condition of providing a notice to students regarding their failure to pay a financial obligation. Thus, the provision of a notice is a downstream activity of a community college district's decision to seek to withhold the grades, transcripts, diplomas, and registration privileges from a student owing a financial obligation to the district or college.

As a result, staff finds that California Code Regulations, title 5, section 59410, does not impose any state-mandated new program or higher level of service subject to article XIII B, section 6 of the California Constitution.

C. The state-mandated new program or higher level of service impose costs mandated by the state on community college districts within the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556.

In order for the test claim statutes to impose a reimbursable state-mandated program under the California Constitution, the test claim statutes must impose costs mandated by the state.[287] Government Code section 17514 defines "cost mandated by the state" as follows:

> [A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

The claimants estimate that more than $1,000 in staffing and other costs in excess of any funding provided to districts was incurred between July 1, 2001 through June 30, 2002 to implement all the duties alleged by the claimants to be mandated by the state.[288] Thus, the claimants have met the minimum burden of showing costs necessary to file a test claim pursuant to Government Code section 17564.

However, the Chancellor's Office and Finance assert that the claimants are not entitled to reimbursement for the state-mandated new programs or higher levels of service found in this analysis. The Chancellor's Office and Finance argue that community college districts receive general apportionments found in Schedule (1) of line item 6870-101-0001 of the annual Budget Act and nothing prevents the districts from using these general purpose funds from satisfying the

---

[287] *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

[288] Exhibit A, "Test Claim Filing and Attachments for 02-TC-25," Exhibit 1, Declaration of Vicky Fong, Associate Vice President of Instruction, Los Rios Community College District. Exhibit B, "Test Claim Filing and Attachments for 02-TC-31," Exhibit 1, Declaration of Piedad F. Robertson, President of Santa Monica Community College District.

costs of the state-mandated new programs or higher levels of service found in this test claim analysis.[289] [290]

Each annual Budget Act provides for state aid to community college districts from the state General Fund in line item 6870-101-0001. This line item includes Schedule (1) "Apportionments" (general purpose funds) and categorical funding that must be spent for a variety of specific purposes and programs that are outside of the scope of the state-mandated new programs or higher levels of service found in this analysis. The general purpose funds are unrestricted and can be used for any purpose, unless otherwise provided by law.[291] One of the limitations for the state aid provided by line item 6870-101-0001, including general purpose funds, is provided in Education Code section 84362, which is better known as the "Fifty Percent Law." The Fifty Percent Law, which was not pled in this test claim, requires community college districts to spend at least 50 percent of their current expense of education on salaries and benefits of faculty and instructional aids engaged in direct classroom instruction.

As described above, community college districts are not required to use general purpose funds to fund the costs of the state-mandated new programs or higher levels of service found in this analysis, nor is there evidence that the general purpose funds were specifically intended to fund the costs. Moreover, the full amount of the general purpose funds is not available to fund the costs imposed by the state-mandated new programs or higher levels of service found in this test claim, because the general purpose funds are restricted by state law not pled in this test claim. As a result, staff finds that the new programs or higher levels of service imposed by the test claim statutes and regulations addressing "faculty participation in district and college governance," "transfer centers," "vocational education," "standards of scholarship," "curriculum," "degrees and certificates," and "open courses,"[292] impose costs mandated by the state the meaning of article XIII B, section 6, and Government Code sections 17514 and 17556.

---

[289] Exhibit C, Chancellor's Office Comments on 02-TC-31, dated March 11, 2004, p. 2. Exhibit D, Chancellor's Office Comments on 02-TC-25, dated March 16, 2004, p. 11. Exhibit J, Department of Finance Comments on 02-TC-25, dated November 6, 2007, p. 3.

[290] In the Budget Acts of 2001 and 2002 (Stats. 2001, ch. 106 (SB 739); and Stats. 2002, ch. 379 (AB 425)) for the 2001-2002 and 2002-2003 fiscal years about $1.7 billion was scheduled for general purpose funding (See line item 6870-101-0001, schedule 1). In the Budget Act of 2003 (Stats. 2003, ch. 157 (AB 1765)) this amount was decreased to about $1.4 billion. In the Budget Act of 2004 (Stats. 2004, ch. 208 (SB 1113)) the amount was increased to about $1.9 billion. In the Budget Act of 2005 (Stats. 2005, ch. 38 (SB 77)) the amount was increased again to about $2.4 billion.

[291] California Code of Regulations, title 5, section 58140 (Register 95, No. 23). See also, Education Code sections 84001 and 85230 recognizing the policy of local responsibility for governance including the "grant of substantial fiscal autonomy to community college districts."

[292] Specifically, portions of the following test claim regulations regarding "faculty participation in district and college governance" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 53203 and 53207. Portions of the following test claim statutes regarding "transfer centers" constitute a state-mandated new program or higher level of service: Education Code sections 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742. Portions of the following test claim statutes regarding "vocational education" constitute a state-mandated new program or higher level of service: Education Code sections 78015 and 78016. Portions of the following test claim regulations regarding "standards of scholarship" constitute a state-mandated new program or higher level of service: California

III. Conclusion

For the reasons discussed above, staff finds that the following activities constitute a reimbursable state-mandated new program or higher level of service within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514:

Faculty Participation in District and College Governance (Cal. Code Regs., tit. 5, §§ 53203 and 53207)

1. Adopt policies for appropriate delegation of authority and responsibility to its college and/or district academic senate.

   Policies must provide, at a minimum, that the governing board or its designees will consult collegially with the academic senate when adopting policies and procedures on academic and professional matters. (Cal. Code Regs., tit. 5, § 53203, subd. (a) (Register 94, No. 38).)

2. Consult collegially with representatives of the academic senate when adopting the policies for appropriate delegation of authority and responsibility to its college and/or district academic senate pursuant to California Code of Regulations, title 5, section 53202, subd. (a). (Cal. Code Regs., tit. 5, § 53203, subd. (b) (Register 94, No. 38).)

3. Adopt procedures for responding to recommendations of the academic senate that incorporate the following:

   a. In instances where the governing board elects to rely primarily upon the advice and judgment of the academic senate, the recommendations of the senate will normally be accepted, and only in exceptional circumstances and for compelling reasons will the recommendation not be accepted. If a recommendation is not accepted, the governing board or its designee, upon request of the academic senate, shall promptly communicate its reasons in writing to the academic senate. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(1) (Register 94, No. 38).)

   b. In instances where the governing board elects to provide for mutual agreement with the academic senate, and agreement has not been reached, existing policy shall remain in effect unless continuing with such policy exposes the district to legal liability or causes substantial fiscal hardship. In cases where there is no existing policy, or in cases where the exposure to legal liability or substantial fiscal hardship requires existing policy to be changed, the governing board may act, after a good faith effort to reach agreement, only for compelling legal, fiscal, or organizational reasons. (Cal. Code Regs., tit. 5, § 53203, subd. (d)(2) (Register 94, No. 38).)

Code of Regulations, title 5, sections 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765. Portions of the following test claim regulations regarding "curriculum" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 55001, 55002, 55005, 55006, 55130, 55150, 55200, 55201, and 55202. Portions of the following test claim regulations regarding "degrees and certificates" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 55800, 55805, and 55806. Finally, portions of the test claim regulations regarding "open courses" constitute a state-mandated new program or higher level of service: California Code of Regulations, title 5, sections 58102 and 58104.

Transfer Centers (Ed. Code, §§ 66721.5, 66731, 66732, 66736, 66738, 66740, and 66742)

1. The governing board of each community college district direct the appropriate officials at their respective campuses to provide each of their students with a copy of the current transfer core curriculum (Ed. Code § 66721.5, subd. (a)(1) (Stats. 2000, ch. 187).)
2. Distribute a copy of the current transfer core curriculum to each community college student who is enrolled in a degree or certification program and is physically in attendance at the institution (Ed. Code § 66721.5, subd. (b) (Stats. 2000, ch. 187).)
3. Including the text of the current transfer core curriculum in the published class schedule for each academic term, or distribute the transfer core curriculum during the registration process, or by mail, or during the issuance of student identification cards, or during student orientation programs (Ed. Code § 66721.5, subd. (c) and (d) (Stats. 2000, ch. 187).)
4. Recognize student matriculation from community colleges through the University and California State University as a central institutional priority of all segments of higher education. (Ed. Code, § 66731 (Stats. 1991, ch. 1188).)
5. Declare as policy that the student transfer agreement program shall constitute a significant role in achieving the goal of student diversity within their segments, and in ensuring that all students, particularly those currently underrepresented in higher education, have access to a university education. (Ed. Code, § 66732 (Stats. 1991, ch. 1188).)
6. Design, adopt, and implement policies intended to facilitate successful movement of students from community colleges through the University of California and the California State University. (Ed. Code, § 66732(Stats. 1991, ch. 1188).)
7. Ensure that its college or colleges maintain student transfer counseling centers or other counseling and student services designed and implemented to affirmatively seek out, counsel, advise, and monitor the progress of potential and identified community college transfer students. All policies and procedures adopted for this purpose must give preference and emphasis toward enhancing the transfer of students from economically disadvantaged families and students from traditionally underrepresented minorities, to the fullest extent possible under state and federal statutes and regulations. (Ed. Code, § 66736 (Stats. 1991, ch. 1188).)
8. Be accountable for the development and implementation of formal system wide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function. (Ed. Code, § 66738, subds. (a) (Stats. 1991, ch. 1188).)
9. Expand existing practices related to concurrent enrollment, in which community college students are provided the opportunity to take courses at University of California and California State University campuses, as space is available, and to expand opportunities for potential transfer students to participate in activities that familiarize them with the university campus. (Ed. Code, § 66738, subd. (c) (Stats. 1991, ch. 1188).)
10. Act in conjunction with each department, school, major in the University of California and California State University to develop discipline-specific articulation agreements and transfer program agreements for those majors that have lower division prerequisites. In doing so, faculty from community colleges and university campuses are to participate in discipline-specific curriculum development to coordinate course content and expected

levels of student competency. (Ed. Code, § 66740, first paragraph (Stats. 1991, ch. 1188).)

11. Develop discipline-based agreements in conjunction with the California State University and the University of California with as many campuses of the two university segments as feasible, but no fewer than three University of California campuses and five California State University campuses. No one segment should bear the organizational or financial responsibility for accomplishing these goals. (Ed. Code, § 66740, third paragraph (Stats. 1991, ch. 1188).)
12. Present annual statistical reports with the California Community Colleges, California State University, and the University of California on transfer patterns to the Governor and Legislature via the California Postsecondary Education Commission. Include in these reports statistics and information as described in Education Code section 66742. (Education Code section 66742 (Stats. 1991, ch. 1188).)

Vocational Education (Ed. Code, §§ 78015 and 78016)

1. Conduct a job market study of the labor market area, as defined by Education Code section 52301.5, in which it proposes to establish the program prior to establishing the program.[293]

   The labor market study must use the State-Local Cooperative Labor Market Information Program established by Unemployment Insurance Code section 10533, or if this program is not available for the labor market area, the study must use other sources of labor market information.

   The study must include a California Occupational Information System supply analysis of existing vocational and occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction. (Ed. Code, § 78015, subd. (a)(1) (Stats. 1998, ch. 365).)
2. Make copies of each job market study available to the public. (Ed. Code, § 78015, subd. (a)(2) (Stats. 1998, ch. 365).)
3. Determine whether or not the job market study justifies the proposed vocational education program. (Ed. Code, § 78015, subd. (b) (Stats. 1998, ch. 365).)
4. Determine by resolution whether the program will be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to Education Code section 8092, if the district determines that the job market study justifies the initiation of the proposed program. (Ed. Code, § 78015, subd. (c) (Stats. 1998, ch. 365).)
5. Review every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, every two years to ensure that each program: (1) meets a documented labor market demand; (2) does not represent unnecessary

[293] Education Code section 52301.5 defines "Labor Market Area" as "a county or aggregation of counties designated by the Employment Development Department (EDD) that has one or more central core cities and that meets criteria of population, population density, commute patterns, and social and economic integration specified by the EDD.

duplication of other manpower training programs in the area; and (3) is of demonstrated effectiveness as measured by the employment and completion success of its students.

These three requirements are to be demonstrated by the California Occupational Information System, including State-Local Cooperative Labor Market Information Program established in Unemployment Insurance Code section 10533, or if this program is not available in the labor market area, other available sources of labor market information. (Ed. Code, § 78016, subd. (a) (Stats. 1998, ch. 365).)

6. Terminate any program that does not meet the requirements of Education Code section 78016, subdivision (a), and the standards promulgated by the governing board within one year. (Ed. Code, § 78016, subd. (b) (Stats. 1998, ch. 365).)
7. Include the review and comments by the local Private Industry Council, established pursuant to Unemployment Insurance Code section 15000 et seq., in the review process of every vocational or occupational training program offered by the district and commenced subsequent to July 28, 1983, the review and comments by the Private Industry Council shall occur prior to any decision by the district governing board. (Ed. Code, § 78016, subd. (c) (Stats. 1998, ch. 365).)
8. Make a written summary of the findings of each review available to the public. (Ed. Code, § 78016, subd. (e) (Stats. 1998, ch. 365).)

Standards of Scholarship (Cal. Code Regs., tit. 5, §§ 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, and 55765)

1. Adopt regulations consistent with the subchapter regarding standards of scholarship consisting of California Code of Regulations, title 5, section 55750 – 55765.[294] (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
2. Publish the regulations consistent with the subchapter regarding standards of scholarship in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
3. File a copy of the community college district's regulations regarding standards of scholarship, and any amendments of the regulations, with the Chancellor. (Cal. Code Regs., tit. 5, § 55750 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55020 (Register 2007, No. 35).)
4. Determine a uniform grading practice for the district based on sound academic principles. (Cal. Code Regs., tit. 5, § 55751 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (a) (Register 2007, No. 35).)
5. Conform the uniform grading practices to the standard that work in all courses acceptable in the fulfillment of the requirements for an associate or baccalaureate degree, a certificate, diploma or license is graded in accordance with a grading scale adopted by the governing board consistent with section 55758, and sections 55752 (Credit-No Credit

[294] The language of California Code of Regulations, title 5, section 55750 provides, "… consistent with this chapter." However, see discussion regarding the Nomenclature Cross Reference in the "Minimum Conditions Entitling Community College Districts to State Aid" section above.

Options) or 55753 (Credit by Examination). (Cal. Code Regs., tit. 5, § 55751, subds. (a) and (b) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55021, subd. (c) (Register 2007, No. 35).)

6. Adopt and publish regulations pertaining to credit by examination in accordance with the provisions of Subchapter 9 "Standards of Scholarship" (Cal. Code Regs., tit. 5, § 55750 et seq.). (Cal. Code Regs., tit. 5, § 55753, subd. (a) (Register 2002, No. 8); for current requirement see Cal. Code Regs., tit. 5, § 55050, subd. (a) (Register 2007, No. 35).)
7. Place a student on academic probation when he/she has attempted at least 12 semester or 18 quarter units as shown by the official academic record and earned a grade point average below 2.0 in all units which were graded on the basis of the grading scale. (Cal. Code Regs., tit. 5, § 55754, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55031, subd. (a) (Register 2007, No. 35).)
8. Remove a student from academic probation when the student's accumulated grade point average is 2.0 or higher. (Cal. Code Regs., tit. 5, § 55755, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (a) (Register 2007, No. 35).)
9. Adopt and publish procedures and conditions for probation and appeal of probation and request for removal from probation. (Cal. Code Regs., tit. 5, § 55755, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55032, subd. (c) (Register 2007, No. 35).)
10. Make a student subject to dismissal if the student is on academic probation and has earned a cumulative grade point average of less than 1.75 in all units attempted in each of 3 consecutive semesters or 5 consecutive quarters which were graded on the basis of a grading scale. (Cal. Code Regs., tit. 5, § 55756, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (a) (Register 2007, No. 35).)
11. Adopt and publish procedures and conditions for dismissal and appeal of dismissal and request for reinstatement. (Cal. Code Regs., tit. 5, § 55756, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (c) (Register 2007, No. 35).)
12. Adopt rules setting forth the circumstances that warrant exceptions to the standards for dismissal. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23) ending August 16, 2007.)
13. File a copy of the rules setting forth the circumstances that warrant exceptions to the standards for dismissal with the Chancellor. (Cal. Code Regs., tit. 5, § 55756, subd. (d) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55033, subd. (d) (Register 2007, No. 35).)
14. Determine a student's need for remedial coursework using appropriate assessment instruments, methods, or procedures, including, but not limited to, interviews; standardized tests; holistic scoring processes; attitude surveys; vocational or career aptitude and interest inventories; high school or college transcripts; specialized certificates or licenses; educational histories; other measures of performance; and assessment procedures such as identification of test cores which measure particular skill levels, the administrative process by which students are referred for assessment, the manner in which assessment results are made available, and the length of time required before such results are available. (Cal. Code Regs., tit. 5, § 55756.5, subd. (b)

(Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) (Register 2007, No. 35).)

15. Dismiss and refer students that have exhausted the remedial coursework unit limitation to appropriate adult noncredit education services, provided by college, adult school, community-based organization, or other appropriate local provider which the district has an established referral agreement. (Cal. Code Regs., tit. 5, § 55756.5, subds. (b) and (e) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (a) and (e) (Register 2007, No. 35).)

16. Submit, through the established Management Information System, information necessary to enable the Chancellor to determine the effect of the California Code of Regulations, title 5, section 55756.5, on students by sex, age, and ethnicity, and the success rates for students enrolled in "remedial coursework." (Cal. Code Regs., tit. 5, §55756.5, subd. (g) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55035, subd. (g) (Register 2007, No. 35).)

17. Adopt rules and regulations governing the inclusion in or exclusion of units, for the purpose of determining whether to place a student on probation or dismissal, in which a student did not receive a grade or "credit-no credit" or from which the student withdrew in accordance with rules adopted by the district governing board. (Cal. Code Regs., tit. 5, § 55757 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55030, subd. (a) (Register 2007, No. 35).)

18. Determine a student's grade point average using the grades from a grading scale and the corresponding point equivalencies set forth in California Code of Regulations, title 5, section 55758, subdivision (a). (Cal. Code Regs., tit. 5, § 55758, subd. (a) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (a) (Register 2007, No. 35).)

19. Publish the point equivalencies for the grades used in California Code Regulations, title 5, section 55758, subdivision (a), in the catalog or catalogs of the community college district as part of its grading practices. "Point equivalencies for the grades" that are to be published excludes the symbols for credit (CR) and no credit (NC). (Cal. Code Regs., tit. 5, § 55758, subd. (d) (Register 2000, No. 50); for current requirement see Cal. Code Regs., tit. 5, § 55023, subd. (d) (Register 2007, No. 35).)

20. Make reasonable efforts to notify a student subject to academic probation or dismissal at or near the beginning of the semester or quarter which it will take effect, but no later than the start of the fall semester or quarter. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

21. Make reasonable efforts to notify a student of removal from probation or reinstatement after dismissal within timelines established by the district. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

22. Publish the policies and procedures regarding probation and dismissal in the college catalog. (Cal. Code Regs., tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

23. Make reasonable effort to provide counseling and other support services to a student on probation to help the student overcome any academic difficulties. (Cal. Code Regs.,

tit. 5, § 55759 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55034 (Register 2007, No. 35).)

24. The instructor of the course is to determine the grade to be awarded each student in accordance with the California Code of Regulations, title 5, section 55758 ("Academic Record Symbols and Grade Point Average"). (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (a) (Register 2007, No. 35).)

25. Include in the procedures for the correction of grades given in error the expunging of the incorrect grade from the record. (Cal. Code Regs., tit. 5, § 55760, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55025, subd. (d) (Register 2007, No. 35).)

26. Adopt and publish regulations for repeating courses in which substandard work has been recorded. (Cal. Code Regs., tit. 5, §§ 55760, subd. (b); and 55761 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55040, subd. (a), and 55042, subd. (a) (Register 2007, No. 35).)

27. Adopt and publish regulations for alleviation of previously recorded substandard academic performance that is not reflective of a student's demonstrated ability. (Cal. Code Regs., tit. 5, § 55764 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55046, subd. (a) (Register 2007, No. 35).)

Curriculum (Cal. Code Regs., tit. 5, §§ 55001, 55002, 55005, 55006, 55130, 55150, 55200, 55201, and 55202)

1. Report the classification of all courses, classes, and activities offered in accordance with California Code of Regulations, title 5, sections 55001, subdivision (a) (describing instructional services of community colleges), and 55002 (standards and criteria for associate degree credit course, nondegree credit course, and noncredit course) by transmitting the following information to the Chancellor's Office:

    a. The unique static course identifier and the course title for all credit and noncredit courses. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(1) (Register 94, No. 38) ending April 14, 2006.)

    b. The classification of each credit and noncredit course in accordance with its primary objective, consistent with guidelines published by the Chancellor. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(2) (Register 94, No. 38) ending April 14, 2006.)

    c. Whether the course is offered as credit or noncredit. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(3) (Register 94, No. 38) ending April 14, 2006.)

    d. Whether the course transfers to the California State University or the University of California or both. (Cal. Code Regs., tit. 5, § 55001, subd. (c)(4) (Register 94, No. 38) ending April 14, 2006.)

2. Establish a college or district curriculum committee by mutual agreement of the college or district administration and the academic senate. The committee shall be either a committee of the academic senate or a committee that includes faculty and is otherwise comprised in a way that is mutually agreeable to the college or district administration and academic senate. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(1) (Register 93, No. 42).)

3. When seeking to offer a course as an associate degree credit course, nondegree credit course, or noncredit course, the course must be recommended by the college or district

curriculum committee and approved by the district governing board. (Cal. Code Regs., tit. 5, § 55002, subds. (a), (b), and (c) (Register 93, No. 42).)

4. Each section of an associate degree course, nondegree course, or noncredit course is to be taught by a qualified instructor in accordance with a set of objectives and with other specifications defined in the course outline of record. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(4), (b)(4), and (c)(3) (Register 93, No. 42).)

5. Proposed associate degree credit courses and nondegree credit courses must meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2) and (b)(2), in order to receive a recommendation by the college or district curriculum committee:

    a. Grading policy: The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with California Code of Regulations, title 5, section 55758 (Register 2000, No. 50), which details the academic record symbols and associated grade points to be used by community colleges.

        The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency, at least in part, by means of essays for associate degree credit courses or written expression for nondegree credit courses, or in courses where the curriculum committee deems them to be appropriate, by problem-solving exercises or skills demonstrations by students. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(A) and (b)(2)(A) (Register 93, No. 42).)

    b. Units: The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline.

        The course also requires a minimum of three hours of work per week, including class time (and/or demonstrated competency for nondegree credit courses) for each unit of credit, prorated for short-term, laboratory and activity courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(B) and (b)(2)(B) (Register 93, No. 42).)

    c. Intensity: For associate degree credit course, the course must treat subject matter with a scope and intensity that requires students to study independently outside of class time. For nondegree credit courses, the course must provide instruction in critical thinking and generally treats subject matter with a scope and intensity that prepares students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(2)(C) and (b)(2)(C) (Register 93, No. 42).)

6. Proposed associate degree credit courses must also meet the following requirements found in California Code of Regulations, title 5, section 55002, subdivisions (a)(2), in order to receive a recommendation by the college or district curriculum committee:

    a. Prerequisites and Corequisites: Require prerequisites or corequisites when: (a) the college and/or district curriculum committee determines, based on a review of

the course outline of record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course; or (b) success in the course is dependent upon communication or computation skills, then the course shall require as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(D) and (E) (Register 93, No. 42).)

b. Difficulty: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(F) (Register 93, No. 42).)

c. Level: The course work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level. (Cal. Code Regs., tit. 5, § 55002, subd. (a)(2)(G) (Register 93, No. 42).)

7. Maintain a course outline of record for associate degree credit courses, nondegree credit courses, and noncredit courses in the official college files that describe the course and make the outline available to each instructor.

   For associate degree credit courses and nondegree credit courses, the course outline shall specify the unit value, scope, objectives, and content of the course in terms of a specific body of knowledge. Also, the course outline shall specify types or provide examples of required reading and writing assignments, other outside-of-class assignments, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met by students.

   For noncredit course, the course outline shall specify the scope, objectives, contents, instructional methodology, and methods of evaluation for determining whether the stated objectives have been met. (Cal. Code Regs., tit. 5, § 55002, subds. (a)(3), (b)(3), and (c)(2) (Register 93, No. 42); and Cal. Code Regs., tit. 5, § 55150, subd. (b) (Register 91, No. 23).)

8. Proposed noncredit courses must treat subject matter and use resource materials, teaching methods, and standards of attendance and achievement that is deemed appropriate for the enrolled students by the college or district curriculum committee in order to receive a recommendation by the college or district curriculum committee. (Cal. Code Regs., tit. 5, § 55002, subd. (c)(1) (Register 93, No. 42).)

9. Make available to students through college publications all of the following facts regarding each course offered before they enroll in the course: (1) whether the course is offered as a credit or noncredit course; (2) whether the course is transferable to four-year colleges and universities; and (3) whether the course fulfills a major or general education requirement. (Cal. Code Regs., tit. 5, § 55005 (Register 91, No. 23).)

10. Each community college must keep and submit such current records and reports concerning their total activities as may be required by the Chancellor to fulfill statutory responsibilities. (Cal. Code Regs., tit. 5, §§ 55006 and 55150, subd. (c) (Register 91, No. 23).)

11. Adopt policies for the following in accordance with the Board of Governors regulations addressing faculty participation in district and college governance (Cal. Code Regs., tit. 5, §§ 53200-53204) when establishing prerequisites or corequisites for an associate degree credit course as required by California Code of Regulations, title 5, section 55002, subdivisions (a)(2)(D) and (E) (e.g. a student is unlikely to receive a satisfactory grade in

a course without the prerequisite or corequisite, or success in a course is dependent on communication or computation skills):

a. The process for establishing prerequisites and corequisites. The policy for the process for establishing prerequisites or corequisites shall be based on content review with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite established. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(1) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(1) (Register 2007, No. 35).)

b. The procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline that are the basis for the requirement to establish the prerequisite or corequisite. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(2) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) (Register 2007, No. 35).)

c. The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. The process shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. (Cal. Code Regs., tit. 5, § 55201, subd. (b)(3) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(3) (Register 2007, No. 35).)

d. The bases and process for an individual student to challenge the application of a prerequisite or corequisite. The bases to challenge a prerequisite or corequisite are:

   i. The prerequisite or corequisite was not established in accordance with the district's process for establishing prerequisites and corequisites;

   ii. The prerequisite or corequisite violates California Code of Regulations, title 5, sections 55200-55202, which address the authority, requirements, and limitations on authority, when establishing prerequisites and corequisites;

   iii. The prerequisite or corequisite are either unlawfully discriminatory or are being applied in an unlawfully discriminatory manner;

   iv. The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite; and

   v. The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available. (Cal. Code Regs., tit. 5, § 55201, subds. (b)(2) and (f)(1)-(5) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (b)(2) and (m)(1)-(5) (Register 2007, No. 35).)

12. Gather data according to sound research practices and show that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite, in addition to conducting a content review, if the community college district seeks to establish a course in communication or computation skills as a prerequisite or corequisite for any non-communication or non-computation skills course.

    This data gathering requirement does not apply when:

a. Four-year institutions will not grant credit for a course unless it has the particular communication or computation skill prerequisite; or

b. The prerequisite or corequisite is required for enrollment in a program that is subject to approval by a state agency other than the Chancellor's Office and both of the following conditions are satisfied:

i. Colleges in at least six different districts have previously satisfied the data collection requirement with respect to the same prerequisite or corequisite for the same program; and

ii. The district establishing the prerequisite or corequisite conducts an evaluation to determine whether the prerequisite or corequisite has a disproportionate impact on particular groups of students described in terms of race, ethnicity, gender, age or disability, as defined by the Chancellor, and if there is a disproportionate impact the district in consultation with the Chancellor develops and implements a plan setting forth the steps the district will take to correct the disproportionate impact. (Cal. Code Regs., tit. 5, § 55201, subd. (e) (Register 98, No. 7) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (e) (Register 2007, No. 35).)

13. If a prerequisite or corequisite is challenged on the basis that it is either unlawfully discriminatory or applied in an unlawfully discriminatory manner (pursuant to Cal. Code Regs., tit. 5, § 55201, subd. (f)(3)), advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to the title 5 regulations addressing discrimination complaint procedures (Cal. Code Regs., tit. 5, § 59300 et seq.). (Cal. Code Regs., tit. 5, § 55201, subd. (g) (Register 98, No. 7); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (n) (Register 2007, No. 35).)

14. Identify prerequisites and corequisites in college publications available to students as well as in the course outline of any course for which they are established. (Cal. Code Regs., tit. 5, § 55202, subd. (a) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (f) (Register 2007, No. 35).)

15. Determine whether a student meets a prerequisite based on successful completion of an appropriate course. (Cal. Code Regs., tit. 5, § 55202, subd. (c) (Register 93, No. 42) ; for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (h) (Register 2007, No. 35).)

16. Ensure precollegiate basic skills courses designed to teach the required skills in reading, written expression, or mathematics, are offered with reasonable frequency and that the number of sections available is reasonable given the number of students who are required to meet the associated skills prerequisites and who diligently seek enrollment in the prerequisite course, if a prerequisite requires precollegiate skills in reading, written expression, or mathematics. (Cal. Code Regs., tit. 5, § 55202, subd. (d) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (i) (Register 2007, No. 35).)

17. Offer sufficient sections of a corequisite course to reasonably accommodate all students who are required to take the corequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)

18. Waive a corequisite for any student whom space in the corequisite course is not available. (Cal. Code Regs., tit. 5, § 55202, subd. (e) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (j) (Register 2007, No. 35).)

19. Make a determination of whether a student meets a prerequisite prior to the student's enrollment in the course requiring the prerequisite. (Cal. Code Regs., tit. 5, § 55202, subd. (g) (Register 93, No. 42); for current requirement see Cal. Code Regs., tit. 5, § 55003, subd. (l) (Register 2007, No. 35).)

Degrees and Certificates (Cal. Code Regs., tit. 5, §§ 55800, 55805, and 55806)

1. Adopt policy consistent with the subchapter regarding degrees and certificates consisting of California Code of Regulations, title 5, section 55800 – 55810. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)

2. Publish the policy consistent with the subchapter regarding degrees and certificates in the college catalog under appropriate headings. (Cal. Code Regs., tit. 5, § 55800 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55060 (Register 2007, No. 35).)

3. Adopt a policy which states its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)

4. Consider the policy of the Board of Governors specified in California Code Regulations, title 5, section 55805, subdivision (a) (Register 91, No. 23), when developing the policy stating its specific philosophy on General Education. (Cal. Code Regs., tit. 5, § 55805, subd. (a) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (a) (Register 2007, No. 35).)

5. Establish criteria, subject to the limitations in California Code of Regulations, title 5, section 55805.5 (Register 91, No. 23), to determine which courses may be used in implementing its philosophy on the associate degree and general education. (Cal. Code Regs., tit. 5, §§ 55805, subd. (b); and 55805.5 (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, §§ 55061, subd. (b), and 55062 (Register 2007, No. 35).)

6. Review the policy and criteria for General Education, established pursuant to California Code of Regulations, title 5, section 55805, subdivisions (a) and (b), on a regular basis. (Cal. Code Regs., tit. 5, § 55805, subd. (c) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55061, subd. (c) (Register 2007, No. 35).)

7. Condition receipt of an associate degree upon a student who has satisfactorily completed at least 60 semester units or 90 quarter units of college work that is fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog). This course work includes 18 semester or 27 quarter units in general education and at least 18 semester or 27 quarter units in a major, at least 12 semester or 18 quarter units completed in residence at the college granting the degree.

   The 18 semester or 27 quarter units in a major must be taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs."

   The 18 semester or 27 quarter units in general education requirements must include a minimum of three semester or four quarter units in each of the following areas: (1) Natural Sciences, (2) Social and Behavioral Sciences, (3) Humanities, (4) Language

and Rationality – English Composition, and (5) Language and Rationality – Communication and Analytical Thinking.

The remainder of the unit requirement is also to be selected from among these five divisions of learning or as determined by local option. (Cal. Code Regs., tit. 5, § 55806, subd. (a) and (b)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (a) and (b) (Register 2007, No. 35).)

8. Offer ethnic studies in at least one of the general education areas of learning listed in California Code of Regulations, title 5, section 55806, subdivision (b)(1)(A)-D) (i.e. Natural Sciences, Social and Behavioral Sciences, Humanities, Language and Rationality-English Composition, and Language and Rationality-Communication and Analytical Thinking) (Cal. Code Regs., tit. 5, § 55806, subd. (b)(3) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(2) (Register 2007, No. 35).)
9. Design a course to help students develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities, in order to satisfy the general education requirement in natural sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(A) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(A) (Register 2007, No. 35).)
10. Design a course to develop an awareness of the method of inquiry used by the social and behavioral sciences and to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate, in order to satisfy the general education requirement in social and behavioral sciences. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(B) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(B) (Register 2007, No. 35).)
11. Design a course to help students to develop an awareness of the ways in which people throughout the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and ability to make value judgments, in order to satisfy the general education requirement in humanities. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(C) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(C) (Register 2007, No. 35).)
12. Design courses fulfilling the written composition (English composition) requirement to include both expository and argumentative writing. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(1) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(1) (Register 2007, No. 35).)
13. Design a course to fulfill the communication and analytical thinking requirement. (Cal. Code Regs., tit. 5, § 55806 (b)(1)(D)(2) (Register 91, No. 23); for current requirement see Cal. Code Regs., tit. 5, § 55063, subd. (b)(1)(D)(2) (Register 2007, No. 35).)

Open Courses (Cal. Code Regs., tit. 5, §§ 58102 and 58104)

1. Publish a description of each course that is clear and understandable to the prospective student in the official catalog, or schedule of classes, or addenda (Cal. Code Regs., tit. 5, §§ 58102 and 58104 (Register 93, No. 25).)
2. List all courses to be conducted in the schedules of classes (Cal. Code Regs., tit. 5, § 58104 (Register 93, No. 25).)

In addition, staff finds that all other test claim statutes, regulations, and alleged executive orders do not constitute a reimbursable state-mandated program because they either do not require any activities on community college districts, are voluntary or are downstream of a voluntary activity, or are not new as compared to the legal requirements in effect immediately prior to their enactment.

IV. Recommendation

Staff recommends that the Commission adopt this analysis to partially approve this test claim.

Exhibit V

SixTen and Associates
Mandate Reimbursement Services

KEITH B. PETERSEN, President

San Diego
5252 Balboa Avenue, Suite 900
San Diego, CA 92117
Telephone: (858) 514-8605
Fax: (858) 514-8645
www.sixtenandassociates.com

Sacramento
P.O. Box 340430
Sacramento, CA 95834-0430
Telephone: (916) 419-7093
Fax: (916) 263-9701
E-Mail: kbpsixten@aol.com

April 21, 2011

Drew Bohan, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, California 95814

Re: CSM 02-TC-22 (portion)
West Kern Community College District
Disabled Student Program and Services
CSM 02-TC-25
Los Rios Community College District
Notice to Students
CSM 02-TC-31 (portion)
Santa Monica Community College District
Minimum Conditions for State Aid

Dear Mr. Bohan:

I have received the Commission's Draft Staff Analysis (DSA) for the above referenced consolidated test claim[1] dated January 31, 2011, to which I respond on behalf of the

---

[1] Test Claim Consolidation History

By letter dated January 9, 2008, the Commission consolidated the Notice to Students (02-TC-25) test claim with the Minimum Conditions for State Aid (02-TC-31) test claim.

The Disabled Student Program and Services (02-TC-22) test claim included mandate allegations for Title 5, CCR, Sections 55522 and 55602.5 (Register 91, Nos. 23 & 43; Register 95, No. 22), regarding matriculation accommodations and contracting for disabled student education, respectively. These regulations are also included in the Minimum Conditions for State Aid (02-TC-25 and 02-TC-31) test claim. By letter dated April 2, 2008, the Commission severed these two sections and consolidated them into the Minimum Conditions for State Aid (02-TC-25 and 02-TC-31) test claim.

By letter dated June 22, 2010, the Commission severed from the consolidated Minimum Conditions for State Aid (02-TC-25/31) test claim and transferred to the Discrimination

test claimants. This response will first address procedural and threshold legal issues, then respond to exceptions to the analysis of each program's mandated activities. Issues raised by the DSA, but not responded to by this letter, are not waived.

PART A. NEW PROGRAM STANDARD OF REVIEW

The DSA (23) states that to determine if a program is new or imposes a higher level of service, the statutes pled "must be compared with the legal requirements in effect immediately before the enactment." This is incorrect. The Disabled Student Program and Services (02-TC-22) test claim was filed May 23, 2003. The Notice to Students (02-TC-25) test claim was filed June 5, 2003. The Minimum Conditions for State Aid (02-TC-31) test claim was filed June 23, 2003. Based on the date these test claims were submitted, the standard of review is to compare the statutes, regulations, and executive orders pled on the effective date of the test claim filing (for these test claims, July 1, 2001) to the status of the law as of December 31, 1974, pursuant to Government Code Section 17514.

The Commission, however, decided to the contrary on this issue in the March 24, 2011, Statement of Decision for 02-TC-25/31/46, Discrimination Complaint Procedures, relying upon *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859. The legal issue here is identical to that in the Discrimination Complaint Procedures test claim. The test claimant raises it here for purposes of the record and does not waive the issue. The proposed statement of decision should be revised to compare the statutes and laws effective July 1, 2001 (the effective reimbursement date of these test claims), to the law as it existed on December 31, 1974.

PART B. MINIMUM CONDITIONS THRESHOLD ISSUE-TITLE 5 SECTION 51000

The DSA (34,35) concludes that Subchapter 1 (Title 5, California Code of Regulations, Sections 51002 through 51027) does not impose any state-mandated activities. The DSA (33) concludes that the test claimants have erred in concluding that *compliance* is required to *receive state aid*. The DSA instead asserts that compliance is required only to establish *entitlement*. The DSA concludes that since the plain language of Section 51000 "does not preclude" a district that has not satisfied the minimum conditions, and therefore is not entitled to receive general state aid, from receiving state aid, that there was an absence of regulatory intent to prevent entitlement to state aid where there is no satisfaction of the minimum conditions. The DSA creation of new language to satisfy the opposite intent of the regulation is unnecessary and artificial. The fact that the regulation does not include this surplusage indicates that it is an unnecessary

---

Complaint Procedures (02-TC-46) test claim the equal employment opportunity program and the student equity plan program statutes and regulations.

interpretation of the scope of the regulation that only becomes an issue when the DSA artificially separates entitlement from payment. The Section 51000 language stands on its own: districts must comply with the minimum conditions to be entitled to general state funding.

Relying upon the Chancellor's Section 51100 review requirement and possible enforcement actions against a district deemed to be out of compliance, the DSA (34) concludes that compliance is a "downstream activity of becoming *entitled* to receive state aid," thus invoking the *Kern* argument. This is erroneous on its face. Compliance is not a program activity. Section 51000 does not define new program activities; the referenced program regulations do that. The minimum conditions program activities (Sections 51002 through 51027) are not downstream of any other programs. Performing the program activities remains the condition precedent to obtaining state aid.

The Section 51000 entitlement to state aid is based on compliance with the program regulations, not the subsequent Section 51100 compliance review. The Section 51100 review is qualitative in nature. It does not determine the amount of program appropriation or entitlement. The discretion allowed the Board of Governors by Section 51102 to resolve the perceived noncompliance is not a condition precedent to Section 51000, nor is it a condition of the Section 51000 coercion. Section 51102 does not address original entitlement, but only describes the scope of potential penalties for noncompliance and is not a condition of appropriation for the programs either retroactively or prospectively.

The DSA interpretation is inconsistent with the statutory scheme created by Education Code Section 70901, subdivision (b) (6), to have the Board of Governors establish and enforce minimum conditions for entitlement to the receipt of state aid. All of the Board of Governors compliance procedures occur after the appropriation of the general state aid. The appropriation is not conditioned on the review every seven years by the Board of Governors. The DSA incorrectly relies upon Section 51102, the Chancellor's enforcement power, as the source of actual control of general state aid, as if Section 51102 granted the Board of Governors the original power to appropriate funds. The Board of Governors cannot legislate state apportionment. The Board of Governors can only punish for noncompliance. The district receives the apportionment and may then be subject to post-facto punishment for noncompliance, but the appropriation remains.

The *Kern*[2] issues are not reached. Section 51000 is a legally compelling regulation

---

[2] The *Kern* Case Facts Do Not Match Minimum Conditions Coercion

The facts of *Kern* are significantly different:

> "Real parties in interest - - two public school districts and a county (hereafter claimants) - - participate in various education-related programs that are funded by the state and, in some instances, by the federal government. Each of these underlying funded programs in turn requires participating public school districts to establish and utilize specified school councils and advisory committees. Statutory provisions enacted in the mid-1990's require that such school councils and advisory committees provide notice of meetings, and post agendas for those meetings. (citations) We granted review to determine whether claimants have a right to reimbursement from the state for their costs in complying with these statutory notice and agenda requirements." (Opinion, at pages 730-731, underlining supplied to show that the funding referred to was provided for the underlying education-related programs.)

At page 731 of the opinion, the court summarized its later holding:

> "...we conclude that as to *eight* of the nine underlying funded programs here as issue, claimants have not been legally compelled to participate...,assuming (without deciding) that claimants have been legally compelled to participate in *one* of the nine programs, we conclude that claimants nonetheless have no entitlement to reimbursement from the state for such [notice and agenda] expenses, because they have been free at all relevant times to use funds provided by the state for that [underlying education-related] program to pay required program expenses - - including the notice and agenda costs here at issue," (Emphasis in the original, underlining and bracketed clarification added.)

It is only in the context of those facts, that the court held:

> "We therefore conclude that because claimants are and have been free to use funds from the [underlying education-related] Chacon-Moscone Bilingual-Bicultural Education program to pay required program expenses (including the notice and agenda costs here at issue), claimants are not entitled under article XIII B, section 6, to reimbursement from the state for such expenses." (Opinion at page 748, parenthetical notation in the original, bracketed clarification added.)

Therefore, *Kern* is factually distinguishable. In the test claim now before the Commission there is no funding provided in any statute or regulations cited. Here, there are no "funds that have already been obtained from the state." The minimum conditions mandate results from the requirement to comply with programs as a condition of receipt of general state aid.

that needs no further qualification. Neither entitlement nor coercive compliance is a "program." The DSA treatment of program compliance as a downstream activity of "becoming entitled" is a contrived use of *Kern*.

The DSA (34) cites *POBRA* to assert a need for a "concrete showing" that a failure to perform the programs would result in "certain and severe penalties." This additional test is not necessary since Section 51000 is, by itself, legally compelling. Notwithstanding, the failure to implement a program can remove the entitlement for *all* state funding, *all* general program funding, that is, funding for other programs and needs beyond the scope of the single minimum condition program not implemented, subject only to the Board of Governors post facto unilateral unlimited discretion regarding the degree of noncompliance.

What degree of "certainty" is needed? Must the test claimants show that a district intentionally failed to implement a mandated program, or intentionally received and

---

After concluding that the facts in *Kern* did not rise to the standard of non-legal compulsion, the court reaffirmed that either double taxation or other draconian consequences could result in non-legal compulsion:

> "In sum, the circumstances presented *in the case before us* do not constitute the type of non-legal compulsion that reasonably could constitute, in claimants' phrasing, a 'de facto' reimbursable state mandate. Contrary to the situation that we described in (*Sacramento II*), a claimant that elects to discontinue participation in one of the programs *here at issue* does not face 'certain and severe...penalties' such as 'double...taxation' or other 'draconian' consequences (citation), but simply must adjust to the withdrawal of grant money along with the lifting of program obligations." (Opinion, at page 754, emphasis supplied to illustrate holding is limited to facts presented)

The test for determining the existence of a mandate is whether compliance with the test claim legislation is a matter of true choice, that is, whether participation is truly voluntary. *Hayes v. Commission on State Mandates*, (1992) 11 Cal.App.4th 1564, 1582 Under the "carrot and stick" analysis of both *Kern* and *Hayes*, community college districts' acceptance of state aid is not truly voluntary. The carrot is too large and the stick is too short. The determination in each case must depend on such factors as the nature and purpose of the program; whether its design suggests an intent to coerce; when district participation began; the penalties, if any, assessed for withdrawal or refusal to participate or comply; and any other legal and practical consequences of nonparticipation, noncompliance, or withdrawal. (*Sacramento II*, at page 76)

misspent the appropriations, and was severely penalized by the Board of Governors? That no district was ever severely penalized is not the proof that the coercion for compliance exists. Does the DSA demand for proof either neglect or malfeasance on the part of one district, or worse, a pattern by many districts, that results in severe fiscal punishment by the Board of Governors at its unfettered discretion? Catastrophic malfeasance is not a practice of the professional public servants who lead the community colleges.

It is the magnitude of coercion created by the threat of penalty, not any proof of actual penalty, that is the measure of the issue. To decide otherwise is to make the Section 51000 coercion language surplusage since the Board of Governors has the independent Section 51100 duty to review compliance notwithstanding the original Section 51000 entitlement issue. The Board of Governors has made it quite clear that the districts are required to implement the programs included in the Chapter by conditioning receipt of general college funding on that implementation and providing a post-facto audit and penalty system to evaluate the measure of compliance. The fact that no district has catastrophically failed to comply and has been severely punished thereafter does not make this regulatory structure a sham. There is no reason to reach the *POBRA* severe consequences practical compulsion issue since the districts are already legally compelled by Section 51000 to comply with the program regulations.

Notwithstanding and independently of the determination regarding Section 51000 above, pursuant to rules of statutory construction, the test claimants assert that for each of the Title 5, CCR, Sections 51002 through 51027 that cite the requirements of other codes and regulations, either specifically or inclusively, outside of Subchapter 1, compliance with Sections 51002 through 51027 requires compliance with those other cited sections outside of Subchapter 1 to implement the mandated minimum condition. Section 51000 and 51002 through 51027 are therefore independent derivative bases for a finding of legal compulsion to implement the activities for the codes and regulations cited within Subchapter 1 that are outside of Subchapter 1.

The Commission, however, decided to the contrary on this issue in the March 24, 2011, Statement of Decision for the Discrimination Complaint Procedures (02-TC-46) test claim. The legal issue here is identical to that in the Discrimination Complaint Procedures test claim. The test claimants raise it here for purposes of the record and do not waive the issue. The proposed statement of decision should be revised to find that all codes and regulations cited in Sections 51002 through 51027 are required activities.

PART C. THE TWENTY MINIMUM CONDITION MANDATE PROGRAMS

The DSA having concluded that Section 51000 is not coercive, that the sections of Subchapter 1 do not impose any state mandated activities, and absent a finding of a mandate wholly either based on coercion or derived from Subchapter 1, each of the

outside codes and Title 5 regulations cited in Subchapter 1, or as otherwise pled by the test claims, have to be individually analyzed to determine if they impose activities on community colleges that are a new program or higher level of service.

The DSA (27) concludes that Education Code Sections 70901, 70901.5, and 70902 do not constitute reimbursable new programs or higher levels of service, without conducting an analysis of the language or legislative history. The test claim cited these sections as an authoritative source for Title 5 rulemaking. In addition, these code sections also state affirmative duties of the Board of Governors that result in mandated activities on college districts, or affirmative duties of college district governing boards. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

The Minimum Conditions for State Aid test claim pled twenty mandate programs and the DSA analyzed eighteen of them in that format. Two of the twenty programs were previously consolidated into the Discipline Complaint Procedures (02-TC-46) test claim.

1. STANDARDS OF SCHOLARSHIP
Title 5, CCR, Sections 51002, 55750 through 55765

The subject of this program is Title 5, CCR, Sections 51002 and 55750 through 55765. Section 51002 is the minimum condition that requires each community college governing board to adopt regulations consistent with the standards of scholarship contained in other Title 5 sections, file a copy of those regulations with the Chancellor, and substantially comply with those rules and regulations of the Board of Governors pertaining to standards of scholarship. The DSA does not analyze Section 51002. Education Code Section 70902, subdivision (b) (3) (as added by Chapter 973, Statutes of 1988), requires the district governing board to establish academic standards, probation and dismissal policies. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

The DSA (71) incorrectly concludes that Section 55750 does not require the district to file its adopted regulations with the Chancellor, as required by Section 51002, based on its previous determination that the minimum conditions Title 5 Sections 51002 through 51027 do not constitute mandates on the districts. This is an error in statutory construction. Section 55750 is an independent basis for the mandate and merely relates back to Section 51002 for the pertinent language. Had Section 55750 restated the language of Section 51002 in Section 55750 instead of referencing Section 51002, there would be no such question presented regarding filing the regulations with the Chancellor.

Utilizing *Kern*, the DSA improperly concludes that Section 55754, subdivision (b) (p.75), Section 55755, subdivision (b) (p.76), and Section 55756, subdivision (b) (p.76), regarding placement and removal from "progress probation" are not mandated activities because the 50% test is based on Section 55758 grading symbols, the use of which are the choice of the district. The grading symbols are not a new program applied to a precursor optional program, so *Kern* is inapplicable. If the district only utilized the A through F grading formula, there would be no question here. The Section 55758, subdivision (a), grading symbols CR and NC are a matter of substitution for the A through F designators, but still have the same regulatory standing as the A-F ratings for the purposes of implementing the mandate to place students on or remove students from progress probation, or to make the student subject to dismissal. The Sections 55754, 55755, and 55756 mandate program is for the remediation of unsatisfactory student academic performance, not the choice of grading methods.

The DSA (80) improperly concludes that Section 55758.5 does not impose any activity on districts, but rather to avoid "engaging in an activity." Subdivision (b) states an affirmative duty not to include noncredit courses in the calculation of the grade point average. The Section 55758.5 activity in which the districts must "engage" is the calculation of the grade point average, which must exclude noncredit courses. To implement the calculation, the noncredit grade must be affirmatively removed, thus creating an activity in which the districts must "engage." The noncredit grading ratings have the same regulatory standing in Section 55758, subdivision (a), as the A- F ratings.

2. DEGREES AND CERTIFICATES
Title 5, CCR, Sections 51004, 55800 through 55809

The subject of this program is Title 5, CCR, Sections 51004 and 55800 through 55809. Section 51004 is the minimum condition that requires each community college governing board to adopt regulations consistent with the standards of scholarship contained in other sections of Title 5, file a copy of those regulations with the Chancellor, and substantially comply with the regulations of the Board of Governors pertaining to degrees and certificates. The DSA does not analyze Section 51004. The proposed statement of decision should include an analysis to determine whether this section constitutes a new program or higher level of service for community college districts.

The DSA (120) incorrectly concludes that Section 55800 does not require the district to file its regulations with the Chancellor as required by Section 51004, based on its previous determination that the minimum conditions Title 5 Sections 51002 through 51027 do not constitute mandates on the districts. This is an error in statutory construction. Section 55800 is an independent basis for the mandate and merely relates back to Section 51004 for the pertinent language. Had Section 55800 restated

the language of Section 51002 in Section 55750 instead of referencing Section 51004, there would be no such question presented regarding filing the regulations with the Chancellor.

The DSA (122) incorrectly concludes that the districts are not required to award an Associate degree pursuant to Section 55800.5, a Certificate of Achievement pursuant to Section 55808, or a diploma pursuant to Section 55809. In the case of Section 55800.5, the DSA (127) concludes that community colleges have always been practically compelled to grant degrees, so it is not a new program. In the case of Sections 55808 and 55809, the DSA (122) concludes that while the colleges are degree granting institutions, there is no legal requirement to offer a course of study for which a certificate of achievement or diploma is offered. This misconstrues the mandate. The community college course offerings are mandated by law to the extent that they comply with the primary mission (Education Code Section 66010.4). The DSA has not stated a basis to distinguish courses that can lead to a certificate or diploma from those which lead to a degree. Sections 55800.5, 55805 and 55809 establish independent legal compulsion to award either a degree, a certificate, or a diploma when a student completes the designated curriculum. The compulsion derives from the student's completion of course work that is part of an educational plan that complies with the primary mission of the community college.

3. OPEN COURSES:
Title 5, CCR, Sections 51006, 58102 through 58108

The subject of this program is Title 5, CCR, Sections 51006 and 58102 through 58108. Section 51006 is the minimum condition that requires each community college governing board to adopt a policy statement regarding open enrollment, to publish the policy statement in the in the official student catalog, schedule of classes, and addenda, and to file the policy statement with the Chancellor. The DSA does not analyze Section 51006. The proposed statement of decision should include an analysis to determine whether this section constitutes a new program or higher level of service for community college districts.

The DSA (129) concludes that the "and/or" language in Section 58102 allows the district the option of publishing a description of all courses in more than one document, but not all three locations described in the section. The plain language of Section 58102 requires publication in the official catalog because this precedes the use of "and/or." As to whether this section requires publication in the schedule of classes and addenda, it depends on the legal meaning of "and/or." [3] The best use of that confusing conjunctive

---

[3] Legal Uses of "and/or":

The late David Mellinkoff, in his much venerated The Language of the Law (Little

phrase would be to rely upon the language in Section 51006 which properly states that publication must be made in all three locations.

The DSA (130) concludes that the "and/or" language in Section 58104 allows the district

---

Brown1963), traces *and/or* back to scholarly concerns about the correct translation of some famous words in the Magna Carta:

nisi per legale judicium parium suorum vel per legem terrae.

"Except by lawful judgment of his peers *vel* by the law of the land."

The debate over the meaning of *vel* raged. Does it mean *and* or *or*?

Mellikoff cites Holdsworth's *A History of English Law* (1922) among others, noting that the law interpreters agreed on *and/or* as the best translation. Apparently an ancient Latin division between the copulative and disjunctive was not very meaningful. For centuries the courts have argued about this (Mellikoff, 147-152), often contradicting each other. Several legal scholars have called *and/or* "a bastard" since the first time it was called into question (1845). Mellinkoff concludes that it has several understandings (307-308):

1. It includes every possibility imaginable with *and* alone plus every possibility imaginable with *or* alone. It should best accord with the equity of the situation.
2. It includes some but not all of the possibilities of *and* and *or* (but legal scholars disagree about which possibilities to include).
3. It means either *and* or *or* but it can't mean both.
4. It is meaningless.

In his excellent book, *The Language of Judges* (Chicago 1993) Larry Solan (who is both a linguist and a law professor) devotes 14 pages to "the and/or rule" as it is used in the legal context, noting that commentators on statutes who have encountered the legal uses of *and*, *or*, and *and/or* say that this expression is notoriously loose and inaccurate.

Mellinkoff's understanding 2 seems the best. It would seem that Geoff Pullum is quite right when he says: "The right theory of what or means in English is that it is in general inclusive but that sometimes the exclusive case is conveyed as a conversational implicature."

Maybe some day this will be clear to the field of law.

Filed by Roger Shuy under "Language and the Law"

the option of publishing the course descriptions in more than one document, either the general catalog or the addenda. For the same reasons stated for Section 58102, this should mean publishing at both locations, especially since "addenda" denotes a supplement and not a repetition. Failure to supplement the catalog would mean that the mandate was not implemented as to the courses described in the supplement to the general catalog. The DSA (130) also reaches an uncited conclusion that colleges are not required to establish or conduct courses after the general catalog or regular schedule of classes are published in support of its ultimate conclusion that publishing the changes is not required. Considering the lead time required to print the catalog and class schedules that are based on conditions such as faculty and facility availability, and the persistent historical practice of the Legislature to adopt the State Budget months after the start of the college academic year, it can be concluded that changes in the class schedule will frequently occur and that it is reasonable and necessary to notify students about the changes (hence the need for "addenda") in order to comply with the mandate.

Section 58106 provides methods to limit enrollment in courses. The DSA (132) concludes that Section 58106 does not require districts to establish or implement policies for open enrollment. That requirement is specifically stated in Section 51006, the minimum condition for open enrollment. The DSA (132) also states that there is no mandate to "claim" courses for state apportionment; however, that is how community colleges are funded. Whether or not there is a statement of an open enrollment policy, a community college district is principally limited in the number of students they can service based on its apportionment from the Legislature, which is outside the control of the district. It would seem reasonable and necessary to establish equitable mechanisms that provide for methods to allocate the available courses to the number of students (which is also not controlled by the district) wanting the courses, and Section 58106 provides those methods.

Section 58107 requires the district to ensure that any public funds used in connection with community college athletic programs are used only for those programs which provide facilities and opportunities for participation by both sexes on an equitable basis. The DSA(132) states that the section merely "sets forth a prohibited activity." Not so. The district must take some affirmative action to avoid the prohibited activity. The language of the section is replete with words and phrases that require further description in order to determine compliance. It would seem reasonable and necessary for the district to adopt policies and implement procedures to avoid the prohibited use of funding.

Section 58108 addresses procedures and standards for enrollment in courses and specifically prohibits types of preferential enrollment. The DSA(133) states that the section does not require any activities by the district. The district must take some affirmative action to avoid the prohibited activity, that is, to ensure that enrollment is consistent with all sections of Title 5 and is "uniformly administered by appropriately

authorized employees." It would seem reasonable and necessary for the district to adopt policies and implement procedures to avoid the prohibited use of funding.

4. COMPREHENSIVE PLANS
Education Code Sections 81820 through 81823
Title 5, CCR, Sections 51008, 55401 through 55405

The subject of this program is Education Code Sections 81820 through 81823, and Title 5, CCR, Sections 51008 and 55401 through 55405. Section 51008 is the minimum condition that requires each community college governing board to adopt and annually update policies for comprehensive academic and facility master plans subject to the requirements of the Board of Governors and to submit the plans to the Board of Governors for approval. The DSA does not analyze Section 51008. Education Code Section 70901, subdivision (b), (9) (as amended by Chapter 1023, Statutes of 1998), and Section 70902, subdivision (b) (1), require comprehensive plans to be prepared by the district, to be submitted to the Board of Governors, and for the Board of Governors to review and approve the plans. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

Educational/Academic Master Plans

The DSA (39) concludes that the plain language of Sections 55401 through 55404 has remained unchanged since the adoption of the sections in 1971. This is true. However, the mandate derives from Section 51008 which was not evaluated by the DSA to determine if that section constitutes a new program or higher level of service for community college districts.

Capital Construction Master Plans

The DSA does not analyze the Education Code Sections 81820 through 81823 that establish the facility master plan mandate. The proposed statement of decision should be revised to include an analysis of whether these sections constitute a new program or higher level of service for community college districts.

5. EQUAL EMPLOYMENT OPPORTUNITY
Education Code Sections 87100 through 87108
Title 5, CCR, Sections 51010, 53000 through 53034

These codes and regulations were consolidated into the Discrimination Complaint Procedures (02-TC-46) test claim and are no longer a subject of this consolidated test claim.

6. STUDENT FEES
Title 5, CCR, Section 51012

The subject of this program is Title 5, CCR, Section 51012. Section 51012 is the minimum condition that requires the district governing board to only establish such mandatory student fees as expressly authorized by law. The DSA does not analyze Section 51012. Education Code Section 70902, subdivision (b) (9), requires the district governing board to establish student fees as is required or authorized by law. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

7. APPROVAL OF NEW COLLEGES AND EDUCATIONAL CENTERS
Title 5, CCR, Sections 51014, 55825 through 55831

The subject of this program is Title 5, CCR, Sections 51014 and 55825 through 55831. Section 51014 is the minimum condition that requires each community college governing board to obtain approval of the Board of Governors for the formation of new colleges or educational centers pursuant to Sections 55825 through 55831. The DSA does not analyze Section 51016. Education Code Section 70901, subdivision (b), (1) (C), requires the Board of Governors to establish minimum standards for the formation of community colleges and districts. Subdivision (b) (5) (C) requires the Board of Governors to establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes. Subdivision (b) (9) requires the Board of Governors to review and approve the facility plans for each district. Subdivision (b) (11) requires the Board of Governors to exercise general supervision over the formation and reorganization of districts including approval of the plans therefor. Education Code Section 70902, subdivision (b) (1), requires the district governing board to establish policies for and approve facilities plans to promote the orderly growth of the colleges within the district. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

The DSA (38) concludes that the plain language of these Sections 55825 through 55831 does not mandate any activities on the districts since planning the formation of a new college or educational center is discretionary. Based on that premise, the DSA does not further analyze the regulations to determine whether the activities result in a new program or higher level of service. A threshold issue here is whether college districts are either legally or practically compelled (*Kern*) to build new instructional facilities. If so, planning is required, and the planning process is controlled by the Board of Governors and the Chancellor by these sections. The Commission, however, has decided the threshold issue to the contrary for both school and community college

districts in the statements of decision for three previous test claims.[4] The test claimant raises it here for purposes of the record and does not waive the issue.

8. ACCREDITATION
Title 5, CCR, Section 51016
Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002)

The subject of this program is Title 5, CCR, Sections 51016 and the Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002). Section 51016 is the minimum condition that requires each community college within a district to be accredited by the Accrediting Commission for Community and Junior Colleges. The DSA does not analyze Section 51016. The proposed statement of decision should include an analysis to determine whether this section constitutes a new program or higher level of service for community college districts.

Regarding the Handbook, the DSA (24) concludes that because ACCJC/WASC is a non governmental entity, the Handbook does not constitute an executive order. However, there is an independent basis for the mandate. Accreditation is a Title 5 regulatory requirement established by the Board of Governors. The Handbook states the standards and criteria for accreditation by ACCJC/WASC. The Board of Governors has retained no independent adjudicatory power for the ultimate determination of accreditation, instead, the Board of Governors has entirely deferred to ACCJC/WASC. This is similar to state laws (e.g., Education Code Section 42010) that require government entities to have annual financial audits conducted by Certified Public Accountants whose standards are not executive orders, but are professional standards drafted into the law by reference.

9. COUNSELING PROGRAMS
Title 5, CCR, Section 51018

The subject of this program is Title 5, CCR, Section 51018. This Section is the minimum condition that requires each community college district to (1) establish and implement regulations and procedures to provide counseling programs for students in each college within the district; file a copy of the community college district's regulations regarding counseling programs with the Chancellor's Office; to publicize the counseling program; ensure the counseling program is organized and functioning and meets the needs of average students and those with special needs; to ensure the counseling

---

[4] 01-TC-28 Prevailing Wage Rates, 02-TC-30 School Facilities Funding Requirements, and 03-TC-17 California Environmental Quality Act

program includes academic counseling, career counseling, personal counseling, skills testing programs, financial assistance programs, and job placement services; and, ensure that academic, career and personal counseling services are provided to first-time students enrolled for more than six units, students enrolled provisionally, and students on academic or progress probation. The DSA does not analyze Section 51018. The proposed statement of decision should include an analysis to determine whether this section constitutes a new program or higher level of service for community college districts.

10. INSTRUCTIONAL OBJECTIVES
Title 5, CCR, Section 51020

The subject of this program is Title 5, CCR, Section 51020. Section 51020 is the minimum condition that requires each community college district to have stated objectives for its instructional programs. The DSA does not analyze Section 51020. Education Code Section 70902, subdivision (b) (3), requires district governing boards to establish academic standards, probation and dismissal policies. The proposed statement of decision should include an analysis to determine whether this section constitutes a new program or higher level of service for community college districts.

11. CURRICULUM
Title 5, CCR, Sections 51021, 55000 through 55350
"Program and Course Approval Handbook" Chancellor's Office California Community Colleges (September 2001)

The subject of this program is Title 5, CCR, Sections 51021, 55000 through 55350, and the "Program and Course Approval Handbook" Chancellor's Office California Community Colleges (September 2001). Section 51021 is the minimum condition that requires each community college to establish programs and courses that will permit the realization of the objectives and functions of the community college and submit them to the Chancellor for approval. The DSA does not analyze Section 51021. Education Code Section 70901, subdivision (b), (10), requires the Board of Governors to review and approve all educational programs offered by the districts, as well as those courses that are not offered as part of an educational program. Education Code Section 70902, subdivision (b) (2), requires the district governing board to establish policies and to approve courses of instruction and educational programs, and to submit those to the Board of Governors. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

Program Classification and Standards

The DSA (92) correctly concludes that since districts must offer courses (Education Code Section 66010.4), the districts must comply with the regulations and procedures

required to offer the courses. Section 55000 (added in 1981, last amended in 1991) provides definitions for terms pertinent to the course approval process. The DSA (93) concludes that this section does not impose any activities on community colleges. To the contrary, the districts are required to use these definitions in the course adoption and implementation process.

Section 55000.5 requires the Chancellor to prepare, distribute and maintain a detailed handbook specifying course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals, for use by local educational agencies in complying with curriculum requirements. The DSA (93) concludes that this section does not impose any activities on community colleges. The Chancellor has issued a comprehensive Manual, entitled "Program and Course Approval Handbook" (hereinafter "Handbook"), that details its course approval requirements. The most recent issue of the Handbook was last published in 2001. The introduction of the Handbook contains the following statement: "...colleges are expected to follow the procedures and instruction in this handbook and to have curriculum approved by the Chancellor's Office." Therefore, the Handbook is an Executive Order, and district compliance with the standards and requirements set forth in the Handbook are mandated costs subject to reimbursement.

Community Service Courses and Programs

The DSA (94) improperly cites *Kern* for the conclusion that since the community service courses and activities are not required by Education Code Section 66010.4, the activities required by Sections 55001, 55002, 55160 (DSA, p. 97), and 55182 (DSA, p. 98) and subsequent regulations, are not state mandated activities to the extent they pertain to community service courses and activities. However, the DSA (94) citation of Section 66010.4 was incomplete. Education Code Section 66010.4, as added by Chapter 1587, Statutes of 1990, and as amended by Chapter 1057, Statutes of 1996, states (*emphasis added*):

> *The missions and functions of California's public and independent segments, and their respective institutions of higher education **shall** be differentiated as follows:*
>
> ... ...
>
> *(a) (2) In addition to the primary mission of academic and vocational instruction, the community colleges **shall** offer instruction and courses to achieve all of the following:*
>
> ... ...
>
> (C) The provision of community services courses and programs in an authorized function of the community colleges so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions.

The DSA citation only included the language in item (C). Not included were the "shall" imperative of the preamble and the affirmative duty in the subdivision (a) (2) language, to which item (C) is a subordinate clause that is controlled by the superior language. Inasmuch as item (C) requires that the community services courses and program be compatible with the mandated primary missions; that Title 5, Section 55001 defines these courses and activities as "educational programs"; that the Education Code Sections 70901 and 70902 require educational programs be reported to and be approved by the Board of Governors; both the statutory and regulatory schemes require these community service courses and programs to be treated as educational programs subject to curriculum standards and approval mandate. There is no statutory or regulatory basis to exclude community service courses from the scope of the mandate, and *Kern* is not applicable since these activities are part of the primary mission of the community colleges.

Contract Classes

The Education Code Section 70902, subdivision (a) (6), authorizes the district governing board to contract for goods and services. Education Code Section 78021 (as added by Chapter 493, Statutes of 1987) authorizes the use of contract education programs and direct the district to recover the cost of the program from all sources, public and private. Title 5, Section 55170 authorizes districts to approve and conduct "contract classes" without the Chancellor's approval if the district does not claim state support for the class. Subdivision (a) defines "contract classes" as those classes offered by a community college district which fulfill a contract with a public or private agency, corporation, association or other body or person.

The DSA (97) incorrectly concludes that seeking state support for the contract classes triggers the approval requirement and thus is an "underlying" discretionary decision of the district. This would apply only to classes if the legislation that authorizes the class does not require approval of the course. If the legislation requiring the class requires approval, then the contract class must comply with the approval process mandate, whether or not there is state support for the class, including the requirements of the Handbook (DSA, p. 99). The use of private contractors is a method to implement the mandate, not a subsequent new program.

Reinstatement of Deleted Courses

Section 55182 (added in 1983 and last amended in 1991) authorizes the governing board to reinstate any course that was removed from the credit or noncredit curriculum during the 1982-83 fiscal year, in response to the Budget Act of 1982. The DSA (98) concludes that since districts are only authorized, and not required, to reinstate these courses, there are no activities mandated on the districts. This is a misconstruction of the mandate. Section 55182 states that reinstatement of the course must be in

accordance with the mission of the community college, which is the Education Code 66010.4 criterion for including these courses in the scope of the mandate, not the fact that they were once deleted due to budget constraints. Further, these courses are part of the educational program subject to (Education Code Sections 70901 and 70902 and Title 5 Section 55001) Board of Governors approval. The DSA does not cite any legal basis that defines the specific courses that must be provided in furtherance of the primary mission of the community colleges. The codes and regulations only speak to types of course, therefore, the courses deleted pursuant to the 1982 Budget Act are not automatically discretionary as to this course approval mandate. Adoption of previously deleted courses is essentially the same process as adopting a new course that is within the scope of this mandate.

Alternative Instructional Methodologies

The DSA (104) has incorrectly invoked *Kern* for the conclusion that the alternative instructional methodologies, because they are permissive, are not mandated activities. This includes Article 1 Distance Education and Article 3 Independent Study. This is a misuse of *Kern* and a misconstruction of the mandate. The mandate here pertains to approval of courses, and not to the method of course delivery. The precursor program is the mandated approval of the courses. The alterative methodologies are not a new mandate applied to a discretionary precursor mandate. The DSA does not assert that any of the distance courses or independent study courses are not part of the educational program subject to the course approval requirements or outside the scope of the primary mission of the community colleges. The DSA does not assert any legal requirement for instruction to be delivered only by the traditional classroom methodology.

The overall regulatory scheme also brings these two alternative methods within scope of the mandated activities of Chapter 6 Curriculum and Instruction. Regarding distance education:

- Section 55205 requires that all distance education is subject to the general course approval requirements
- Section 55207 requires the same standards of course quality to be applied to distance education as are applied to traditional classroom courses, in regard to the course quality judgments and any local course quality determination or review process.
- Section 55209 requires determinations and judgments about the quality of distance education to be made with the full involvement of faculty in accordance with the provisions commencing with Section 53200.
- Section 55211 requires district governing boards to ensure that all approved courses offered as distance education include regular effective contact between instructors and students and that all distance education courses are delivered consistently with guidelines issued by the Chancellor pursuant to Section 409 of

the Procedures and Standing Orders of the Board of Governors (pertaining to a report from a committee on distance learning).

- Section 55213 requires each distance learning course to be separately reviewed and approved, according to the district's certified course approval procedures.
- Section 55215 requires that instructors of sections delivered via distance education technology must be selected by the same procedures used to determine all instructional assignments.
- Section 55217 requires the determination of the number of students assigned to any one course offered by distance learning to be consistent with other district procedures related to faculty assignments, including curriculum committee review and collective bargaining methods.
- Section 55219 requires the district to comply with certain record keeping and reporting requirements for noncredit and nontransferable distance learning courses, including an annual report to the district governing board, and compliance with Section 409 of the Procedures and Standing Orders of the Board of Governors (pertaining to a report from a committee on distance learning).

Regarding independent study courses:

- Sections 55300 and 55310 require the college district to report approved independent study courses to the Chancellor in the manner specified by the Chancellor.
- Section 55316 requires independent study courses to be accepted for the purpose of awarding associate degrees and to be recognized by the California State College and University systems.
- Section 55320 states that the academic standards for independent study courses will be the same as those applied to credit courses.
- Section 55322 requires the college to provide independent study students the same access to their course instructor as that available for other courses.
- Section 55340 requires independent study courses to meet all the requirements of curriculum approval and standards in order to be eligible for state funds.
- Section 55350 requires instructors of independent study courses to be qualified for the services provided; be responsible for the supervision and control of the course and enrolled students; provide orientation and guidance to each student; and provide a schedule of office hours.

Inasmuch as the Legislature does not mandate a form of instructional delivery, all methods, traditional or otherwise, are alternatives, but are not discretionary programs pursuant to *Kern*.

12. VOCATIONAL EDUCATION PROGRAMS
Education Code Sections 78015 and 78016
Title 5, CCR, Sections 51022, 55600 through 55630

The subject of this program is Education Code Sections 78015 and 78016, and Title 5, CCR, Sections 51022 and 55600 through 55630. Section 51022 is the minimum condition that requires, at subdivision (a), each community college district to adopt and carry out polices and procedures for the establishment, modification, or discontinuance of course or programs, including vocational education. The DSA does not analyze Section 51022. Education Code Section 70901, subdivision (b), (10), requires the Board of Governors to review and approve all educational programs offered by the districts, as well as those courses that are not offered as part of an educational program. Education Code Section 70902, subdivision (b) (2), requires the district governing board to establish policies and to approve courses of instruction and educational programs, and to submit those to the Board of Governors. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service.

The DSA (67) correctly concludes that vocational education is a "primary mission and function" of the community colleges, and thus colleges are required to establish vocational education programs. Therefore, the DSA (66, 67, 69) properly concludes that Education Code Section 78015, regarding the job-market study, and Education Code Section 78016, regarding the biennial review of the vocational education program, impose state mandated activities on districts that are a new program or higher level of service.

Education Code Section 70902, subdivision (b) (6) permits the district governing board to contract for the provision of goods and services as authorized by law. Education Code Section 78021 authorizes the use of contract education programs and directs the district to recover the cost of the program from all sources, public and private. Title 5, Sections 55600-55630 are the regulatory scheme for Vocational Education programs utilizing private contractors to provide the program, except for Section 55601, which requires the establishment of an advisory committee (but was found by the DSA (69) to be a preexisting duty derived from Education Code 6257). For the remaining Title 5 Sections, the DSA (68), incorrectly invoking *Kern*, concludes that since these sections relate to the district's discretionary authority to contract with private schools to provide the district's vocational education, the regulations are not mandated activities. The DSA is using *Kern* backwards. The facts in *Kern* related to a state mandate added onto precursor optional programs. Here, vocational education was determined by the DSA to be a mandate, not a precursor optional program. The use of private contractors is a method to implement the mandate, not a subsequent new program. A choice of methods or sources to implement the mandate is not a new program subsequent to a discretionary program. If regulations never had been established specifically for vocational education contracts, there would be no question presented that private

contracting was a reimbursable method to implement the mandate. The Title 5 Sections regulate the contracting process and the contracts are a permissible method of implementing the mandate. The DSA should complete its analysis of Sections 55600, 55602, 55603, 55605, 55607, 55620, and 55630 as activities mandated upon the districts to implement the vocational education program to determine if they constitute a new program or higher level of service.

13. LOCAL COURSE ARTICULATION
Title 5, CCR, Section 51022

The subject of this program is Title 5, CCR, Sections 51022, subdivision (b). Section 51022, subdivision (b), is the minimum condition that requires the governing board of each district to adopt and implement policies and procedures to provide that the district's courses and programs are articulated with the local colleges and high schools. The DSA does not analyze Section 51022. Education Code Section 70902, subdivision (b) (2), requires the district governing board to establish policies and approve courses of instruction and educational programs, and to submit those polices and procedures to the Board of Governors. Education Code Section 66010.7, subdivision (b) (4) and (5) (as added by Chapter 1198, Statutes of 1991) also require this type of intersegmental collaboration and coordination. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

14. ACADEMIC FREEDOM
Title 5, CCR, Section 51023

The subject of this program is Title 5, CCR, Section 51023, subdivisions (a) and (c). Section 51023, subdivisions (a) and (c), comprise the minimum condition that requires each community college district governing board to adopt and comply with policies and procedures for academic freedom. The DSA does not analyze Section 51023. The proposed statement of decision should include an analysis to determine whether this section constitutes a new program or higher level of service for community college districts.

15. SHARED GOVERNANCE (Faculty, Staff, Students)
Title 5, CCR, Sections 51023, 51023.5, 51023.7, and 53200 through 53207

The subject of this program is Title 5, CCR, Sections 51023 through 51023.7 and 53200 through 53207. Section 51023, subdivisions (b) and (c), are the minimum conditions that require each community college district governing board to adopt and comply with policies and procedures regarding the role of academic senates and faculty councils, consistent with Sections 53200 through 53207. Section 51023.5 is the minimum condition that requires each community college district governing board to adopt and comply with policies and procedures to provide district and college staff the

opportunity to participate in district and college governance. Section 51023.7 is the minimum condition that requires each community college district governing board to adopt and comply with policies and procedures to provide students the opportunity to participate in district and college governance. The DSA did not analyze Sections 51023, 51203.5, and 51023.7. Education Code Section 70902, subdivision (b) (7), requires the district governing board to establish procedures to ensure faculty, staff, and students have the opportunity to express their opinions at the campus level and to participate in district and college governance. Subdivision (b) (14) requires the district to participate in the statewide "consultation" process established pursuant to Education Code Section 70901, subdivision (b) (1) (E). The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

The DSA (40) concludes that the plain language of these Sections 53201, 53202, and 53203 require the district to recognize the academic senate and establish polices for the delegation of specific authority. However, the DSA (43) states that the duties in Section 53202 have been required since 1974. Section 53202 prior to 1975 only pertained to how the academic senate would be established. The district was not required to "recognize" the academic senate until the section was amended by Register 78-06. The remainder of the mandate is defined by Section 51023 which the DSA does not analyze to determine whether that section constitutes a new program or higher level of service.

The DSA (42) concludes that Section 53207, regarding the release time for faculty members to serve as officers on the state academic senate, does not impose any state mandated activities because release time is not required unless "sufficient funds" are provided to operate the program. For the years that funding is provided, the district is required to provide the release time. The amount of funding is a state decision not a district decision. Even when the state decides that funding is sufficient, thus triggering the mandate, it is still a question of fact whether the state funding fully reimburses all of the costs of the district release time. The DSA has treated this activity as a Government Code Section 17556, subdivision (e), exception to finding costs mandated by the state. It is actually an activity to be approved for reimbursement and included in the parameters and guidelines with the actual total cost (staff time, travel, lodging, indirect cost rate applied) subject to reduction by actual funding received. The district's mandated participation is not in pursuit of state funding for the mandated activities.

16. MATRICULATION
Education Code Sections 78210 through 78218
Title 5, CCR, Sections 51024, 55500 through 55534

The subject of this program is Education Code Sections 78210 through 78218, and Title 5, CCR, Sections 51024 and 55500 through 55534. Section 51024 is the minimum condition that requires each community college governing board to: adopt and submit to

the Chancellor a matriculation plan as required by Section 55510; evaluate the district's matriculation program as required by Section 55512, subdivision (c); provide matriculation services to students as required by Sections 55520 and 55521; establish procedures for waivers and appeals as required by Section 55534; and, substantially comply with all other provisions of Sections 55500 through 55534. The DSA does not analyze Section 51024. Education Code Section 70901, subdivision (b) (10), requires the Board of Governors to review and approve all educational programs offered by the districts, as well as those courses that are not offered as part of an educational program. Education Code Section 70902, subdivision (b) (2), requires the district governing board to establish policies for and to approve courses of instruction and educational programs, and to submit those to the Board of Governors. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service.

Utilizing *Kern*, the DSA (48) concludes that the plain language of Education Code Section 78211.5, makes this program contingent on funding, and thus any participation and compliance voluntary to the district. The DSA thus concludes that the plain language of these sections does not mandate any activities on the districts. Based on that premise, the DSA does not further analyze the regulations to determine whether the activities are a new program or higher level of service. The DSA misconstrues the effect of Education Code Section 78211.5 which requires the Chancellor to provide for full implementation of the matriculation services specified in Section 78212 in as many community colleges as the funds appropriated for that purpose allow. In addition, Section 78211.5 requires that any college or district receiving funding must agree to carry out the provisions of the article, as specified, for the period during which funding is received pursuant to the article. The district is required to expend the funds received pursuant to the article only for those matriculation services approved by the Board of Governors or for the contribution of matching funds toward the purposes of the article as may be required by the Board of Governor's pursuant to Section 78216. The previous preamble for Title 5, CCR, Section 51024, as added in 1990, stated: "[w]hen matriculation services have been fully funded, . . . , the governing board of each community college district shall [implement the program described in Sections 55500. et seq.]." The preamble for Section 51024, as amended in 1992, states: "[t]he governing board of each community college district shall [implement the program]," thus eliminating the condition of full funding. Section 55500 established the regulatory requirements in 1990 for the matriculation programs and at subdivision (b) states that: "[t]he requirements of this chapter apply only to district receiving funds pursuant to Education Code Section 78216 for the period of time which each funds are received."

However, there is no regulatory mechanism for the districts to apply for the funds, the amounts of which are determined by the Legislature and allocated by the Board of Governors' unilateral formula. There is no mechanism for a district to refuse the funds, nor a stated penalty, as there is for the faculty ratio mandate, that indicates refusal of the funds and the resulting mandate is contemplated. Of course, the concept of refusal

goes to the underlying threshold legal issue that Section 51000 requires compliance notwithstanding. When the Seymour-Campbell Matriculation Act of 1986 is operative, community college districts are required to comply with the act and the formula funding, if and when received, would be an offset to the actual and complete costs of compliance. This is not an optional program, but just a program triggered by state funding decisions not under the control of the district. The district's mandated participation is not in pursuit of state funding for the mandated activities.

17. FULL-TIME / PART-TIME FACULTY
Education Code Sections 87482.6 and 87482.7
Title 5, CCR, Sections 51025, 53300 through 53314

The subject of this program is Education Code Sections 87482.6 and 87482.7, and Title 5, CCR, Sections 51025, 53300 through 53314, as well as the issue of the use of program improvement funds. Section 51025 is the minimum condition that requires compliance with Sections 53300 through 53314 and the Board of Governors regulations to increase the district's full-time faculty percentage to 75%. Section 55300 states that it should be read in conjunction with Section 51025, thus creating a derivative mandate for the requirements of Section 51025. The DSA did not analyze Section 51025. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

Utilizing *Kern*, the DSA (46) concludes that the plain language of Education Code Section 87482.6, subdivision (a), directs districts to use program improvement funds to increase the number of full-time instructors. If a district does not increase its faculty ratio, the district loses the program improvement funds for this program. The DSA thus concludes that the program is optional and not coerced. However, loss of those funds is not the only penalty for failure to increase the faculty ratios. Section 87482.6, (b) (4), and Title 5 Section 53320, state that the Chancellor shall reduce the district's *base* budget for 1991-92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTE. Pursuant to Education Code Section 87482.7, these deficiency amounts from those deficient districts are transferred to the statewide Faculty and Staff Diversity Fund/Employment Opportunity Fund for use by all districts and allocated differently, thus creating a net loss to the deficient district for every subsequent fiscal year, which is clearly a penalty independent of the program funds at issue for any one fiscal year.

The DSA (47) concludes that the plain language of Sections 55300 through 53314 does not impose any activities on college districts since they set forth the methods for the Chancellor to calculate the FTEs. To the contrary, the methods of calculating the faculty ratios rely upon district information and have a direct bearing on the amount of program funding or penalty for each district. The mandate and the coercion derive from Education Code Section 87482.6 and Title 5 Section 51025, which is to be read in

conjunction with Sections 53300, et seq. None of the Title 5 sections for this program were evaluated by the DSA to determine if those sections constitute a new program or higher level of service. The proposed statement of decision should include an analysis to determine whether these sections constitute a new program or higher level of service for community college districts.

18 STUDENT EQUITY PLAN
Education Code Sections 212, 212.5, 213, 214, 221.5, 221.7, 66010.2, 66010.7, 66016, 66030, 66251-66292.3, 72011 through 72014
Title 5, CCR, Sections 51026, 54220

These codes and regulations were consolidated into the Discrimination Complaint Procedures (02-TC-46) test claim and are no longer a subject of this test claim.

19. TRANSFER CENTERS
Education Code Sections 66720 through 66745, 71027
Title 5, CCR, Section 51027

The subject of this program is Education Code Sections 66720-66745, 71027, and Title 5, CCR, Section 51027. Section 51027 is the minimum condition that requires the governing board of community college districts to adopt and implement policies and procedures to provide intersegmental transfer services to students. The DSA did not analyze Section 51027. The proposed statement of decision should include an analysis to determine whether this section constitutes a new program or higher level of service for community college districts.

The DSA concludes that the plain language of Sections 66721 (p. 50), 66722 (p.50), 66722.5 (p. 50), 66737 (p. 53), 66741 (p. 58), does not impose any state mandated activities on the districts. However, to the extent that these sections define the legislative imperative and purposes of the program, they are the guidelines for the implementation and evaluation of outcomes required by the relevant Education Code sections and Section 51027.

The DSA (54) concludes the Education Code Section 66738, subdivision (b), does not impose any state-mandated activities on the district because it merely sets forth the elements of a comprehensive transfer system. The "elements" of the "comprehensive transfer systems" are not otherwise defined in subdivision (a). Subdivision (b) defines the subdivision (a) mandate for the "development and implementation of formal systemwide articulation agreements and transfer agreement programs, including those for general education or a transfer core curriculum, and other appropriate procedures to support and enhance the transfer function." One of the rules of statutory construction is to rationalize and harmonize the statutory scheme in its entirety, and to exclude subdivision (b) would impede the implementation and annual evaluation of the plan if there are no criteria for the plan.

The second paragraph of Education Code Section 66740 requires "[w]here specific majors are impacted or over-subscribed, the prescribed course of study and minimum grade point average required for consideration for upper division admission to all of these majors shall be made readily available to community college counselors, faculty, and students on an annual basis." The DSA (56, 57) correctly concludes that the Universities and State Colleges are the source of these annual changes and are the agencies required to provide this information. The DSA, however, wrongly concludes that no action is required by the community college districts to accomplish the notification of the appropriate district personnel. The participation of the districts is necessary to identify the district personnel who are to receive the notification. There is no reason to assume that personnel at the Universities and State Colleges do or can directly transmit that information to the district faculty and staff, or even that the Universities and State Colleges are in a position to know the identity and location of the district staff mandated to receive the notification. It would seem reasonable and necessary for the community college districts to facilitate the distribution of this information.

The DSA (60) concludes that Education Code Section 66743 does not impose any state mandated activities on the district because it only requires the intersegmental advisory committee established by the California Postsecondary Education Commission to periodically prepare a report for the Governor and the Legislature on the status of transfer policies and programs based on their findings. Community college districts, as one of the "segments," are a reasonable and perhaps necessary source for CPEC for some of the information regarding the effectiveness of transfer agreement programs in enhancing the overall transfer function, the status of the implementation of the transfer core curriculum, and the progress made in achieving articulation agreements in specific majors. The participation of the districts is necessary to avoid frustrating the entire statutory scheme. It would seem reasonable and necessary for the community college districts to provide information to CPEC to facilitate the mandate.

In furtherance of the Education Code requirements, Section 51027 requires the district to provide: space and facilities adequate to support the transfer center and its activities; clerical support for the transfer center and assign college staff to coordinate the activities of the transfer center; an advisory committee to plan the development, implementation, and ongoing operations of the transfer center; a plan of institutional research for ongoing internal evaluation of the effectiveness of the college's transfer efforts, and the achievement of its transfer center plan; and, an annual report to the Chancellor describing the status of the district's efforts to implement its transfer center plan. All of these activities are reasonable and necessary activities to implement the statutory scheme.

20. ENFORCEMENT
Education Code Section 70901(b)
Title 5, CCR, Sections 51000, 51100 and 51102

The subject of this program is Title 5, CCR, Sections 51100 and 51102. The DSA (35, 36) concludes that the plain language of these Sections do not require colleges to engage in any activities. Section 51100 requires the Chancellor to review each district to determine if the district has met the minimum conditions contained in Subchapter 1. Section 51102 allows the Chancellor, upon the prior approval of the Board of Governors, to withhold a portion of state funds related to the gravity of the finding of noncompliance. Other possible Section 51102 responses to the review findings include agreeing with the district's explanation regarding the perceived noncompliance or accepting a district plan to mitigate the noncompliance.

Even though specific district activities are not stated in these Sections, the Legislature's mandate upon the Board of Governor's and Chancellor cannot be implemented without the reasonable and necessary participation of the districts. For the Chancellor to be able to "review" a district, the district has to participate in the review. In order for the Chancellor to obtain a district written response to the review findings, the district must prepare the written response. In order for the review to achieve its purpose, the district needs to prepare and implement a mitigation plan. The following district activities are reasonable and necessary to implement the Chancellor's review:

A) To prepare and submit all data necessary to respond to any review by the Chancellor to determine whether the district has complied with the minimum conditions pursuant to Title 5, CCR, Section 51100.

B) To adopt and implement policies and procedures to comply with any enforcement orders that the Chancellor may issue to the district regarding district compliance with the minimum conditions pursuant to Title 5, CCR, Section 51102.

1) To prepare and submit to the Chancellor an official written response by a date specified by the Chancellor, if the Chancellor notifies the chief executive officer of the district that any noncompliance with the Subchapter exists, pursuant to Title 5, CCR, Section 51102, subdivision (a);

2) If the Chancellor so requires, to prepare, submit and implement a plan and timetable for achieving compliance as a condition for continued receipt of state aid Title 5, CCR, Section 51102, subdivision (b)(2).

PART D. NOTICES TO STUDENTS
Education Code Sections 66281.5 and 66721.5
Title 5, CCR, Sections 54626, 54805, 59404, and 59410

The subject of this part is Education Code Sections 66281.5 and 66721.5, and Title 5, CCR, Sections 54626, 54805, 59404, and 59410. These two Education Code Sections and four Title 5 sections were included in the original Notice to Students (CSM 02-TC-25) test claim. The two Education Code sections and the other 18 Title 5 sections included in the original test claim have been included in the DSA findings for the 18 minimum condition programs above, or in the two minimum condition programs transferred to the Discrimination Complaint Procedures (02-TC-46) test claim.

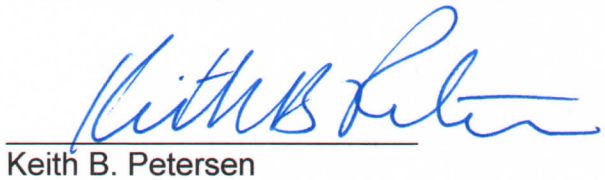
Section 54626, subdivision (a), requires community college districts to adopt a policy that identifies the categories of directory information which may be released. Subdivision (b) allows directory information to be released provided that annual public notice is given of the categories of information the district plans on releasing and the identity of the proposed recipients. The notice shall also specify the period of time within which students are given to inform the district, in writing, of those categories of information they wish not to be released. The DSA (137) correctly determined that subdivision (a) mandated activities on the district in excess of FERPA requirements. However, the DSA (137) incorrectly determined that subdivision (a) is not a new program based on previous Section 54626 (as added March 5, 1976) and former Education Code Section 25430.12 (effective January 1, 1976). Both of these dates are after December 31, 1974, the Government Code Section 17514 measurement date for new programs. Notwithstanding this error, the DSA (137) concludes that subdivision (a) is a one-time activity that would most likely to have occurred before July 1, 2001, the effective date of the test claim, although there is no time limit to adopt this policy, nor any penalty for not adopting the policy immediately. The DSA (135,136) concludes that the remainder of Section 54626 was discretionary.

Section 54805 requires district governing boards to include in the materials given to each student at registration, information pertaining to the student representation fee, including a statement indicating that the money collected will be used to provide support for students or representatives who may be stating their positions and viewpoints before government agencies, the amount of the fee, and a statement informing students of their right to refuse to pay the fee for religious, political, moral or financial reasons. The DSA (138) concludes that the district is not compelled to authorize a student body organization. However, the state mandate pertains to the student representation fee which is determined by an election of the students conducted by the student body association that is an independent body pursuant to Section 54801. The representation fee and notice do not result as a downstream activity of the district's authorization of the student body association, but an independent action of a third party that triggers the state mandate to provide written notice to students pursuant to Section 54805.

Certification

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this submission is true and complete to the best of my own knowledge or information or belief, and that any attached documents are true and correct copies of documents received from or sent by the state agency which originated the document.

Executed on April 21, 2011 at Sacramento, California, by



Keith B. Petersen

C: Commission electronic service list

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

EDMUND G. BROWN JR., Governor

May 6, 2011

Mr. Keith Petersen
SixTen and Associates
P.O. Box 340430
Sacramento, CA 95834-0430

And Interested Parties and Affected State Agencies (See Enclosed Mailing List)

Re: NOTICE OF SEVERANCE:
Education Code Sections 70902, subdivision (b)(1), (as relating to facility plans)

Minimum Conditions for State Aid (02-TC-25 and 02-TC-31)
Los Rios Community College District and
Santa Monica Community College District, Co-claimants

AND CONSOLIDATION WITH:
Community College Construction (02-TC-47)
Santa Monica Community College District, Claimant

Dear Mr. Petersen:

It has been determined that it is necessary to sever Education Code section 70902, subdivision (b)(2), as it relates to district facility plans and programs, from the *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim and consolidate subdivision (b)(2) with the *Community College Construction* (02-TC-47) test claim.

This determination is being made after review of your April 21, 2011 comments in response to the draft staff analysis for the *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim, and in light of the January 19, 2011 severance of Education Code sections 81820, 81821, and 81823, which address community college district capital construction plans, from the *Minimum Conditions for State Aid* (02-TC-25 and 02-TC-31) test claim to the *Community College Construction* (02-TC-47) test claim.

This action is being taken pursuant to my authority under Government Code section 17530 and California Code of Regulations, title 2, section 1183.06, and will be effective 10 days from the service of this letter.

As provided in the Commission's regulations this action and decision of the executive director may be appealed to the Commission for review. Please refer to California Code of Regulations, title 2, section 1181, subdivision (c).

Please contact Kenny Louie at (916) 323-3562 if you have any questions or concerns regarding this matter.

Sincerely,

Drew Bohan
Executive Director

J:mandates/2002/tc/02tc25/consolidatedtc/correspondence/severeltr050611

99 Cal.App.4th 1193, 121 Cal.Rptr.2d 539, 02 Cal. Daily Op. Serv. 5966, 2002 Daily Journal D.A.R. 7481
(Cite as: 99 Cal.App.4th 1193)

CAMERICAN BUILDINGS COMPANY, Plaintiff and Respondent,
v.
BAY COMMERICAL CONSTRUCTION, INC., et al., Defendants and Appellants.

No. C039375.

Court of Appeal, Third District, California.
June 28, 2002.

SUMMARY

A materials supplier sued a general contractor and a subcontractor's surety to recover $41,775 on a contractor's payment bond for materials supplied to the subcontractor on a public works project. The trial court granted summary judgment for plaintiff, finding that it gave proper notice before seeking recovery, pursuant to Civ. Code, § 3252, and that recovery was not limited by Civ. Code, § 3098 (to assert claim for payment against bond, claimant must, within 20 days of furnishing labor or materials for public work, serve preliminary 20-day notice). (Superior Court of Placer County, No. SCV10664, Larry D. Gaddis, Judge.)

The Court of Appeal affirmed. The court held that plaintiff gave proper notice before seeking recovery, pursuant to Civ. Code, § 3252, and that recovery was not limited by Civ. Code, § 3098. The notice may be given either pursuant to Civ. Code, § 3098, or as a special notice under Civ. Code, § 3252, subd. (b), which provides an exception to the former statute, if notice was not given pursuant to the former statute, and if written notice was given to the surety and bond principal within 15 days after recordation of the notice of completion. In this case, plaintiff complied with the 20-day requirement of Civ. Code, § 3098, subd. (d), only with respect to materials worth $625. However, partial compliance with Civ. Code, § 3098, does not bar recourse under Civ. Code, § 3252, subd. (b), as to amounts not furnished in compliance with the 20-day rule of Civ. Code, § 3098. Civ. Code, §§ 3098 and 3252, are to be read as complementary by construing Civ. Code, § 3252, subd. (b), to mean that a notice under that subdivision may be given if the notice given under Civ. Code, § 3098, is insufficient to recover the amount owing, whether in part or in whole. (Opinion by Blease, Acting P. J., with Morrison and Robie, JJ., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1a, 1b) Public Works and Contracts § 18--Laborers and Material Providers--Bonds--Sureties--Action to Recover on Payment Bond--Statutory Notice Requirements--Complimentary Statutes.

In a supplier's action to recover $41,775 on a contractor's payment bond for materials supplied to a subcontractor on a public works project, the trial court properly granted summary judgment for plaintiff, finding that it gave proper notice before seeking recovery, pursuant to Civ. Code, § 3252, and that recovery was not limited by Civ. Code, § 3098 (to assert claim for payment against bond, claimant must, within 20 days of furnishing labor or materials for public work, serve preliminary 20-day notice). The notice may be given either pursuant to Civ. Code, § 3098, or as a special notice under Civ. Code, § 3252, subd. (b), which provides an exception to the former statute, if notice was not given pursuant to the former statute, and if written notice was given to the surety and bond principal within 15 days after recordation of the notice of completion. In this case, plaintiff complied with the 20-day requirement of Civ. Code, § 3098, subd. (d), only with respect to materials worth $625. However, partial compliance with Civ. Code, § 3098, does not bar recourse under Civ. Code, § 3252, subd. (b), as to amounts not furnished in compliance with the 20-day rule of Civ. Code, § 3098. Civ. Code, §§ 3098 and 3252, are to be read as complementary by construing Civ. Code, § 3252, subd. (b), to mean that a notice under that subdivision may be given if the notice given under Civ. Code, § 3098, is insufficient to recover the amount owing, whether in part or in whole.

[See 3 Witkin, Cal. Procedure (4th ed. 1996) Actions, § 216; West's Key Number Digest, Public Contracts 59.]

(2) Statutes § 22--Construction--Reasonableness.

A statutory provision must be given a reasonable and common sense interpretation consistent with the apparent purpose and intention of the lawmakers, practical rather than technical in nature, which upon application will result in wise policy rather than mischief or absurdity.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

99 Cal.App.4th 1193, 121 Cal.Rptr.2d 539, 02 Cal. Daily Op. Serv. 5966, 2002 Daily Journal D.A.R. 7481
(Cite as: 99 Cal.App.4th 1193)

COUNSEL

Alan R. Barnes for Defendants and Appellants. ***1195**

Glassberg, Pollak & Associates, Robert L. Pollak and Harold B. Auerbach for Plaintiff and Respondent.

BLEASE, Acting P. J.

Defendants Bay Commercial Construction, Inc., and AmWest Surety Insurance Co., appeal from a judgment rendered after the trial court granted plaintiff American Buildings Company's motion for summary judgment.

Plaintiff brought this action to recover $41,775 on a contractor's payment bond for materials supplied to a now bankrupt subcontractor on a public works project commissioned by the City of Roseville.

Civil Code section 3098 requires that a person, within 20 days of furnishing labor or materials for a public work, must serve a "preliminary 20-day notice" in order to assert a claim for payment against a payment bond. [FN1] Section 3252, subdivision (b), provides an exception if notice "was not given as provided in Section 3098," providing written notice was given the surety and bond principal within 15 days after recordation of the notice of completion.

FN1 References to a section are to the Civil Code.

Plaintiff filed a notice entitled "Preliminary Notice on Payment Bond" more than 20 days after furnishing the materials, except for the minor amount of $625, and was precluded from asserting a claim under section 3098 for the balance of $41,150. However, the trial court ruled the preliminary notice complied with the notice requirements of section 3252 and plaintiff was entitled to enforce payment on the payment bond under that section.

Defendants claim the notice filed by plaintiff cannot serve as a notice under section 3252 because it was labeled "Preliminary Notice on Payment Bond" and complied with the notice requirements of section 3098 in an amount of $625. Accordingly, that was the only sum owing on the bond. We disagree.

The purpose of subdivision (b) of section 3252 is to provide relief to a supplier of material or labor who, through lack of sophistication or inadvertence, fails to comply with the preliminary bond notice requirements of section 3098. The provisions are complimentary. Relief under section 3252 ***1196** is not barred by partial compliance with section 3098 and may be sought for the amount of any claim for which the section 3098 notice was *not* timely given.

We shall affirm the judgment.

Factual and Procedural Background

Defendant Bay Commercial was the prime contractor on a public works project commissioned by the City of Roseville. Bay Commercial entered into a subcontract with McKay Construction, Inc. Plaintiff furnished materials to McKay Construction and McKay Construction used these materials in the performance of its subcontract. AmWest Surety executed a payment bond, with McKay Construction as principal and AmWest as surety.

The total value of the materials plaintiff furnished was $41,775.05. McKay did not pay plaintiff for the materials, and was in bankruptcy at the time this action was filed.

Plaintiff first furnished the materials for the project on August 26, 1999. On January 13, 2000, plaintiff served a written notice, entitled "Preliminary Notice on Payment Bond" by certified mail on AmWest, Bay Commercial and McKay Construction. The notice contained a description of the materials furnished (pre-engineered metal building components), the name of the company for whom the materials were furnished (McKay Construction), and the value of the materials furnished ($41,775.05). On the same date plaintiff served a "Stop Notice" on the City of Roseville on the same claim.

Plaintiff filed an action to recover on the payment bond on September 27, 2000. Defendants demurred, arguing plaintiff's January 13, 2000, notice was untimely because it was not provided within 20 days of the date plaintiff first supplied materials, as required by section 3098. The trial court overruled the demurrer, finding plaintiff was entitled to rely on section 3252, subdivision (b), which allows recovery on a payment bond in situations where the claimant did not give notice as provided in section 3098.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

99 Cal.App.4th 1193, 121 Cal.Rptr.2d 539, 02 Cal. Daily Op. Serv. 5966, 2002 Daily Journal D.A.R. 7481
(Cite as: 99 Cal.App.4th 1193)

The parties do not dispute the notice was given the surety and bond principal, as required by section 3227, [FN2] within 15 days of recordation of the notice of completion of the project and functionally complied with the notice requirements of section 3252, subdivision (b). ***1197**

> FN2 The requirements for a special preliminary notice on a payment bond pursuant to section 3252, subdivision (b), are "as provided in Section 3227." The notice must contain:
>
> "(1) The kind of labor, services, equipment, or materials furnished or agreed to be furnished by the claimant.
>
> "(2) The name of the person to or for whom the labor, services, equipment, or materials were furnished.
>
> "(3) The amount in value, as near as may be determined, of any labor, services, equipment, or materials already furnished or to be furnished." (§ 3227, subd. (b).)
>
> The notice must be served by personal service, or by certified or registered mail. (§ 3227.) The notice must be served on "the surety and the bond principal as provided in Section 3227 within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety and the bond principal is extended to 75 days after completion of the work of improvement." (§ 3252, subd. (b).)

Plaintiff moved for summary judgment. Defendants opposed the motion, again asserting that section 3098, subdivision (d) limits the amount for which a claimant may recover on a payment bond to the material furnished within 20 days prior to service of the preliminary notice or thereafter. Defendants claimed plaintiff supplied materials worth only $625.78 during that period.

The trial court concluded the notice given by plaintiff was not a "Preliminary Notice" pursuant to section 3098, subdivision (a) or (d), but did qualify as a notice to the surety and bond principal pursuant to section 3252, subdivision (b).

We agree with the trial court the notice given was proper pursuant to section 3252, and that plaintiff's recovery is not limited by section 3098, subdivision (d). We shall therefore affirm the judgment.

Discussion

(1a) Before a claimant may recover on a payment bond on a public works project, it must give a notice. The notice may be given either as a 20-day preliminary notice pursuant to section 3098, or as a special notice provided in section 3252, subdivision (b).

Section 3098 provides that a 20-day preliminary notice must be given prior to the "assertion of a claim" against a payment bond. [FN3] Section 3098 defines a "[p]reliminary 20-day notice" as "a written notice from a claimant that was given prior to the assertion of a claim against a payment bond ...." [FN4] The phrase "assertion of a claim" is given effect in subdivision (d), which states that a claimant is "*entitled* to assert a claim against a payment ***1198** bond" only for "labor, service, equipment or material furnished within 20 days prior to the service of the preliminary notice, and at any time thereafter." (Italics added.)

> FN3 The section 3098 20-day preliminary notice also serves as notice given prior to the filing of a stop notice on public work. A stop notice requires the public entity to withhold funds due the contractor in an amount sufficient to pay the stop notice claimant. (§ 3098, subd. (a); *Connolly Development, Inc. v. Superior Court* (1976) 17 Cal.3d 803, 809 [132 Cal.Rptr. 477, 553 P.2d 637].) The stop notice is not at issue in this case.
>
> FN4 Subdivision (a) of section 3098, in pertinent part, states: "no payment shall be withheld from the contractor pursuant to that notice unless the person has caused written notice to be given to the contractor, and the public agency concerned, not later than 20 days after the claimant has first furnished labor, services, equipment, or materials to the jobsite, stating with substantial accuracy a general description of labor, service, equipment, or materials furnished or to be furnished, and the name of the party to whom

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

99 Cal.App.4th 1193, 121 Cal.Rptr.2d 539, 02 Cal. Daily Op. Serv. 5966, 2002 Daily Journal D.A.R. 7481
(Cite as: 99 Cal.App.4th 1193)

> the same was furnished. This notice shall be served by mailing the same by first-class mail, registered mail, or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business, or his or her residence, or by personal service."
>
> Subdivision (d) provides that if the notice is not given pursuant to subdivision (a), the claimant may give notice thereafter; however, "[t]he claimant shall ... be entitled to assert a claim against a payment bond and file a stop notice only for labor, service, equipment, or material furnished within 20 days prior to the service of the preliminary notice, and at any time thereafter."

Accordingly, to file a notice which "assert[s] a claim," and thus complies with section 3098, the claimant must be "entitled to assert a claim" and to do so must comply with the 20-day requirement. [FN5] Thus, not surprisingly, a "preliminary 20-day notice," as defined by section 3098, is one which complies with the 20-day requirement. As we shall see, that is the section 3098 notice to which section 3252, subdivision (b), refers.

> FN5 The 20-day requirement is amplified in subdivision (d) to include materials provided "at any time thereafter," meaning after the filing of a 20-day notice. (§ 3098, subd. (d).) The bond claimant need not file multiple notices for each 20-day period during which materials or labor are furnished.

In this case plaintiff complied with the 20-day requirement of section 3098, subdivision (d), only with respect to materials worth $625. Seizing on this partial compliance and the fact plaintiff characterized the notice as a preliminary bond notice, defendants assert plaintiff cannot claim "the 20-day public work preliminary bond notice was *not* given as provided in Section 3098," a precondition to recovery under the notice provisions of subdivision (b) of section 3252. [FN6] (Italics added.) The argument sounds in estoppel, although the defendants do not assert, nor could they, that they were mislead by the notice given them since plaintiff clearly gave notice of a claim for full payment on the payment bond. ***1199**

> FN6 Section 3252 states in full:
>
> "(a) With regard to a contract entered into on or after January 1, 1995, in order to enforce a claim upon any payment bond given in connection with a public work, a claimant shall give the 20-day public works preliminary bond notice as provided in Section 3098.
>
> "(b) If the 20-day public work preliminary bond notice was not given as provided in Section 3098, a claimant may enforce a claim by giving written notice to the surety and the bond principal as provided in Section 3227 within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety and the bond principal is extended to 75 days after completion of the work of improvement."

Defendants' argument comes down to the claim that partial compliance with section 3098 bars recourse under section 3252, subdivision (b), as to amounts which were *not* furnished in compliance with the 20-day rule of section 3098. The immediate difficulty with the argument is there is no such requirement in the language of section 3252. As noted, recourse to the notice provisions of subdivision (b), may be had only "[i]f the 20-day public work preliminary bond notice was not given as provided in Section 3098 ...." Defendants do not deny that a section 3098 notice was *not* provided with respect to the amounts sought on the payment bond under section 3252, other than $625. They do not say by what construction of the statute or public policy they arrive at their conclusion. For them "a little notice is a dangerous thing."

The further difficulty with defendants' view is that plaintiff would be penalized for serving notice on more people and at an earlier time than required by section 3252, subdivision (b). Had plaintiff served only the surety and the bond principal, the notice unquestionably would not have complied with section 3098, subdivision (d), which requires that notice also be given to the contractor and the public agency. Had the notice not complied with section 3098, defendants could not now assert that plaintiff's recovery on the bond is limited by section 3098.

Defendants' interpretation would allow a claimant

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

99 Cal.App.4th 1193, 121 Cal.Rptr.2d 539, 02 Cal. Daily Op. Serv. 5966, 2002 Daily Journal D.A.R. 7481
(Cite as: 99 Cal.App.4th 1193)

who gives notice only after the project is completed to recover its entire claim, while a claimant who may have given notice earlier could recover only a portion of its claim. The interpretation of these provisions creates a trap for the unwary subcontractor, who would risk recovery of the entire amount owed by giving a late 20-day preliminary notice, when he or she could have recovered the entire amount simply by waiting and asserting a claim on the payment bond, a trap which the Legislature was at pains to avoid.

As originally enacted, section 3252 provided a claimant on a payment bond must give notice within 90 days of the date on which the last labor, services, equipment or materials were furnished. (Stats. 1969, ch. 1362, §§ 3091, 3252, pp. 2754, 2779.) It did not require that a 20-day preliminary notice be given prior to asserting a claim on a payment bond. Thus, a supplier of labor, services, etc., who failed to give notice in time to recover on a stop notice, could still recover the entire amount from a payment bond by giving notice within 90 days after the labor, services, etc. were furnished.

Both sections 3252 and 3098 were amended in 1994 by means of Assembly Bill No. 3357 (1993-1994 Reg. Sess.). As introduced the bill eliminated ***1200** the 90-day notice provision of section 3252 and required a 20-day preliminary notice to enforce a claim on a payment bond under section 3098. (Assem. Bill No. 3357 (1993-1994 Reg. Sess.) as introduced Feb. 24, 1994.) The Assembly Committee on the Judiciary bill analysis states the amendment was designed to ameliorate the problem of surprise to the original contractor by the filing of a late claim by subcontractors. "In such a case," the analysis stated, "the original contractor is often unable to protect himself or herself against such an event (through the use of joint checks or conditional releases) because he or she is simply unaware of the 5th 'tier' and 6th 'tier' sub-subcontractor." (Assem. Com. on Judiciary, Analysis of Assem. Bill No. 3357 (1993-1994 Reg. Sess.) May 11, 1994.) The analysis asserted that a further advantage of the bill would be to allow the various preliminary notices required by law to be given concurrently.

The bill was amended on June 16, 1994. Subdivision (d) was added to section 3098, allowing a claimant to file a preliminary notice at any time after 20 days from the date the claimant first furnished labor, services, etc., to the jobsite, but limiting recovery in such cases to the value of labor, services, etc., furnished 20 days prior to or any time after the giving of the notice. (Sen. Amend. to Assem. Bill No. 3357 (1993-1994 Reg. Sess.) June 16, 1994.)

Thereafter, the Senate Judiciary Committee considered a further and last revision. The committee analysis sets forth the issue before the committee as follows: "Should the procedure for a subcontractor's or material supplier's assertion of a claim against a payment bond of the general contractor be amended to require either the early filing of a preliminary notice, or the filing of a claim with the surety within 15 days after a recorded notice of completion, as a condition of asserting that claim?" (Sen. Com. on Judiciary, Analysis of Assem. Bill No. 3357 (1993-1994 Reg. Sess.) as amended June 16, 1994.)

The analysis notes the proposed revision responded to a concern that laborers and material suppliers who are unsophisticated or unaware of the mechanic's lien law procedures might unfairly have their rights cut off by the early notice provisions of the original bill. The proposed revision was intended to allow "for full payment of provided services or materials so long as a claim is made with 15 days after recordation of a notice of completion." The revision appears as section 3252, subdivision (b) in the August 23, 1994, amendment of the bill. (Sen. Amend. to Assem. Bill No. 3357 (1993-1994 Reg. Sess.) Aug. 23, 1994.)

(2) A statutory provision "must be given a reasonable and common sense interpretation consistent with the apparent purpose and intention of the ***1201** lawmakers, practical rather than technical in nature, which upon application will result in wise policy rather than mischief or absurdity." (*DeYoung v. City of San Diego* (1983) 147 Cal.App.3d 11, 18 [194 Cal.Rptr. 722], overruled on other grounds, *Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 15 [78 Cal.Rptr.2d 1, 960 P.2d 1031].) (1b) From this history it may be said the Legislature intended section 3252, subdivision (b) to give the unsophisticated or unaware laborer or supplier a reasonable opportunity to recover a claim upon a payment bond, but did not intend to preclude them from filing an earlier notice of a potential claim.

We read sections 3098 and 3252 as complemen-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

tary by construing section 3252, subdivision (b) to mean that a notice under that subdivision may be given if the notice given under section 3098 is insufficient to recover the amount owing whether in part or in whole.

We conclude that where timely notice is given meeting the requirements of section 3252, subdivision (b), the claimant may enforce a claim on a payment bond for the full amount of labor, material and services furnished the public project that are not otherwise recovered under section 3098.

Disposition

The judgment is affirmed.

Morrison, J., and Robie, J., concurred. ***1202**

Cal.App.3.Dist.
American Buildings Co. v. Bay Commercial Construction, Inc.
99 Cal.App.4th 1193, 121 Cal.Rptr.2d 539, 02 Cal. Daily Op. Serv. 5966, 2002 Daily Journal D.A.R. 7481

END OF DOCUMENT

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

76 Cal.App.4th 818, 90 Cal.Rptr.2d 709, 139 Ed. Law Rep. 978, 1999 Daily Journal D.A.R. 12,203
(Cite as: 76 Cal.App.4th 818)

ROY DEWEY BARNHART III et al., Plaintiffs and Appellants,
v.
CABRILLO COMMUNITY COLLEGE et al., Defendants and Respondents.

No. H019287.

Court of Appeal, Sixth District, California.
Dec. 2, 1999.

SUMMARY

Three members of a community college soccer team brought an action against the college and their coach for personal injuries suffered in an automobile accident that occurred when the coach, a college employee, was driving plaintiffs from the college to a game in a van owned by the college. The trial court granted summary judgment for defendants on the basis of immunity pursuant to an administrative regulation providing immunity for injuries occurring during a field trip or excursion (Cal. Code Regs, tit. 5, § 55450). (Superior Court of Santa Cruz County, No. 133273, Samuel S. Stevens, Judge.)

The Court of Appeal affirmed. The court held that the trial court properly granted summary judgment for defendants on the basis of Cal. Code Regs, tit. 5, § 55450. Although Ed. Code, § 87706, reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises school-sponsored activity, the regulation overrides the general statutory rule of vicarious liability and immunizes a community college district from liability for accidents occurring during field trips or excursions; thus, the regulation controlled in this case. First, the disputed facts about the voluntary or involuntary nature of plaintiffs' participation on the soccer team were immaterial. Further, the regulation and Ed. Code, § 87706, can easily be harmonized. There is a difference between a field trip or excursion and a school-sponsored activity. A field trip or excursion is simply a narrowly defined type of the more broadly defined school-sponsored activity. Plaintiffs' trip clearly fell within the broad category of a school-sponsored activity given that participation in an extracurricular sports program is part of the school curriculum. Also, by its own terms, the regulation places trips in connection with extracurricular sports programs into the narrowly defined field trip or excursion type of school-sponsored activity. Thus, plaintiffs were on a field trip or excursion, and Cal. Code Regs, tit. 5, § 55450, the special or specific immunity statute, applied. (Opinion by Premo, J., with Cottle, P. J., and Elia, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1) Appellate Review § 145--Scope of Review--Construction of Statutes.

The meaning and effect of statutory provisions is a matter for the appellate court's independent review.

(2) Statutes § 37--Construction--Giving Effect to Statute--Sustaining Validity.

In the interpretation of a statute, where the language is clear, its plain meaning should be followed. Generally, a statute should be construed so as to harmonize, if possible, with other laws relating to the same subject. To harmonize two statutes relating to the same subject, a particular or specific statute will take precedence over a conflicting general statute. Also, significance should be attributed to every word and phrase of a statute, and a construction making some words surplusage should be avoided.

(3) Government Tort Liability § 4--Grounds for Relief--As Dependent on Liability of Employee.

A public entity, as an employer, is generally liable for the torts of an employee committed within the scope of employment if the employee is liable. Under Gov. Code, § 820, subd. (a), except as otherwise provided by statute, a public employee is liable for an injury caused by his or her act or omission to the same extent as a private person. Thus, the general rule is that an employee of a public entity is liable for his or her torts to the same extent as a private person, and the public entity is vicariously liable for any injury that its employee causes to the same extent as a private employer.

(4a, 4b) Government Tort Liability § 15--Grounds for Relief--Liability Arising From Governmental Activities--Community Colleges--Supervision of Students--Field Trips or Excursions--Immunity.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

76 Cal.App.4th 818, 90 Cal.Rptr.2d 709, 139 Ed. Law Rep. 978, 1999 Daily Journal D.A.R. 12,203
(Cite as: 76 Cal.App.4th 818)

In an action brought by three members of a community college soccer team against the college and their coach for personal injuries suffered in an automobile accident that occurred when the coach, a college employee, was driving plaintiffs from the college to a game in a van owned by the college, the trial court properly granted summary judgment for defendants. Defendants were immune from liability pursuant to Cal. Code Regs, tit. 5, § 55450, an administrative regulation providing immunity for injuries occurring during a field trip or excursion. Although Ed. Code, § 87706, reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises, school-sponsored activity, the regulation overrides the general statutory rule of vicarious liability and immunizes a community college district from liability for accidents occurring during field trips or excursions; thus, the regulation controlled in this case. First, the disputed facts about the voluntary or involuntary nature of plaintiffs' participation on the soccer team were immaterial. Further, the regulation and Ed. Code, § 87706, can easily be harmonized. There is a difference between a field trip or excursion and a school-sponsored activity. A field trip or excursion is simply a narrowly defined type of the more broadly defined school-sponsored activity. Plaintiffs' trip clearly fell within the broad category of a school-sponsored activity given that participation in an extracurricular sports program is part of the school curriculum. Also, by its own terms, the regulation places trips in connection with extracurricular sports programs into the narrowly defined field trip or excursion type of school-sponsored activity. Thus, plaintiffs were on a field trip or excursion, and Cal. Code Regs, tit. 5, § 55450, the special or specific immunity statute, applied.

[See 5 Witkin, Summary of Cal. Law (9th ed. 1988) Torts, § 155.]

(5) Government Tort Liability § 2--As Governed by Statute--Regulation Providing Immunity for Injuries Occurring During Field Trips or Excursions.

Cal. Code Regs, tit. 5, § 55450, an administrative regulation providing community college districts with immunity for injuries occurring during or by reason of a field trip or excursion, is no mere administrative regulation but, rather, is a regulation adopted pursuant to the Legislature's intent to keep in effect the requirements, rights, responsibilities, conditions, or prescriptions of an identical repealed statute. Thus, the regulation and Ed. Code, § 87706, which reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises, school-sponsored activity, must be deemed to have equal dignity.

COUNSEL

Gary Haraldsen for Plaintiffs and Appellants. ***821**

Burton, Volkmann & Schmal, Timothy R. Volkmann and Karen E. Lintott for Defendants and Respondents.

PREMO, J.

Plaintiffs Roy Dewey Barnhart III, Masao Drexel, and Robert Zamora sued defendants Cabrillo Community College and Jason Rene Larrieu for personal injuries suffered in an automobile accident. The accident occurred while Cabrillo's employee, Larrieu, was driving plaintiffs from the college to Fresno City College to play an intercollegiate soccer match. The trial court granted defendants' motion for summary judgment on the basis of immunity pursuant to title 5, California Code of Regulations, section 55450 (hereafter, title 5, section 55450). On appeal, plaintiffs contend that Education Code section 87706 (hereafter, section 87706) applies to this case and allows them to prove liability. We disagree and affirm the judgment.

Scope of Review

The parties do not dispute the material facts. The issue is simply whether title 5, section 55450 immunity applies to this case. (1) "The meaning and effect of statutory provisions is a matter for our independent review." (*Service Employees Internat. Union v. Board of Trustees* (1996) 47 Cal.App.4th 1661, 1665 [55 Cal.Rptr.2d 484].)

(2) "It is axiomatic that in the interpretation of a statute where the language is clear, its plain meaning should be followed." (*Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal.3d 152, 155 [137 Cal.Rptr. 154, 561 P.2d 244].) Generally, a statute should be construed so as to harmonize, if possible, with other laws relating to the same subject. (*Isobe v. Unemployment Ins. Appeals Bd.* (1974) 12 Cal.3d 584, 590-591 [116 Cal.Rptr. 376, 526 P.2d 528].) To harmonize two statutes relating to the same subject, a particular or specific statute will take precedence over a conflicting general statute. (Code Civ. Proc., § 1859.) And significance should be attributed to every

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

76 Cal.App.4th 818, 90 Cal.Rptr.2d 709, 139 Ed. Law Rep. 978, 1999 Daily Journal D.A.R. 12,203
(Cite as: 76 Cal.App.4th 818)

word and phrase of a statute, and a construction making some words surplusage should be avoided. (*Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230 [110 Cal.Rptr. 144, 514 P.2d 1224].)

Undisputed Material Facts

Plaintiffs were members of the men's soccer team; Larrieu was the assistant coach. An away game was scheduled in Fresno. Larrieu drove ***822** plaintiffs and other players to the game in a van owned by Cabrillo. On southbound Highway 99, one of the tires blew out. Larrieu lost control of the van. The van traveled across two lanes of traffic, overturning several times.

Legal Background

Under the California Tort Claims Act, "Except as otherwise provided by statute: [¶] (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." (Gov. Code, § 815, subd. (a).)

Government Code section 815.2, subdivision (a), is one such statute. It provides: "A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee ...."

(3) "Through this section, the California Tort Claims Act expressly makes the doctrine of respondeat superior applicable to public employers. [Citation.] 'A public entity, as the employer, is generally liable for the torts of an employee committed within the scope of employment if the employee is liable. [Citations.]' [Citation.] Under [Government Code] section 820, subdivision (a), '[e]xcept as otherwise provided by statute ..., a public employee is liable for injury caused by his act or omission to the same extent as a private person.' Thus, 'the general rule is that an employee of a public entity is liable for his torts to the same extent as a private person [citation] and the public entity is vicariously liable for any injury which its employee causes [citation] to the same extent as a private employer [citation].' [Citation.]" (*Hoff v. Vacaville Unified School Dist.* (1998) 19 Cal.4th 925, 932 [80 Cal.Rptr.2d 811, 968 P.2d 522].)

Section 87706 states that "Notwithstanding any other provision of this code, no community college district, or any officer or employee of such district or board shall be responsible or in any way liable for the conduct or safety of any student of the public schools at any time when such student is not in school property, unless such district has undertaken to provide transportation for such student to and from the school premises, has undertaken a school-sponsored activity off the premises of such school, has otherwise specifically assumed such responsibility or liability or has failed to exercise reasonable care under the circumstances. [¶] In the event of such a specific undertaking, the district shall be liable or responsible for the conduct or safety of any student only while such student is or should be under the immediate and direct supervision of an employee of such district or board." ***823**

On the other hand, title 5, section 55450, subdivision (a), provides that the governing board of a community college district may conduct "field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places ...." But subdivision (d), states, in pertinent part: "All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion."

Discussion

(4a) A plain reading of section 87706 is that the section reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises school-sponsored activity (or otherwise affirmatively assumes responsibility for student safety) and the accident occurs while the student is or should be under the supervision of an employee.

A plain reading of title 5, section 55450 is that the section overrides the general statutory rule of vicarious liability and immunizes a community college district from liability for accidents occurring during field trips or excursions to participants thereof.

Plaintiffs' position is that section 87706 applies to this case so as to make operative against defendants the general statutory rule of vicarious liability. They point out that section 87706 contemplates transportation to a "school-sponsored activity." They urge that

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

76 Cal.App.4th 818, 90 Cal.Rptr.2d 709, 139 Ed. Law Rep. 978, 1999 Daily Journal D.A.R. 12,203
(Cite as: 76 Cal.App.4th 818)

their trip to the soccer match fits within this definition. They conclude that section 87706 is a specific statute applicable to the circumstances. They further contend that title 5, section 55450 is a mere regulation that cannot alter or impair the scope of a statute. (*Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065, 1081 [230 Cal.Rptr. 413].)

Defendants' position, on the other hand, is that title 5, section 55450 applies to this case so as to make them immune from liability. They point out that section 55450 contemplates "field trips or excursions" in connection with athletic activities. They urge that plaintiffs' trip to the soccer match fits within this definition. They conclude that section 55450 is a specific statute applicable to the circumstances. They bolster this point by claiming that plaintiffs' participation on the soccer team was voluntary in the sense that they were not required to travel to away games in college-provided transportation or even attend away games in the first instance.

Plaintiffs counter that, at the very least, there exists a triable issue of fact as to whether their participation on the soccer team was voluntary, pointing ***824** to their declarations in which they stated that they believed attendance at away games was mandatory because their grades would otherwise suffer.

1. *Statute-Regulation Dichotomy*

Education Code section 70902 provides in pertinent part: "(a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the 'governing board.' The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established...."

Education Code "[s]ection 70902 was added to the code in 1988 but contained the same language as former section 72233, which had been added in 1976. Section 72233 was enacted in response to a 1972 amendment to the California Constitution, article IX, section 14, which added the following sentence to that section: 'The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established.'

"When the Education Code was amended in 1981, the Legislature stated that 'It is the intent of the Legislature, in enacting this act, to implement more fully, for the community colleges of California, the intent of the people in adopting the amendment of Section 14 of Article IX of the California Constitution. The Legislature further finds and declares that, in order to do so, it is necessary to amend or repeal many provisions of the Education Code. [¶] Wherever in this act a power or duty of a community college district governing board is repealed, or otherwise deleted by an amendment, it is not the intent of the Legislature to prohibit the board from acting as prescribed by the deleted provisions. Rather, *it is the intent of the Legislature, that the community college district governing board shall have the power, in the absence of other legislation, to so act under the general authority of Section 72233 of the Education Code*.' [Citation.] This 'general authority,' now embodied in section 70902, became known as the 'permissive code' concept.

"... As the Legislature expressly stated, the permissive code allows a district's governing board to act under its general authority without specific statutory authorization. ***825**

"Since the permissive code was enacted in 1976, the Legislature has repealed many Education Code provisions which had specifically authorized community colleges to conduct various activities.... According to legislative counsel, specific statutory authority for such activities is no longer necessary in light of the permissive code. [Citation.] [¶] The only limitation placed on a governing board's authority under the permissive code is that the board may not act in any manner 'in conflict with, or inconsistent with, or preempted by, any law.' [Citation.]" (*Service Employees Internat. Union v. Board of Trustees*, *supra*, 47 Cal.App.4th at pp. 1665-1666.)

As part of the permissive code, the Legislature also (1) directed that the Board of Governors of the California Community Colleges adopt regulations incorporating the text of specified repealed or amended Education Code sections, and (2) provided that the specified sections would remain operative

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

until the effective date of the corresponding regulation. (Stats. 1990, ch. 1372, § 708, p. 6320.) It specifically stated: "It is the intent of the Legislature that there be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained in the statutes." (*Id.* at p. 6321.)

One of the specified Education Code sections was former Education Code section 72640 (repealed by Stats. 1990, ch. 1372, § 354, p. 6268), which is identical, in pertinent part, to title 5, section 55450. (Stats. 1990, ch. 1372, § 708, p. 6320, operative Apr. 5, 1991.) The immunity aspect of former Education Code section 72640 stated: "All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion." (Stats. 1987, ch. 1118, §§ 9, 10, pp. 3800-3802.)

(5) Thus, title 5, section 55450 is no mere administrative regulation. It is a regulation adopted by the Board of Governors of the California Community Colleges pursuant to the board's constitutional authority and the Legislature's mandate to the board to keep in effect the "requirements, rights, responsibilities, conditions, or prescriptions" of an identical repealed statute.

Under these peculiar circumstances, title 5, section 55450 and section 87706 must be deemed to have equal dignity.

2. *Voluntary Participation*

Defendants rely on *Wolfe v. Dublin Unified School Dist.* (1997) 56 Cal.App.4th 126 [65 Cal.Rptr.2d 280], and, by extension, *Castro v. Los Angeles Bd. of Education* (1976) 54 Cal.App.3d 232 [126 Cal.Rptr. 537]. ***826**

In *Wolfe*, a first grade student sued a school district for injuries suffered in an automobile accident when he was returning to school during school hours from a field trip in a car driven by a volunteer parent. The student's parent had signed a form consenting to the student's participation in the field trip. All students participated in the field trip, but if a student had not produced a consent form he or she would have remained at school and participated in alternate activities. The trial court granted summary judgment for the district.

In affirming the judgment, the court examined the immunities afforded school districts under Education Code sections 44808 and 35330, sections identical to section 87706 and title 5, section 55450, but applicable to elementary and secondary school districts.

Wolfe, however, does not hold that voluntary participation is an issue in these types of cases. It simply held that Education Code section 35330 immunity applied because the plaintiff was on a field trip. (*Wolfe v. Dublin Unified School Dist.*, *supra*, 56 Cal.App.4th at p. 134.) And it alternatively held that, if Education Code section 44808 arguably applied (because the field trip was a school-sponsored activity to which the school district undertook to provide transportation and supervision), the specific field-trip statute would control over the general school-sponsored-activity statute. (56 Cal.App.4th at p. 135.) The court discussed the voluntary participation issue only as part of its discourse on *Castro*. (*Id.* at pp. 131-132.)

In *Castro*, a high school student died while participating with an ROTC unit in a summer camp organized and supervised by the board of education. In the wrongful death action, the trial court sustained a demurrer on the basis of Education Code section 35330 immunity (then numbered as § 1081.5).

In reversing the judgment on the basis of Education Code section 44808 (then numbered as § 13557.5), the court noted that there existed a difference between "field trip or excursion" and "school-sponsored activity" and stated: "The Legislature, by these sections, recognized that: not all educational facilities can be provided within the confines of each school's property. To accomplish a school's educational aims, it therefore is necessary for students to accomplish portions of their study off the school's property. Students who are off of the school's property for *required* school purposes are entitled to the same safeguards as those who are on school property, within supervisorial limits. Students who participate in *nonrequired* trips or excursions, though possibly in furtherance of their education but not as *required* attendance, are effectively on their own; the *voluntary nature of the event absolves *827 the district of liability.* [¶] As we construe the governing sections, we conclude that where a 'school-sponsored activity,' i.e., one that *requires* attendance and for

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

which attendance credit may be given, is involved, the event is a 'specific undertaking' of the district. In such a case 'the district ... shall be liable or responsible for the ... safety of any pupil only while such pupil is or should be under the immediate and direct supervision of an employee of such district.' " (*Castro v. Los Angeles Bd. of Education, supra,* 54 Cal.App.3d at p. 236, italics added, fn. omitted.)

The dispositive reason for the reversal in *Castro*, however, was not the voluntary nature of the participation. The court stated that the reason for the reversal was the need to provide the plaintiffs with "the forum in which to prove, if they can, that the ROTC 'summer camp, bivouac and summer training' was just as much a part of the school curriculum as a school-sponsored band or orchestra performance at an off-premises event." (*Castro v. Los Angeles Bd. of Education, supra,* 54 Cal.App.3d at p. 237.)

Hence, under *Castro*, the test is not really whether the student's participation was voluntary or not, but whether the off-premises activity was part of the school curriculum.

The Supreme Court has commented that *Castro*'s discussion about the voluntary nature of the event was "dicta" and, in doing so, correctly observed that *Castro*'s holding rested upon that "the activity was school-related." (*Hoyem v. Manhattan Beach City Sch. Dist.* (1978) 22 Cal.3d 508, 518, fn. 3 [150 Cal.Rptr. 1, 585 P.2d 851].)

Thus, *Castro*'s statements about the voluntary or involuntary nature of the participation are (1) dicta, and (2) of questionable validity given that neither Education Code section 44808 nor Education Code section 35330 suggests such a test. (4b) For our purposes, neither section 87706 nor title 5, section 55450 suggests such a test. We therefore hold that the disputed facts about the voluntary or involuntary nature of plaintiffs' participation on the soccer team are immaterial. (Code Civ. Proc., § 437c, subds. (b), (c).)

3. *Statutory Construction*

At first blush, section 87706 and title 5, section 55450 appear inconsistent. And plaintiffs appear to tacitly assume that the sections are inconsistent by arguing that statutes prevail over regulations. But the sections can easily be harmonized.

As *Castro* observed, there is a difference between a field trip or excursion and a school-sponsored activity. More particularly, a field trip or excursion ***828** is simply a narrowly defined type of the more broadly defined school-sponsored activity. (*Castro v. Los Angeles Bd. of Education, supra,* 54 Cal.App.3d at p. 236, fn. 2 ["We recognize the possibility of a 'field-trip or excursion' being permitted even during a 'school-sponsored activity.' "]; *Wolfe v. Dublin Unified School Dist., supra,* 56 Cal.App.4th at p. 135 ["A field trip is a special type of off-premises activity, making section 35330 the special statute, should both statutes apply."].)

Plaintiffs' trip clearly falls within the broad category of a school-sponsored activity given that participation in an extracurricular sports program is part of the school curriculum. (See *Hartzell v. Connell* (1984) 35 Cal.3d 899, 910 [201 Cal.Rptr. 601, 679 P.2d 35] ["in cases determining the scope of school-related tort liability and insurance coverage, courts have held that 'school-sponsored activities, such as sports, drama, and the like,' though denominated ' "extracurricular," ... nevertheless form an integral and vital part of the educational program' "]; *Acosta v. Los Angeles Unified School Dist.* (1995) 31 Cal.App.4th 471, 478 [37 Cal.Rptr.2d 171] ["most states, including California, have held a school district's duty of reasonable supervision applies to school-sponsored extracurricular sports programs"].)

The question in this case, however, boils down to whether plaintiffs were on a field trip or excursion. If so, then there is immunity.

Castro defined field trip or excursion as follows: " 'Field trip' is defined as a visit made by students and usually a teacher for purposes of first hand observation (as to a factory, farm, clinic, museum). 'Excursion' means a journey chiefly for recreation, a usual brief pleasure trip, departure from a direct or proper course, or deviation from a definite path." (*Castro v. Los Angeles Bd. of Education, supra,* 54 Cal.App.3d at p. 236, fn. 1.)

Strictly speaking, plaintiffs' trip to Fresno does not appear to be a field trip given that it was a trip to participate rather than observe; and, though the trip had recreational and pleasurable aspects, the essence of the trip was not excursionary given that the trip was part of a regular activity rather than a departure or

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

76 Cal.App.4th 818, 90 Cal.Rptr.2d 709, 139 Ed. Law Rep. 978, 1999 Daily Journal D.A.R. 12,203
(Cite as: 76 Cal.App.4th 818)

deviation from the norm.

But title 5, section 55450 itself further describes field trips or excursions. The section supposes that field trips or excursions are conducted "in connection with ... school-related ... athletic ... activities." (tit. 5, § 55450, subd. (a).) School-related athletic activities necessarily include extracurricular sports programs. Thus, by its own terms, title 5, section 55450 places trips in connection with extracurricular sports programs into the narrowly defined field trip or excursion type of school-sponsored activity. ***829**

Plaintiffs were therefore on a field trip or excursion; hence, the special or specific immunity statute applies. (*Wolfe v. Dublin Unified School Dist.*, *supra*, 56 Cal.App.4th at p. 135.)

Disposition

The judgment is affirmed.

Cottle, P. J., and Elia, J., concurred.

Appellants' petition for review by the Supreme Court was denied February 23, 2000. Mosk, J., and Werdgar, J., were of the opinion that the petition should be granted. ***830**

Cal.App.6.Dist.
Barnhart v. Cabrillo Community College
76 Cal.App.4th 818, 90 Cal.Rptr.2d 709, 139 Ed. Law Rep. 978, 1999 Daily Journal D.A.R. 12,203

END OF DOCUMENT

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

CALIFORNIA DRIVE-IN RESTAURANT ASSOCIATION, et al., Respondents,
v.
MARGARETE L. CLARK, as Chief of the Division of Industrial Welfare, etc., et al., Appellants.
L. A. No. 18093.

Supreme Court of California
June 16, 1943.

HEADNOTES

(1) Administrative Law--Rules of Administrative Agencies--Interpretation.
Generally, the same rules of construction and interpretation which apply to statutes govern the construction and interpretation of rules and regulations of administrative agencies.

(2) Statutes § 87, 92--Repeal by Implication--Rule AgainstRepeal by Inconsistent Statute--Necessity for Clear Repugnancy.
The presumption is against repeals by implication, especially where the prior act has been generally understood and acted upon; and to overcome the presumption the two acts must be irreconcilable, clearly repugnant and so inconsistent that they cannot have concurrent operation.
See 23 **Cal.Jur.** 694; 25 **R.C.L.** 918.
(3) Statutes § 124--Construction--Circumstances Indicating Legislative Intent--Object to Be Accomplished.
The purpose and object sought to be accomplished by legislation is an important factor in determining the legislative intent.

(4a, 4b) Labor § 17--Regulation of Tipping--Rules and Statutes.
Section 3 of Order 12-A of the Industrial Welfare Commission and Lab. Code, §§ 350-356, are not irreconcilable, but entirely harmonious, since the basic policy underlying the order is the regulation of wages, hours and working conditions for minors and adult female employees in eating establishments, the subject of tipping being embraced only incidentally in furtherance of that general purpose, and the statute is concerned exclusively with tipping in respect to its relation to the public, the Legislature having expressly stated that its purpose was to prevent fraud upon the public.

(5) Labor § 17--Regulation of Tipping--Construction of Order.
Conceding that the effect of § 3 of Order 12-A of the Industrial Welfare Commission is to prohibit deduction of tips from employees' wages and that Lab. Code, §§ 350-356, impliedly authorizes their deduction, such prohibition should be strictly limited, and the section will not be violated in instances where the employer retains the entire amount of all tips received above the minimum wage, or deducts the tips from the amount of any wages it has agreed to pay in excess of a specified minimum.

(6) Labor § 17--Regulation of Tipping--Construction of Lab. Code, §§ 350-356.
That Lab. Code, §§ 350-356, authorize tipping is not a necessary conclusion, since the statute does not purport to legalize the retention or deduction of tips received by employees and is nothing more than a comprehensive regulation requiring that the public be informed of an employer's retention of tips.

(7) Labor § 17--Regulation of Tipping--Construction of Order.
Section 3 of Order 12-A of the Industrial Welfare Commission, given a liberal meaning to effectuate the ends in view, prohibits the retention by the employer of any amount of tips received by the employee below the minimum wage.

(8) Labor § 17--Regulation of Tipping--Purpose of Lab. Code, §§ 350-356.
If it be assumed that the Legislature in enacting Lab. Code, §§ 350-356, was endeavoring to avoid the difficulty encountered in reference to Stats. 1917, p. 257, still it did not purport to authorize deduction of tips from the minimum wage but merely regulated the retention of tips by employers regardless of whether such retention was or was not a violation of § 3 of Order 12-A of the Industrial Welfare Commission.

(9) Statutes § 180(2)--Aids to Construction--Contemporaneous Construction-- Executive or

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Departmental Construction.
While it is a rule of statutory interpretation that the construction given a statute by the administrative agency charged with its enforcement is a significant factor to be considered by the courts in ascertaining the meaning of the statute, where there is no ambiguity and the interpretation is clearly erroneous, such administrative interpretation does not give legal sanction to a long continued incorrect construction.

(10) Trial § 379--Findings--Conclusiveness.
A finding constituting a conclusion of law is not binding upon the appellate court.

(11) Labor § 17--Regulation of Tipping--Validity of Order.
Section 3 of Order 12-A of the Industrial Welfare Commission is not invalid as an unconstitutional interference with freedom of contract as between employer and employee, since in the field of regulation of wages and hours by legislative authority constitutional guarantees relating to freedom of contract must give way to reasonable police regulations, and the Legislature did not act arbitrarily or capriciously, but reasonable grounds appear for the policy established by § 3 of the order.
See 15 **Cal.Jur.** 575; 31 **Am.Jur.** 1080.
(12) Labor § 17--Regulation of Tipping--Validity of Order.
Section 3 of Order 12-A of the Industrial Welfare Commission does not create an improper discrimination in respect to employers or the employees affected. The particular evils at which it is aimed are a part of the minimum wage policy and must be viewed in that light, hence it applies only to situations where such wages are fixed.
See 31 **Am.Jur.** 1038.
(13) Labor § 17--Regulation of Tipping--Validity of Order--Finding of Commission.
The fact that no finding by the Industrial Welfare Commission as a basis for Order 12-A appears in the order itself is not of importance, since § 6(a) of the minimum wage law (Stats. 1913, p. 632, as amended by Stats. 1921, p. 378) merely requires that the order shall specify "the minimum wage for women and minors in the occupation in question, maximum hours ... and the standard conditions of labor. ..."

(14a, 14b) Labor § 17--Regulation of Tipping--As Implied Power.
The adoption of § 3 of Order 12-A is within the implied power of the Industrial Welfare Commission, flowing from its power to fix minimum wages delegated to the commission.

(15) Administrative Law--Power of Administrative Agency to Adopt Rules and Regulations.
While an administrative agency may not, under the guise of its rule-making power, abridge or enlarge its authority or exceed the powers given to it by statutes, the authority of an administrative board or officer to adopt reasonable rules and regulations deemed necessary to the due and efficient exercise of the powers expressly granted cannot be questioned, and is implied from the power granted.

SUMMARY

APPEAL from a judgment of the Superior Court of Los Angeles County. Charles D. Ballard, Judge. Reversed.

Action for injunction and declaratory relief. Judgment for plaintiffs reversed.

COUNSEL

Robert W. Kenny, Attorney General, Earl Warren, Attorney General, Burdette J. Daniels and Alberta Belford, Deputies ***290** Attorney General, Leo L. Schaumer and E. A. Lackmann for Appellants.

Thorpe & Bridges, Gerald Bridges, Frank R. Johnston and E. R. Young for Respondents.

CARTER, J.

Plaintiffs, operators of drive-in restaurants, successfully challenged in the superior court the validity of a regulation of the Industrial Welfare Commission, designated Order 12-A. Defendants, the Chief of the Division of Industrial Welfare of the Department of Industrial Relations and the members of the Industrial Welfare Commission of the Division of Industrial Welfare of the Department of Industrial Relations, appeal from the judgment entered for plaintiffs.

Plaintiffs are independent owners of establishments serving food and beverages. Their patronage consists chiefly of motorists who are served while remaining in their vehicles, however, service may be obtained in the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

owner's restaurant buildings. Most of the employees are girls and women commonly referred to as "car hops." The employment arrangement contemplates that the tips received by the employees shall constitute their wages, except that the employers make up the difference if the tips received fall below the minimum wage for minors and adult females fixed by the Industrial Welfare Commission. Plaintiffs posted in their business establishments, the notices required by a statute of 1929, hereinafter set forth. In 1940, plaintiffs were advised by the Chief of the Division of Industrial Welfare that their employment arrangement violated Order 12-A, in that they could not consider the tips received by the minor and female adult employees in computing and paying the minimum wage, and that they would be required to comply with said order.

Order 12-A became effective on June 8, 1923. In section 1 it fixed a minimum wage of $16 per week to be paid to all female adult or minor employees in restaurants or other places where food and drinks were sold. Section 2 fixed the maximum amount the employer could deduct from the minimum wage for meals and lodging furnished the employee. Section 3, here in question, reads: "No employer may include tips or gratuities received by employees designated in section ***291** 1 hereof as part of the legal minimum wages fixed by said section of this Order." The remaining nine sections deal with hours of labor, working conditions, the employer's duty to keep records, and the like.

In 1929 (Stats. 1929, p. 1971), a statute was passed by the Legislature, now appearing in sections 350-356 of the Labor Code. Section 351 of the Labor Code reads:

"Every employer or agent who collects, takes, or receives any gratuity or a part thereof, paid, given to, or left for an employee by a patron, or who deducts any amount from wages due an employee on account of such gratuity, or who requires an employee to credit the amount, or any part thereof, of such gratuity against and as a part of the wages due the employee from the employer, shall keep posted in a conspicuous place at the location where his business is carried on, in a place where it can easily be seen by the patrons thereof, a notice, in lettering or printing of not less than 48-point black- face type, to the following effect:

"(a) If not shared by the employees, that any gratuities paid, given to, or left for employees by patrons go to and belong to the business or employer and are not shared by the employees thereof.

"(b) If shared by the employees, the extent to which gratuities are shared between employer and employees."

Section 352 specifies that the notice shall also state the extent to which employees are required to accept gratuities in lieu of wages or permit them to be credited against their wages. The provisions apply to all businesses having one or more persons in service. A gratuity "includes any tip, gratuity, money, or part thereof, which has been paid or given to or left for an employee by a patron of a business over and above the actual amount due such business for services rendered or for goods, food, drink, or articles sold or served to such patron."

A penalty is imposed for violation of the act, and it is declared that:

"The Legislature expressly declares that the purpose of this article is to prevent fraud upon the public in connection with the practice of tipping and declares that this article is passed for a public reason and cannot be contravened by a private agreement. As a part of the social public policy ***292** of this State, this article is binding upon all departments of the State." (Lab. Code, sec. 356.)

Whether the 1929 statute impliedly annulled section 3 of said Order 12-A must be determined in the light of the appropriate rules of statutory construction. (1) Generally, the same rules of construction and interpretation which apply to statutes govern the construction and interpretation of rules and regulations of administrative agencies. (*Miller v. United States*, 294 U.S. 435 [55 St.Ct. 440, 79 L.Ed. 977].) (2) With reference to implied repeals of statutes this court stated in *Penziner v. West American Finance Co.*, 10 Cal.2d 160, 176 [74 P.2d 252]:

"The presumption is against repeals by implication, especially where the prior act has been generally understood and acted upon. To overcome the presumption the two acts must be irreconcilable, clearly repugnant, and so inconsistent that the two cannot have concurrent operation. The courts are bound, if possible, to maintain the integrity of both statutes if the two

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

may stand together. Where a modification will suffice, a repeal will not be presumed." (See 23 Cal.Jur. 694, et seq.) (3) The purpose and object sought to be accomplished by legislation is an important factor in determining the legislative intent. (*San Francisco v. San Mateo County,* 17 Cal.2d 814 [112 P.2d 595].)

(4a) Applying those rules to the instant case we find no repugnancy. The statute of 1929 and section 3 of Order 12-A rather than being irreconcilable are entirely harmonious. The basic policy underlying the order is the regulation of wages, hours and working conditions for minors and adult female employees in eating establishments. The subject of tipping is embraced only incidentally in the furtherance of that general purpose. Broadly, it was designed to deal with the industrial welfare of such employees, and the relation of their welfare to the general public interest. On the other hand the statute is concerned exclusively with tipping in respect to its relation to the public which patronizes not only restaurant establishments but many other businesses. The Legislature expressly stated that its purpose is "to prevent fraud upon the public," a policy underlying no part of the order. Section 3 of the order states that tips received by the designated employees may not be included in the minimum wage therein fixed. (5) If it be conceded that the effect ***293** of said section is to prohibit the deduction of tips from the employees' wages, and that the statute impliedly authorizes such deduction as asserted by plaintiffs, such prohibition should be strictly limited, and said section would not be violated in instances where the employer retained the entire amount of all tips received *above* the minimum wage, or deducted the tips from the amount of any wages he agreed to pay in excess of the specified minimum. It does not apply to male employees or persons employed in businesses other than those mentioned.

(6) Further, it is not necessary to conclude that the statute authorizes tipping. It does not purport to authorize or legalize the retention or deduction of the tips received by the employees. It is nothing more than a comprehensive regulation in respect to advising the public of the retention of tips by the employer whether such retention is legal or not, the essential requirement being that the public be informed of the practice. Fairly interpreted, the posting of the notice is required regardless of whether such retention or deduction is being made from the minimum legal wage fixed by section 3. (7) It may be said that section 3 given a liberal meaning to effectuate the ends in view, prohibits the retention by the employer of any amount of tips received by the employee below the minimum wage, because if the employer could retain such tips he would be, in effect, accomplishing indirectly that which he could not do directly, namely, including the tips in the legal wage. It would be a subterfuge for him to receive all the tips and pay the minimum wage. The end result would be counting the tips as a part of the legal wage. That conclusion does not mean that section 3 and the statute are inconsistent to that extent. (4b) The purpose of the statute and section 3 are entirely different. The statute does not purport to cover the special field of tipping in regard to its effect on the minimum wage law. It is aimed at the protection of the public against fraud.

(8) For the same reasons the historical arguments advanced by plaintiffs are not persuasive. True, a statute was enacted in 1917 (Stats. 1917, p. 257) which made it unlawful for an employer to demand tips received by his employee in consideration of the latter's being hired or retained. That act, like the 1929 act, was broad in its scope and did not purport ***294** to affect tipping in relation to minimum wages. It was declared invalid in *In re Farb,* 178 Cal. 592 [174 P. 320, 3 A.L.R. 301], and thereafter the 1929 act was passed. Both of those statutes were aimed at the prevention of a fraud on the public and were not concerned with the effect on the inclusion of tips in minimum wages and the purpose of section 3 of said Order 12-A. If it be assumed that the Legislature in passing the 1929 statute was endeavoring to avoid the difficulty encountered with reference to the 1917 act in *In re Farb, supra,* still it did not purport to authorize the deduction of tips from the minimum wage. It was regulating the retention of tips by employers regardless of whether such retention was or was not a violation of section 3 of Order 12-A. The statute and the order were designed for fundamentally different purposes.

(9) Plaintiffs urge that because the predecessors in office of defendants did not enforce section 3 of Order 12-A, they must have considered it annulled by the 1929 statute, and some of the plaintiffs having been so advised by executive officers of defendants predecessors, the statute should be interpreted to annul said section 3. It is undoubtedly a rule of statutory interpretation that the construction given a statute by the administrative agency charged with the enforcement

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

of it is a significant factor to be considered by the courts in ascertaining the meaning of such statute. (*Los Angeles County v. Superior Court,* 17 Cal.2d 707 [112 P.2d 10]; 23 Cal.Jur. 776-7.) But where there is no ambiguity and the interpretation is clearly erroneous, such administrative interpretation does not give legal sanction to a long continued incorrect construction. The administrative interpretation cannot alter the clear meaning of a statute. (*Los Angeles County v. Superior Court, supra;* 23 Cal.Jur. 776.) We have seen that the 1929 statute does not purport to legalize the deduction or retention of tips by an employer, nor does section 3 of Order 12-A prohibit tipping; it merely prohibits the inclusion of tips in the minimum wage for certain employees. The alleged implied nullification which is not favored in the law does not exist.

(10) The trial court found: "... that in adopting section 3 of Order 12A ... defendant ... acted in excess of its jurisdiction." That finding is not, as claimed by plaintiffs, binding upon this court, inasmuch as it is a conclusion of law. In ***295** support of it plaintiffs challenge the constitutionality of section 3, and the validity of the adoption of the order.

(11) Plaintiffs contend that section 3 is invalid because it is an unconstitutional interference with the freedom of contract as between employer and employee. (United States Const., Fourteenth Amendment; Cal.Const., art. I, secs. 1, 13; art. XX, sec. 18.) The main premise relied upon by plaintiffs is that section 3 prohibits an employer and his employee from agreeing that the former shall retain all tips received by the latter, citing *In re Farb, supra,* declaring unconstitutional the 1917 act (*supra.*), and denouncing such practice. It has heretofore been pointed out that the 1917 act was not aimed at and did not involve any restrictions on such contracts directly as a part and in aid of the minimum wage requirements. The 1917 act applied expressly to any and all employees without regard to whether a legal wage was fixed for them. For that reason we do not consider the Farb case as necessarily supporting plaintiffs' position. Furthermore, the reasoning of the Farb case is out of line with the later authorities upholding minimum wage legislation. (See *United States v. Darby,* 312 U.S. 100 [61 S.Ct. 451, 85 L.Ed. 609, 132 A.L.R. 1430]; *West Coast Hotel Co. v. Parrish,* 300 U.S. 379 [57 S.Ct. 578, 81 L.Ed. 703, 108 A.L.R. 1330]; 31 Am.Jur., Labor, sec. 503; 130 A.L.R. 273; 132 A.L.R. 1443.) There is a distinct difference between a comprehensive prohibition of retention of tips by employers, and the prohibition of such practice as a part of an order fixing minimum wages.

It must be remembered that in the field of regulation of wages and hours by legislative authority, constitutional guarantees relating to freedom of contract must give way to reasonable police regulations. The Supreme Court of the United States in discussing the regulation of hours and wages of women employees stated in *West Coast Hotel Co. v. Parrish, supra,* at 392:

"This power under the Constitution to restrict freedom of contract has had many illustrations. That it may be exercised in the public interest with respect to contracts between employer and employee is undeniable. Thus statutes have been sustained limiting employment in underground mines and smelters to eight hours a day (***296***Holden v. Hardy,* 169 U.S. 366 [18 S.Ct. 383, 42 L.Ed. 780]; in requiring redemption in cash of store orders or other evidences of indebtedness issued in the payment of wages (*Knoxville Iron Co. v. Harbison,* 183 U.S. 13 [22 S.Ct. 1, 46 L.Ed. 55]); in forbidding the payment of seamen's wages in advance (*Patterson v. Bark Eudora,* 190 U.S. 169 [23 S.Ct. 821, 47 L.Ed. 1002]); in making it unlawful to contract to pay miners employed at quantity rates upon the basis of screened coal instead of the weight of the coal as originally produced in the mine (*McLean v. Arkansas,* 211 U.S. 539 [29 S.Ct. 206, 53 L.Ed. 315]); in prohibiting contracts limiting liability for injuries to employees (*Chicago, B. & Q. R. Co. v. McGuire supra* [219 U.S. 549 (31 S.Ct. 259, 55 L.Ed. 328)]); in limiting hours of work of employees in manufacturing establishments (*Bunting v. Oregon,* 243 U.S. 426 [37 S.Ct. 435, 61 L.Ed. 830]); and in maintaining workmen's compensation laws (*New York Central R. Co. v. White,* 243 U.S. 188 [37 S.Ct. 247, 61 L.Ed. 667]; *Mountain Timber Co. v. Washington,* 243 U.S. 219 [37 S.Ct. 260, 61 L.Ed. 685]). In dealing with the relation of employer and employed, the Legislature has necessarily a wide field of discretion in order that there may be suitable protection of health and safety, and that peace and good order may be promoted through regulations designed to insure wholesome conditions of work and freedom from oppression. *Chicago, B. & Q. R. Co. v. McGuire, supra,* p. 570." And at page 399:

"The legislature had the right to consider that its

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

minimum wage requirements would be an important aid in carrying out its policy of protection. The adoption of similar requirements by many States evidences a deepseated conviction both as to the presence of the evil and as to the means adapted to check it. *Legislative response to that conviction cannot be regarded as arbitrary or capricious, and that is all we have to decide.* Even if the wisdom of the policy be regarded as debatable and its effects uncertain, still the legislature is entitled to its judgment." (Emphasis added.) Many other illustrations could be given. In the recent case of *Williams* v. *[Jacksonville] Terminal Co.*, 315 U.S. 386 [62 S.Ct. 659, 86 L.Ed. 914], the court had before it the question of whether the tips received by red caps could be counted as a part of the minimum wage under the Fair Labor Standards Act (29 U.S.C.A. 201 et seq.) It was held ***297** that they could and that legally speaking such tips were wages under the agreement between the employer and employee. However, the court was careful to point out that the Fair Labor Standards Act did not prohibit the inclusion of tips in the minimum wage, and it recognized that such a prohibition might well be valid. It stated at page 388:

"The Fair Labor Standards Act is not intended to do away with tipping. Nor does it appear that Congress intended by the general minimum wage to give the tipping employments an earnings-preference over the nonservice vocations. The petitioners do not dispute the railroad's contention that, during the entire period, each red cap received as earnings-cash pay plus tips-a sum equal to the required minimum wage. Nor is there denial of increased pay to the red caps on account of the minimum wage guarantee of the challenged plan as compared with the former tipping system. The guarantee also betters the mischief of irregular income from tips and increases wage security. *The desirability of considering tips in setting a minimum wage, that is whether tips from the viewpoint of social welfare should be counted as part of that legal wage, is not for judicial decision. We deal here only with the petitioners' assertion that the wages Act requires railroads to pay the red caps the minimum wage without regard to their earnings from tips.*" (Emphasis added.)

The presumption is that the Legislature had adequate and reasonable basis for its police regulations and that a statute providing for such regulations is constitutional (5 Cal.Jur. 628, et seq.), and, as expressed in *West Coast Hotel Co. v. Parrish, supra,* the only question to be decided is whether it acted arbitrarily or capriciously. There may be others, but certain reasonable grounds appear for the policy established by section 3 of Order 12-A. As we have seen from the foregoing quotation from *Williams v. Terminal Co., supra,* that possibility is recognized where the court declared that whether the social welfare required that tips be not counted as part of the minimum wage was not for "judicial decision." It cited for that statement, Anderson, *Tips & Legal Minimum Wages,* XXXI American Labor Legislation Review 11, at page 13, where it was aptly said that if the tips received were to be counted as a part of the minimum ***298** wage "... the employee would be required to report to her employer the amount of tips received each week, in order that he in turn could know the amount of wage he must pay to make up the $16.

"If this practice were followed the purpose of the minimum-wage law would soon be defeated. It would not be long before employers discovered which of their employees were costing them the most money. Obviously, the girls who received the least in tips would have to be paid the highest wages to make up the $16. Gradually the girls receiving low tips would be dismissed, whether efficient or not, and those with ability to wile larger tips from an irresponsible public would be employed in their places. The workers would be no slower than the employers in discovering the effects of the reporting system on their welfare. The dismissal of one or two workers would be sufficient to warn the others that if they were to retain their jobs their tips must equal those of their more fortunate co-workers. There is always one effective way out of a situation like this for a worker who is desperately in need of a job, and that is to report to the employer a greater amount of tips than actually is received. The whole purpose of the minimum wage law, that of guaranteeing the worker a living wage, would be defeated if this practice were permitted and the State authorities would be almost helpless to correct the situation. To prevent just this kind of abuse, most State minimum-wage orders for hotels and restaurants contain a provision that under no circumstances shall tips be counted as a part of the legal minimum wage." In order that the welfare of the employees be advanced and the benefits of the minimum wage law be preserved, it may well be said that section 3 has a reasonable basis. If the employees may be induced, and in effect coerced, by fear of dismissal by an employment contract requiring the tips to be counted as a part of the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

minimum wage, to report their tips as equal to the minimum wage even though they are not, the minimum wage requirement is seriously undermined. By indirect method they would be forced into a position of receiving less than the standard fixed. If the employer is permitted to retain the tips in an amount equal to the minimum wage, which as seen would be a violation of section 3, the same condition would exist. The fear of dismissal might well coerce the employees to turn over as tips ***299** a portion of their own funds when the tips received were not equal to the legal wage. The effectiveness of the minimum wage law would be thus impaired. With the employer prevented from retaining tips in the amount of the minimum legal wage, a salutary result would follow. The benefits of the minimum wage law would be preserved, and the dignity of the laborer and his social position would be advanced by relieving him of the necessity of resorting to the undignified conduct encouraged by the tipping practice.

The Legislature clearly sets forth the purpose sought to be obtained by the fixing of minimum wages as that adequate to supply the necessary cost of proper living and to maintain the health and welfare of the employees. (Lab. Code, sec. 1182.) We perceive that that purpose may be thwarted if tips may be included in the minimum wage.

The foregoing discussion does not mean that tips may not be considered wages under certain circumstances such as, computation of compensation under workmen's compensation laws. (*Hartford Acc. & Indem. Co. v. Industrial Acc. Com.,* 41 Cal.App. 543 [183 P. 234]; 29 Cal.L.Rev. 774; 75 A.L.R. 1223, and generally *Williams v. Terminal Co., supra.*) An employer may permit his employee to retain the tips and the arrangement may be that they shall be compensation, but section 3 is aimed at the evils above-mentioned in connection with *minimum wages,* and merely because tips may be termed wages under certain circumstances does not mean that they may be counted as part of the minimum wage where to do so would contravene the policy of section 3 and permit the evils there denounced.

(12) In their contention that section 3 is not uniform and is discriminatory (United States Const., Fourteenth Amendment; Cal.Const., art. I, sec. 21; art. IV, sec. 25), plaintiffs suggest that section 3 would not be violated if the employment contract called for all tips to be retained by the employer, citing *Settrie v. Falkner,* Commerce Clearing House Labor Law Service, 3d ed. sec. 60, 779. Apparently that case does not appear in the reporter system nor the Ohio Appellate Reports, but in any event we are not persuaded by its reasoning. Section 3 does present such a situation.

Section 3 creates no improper discrimination in respect to employers or the employees affected. The particular evils ***300** at which it is aimed are a part of the minimum wage policy and must be viewed in that light, hence it applies only to situations where such wages are fixed. A reasonable classification has been made. There are many instances where classifications with reference to wages and hours have been upheld. (See *Matter of Application of Martin,* 157 Cal. 51 [106 P. 235, 26 L.R.A. N.S. 242], hours of employment in underground mines; *Matter of Application of Miller,* 162 Cal. 687 [124 P. 427], hours of labor for women but not men.) It is said in 31 Am.Jur., Labor, sec. 414:

"The relation of employer and employee has long been the basis for specific legislation, and statutes applicable only to such relation are not subject to the objection that they constitute class legislation. Moreover, the equal protection of the laws is not denied by the classification of occupations if such classification has a reasonable basis. Such classification may be based upon matters which are personal to the individuals who are acting as employees. For example, statutory regulations with reference to labor of women or children or both may be sustained as against the objection that they constitute an arbitrary discrimination because they do not extend to men. Moreover, the classification may be based not only on the character of the employees but upon the nature of the employer's business, since the character of the work may largely depend upon the nature and the incidents of the business in connection with which the work is done. A statute dealing with employees in a particular line of business does not create an arbitrary discrimination merely because the operation of the statute is not extended to other lines of business having their own circumstances and conditions, or to domestic service."

(13) It is contended that there was no finding by the Industrial Welfare Commission as a basis for its Order 12-A, and that such finding was necessary to the validity of said order; that is, that the wages fixed were adequate to supply the cost of proper living as speci-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

fied in the minimum wage law at the time of its adoption. (Stats. 1913, p. 632, as amended.) That contention must necessarily be limited to the claim that such finding must appear in the order itself inasmuch as the appeal is on the judgment roll alone and hence all of the court's findings must be deemed to have been supported by the evidence. Plaintiffs, respondents herein, are bound by those ***301** findings. The trial court found that the order was adopted by the commission pursuant to and under the authority of the minimum wage laws; that on "June 8, 1923, the ... Commission promulgated Order 12-A for the hotel and restaurant industries. That *prior to the formulation and adoption* of said Order 12-A, and in the manner and form prescribed by statute, a conference denominated a wage board of the employers and employees of the said hotel and restaurant industries was called by said commission; that thereafter and prior to the adoption of said Order 12-A, and within the time and in the manner prescribed by law a public hearing was called and held upon said proposed Order 12-A, at which said meeting and wage board conference the employers and employees of said restaurant industry of the State of California were regularly represented.

"That at said public hearing and other meetings witnesses were sworn, testimony taken, and evidence received. It is further true that *every act and thing required by statute to be done by said Commission in the promulgation and adoption of said Order 12-A was done by said Commission within the time and in the manner and form required by statute.*" (Emphasis added.) It was also found that the order was in full force and effect except as otherwise found in the findings referring to its constitutionality and implied repeal by the 1929 statute.

There have been decisions by the United States Supreme Court both ways upon the question of the necessity of findings by an administrative agency as a basis for a rule or regulation issued by it. In *Panama Ref. Co. v. Ryan,* 293 U.S. 388 [55 S.Ct. 241, 79 L.Ed. 446], findings were declared necessary to support a presidential order. The most recent holding by that court in *Pacific States Box & Basket Co. v. White,* 296 U.S. 176 [56 S.Ct. 159, 80 L.Ed. 138, 101 A.L.R. 853], is that no findings are necessary where the statute does not require them to support the order of the Department of Agriculture of the State of Oregon fixing the sizes for containers of horticultural products, although a violation of the order is a misdemeanor. That holding is a definite departure from the broad rule announced in *Panama Ref. Co. v. Ryan, supra.* (See 49 Harv.L.Rev. 827.) Other cases have considered the question. (See *American Telephone & Telegraph Co. v. United States,* 14 F.Supp. 121; *Bayley v. Southland Gasoline Co.,* 131 F.2d 412; ***302***Twin City Milk Producers Assn. v. McNutt,* 122 F.2d 564.) We have not been referred to and have been unable to find any case in California on the subject, and while some of the federal court cases indicate that the findings must appear in the order, plaintiffs have suffered no prejudice. The findings of the trial court show that if findings were required by the statute the commission made them. The mere fact that they do not appear on the face of the order is not therefore of importance. The statute did not require that the findings appear on the face of the order. Section 6(c) of the act states merely that the order shall specify "the minimum wage for women and minors in the occupation in question, the maximum hours ... and the standard conditions of labor. ..." (Stats. 1913, p. 632, as amended Stats. 1921, p. 378.)

(14a) The adoption of section 3 of Order 12-A was within the power and authority delegated to the Industrial Welfare Commission by the Legislature. The Constitution authorizes the Legislature to provide a minimum wage for women and minors and for the comfort, health, safety and general welfare of employees, and to confer upon a commission the authority it deems necessary to carry out those purposes. (Cal. Const., art. XX, sec. 17 I/2.) The act under which Order 12-A was promulgated empowers the commission to fix "a minimum wage to be paid to women and minors engaged in any occupation, which shall not be less than a wage adequate to supply such women and minors the necessary cost of proper living and to maintain the health and welfare of such women and minors," and to establish the maximum working hours and the standard conditions of labor. (Stats. 1913, p. 632, sec. 6, as amended Stats. 1921, p. 378.) In our previous discussion of the constitutionality of section 3 we have shown that it had a direct relation to minimum wages and was a natural and important incident thereof. It is an incident of the establishment of minimum wages similar to the provisions in Order 12-A, which specify to what extent board and lodging furnished by the employer may be considered wages. The power to provide safeguards to insure the receipt of the minimum wage and to prevent evasion and subterfuge, is necessarily an implied power flowing from the power to fix a minimum wage delegated to

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

the commission.

(15) It is true that an administrative agency may not, under the guise of its rule making power, abridge or enlarge its authority or exceed the powers given to it by the statute ***303** the source of its power. (*Boone v. Kingsbury,* 206 Cal. 148 [273 P. 797]; *California E. Com. v. Black-Foxe Military Inst.,* 43 Cal.App.2dSupp. 868 [110 P.2d 729]; *Hodge v. McCall,* 185 Cal. 330 [197 P. 86]; *Bank of Italy v. Johnson,* 200 Cal. 1 [251 P. 784].) However, "the authority of an administrative board or officer, ... to adopt reasonable rules and regulations which are deemed necessary to the due and efficient exercise of the powers expressly granted cannot be questioned. This authority is implied from the power granted." (*Bank of Italy v. Johnson, supra,* 20.) (See, also, *Crawford v. Imperial Irrigation Dist.,* 200 Cal. 318 [253 P. 725]; 21 Cal.Jur. 874.) (14b) In the instant case the power to adopt section 3 may be implied as a power to make effective the order fixing the minimum wage. The power to fix that wage does not confine the agency to that single act. It may adopt rules to make it effective. Plaintiffs cite *Adolph Coors Co. v. Corbett,* (Cal.App.) 123 P.2d 74, decided by the District Court of Appeal. A hearing was granted by this court in that case and thereafter it was dismissed. It is not a controlling authority.

The judgment is reversed.

Gibson, C. J., Shenk, J., Curtis, J., and Edmonds, J., concurred.
Traynor, J., and Schauer, J., did not participate herein.
Respondents' petition for a rehearing was denied July 15, 1943. Traynor, J., and Schauer, J., did not participate therein. ***304**

Cal.
California Drive-In Restaurant Ass'n v. Clark
22 Cal.2d 287, 140 P.2d 657, 147 A.L.R. 1028, 7 Lab.Cas. P 61,672

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

33 Cal.App.4th 489, 39 Cal.Rptr.2d 348
(Cite as: 33 Cal.App.4th 489)

H KENNETH L. CAMPBELL, Plaintiff and Appellant,
v.
FRANK S. ZOLIN, as Director, etc., Defendant and Respondent.
No. H012143.

Court of Appeal, Sixth District, California.
Mar 24, 1995.

[Opinion certified for partial publication. FN*]

FN* Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication with the exception of parts I, IV, and V of the Discussion.

SUMMARY

The Department of Motor Vehicle suspended defendant's driver's license for failure to comply with the Financial Responsibility Laws following an accident with another vehicle in a parking lot. (Superior Court of Santa Clara County, No.734178, James H. Chang, Judge.)

The Court of Appeal affirmed. The court held that under Veh. Code, §§ 16000 and 16000.1, which expanded the Financial Responsibility Laws to include specified "off-highway accidents," the exclusion under Veh. Code, § 16000.1, subd. (b), was intended to apply only where there is a single-car accident in which all of the damage occurs to the property of the driver or owner of the single vehicle involved. A construction permitting application of the exclusion to multiple-car accidents could make the reportability of an accident vary depending upon the perspective of each driver involved. Accordingly, the court held that since defendant was involved in an accident on private property with another vehicle that sustained over $500 damage, defendant's license was properly suspended by the Department of Motor Vehicles for noncompliance with the Financial Responsibility Laws. (Opinion by Mihara, J., with Cottle, P. J., and Wunderlich, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1) Automobiles and Highway Traffic § 15--Operators' Licenses--Revocation or Suspension--Administrative Hearing--Review.
When an administrative agency initiates an action to suspend or revoke a driver's license, the burden of proving the facts necessary to support the action rests with the agency making the allegation. Until the agency has met its burden of going forward with the evidence necessary to sustain a finding, the licensee has no duty to rebut the allegations or otherwise respond. Since the retention of a driver's license constitutes a fundamental vested right, the trial court must exercise its independent judgment to determine whether the weight of the evidence supported the administrative decision.

(2) Mandamus and Prohibition § 74--Mandamus--Judicial Review--Construction of Statute.
In reviewing the trial court's ruling on a writ of mandate, the appellate court is ordinarily confined to an inquiry as to whether the findings and judgment of the trial court are supported by substantial, credible, and competent evidence. This limitation, however, is inapplicable to the construction of a statute, an issue which constitutes a question of law. In such cases the appellate court is not bound by the trial court's decision, but may make its own determination.

(3a, 3b) Automobiles and Highway Traffic § 13--Operators' Licenses-- Revocation or Suspension--Grounds--Lack of Insurance--Reportable Off-highway Accident--Statutory Construction.
Under Veh. Code, §§ 16000 and 16000.1, which expanded the Financial Responsibility Laws to include specified "off-highway accidents," the exclusion under Veh. Code, § 16000.1, subd. (b), was intended to apply only where there is a single-car accident in which all of the damage occurs to the property of the driver or owner of the single vehicle involved. A construction permitting application of the exclusion to multiple-car accidents could make the reportability of an accident vary depending upon the perspective of each driver involved. Accordingly, the license of an uninsured driver, who was involved in an accident on

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

private property with another vehicle that sustained over $500 damage, was properly suspended by the Department of Motor Vehicles for noncompliance with the Financial Responsibility Laws.
[See 6 **Witkin,** Summary of Cal. Law (9th ed. 1988), Torts § 1114.]
(4) Statutes § 45--Construction--Presumptions--Different Words.
Ordinarily, where the Legislature uses a different word or phrase in one part of a statute than it does in other sections or in a similar statute concerning a related subject, it must be presumed that the Legislature intended a different meaning.

COUNSEL

Kenneth L. Campbell, in pro. per., for Plaintiff and Appellant. ***491**

Daniel E. Lungren, Attorney General, Henry G. Ullerich, Assistant Attorney General, Jose R. Guerrero and Robert R. Buell, Deputy Attorneys General, for Defendant and Respondent.

MIHARA, J.

Introduction

Kenneth Campbell appeals from a judgment denying a petition for mandamus following the Department of Motor Vehicle's suspension of his driving license for failure to comply with the financial responsibility laws. We affirm.

Facts

On December 29, 1992, while driving an automobile owned by his mother, Lee Campbell, appellant was involved in a traffic accident with a car owned and operated by Teawood Kung. The accident occurred in the parking lot of the apartment complex where appellant resided.

On January 9, 1993, Kung prepared and signed a "Report of Traffic Accident" (Department of Motor Vehicles form SR 1A) notifying the Department of Motor Vehicles (DMV) of the accident, providing information concerning his insurance coverage, and estimating the cost of repairs to his vehicle to be $550. [FN1] Kung stated that the accident did not result in any injuries.

FN1 Vehicle Code section 16000, subdivision (a), requires the filing of such a report within 10 days after the accident.

Lee Campbell signed a similar report on February 17, 1993, wherein she estimated the cost of repairs to her vehicle to be $1,200 and asserted that Kung's car suffered only $100 in damages. Campbell admitted that her car was not insured at the time of the accident. As had Kung, Campbell reported no injuries resulting from the collision.

On March 12, 1993, the DMV sent appellant notice of its intent to suspend his driving privilege for failure to comply with the financial responsibility laws. (See Veh. Code, [FN2] § 16070.) Following appellant's timely request, the suspension was stayed pending an administrative hearing. (§ 16075, subd. (b).) ***492**

FN2 All unspecified section references are to the Vehicle Code.

At the administrative hearing conducted on June 9, 1993, appellant submitted a written demurrer to the order of suspension in which he contested the jurisdiction of the DMV on the ground that the accident had occurred on private property. In the demurrer, appellant admitted that on the date in question, he was operating a motor vehicle and was involved in a collision with a second vehicle driven by Teawood Kung.

During questioning by the hearing officer, appellant reiterated that he was the driver of the vehicle involved in the accident and also conceded that he did not have any "financial responsibility insurance in effect" at the time of the incident. Appellant testified that the cost of repairs to his mother's vehicle was between $1,000 and $1,200, and introduced a copy of a check in the amount of $618.47 issued to him by Kung's insurance company as payment for the damages. The hearing officer introduced into evidence as a departmental exhibit a repair estimate of $542.66 for Kung's vehicle. Additional estimates of $684.40 and $699.49 were also submitted. [FN3]

FN3 At oral argument, we granted appellant's request to augment the record on appeal to include these additional repair estimates.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

(Evid. Code, § 459.)

It was uncontroverted that there were no deaths or injuries resulting from the accident. The only contested issue at the hearing was whether the accident, having occurred on private property, fell within the scope of the financial responsibility laws.

Following the hearing, the DMV issued a decision suspending appellant's license for a one-year period effective June 13, 1993. [FN4] The decision was based on the hearing officer's findings that (1) appellant was the driver or owner of a vehicle involved in an accident on December 29, 1992; [FN5] (2) the accident resulted in property damage over $500; and (3) appellant had not established that financial responsibility covered the driver of the vehicle involved in the accident. On July 30, 1993, the decision was sustained upon departmental review. (§ 14105.5.)

FN4 The suspension order permits appellant restricted driving privileges for work purposes upon payment of a penalty fee and proof of financial responsibility.

FN5 The notice states that the accident occurred on December 29, 1993. Based on the record on appeal, however, it is clear that the accident actually occurred the previous year, on December 29, 1992. Appellant does not argue otherwise.

Thereafter appellant filed a petition seeking a peremptory writ of mandate directing the DMV to set aside its order of suspension. On December 17, 1993, the superior court heard the matter and issued an order sustaining the suspension. Appellant appealed from the order on January 18, 1994. A formal judgment denying the writ of mandate was entered on February 14, 1994. ***493**

Discussion

I. *Premature Filing of the Notice of Appeal* [FN*]

FN* See footnote, *ante*, page 489.

. . . . . .

II. *Standard of Review*

(1) "When an administrative agency initiates an action to suspend or revoke a [driver's] license, the burden of proving the facts necessary to support the action rests with the agency making the allegation. Until the agency has met its burden of going forward with the evidence necessary to sustain a finding, the licensee has no duty to rebut the allegations or otherwise respond. [Citations.]" (*Daniels v. Department of Motor Vehicles* (1983) 33 Cal.3d 532, 536 [189 Cal.Rptr. 512, 658 P.2d 1313].)

Since the retention of a driver's license constitutes a fundamental vested right, the trial court must exercise its independent judgment to determine whether the weight of the evidence supported the administrative decision reached by the DMV. (*Berlinghieri v. Department of Motor Vehicles* (1983) 33 Cal.3d 392, 394-397 [188 Cal.Rptr. 891, 657 P.2d 383].)

(2) " 'In reviewing the trial court's ruling on a writ of mandate, the appellate court is ordinarily confined to an inquiry as to whether the findings and judgment of the trial court are supported by substantial, credible and competent evidence.' " (*McNabb v. Department of Motor Vehicles* (1993) 20 Cal.App.4th 832, 837 [24 Cal.Rptr.2d 641], quoting *Rodriguez v. Solis* (1991) 1 Cal.App.4th 495, 502 [2 Cal.Rptr.2d 50].) This limitation, however, is inapplicable to the construction of a statute, an issue which constitutes a question of law. (20 Cal.App.4th at p. 837.) "In such cases ... the appellate court is not bound by the trial court's decision, but may make its own determination." (*Ibid.*)

III. *Was Appellant Involved in a Reportable Traffic Accident Within the Meaning of Sections 16000 and 16000.1?*

In one form or another, California has required its drivers to be financially responsible for driving-related injuries since 1929. (*King v. Meese* (1987) 43 Cal.3d 1217, 1220 [240 Cal.Rptr. 829, 743 P.2d 889].) Generally, this obligation is satisfied by means of insurance. (*Ibid.*) Until 1990, only those accidents which occurred on a public street or highway qualified as a "reportable accident" triggering a driver's duty to establish compliance with ***494** the state's financial responsibility laws. (See former § 16000; Stats. 1984, ch. 1324, § 2, p. 4556.) Effective in 1989, however, the Legislature amended section 16000 and added

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

section 16000.1 to the Vehicle Code for the express purpose of expanding the financial responsibility laws to include specified "off-highway accidents."

Findings and declarations accompanying the legislation explain the public policy considerations supporting these measures: "The Legislature finds and declares as follows: [¶] (a) The current provisions of the Financial Responsibility Laws inadvertently do not permit the Department of Motor Vehicles to exercise its authority to suspend the driving privilege of an uninsured motorist who inflicts bodily injury or death upon individuals or who damages vehicles, buildings, or other property located on public and private property off the streets and highways. The Legislature further finds and declares that untold numbers of Californians are victims involved in these accidents. [¶] (b) It is the intent of the Legislature in amending the Financial Responsibility Laws to strengthen enforcement actions against uninsured motorists and to provide additional remedies for the victims of uninsured motorist accidents occurring off the streets and highways as soon as the department can reasonably implement the changes in Section 16000 of the Vehicle Code made by this act." (Stats. 1989, ch. 808, § 1, p. 2674.)

Section 16000, subdivision (a) [FN6] now defines a motorist's reporting duty as follows: "The driver of every motor vehicle who is in any manner involved in an accident originating from the operation of a motor vehicle on any street or highway or any reportable off-highway accident defined in Section 16000.1 ... shall, within 10 days after the accident, report the accident" on a form approved by the DMV.

FN6 The word "subdivision" shall be deleted from all further statutory references.

Section 16000.1(a) defines a "reportable off-highway accident" as one which: (1) occurs off the street or highway; (2) involves a vehicle subject to registration under the Vehicle Code; and (3) results in damage to the property of any one person in excess of $500 or in bodily injury or death.

Section 16000.1(b) excludes from the financial responsibility laws any accident which "occurs off-highway in which damage occurs only to the property of the driver or owner of the motor vehicle and no bodily injury or death of a person occurs."

In the instant case, appellant contends that the accident which is the subject of this action does not qualify as a "reportable off-highway accident," as that term is defined in section 16000.1(b), because the accident did ***495** not involve physical injury or death. Stated another way, he contends that off-highway accidents which involve only property damage are not reportable.

In contrast, the trial court found, and the DMV agrees, that the accident was reportable because the exclusion contained in section 16000.1 applies only where the accident does not involve personal injury or death and where all of the property damage is sustained by the driver or owner whose compliance with the financial responsibility laws is in question.

Though we concur with the trial court's ultimate conclusion that appellant's accident qualified as a reportable off-highway accident under section 16000.1, the exclusionary provision is not reasonably susceptible to either of the foregoing interpretations.

"[O]ur first task in construing a statute is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent, a court must look first to the words of the statute themselves, giving to the language its usual, ordinary import and according significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose. A construction making some words surplusage is to be avoided. The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible. [Citations.] Where uncertainty exists consideration should be given to the consequences that will flow from a particular interpretation. [Citation.]" (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386-1387 [241 Cal.Rptr. 67, 743 P.2d 1323].) A statute must be construed so as to avoid an unjust and absurd result. (*McNabb v. Department of Motor, supra*, 20 Cal.App.4th 832, 837.)

(3a) Appellant's construction of section 16000.1(b) would exclude from coverage all off-highway accidents involving only property damage. This construction is unsupportable. First, such an interpretation would render as mere surplusage that portion of sec-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

tion 16000.1(a)(3) defining a reportable off-highway accident as one which results in property damage exceeding $500. Had the Legislature intended to exclude from the reporting requirements *all* off-highway accidents involving only property damage, it would not have included property damage as a component of the general definition of a reportable off-highway accident.

Second, the legislative declaration of findings and purpose demonstrates an explicit intent to broaden the scope of the financial responsibility laws to ***496** include off-highway accidents resulting in damage to "*vehicles*, buildings, *or other property* located on public and private property off the streets and highways." (Stats. 1989, ch. 808, § 1, p. 2675, italics added.) Appellant's construction would completely frustrate this objective.

Read in context with section 16000.1(a)(3), and in light of the purpose of section 16000.1, the exclusionary provision must be construed as providing a narrow exception which may be invoked only when an otherwise reportable off-highway accident results in property damage of a limited and specific nature. [FN7] Though the parameters of this exception are difficult to ascertain due to the ambiguous language of section 16000.1(b), we believe that the exception was intended to apply only where there is a single-car accident in which all of the damage occurs to the property of the driver or owner of the single vehicle involved. We find support for our construction in the language of the relevant statutes, public policy considerations, and the consequences which would flow from an interpretation permitting the exclusion of off-highway accidents involving multiple vehicles.

> FN7 The parties effectively concede that an accident resulting in bodily injury or death will not fall within the exception. Our discussion thus focuses only on the construction of the property damage exception specified in section 16000.1(b).

First, were we to adopt a construction permitting application of the exception to multiple-car accidents, it is conceivable that the reportability of an accident might vary depending upon the perspective of each driver involved. In such cases, it is possible that the exception could act as a shield insulating the conduct of the uninsured motorist by permitting him to escape the reporting requirements and avoid suspension. [FN8] Such a scenario would contravene both the language of the pertinent statutes and the legislative intent to deter uninsured motorists and protect the state's drivers from suffering uncompensated damages. Our limited construction of section 16000.1(b), on the other hand, is entirely consistent with the statutory language and the legislative purpose in that it ensures application of the exclusion only where there can be no question that the uninsured motorist has not harmed anyone else as a result of his unlawful conduct.

> FN8 Consider the following scenario: Driver A is uninsured and sustains property damage to his vehicle exceeding $500; Driver B is insured and sustains no property damage. Since Driver A's vehicle sustained all of the damage, it is conceivable that he could avoid the reporting requirements specified in section 16000 and escape suspension since the "damage occur [red] only to the property of the driver or owner of the motor vehicle." (§ 16000.1(b).) At the same time, Driver B would conceivably be required to file a report and show proof of insurance.

Examining section 16000(a), we see that the reporting duty is framed in language which indicates that the duty to report is not dependent upon a ***497** particular driver's perspective but is conditioned upon the occurrence of a triggering event, i.e., a reportable accident, as that term is defined in sections 16000(a) and 16000.1(a). When such an accident occurs, the statute imposes a duty to report upon "[t]he driver of *every* motor vehicle who is *in any manner involved*" in such an accident.

A comparison of the general definitions of reportable accidents found in sections 16000(a) and 16000.1(a)(3) with the language describing the exclusionary provision of section 16000.1(b) lends further support to our interpretation.

The Legislature painted with a broad brush when it set forth the ele ments of a reportable accident. The language of sections 16000(a) and 16000.1(a)(3) encompasses the possibility of multiple vehicles, and multiple instances of injury, death or significant property damage. Thus, any accident-whether it occurs on public or private property-is reportable whenever it results in significant "damage to the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

property of *any one person* ... or in bodily injury or in the death of *any* person ...." (§§ 16000(a); 16000.1(a)(3).) In contrast, the exception delineated in section 16000.1(b) speaks narrowly of "*the* property of *the* driver or owner of *the* motor vehicle," language which conveys the involvement of a single vehicle, a single driver, and a single instance of property damage to the owner or driver of that vehicle.

(4) Ordinarily, where the Legislature uses a different word or phrase in one part of a statute than it does in other sections or in a similar statute concerning a related subject, it must be presumed that the Legislature intended a different meaning. (*Committee of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491, 507 [247 Cal.Rptr. 362, 754 P.2d 708].) (3b) In the instant case, the restrictive terminology of section 16000.1(b) compared with the expansive language used in the related provisions of sections 16000(a) and 16000.1(a)(3) supports our conclusion that the Legislature intended the exception to apply only in limited circumstances we have described.

For the foregoing reasons, we hold that the exception in section 16000.1(b) may be invoked only when a single car is involved in an accident and that accident results in property damage to no one but the driver or owner of that vehicle. [FN9] ***498**

> FN9 We are aware that the government vehicle exception in section 16000(b) contains language similar to that found in section 16000.1(b). That provision exempts from the reporting requirements vehicles owned, leased, or under the direction of federal, state or local governments and provides: "A report is not required pursuant to subdivision (a) if the motor vehicle involved in the accident was owned or leased by, or under the direction of, the United States, this state, another state, or a local agency." This provision could result in a situation where one driver is statutorily obligated to comply with the reporting requirements while a government driver involved in the accident is exempted. However, section 16000(b) is sui generis. Obviously, the statutory purpose of ensuring financial responsibility for driving-related injuries or property damage is not at issue where the full force and power of a government agency stands behind the vehicle in question. Accordingly, the government exclusion outlined in section 16000(b) does not undermine our construction of section 16000.1(b).

IV., V. [FN*]

FN* See footnote, *ante*, page 489.

. . . . . .

Disposition

The judgment is affirmed.

Cottle, P. J., and Wunderlich, J., concurred.
A petition for a rehearing was denied April 19, 1995, and appellant's petition for review by the Supreme Court was denied June 1, 1995. ***499**

Cal.App.6.Dist.
Campbell v. Zolin
33 Cal.App.4th 489, 39 Cal.Rptr.2d 348

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

WILLIAM D. DAWSON, as Acting Superintendent of Public Instruction etc., et al., Plaintiffs and Appellants.
v.
EAST SIDE UNION HIGH SCHOOL DISTRICT, Defendant and Respondent; WHITTLE COMMUNICATIONS, L. P., Intervener and Appellant.

No. H011079.

Court of Appeal, Sixth District, California.
Sep 27, 1994.

SUMMARY

The Superintendent of Public Instruction and other interested parties brought an action for an injunction against a school district's use of "Channel One," a current events video program containing commercial advertising, and for a declaration that the district's use of "Channel One" was illegal, and the seller of "Channel One" intervened. The trial court rejected plaintiffs' contention that the mere presence in public schools of commercial advertising is illegal per se, and determined that the law is offended only if students are coerced into viewing commercial material or if the material they are shown has such great impact on the educational process that it cannot reasonably be considered to be incidental. Thus, the court permanently enjoined the school district and the seller from broadcasting "Channel One" in any classroom during school hours in which students are required to be in class, except on the condition that formal policies and procedures, as specified by the court, ensuring that student viewing was strictly voluntary were implemented and observed. The court also retained jurisdiction to appoint an individual to monitor the school district's compliance with its judgment. (Superior Court of Santa Clara County, No. 717380, Jeremy D. Fogel, Judge.)

The Court of Appeal directly modified the judgment and affirmed it as so modified. The court held that the trial court properly found that the school district did not abuse its discretion in using "Channel One." Although particular classroom video advertising might be either so inconsistent with, or otherwise disruptive of, orthodox curriculum, or so disproportionately invasive of instructional time, as to not be deemed incidental, the record supported the trial court's decision. The court also held that plaintiffs' arguments, based on various constitutional doctrines, provisions of the Education Code, policy statements by the State Board of Education, and so-called "core values" regarding public education, did not support their position that contracts for classroom video advertising are illegal as a matter of law. Furthermore, the trial court properly ruled that public school students cannot be compelled to watch classroom video advertising, since the justification for depriving the liberty of juveniles by compelling their attendance at school does not apply to such advertising. Moreover, because the commercial video advertising in "Channel One" was seamlessly integrated into its current events programming, to assure that student viewing of the advertisements was voluntary the students had to be allowed to opt out of "Channel One" altogether. However, there was no basis for the trial court's issuance of permanent injunctive relief to ensure that students would not be compelled to watch classroom video advertising. Since the district had a policy to permit students to opt out of "Channel One," there was no factual basis for a finding that the students would be compelled to watch classroom video advertising and, thus, the trial court lacked authority to burden the district with court-devised procedures to avert a speculative possibility that students otherwise might be so compelled. Finally, the court held that the trial court properly retained jurisdiction to appoint an individual to monitor compliance with its judgment if such action became necessary in the future, but that no need therefor had been shown at that point. (Opinion by Bamattre-Manoukian, J., with Cottle, P. J., and Elia, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1) Schools § 64--Activities--Programs and Curricula--Local Control-- Limitation on Authority of Courts.

Cal. Const., art. IX, § 1, vests primary authority over public education in the Legislature, but the Constitution, by providing that the Legislature may authorize the governing boards of school districts to initiate and carry on any programs or activities, or to otherwise act in any manner not in conflict with the laws and purposes for which school districts are established (Cal. Const., art. IX, § 14), and the Legis-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

lature, by echoing this constitutional provision in Ed. Code, § 35160, has ceded substantial discretionary control to local school districts. Moreover, the Legislature has explicitly recognized that specific choices about instructional materials need to be made at the local level (Ed. Code, § 60002), and it has given school district governing boards broad powers to establish courses of study (Ed. Code, § 60003). There is a correlative limitation on the authority of courts to control the actions of local school districts. School boards have broad discretion in the management of school affairs; courts should give substantial deference to the decisions of local school districts and boards within the scope of that discretion, and should intervene only in clear cases of abuse of discretion.

(2) Schools § 64--Activities--Programs and Curricula--Propriety of Use of Incidental Noneducational Matters--Determination as Within Discretion of School District.

Under the state Constitution and statutes, every activity of a public school must be focused on valid educational purposes achieved by suitable means. Nevertheless, activities or procedures other than those that can be characterized as purely and universally educational may be deemed suitable to further the purposes of education. Therefore, a public school district may expose its students to matters not comprehended within a strictly defined orthodox educational curriculum so long as the exposure is not proscribed by constitutional doctrine or explicit rule of law and so long as the exposure may be said to be incidental to use of educational materials reasonably necessary to a valid educational purpose. Under the principles of local control, the essentially factual question of whether particular noncurricular matters are or are not incidental must be addressed in the first instance to the broad discretion of local school districts and boards, and a court would be justified in disturbing the local decision only upon a clear showing of abuse of the local district's or board's sound discretion.

(3a, 3b) Constitutional Law § 55.2--First Amendment Rights--Freedom of Speech--Commercial Speech--Classroom Video Advertising.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, the classroom video advertising could properly be analyzed, for constitutional purposes, as commercial speech. Thus, neither the seller of "Channel One" nor the school district had an absolute constitutional right to display the classroom video advertising, because, as commercial speech, it was entitled only to qualified protection. The commercial speech portions of "Channel One" were not inextricably intertwined with its current events content so as to prohibit the application of different tests for free speech protection to the two parts. Neither the seller's decision to package current events programming with commercial advertising, nor the school district's decision to accept the package, was ultimately compelled by any law of man or nature. But for economic considerations, either message might have been conveyed without the other.

(4) Constitutional Law § 55.2--First Amendment Rights--Freedom of Speech-- Commercial Speech.

As a broad general proposition, commercial speech is entitled to protection under U.S. Const., 1st and 14thAmends., in furtherance of society's interest in assuring the free flow of commercial information, but the protection is by no means absolute. There is a commonsense distinction between speech proposing a commercial transaction, which occurs in an area traditionally subject to government regulation, and other varieties of speech. The constitution therefore accords a lesser protection to commercial speech than to other constitutionally guaranteed expression. The protection available for particular commercial expression turns on the nature both of the expression and of the governmental interests served by its regulation.
[See 5 **Witkin,** Summary of Cal. Law (9th ed. 1988) Constitutional Law, § 239 et seq.]

(5a, 5b) Schools § 64--Activities--Programs and Curricula--Current Events Video Program Containing Commercial Advertising--Advertising as Incidental to Valid Educational Purpose of Program--Discretion of School District.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, the trial court properly found that the district did not abuse its discretion in using "Channel One." It is true that particular classroom video advertising might be either so inconsistent with, or otherwise disruptive of, orthodox curriculum in terms of content, or so disproportionately invasive of instructional time in terms of length, as to require a judicial conclusion that it could not be deemed incidental, and that to permit it in such circumstances would be an abuse of the school district's

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

broad discretion, notwithstanding the existence of a valid educational purpose. Neverthless, the record supported the trial court's decision. The advertising consisted of 2 minutes each day, compared to 10 minutes of current events programming and 240 minutes of instruction provided by the district. Also, the advertising was subject to faculty veto as to content and the students had a right to opt out of viewing it.

(6) Schools § 64--Activities--Programs and Curricula--Current Events Video Program Containing Commercial Advertising--Advertising as Incidental to Valid Educational Purpose of Program--Discretion of School District--Limitations on Judicial Review.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, the trial court erred insofar as its findings that the classroom video advertising had not been shown to be more than incidental to a valid educational purpose could be read to imply that the court could and did try de novo the factual question of whether the advertising was in fact more than incidental. The determination of whether the advertising was incidental was to be entrusted in the first instance to the broad discretion of the school district, and the trial court's only concern, on this issue, would have been whether the district's determination constituted a clear abuse of the district's discretion. For this purpose the court would have been required to assess whether the factual record provided some measure of support for the district's determination, but the court would not have been authorized to decide for itself whether the advertising was more than incidental to a valid educational purpose.

(7) Appellate Review § 145--Scope of Review--Questions of Law and Fact-- School District's Use of Classroom Video Advertising--Function of Appellate Court.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, plaintiffs' argument that, as a matter of law, a school district may never lawfully contract for, or display, classroom video advertising presented a pure question of law that the appellate court was empowered to consider independently, unbound by the conclusion reached by the trial court.

(8) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Constitutional Basis--Television Advertising as Equivalent to Religion.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, plaintiffs' constitutional argument, based on the proposition that television advertising should be treated like religion for constitutional purposes, did not support their position that contracts for classroom video advertising are illegal as a matter of law. Plaintiffs' reliance on rhetoric from cases holding that U.S. Const., 1st Amend., and Cal. Const., art I, § 4, prohibit public schools from conveying religious messages to their students to support an hypothesis that public school students are in essence a captive audience and are also particularly susceptible to being influenced by a perception that the public school itself endorses the products sought to be marketed through classroom video advertising was not a constitutional argument at all. Rather, plaintiffs simply proposed a variant of their basic assertion that as a matter of public policy classroom video advertising can never be considered a suitable means by which to provide any part of a public school education.

(9) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Constitutional Basis--Television Advertising as Equivalent to Partisan Political Campaigning.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, plaintiffs' constitutional argument, based on the proposition that television advertising should be treated the same as partisan political campaigning, did not support their position that contracts for classroom video advertising are illegal as a matter of law. Even assuming the validity of plaintiffs' broadly stated premise that an agency of the state, supported by public funds, cannot be permitted to advocate partisan political positions as to particular issues or electoral candidates, they did not directly relate the premise to the question before the court. And their broader principle, that publicly provided resources or opportunities may not be used to advocate a course of action that not all members of the underwriting public might otherwise choose, was too broad to be persuasive. The principle could as readily be applied to any element of orthodox school curri-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

culum as to which a difference of opinion could be anticipated; relatively few of the elements of the most orthodox of curricula would survive.

(10a, 10b) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Statutory Basis--Proscription Against Misuse of School Property.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, Ed. Code, §§ 40041 and 40042, subd. (3) (proscription against misuse of public school property), and an opinion of the Attorney General concerning Ed. Code, § 35272 (acquisition of school supplies), did not establish as a matter of law that classroom video advertising would be illegal in all circumstances. The statutes and the Attorney General's opinion fell far short of establishing that the Legislature has forbidden all classroom video advertising. Speculation as to what these sections indicated the Legislature might have had to say about classroom video advertising was idle until such time as the Legislature chose to speak. Moreover, bills to forbid classroom video advertising, presumably supported by the Superintendent of Public Instruction, had, in fact, been submitted to the Legislature, which had not passed them.

(11a, 11b) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Statutory Basis-- Requirements With Respect to Instruction Methods and Content of Instructional Materials.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, Ed. Code, §§ 44806, 60042, and 60045 (students must be instructed in principles of truth; all instructional materials must be accurate, objective, and suited to the needs of pupils, and encourage thrift), did not establish as a matter of law that classroom video advertising would be illegal in all circumstances. The statutes were unpersuasive because of the willingness of both the school district and the seller of "Channel One" to concede that the classroom video advertising embedded in the program was not itself instructional but should have been rationalized solely and simply as an incidental concomitant of materials that were instructional and the educational value of which had not been seriously challenged.

(12a, 12b) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Administrative Policy Basis-- Selection of Instructional Materials.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, policy statements by the State Board of Education, regarding selection of instructional materials, did not establish as a matter of law that classroom video advertising would be illegal in all circumstances. One statement, generally prohibiting instructional materials from containing illustrations of any identifiable commercial brand names, products, or corporate logos, appeared to have been superseded by a more recent resolution of the board, which specifically related to the use of commercial television advertising in the classroom and which was inconsistent with the earlier statement. A second policy statement, which related to both nutritious foods and regular exercise, made clear that it was directed not so much against portrayal of nonnutritious foods as in favor of exercise.

(13) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Statutory Basis--Prohibition Against Combinations in Restraint of Trade in Instructional Materials.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, Ed. Code, § 60061, subd. (e) (prohibition against combinations in restraint of trade in instructional materials), did not establish as a matter of law that classroom video advertising would be illegal in all circumstances. Ed. Code, § 60061's patent purpose is to discourage activity that would reduce the availability of instructional materials. The clause in the contract for use of "Channel One" against unpermitted use of other news programs specifically designed for viewing by teenagers in schools and containing advertising was intended to clear the classroom video advertising field for the seller's advertisers insofar as the classroom video advertising was associated with exactly this kind of instructional programming. There was no restriction on either instructional materials or advertising as such. The seller's restriction on a particular

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

kind of advertising in combination with current events programming did not come within Ed. Code, § 60061.

(14) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Statutory Basis--Prohibition Against Solicitation of Pupils During School Hours to Contribute to or Join Organizations Not Under Control of School Authorities.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, Ed. Code, § 51520 (prohibition against solicitation of pupils during school hours to contribute to or join organizations not under control of school authorities), did not establish as a matter of law that classroom video advertising would be illegal in all circumstances. Ed. Code, § 51520 is directed at, and intended to control, the activities of organizations that seek donations of money or time; the section does not in terms reach commercial advertising. This perception is consistent with the long-standing toleration for many other forms of commercial advertising on public school campuses.

(15) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Core Values Basis.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, plaintiffs' assertion of core values regarding public education did not provide a judicially cognizable basis for declaring that classroom video advertising could never be deemed incidental to a valid educational purpose, or that on any other basis such advertising must invariably be unlawful. Although plaintiffs argued that the motives and methods of commercial advertising are antithetical to the ideals of public education, they identified no specific harm to students or to their educational experience from commercial advertising in the classroom. Similarly, plaintiffs' argument with respect to the financial motives of the seller of "Channel One" was irrelevant to the applicable standard, that noncurricular material need only be incidental in relation to a valid educational purpose. Plaintiffs' argument also glossed over the public education system's long-standing tolerance for many other forms of commercial encroachment on the public schools.

(16) Schools § 64--Activities--Programs and Curricula--Classroom Video Advertising--As Illegal as Matter of Law--Core Values Basis--Separation of Powers.

Pursuant to the separation of powers doctrine (Cal. Const., art. III, § 3), in an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, plaintiffs' abstract appeal to "core values" as a basis for declaring that classroom video advertising could never be deemed incidental to a valid educational purpose, or that on any other basis such advertising must invariably be unlawful, was not within the purview of the appellate court. Courts are not school boards or legislatures. Abstract assessment of "core values" was beyond the scope of the court's judicial function, and its own perceptions of "core values regarding public education" would have been essentially irrelevant. Plaintiffs were required to address their argument to local school districts, to the Legislature, and ultimately to the people, in whom the power to develop public educational policy properly resides.

(17) Schools § 64--Activities--Programs and Curricula--Current Events Video Program Containing Commercial Advertising--Necessity to Make Student Viewing Voluntary.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, the trial court properly ruled that, although the district could use "Channel One," public school students cannot be compelled to watch classroom video advertising. Although mandatory school attendance laws are constitutionally valid for orthodox educational purposes, the power to decree universal compulsory education is by no means absolute, and the justification for depriving the liberty of juveniles by compelling their attendance at school does not apply to classroom video advertising. The constitutional violation inherent in compelling student attendance to view commercial advertisements can be overcome only if the viewing is purely voluntary. Moreover, because the commercial video advertising in "Channel One" was seamlessly integrated into its current events programming, to assure that student viewing of the advertisements was voluntary, the students had to be allowed to opt out of "Channel One" altogether.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

(18a, 18b, 18c) Schools § 64--Activities--Programs and Curricula-- Current Events Video Program Containing Commercial Advertising--Necessity to Make Student Viewing Voluntary--Propriety of Injunctive Relief.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, in which the trial court properly ruled that, although the district could use "Channel One," public school students cannot be compelled to watch classroom video advertising, there was no basis for the court's issuance of injunctive relief to ensure that students would not be so compelled. The district had a policy, which it had made known to parents of every student, to permit students, with parental approval, to opt out of "Channel One." Thus, there was no factual basis for an essential finding that the students would be compelled to watch classroom video advertising and, absent such a finding, the court lacked authority to burden the district with court-devised procedures to avert a speculative possibility that students otherwise might be so compelled. Nor were there any special circumstances that would have relaxed the requirement that the court base its injunctive order on circumstances known as of the time of the order.

(19) Equity § 5--Scope and Types of Relief--Power of Court.

A court called on to afford relief historically or analytically equitable in its nature has broad powers to fashion a remedy. It may create new remedies to deal with novel factual situations. Further, the court is not strictly limited to the particular relief requested in the prayer of the complaint. But the power to give equitable relief is not unlimited, and it is always the duty of a court of equity to strike a proper balance between the needs of the plaintiff and the consequences of giving the desired relief. Especially where governmental action is involved, courts should not intervene unless the need for equitable relief is clear, not remote or speculative.
[See 11 **Witkin,** Summary of Cal. Law (9th ed. 1990) Equity, §§ 1, 2.]
(20) Injunctions § 1--When Issued--Use as Punishment for Past Acts.

Injunction is an extraordinary power, and is to be exercised always with great caution. The power rarely, if ever, should be exercised in a doubtful case. If, therefore, at the time of the order or judgment, in the absence of special circumstances, there is no reasonable probability that past acts complained of will recur, injunctive relief will be denied. Injunctive power is not used as punishment for past acts and is ordered against them only if there is evidence they will probably recur. A court of equity will not afford an injunction to prevent in the future that which in good faith has been discontinued, in the absence of any evidence that the acts are likely to be repeated in the future.

(21) Injunctions § 22--Permanent Injunctions--Nature and Purpose--Extent of Discretion of Court--Necessity for Evidentiary Support.

Although a decision whether to issue, and how to phrase, a permanent injunction is essentially discretionary, the trial court's discretion is by no means as broad as that which it might exercise in weighing the equities of the parties' positions for the purpose of deciding whether to issue a preliminary injunction or other provisional relief. A permanent injunction is very different from a pendente lite injunction; it is a determination on the merits that a plaintiff has prevailed on a cause of action against a defendant and that equitable relief is appropriate. It is not issued to maintain the status quo but is a final judgment on the merits. Like any judgment, a permanent injunction, notwithstanding its discretionary component, must be sufficiently supported by the evidence of record. If the evidence is insufficient to justify issuance of a permanent injunction, the trial court simply has no discretion to exercise. Whether a permanent injunction should issue becomes a question of law where the ultimate facts are undisputed and in such a case the appellate court may determine the issue without regard to the conclusion of the trial court.
[See 6 **Witkin,** Cal. Procedure (3d ed. 1985) Provisional Remedies, § 250.]
(22) Injunctions § 1--Requirement That Injunctive Order Be Based on Known Circumstances--Effect of Special Circumstances.

Special circumstances may, in particular cases, relax the requirement that a court base its injunctive order on circumstances known as of the time of the order or judgment.

(23a, 23b) Schools § 64--Activities--Programs and Curricula--Current Events Video Program Containing Commercial Advertising--Necessity to Make Student Viewing Voluntary--Propriety of Trial Court's Reten-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

tion of Jurisdiction to Appoint Monitor.

In an action by the Superintendent of Public Instruction and others to enjoin a school district from using "Channel One," a current events video program containing commercial advertising, in which the trial court properly ruled that, although the district could use "Channel One," public school students cannot be compelled to watch classroom video advertising, the court properly retained jurisdiction to appoint an individual to monitor compliance with its judgment. However, although a monitor might properly have been appointed for the purpose of observing and reporting events after the judgment so that the court might be advised, in the exercise of its retained jurisdiction, of any need that might arise in the future to interpret or to enforce the terms of the judgment, there was no need to appoint such a monitor at that point, and the trial court should not have exercised its retained power unless and until such a need were demonstrated.

(24) Equity § 3--Court's Retention of Jurisdiction to Enforce Decrees.

The jurisdiction of a court of equity to enforce its decrees is coextensive with its jurisdiction to determine the rights of the parties, and it has power to enforce its decrees as a necessary incident to its jurisdiction. Except where the decree is self-executing, jurisdiction of the cause continues for this purpose, or leave may be expressly reserved to reinstate the cause for the purpose of enforcing the decree, or to make such further orders as may be necessary. It follows that retention of jurisdiction by the court for the purpose of interpreting and enforcing its judgment is within the scope of declaratory relief. However, although a court may use a monitor to assure compliance with its judgment, it may not ask such a monitor to gather evidence in areas already fully litigated before the court.

[See 2 **Witkin,** Cal. Procedure (3d ed. 1985) Jurisdiction, § 336 et seq.]

COUNSEL

Joseph R. Symkowick and Michael E. Hersher for Plaintiffs and Appellants.

Cadwalader, Wickersham & Taft, John E. McDermott and Aimee Dominguez Silvers for Intervener and Appellant.

Diane Ross, Beverly Tucker, A. Eugene Huguenin, Jr., and Ramon E. Romero as Amici Curiae on behalf of Intervener and Appellant.

Ruiz & Schapiro, Celia M. Ruiz, Susan E. Brown and Priscilla S. Carson for Defendant and Respondent.

BAMATTRE-MANOUKIAN, J.

These appeals require answers to four questions: ***1010**

(1) Whether the trial court properly rejected the contention of the California Superintendent of Public Instruction, and other plaintiffs, that a public school district may never lawfully contract for classroom display of "Channel One," a current events video program which contains commercial advertisements;

(2) Whether the trial court correctly concluded that "Channel One" may lawfully be used by a school district only so long as the students are not coerced to view the advertisements;

(3) Whether in the circumstances of record the trial court properly granted injunctive relief which, in practical effect, compelled a school district to adopt, as a condition of continued use of "Channel One," court-specified procedures by which students could "opt out" by choosing not to watch the programming; and

(4) Whether in the circumstances of record the trial court could properly retain jurisdiction to appoint, without a further showing of need, a qualified individual to monitor the parties' compliance with the judgment.

We shall conclude that the third and fourth questions must be answered in the negative but shall answer the first and second questions in the affirmative. We shall modify the trial court's judgment in light of our answers, and shall affirm the judgment as so modified.

Intervener Whittle Communications, L.P., a limited partnership, characterizes itself as a developer and publisher, for profit, of informational material including video programs. Beginning in 1987 Whittle developed a concept of short current-events video programs for teenaged students. Whittle determined that middle schools and high schools would want to

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

use such programs but would find it difficult to pay for the programs or for video equipment to display the programs. Whittle concluded that it could provide both programs and equipment without direct cost to the schools, and could nevertheless realize an adequate profit, by selling commercial advertising time in its video programs to advertisers interested in penetrating the teenage market. The upshot was "Channel One," a daily 12-minute video program which integrates 10 minutes of fast-paced current events coverage designed to appeal to teenaged students with slots for a total of 2 minutes of advertising in a format indistinguishable from ordinary television commercials.

Although Whittle expresses pride in the quality of its current-events coverage, it has made clear from the outset that its motivation is the profit to ***1011** be made, and that its profit depends on Whittle's ability to persuade advertisers that "Channel One" is a viable advertising medium: That "Channel One" will effectively convey the advertisers' sales solicitations to a significant segment of the target market of teenaged consumers.

To develop a market sufficient to attract the advertisers who would ultimately provide its profit, Whittle has packaged "Channel One" with other educational programming which does not contain commercials and has offered to furnish the package, known as the Whittle Educational Network, together with television sets, a satellite receiver, cabling, and other electronic equipment to be installed by Whittle, to school districts "without any charge or fee." Whittle makes quite clear that its willingness to provide this package will be conditioned in each instance on the likelihood that Whittle will thus significantly add to the market it can offer to its advertisers. Whittle acknowledges that it is "free not to contract if viewership is too small ...." Whittle's printed form "district agreement" is made subject to a number of terms, conditions, and "responsibilities of the School" many of which are patently intended to provide assurances to advertisers and in other ways to serve Whittle's profit motive. For example:

(1) "The School agrees to provide to Whittle once a year upon request the annual schoolwide daily attendance figures and change of enrollment information." Whittle may terminate the agreement if enrollment declines more than 25 percent from enrollment at the beginning of the three-year agreement term; implicitly Whittle could decline to enter into an agreement with a district in which it considered enrollment insufficient. Also, although a school could elect not to have television sets installed in certain of its classrooms, "[t]he number of television sets to be installed must be mutually agreeable to Whittle and the School."

(2) Although a school can use Whittle's equipment for purposes other than to broadcast Whittle Educational Network materials, "written approval by Whittle is required should the School desire to show any other news program specifically designed for viewing by teenagers in schools and which contains advertising." Nor may the school use Whittle's wiring without Whittle's prior written consent, even after termination of the agreement, "to service equipment provided by another entity to show its programs designed for a teenage audience and containing advertisements."

(3) "The School agrees ... to either show the entire daily ["Channel One "] newscast on all installed television sets or not show it at all.... *Channel One* must be shown when students are present in a homeroom or classroom .... The only penalty to the School for not showing *Channel* ****1012*** *One* is that Whittle may terminate this agreement and remove the Equipment."

(4) "If the School does not consistently show *Channel One* (i.e., on at least 90% of the days the School is in session and *Channel One* is transmitted), then Whittle may terminate this agreement."

On the other hand Whittle's form agreement specifies that its twelve-minute "Channel One" newscasts "will include not more than two minutes of commercial content" and that the commercial content "will be limited to materials suitable for teenagers" in accordance with detailed written "standards and guidelines" attached to the agreement. The agreement also explicitly takes account of the possibility that individual students may elect not to watch "Channel One": "This agreement does not require that all teachers use *Channel One* or that all students or any particular student view *Channel One*. The School may at its discretion develop appropriate procedures to accommodate students who do not wish to view *Channel One* or whose parents do not wish them to view *Channel One*."

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

Beginning with pilot tests in 1988, Whittle has achieved remarkable success in persuading school districts nationwide to agree to accept Whittle Educational Network programming and equipment. The record includes videotapes of several "Channel One" segments, all of which skillfully present current events material written to be interesting and comprehensible to teenaged viewers. Advertisements for products such as fast foods, candy bars and snacks, soft drinks, and deodorants are smoothly integrated into the presentation but readily identifiable as commercial rather than editorial content. In some instances public service announcements-for example, warnings against drug abuse or drunk driving-are substituted for advertisements: The record reflects that Whittle uses such announcements to fill slots allocated to, but for which it has been unable to sell, advertising. The overall impression is of a television-like presentation of uniformly high quality, broadly comparable to current events programs on commercial television channels, but tailored to appeal to teenaged viewers.

In August 1989 California's Superintendent of Public Instruction, in a letter addressed to county and district school superintendents, took a strong position against use of "Channel One" in California public schools. He concluded "that participation by public schools in proposals such as 'Channel One' is not permitted by state law and the California Constitution. Based on California Education Code section 46000, I cannot pay schools to have their students watch commercials. Therefore, I will not certify as 'instructional minutes' any time spent watching advertisements in any broadcast ***1013** similar to that proposed by 'Channel One.' " Presumably the Superintendent of Public Instruction was referring to his statutory power to certify average daily attendance for the purpose of apportioning state funds to local school districts. (Cf. Ed. Code, §§ 14000 et seq., 46000 et seq.) He suggested that Whittle's proposal, "even if it were legal, should be resisted for ethical and educational reasons. Parents entrust their children to our public schools. We have no right *legally* or *morally* to sell access to our students even if schools receive some benefit in return." The Superintendent of Public Instruction developed on these and similar arguments in considerable detail, characterizing "the crux of the issue" as "the illegal and unethical use of schools' unique access to an extremely valuable commercial audience which Whittle Communications wants to monopolize."

At the time the Superintendent of Public Instruction sent his letter, defendant and respondent East Side Union High School District had been considering "Channel One" and other elements of the Whittle Educational Network for installation and use at Overfelt High School for several months. The record supports the school district's statement that Overfelt "has an extremely high proportion of minority students ...; few students have the habit of news viewing or reading at home ...; most students are from low socioeconomic backgrounds ...; and a high percentage of students is considered 'at-risk' in terms of dropping out of school, drug abuse or teen pregnancy.... Further, the school's ability to deal with such problems is handicapped by the grim financial plight of both the State and the District itself, which make it difficult to fund even basic educational programs, much less special efforts to address specific local needs." After comparison to other similar video programs (which they found to be costly and not as well adapted to the district's needs) and extensive consultation with district teachers and parents (a substantial majority of whom approved of the "Channel One" concept) the school district administrators decided, subject to the approval of the district Board of Trustees, to contract with Whittle to receive the Whittle Educational Network.

In a letter to the chair of the Board of Trustees, in May 1990, the Superintendent of Public Instruction reiterated that, "I am unalterably opposed to public schools contracting for commercial television programs in the classroom during the school day." Notwithstanding the position taken by the Superintendent of Public Instruction, the Board of Trustees voted to approve a contract with Whittle, and Whittle's equipment was installed at Overfelt during the spring of 1990. No written contract was signed between the school district and Whittle, but apparently both the school district and Whittle have proceeded in accordance with the terms of Whittle's form agreement. Among other things, the record reflects that Whittle and the ***1014** school district agreed orally that "the District would not require students to watch Channel One but would instead make this an optional student activity," and that from the outset parents were advised "that students could opt out of viewing Channel One with parental permission."

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

It appears that "Channel One" has been regularly shown to students in Overfelt classrooms since no later than the fall of 1990. The video is displayed at the same time every day, during a 20-minute time period variously characterized in the record as "the communication period" and as "a period ... exclusively to promote critical thinking and awareness of current events and important issues of concern to the students ...," and formerly used for "Sustained Silent Reading." In declarations in the record several teachers express strong support for the educational value of "Channel One." Some teachers use the advertisements themselves as instructional materials, asking students to evaluate the effectiveness and impact of various commercial presentations upon consumers; no party has criticized this use of the "Channel One" advertisements.

In October 1990 California's State Board of Education adopted a resolution, headed "Use of Commercial Television Advertising in the Classroom," which stated the Board's belief that "decisions concerning the use of commercial products and services are within the decision making authority of the local governing boards, consistent with state law." The resolution encouraged local governing boards to use care in considering and auditing use of electronic media in the classroom. The Superintendent of Public Instruction forwarded this resolution to local school officials with a cover letter in which he stated that the resolution "has been characterized as supporting the use of ... 'Channel One' " and that "I disagree with [the] resolution," and briefly reviewed his August 1989 arguments against "Channel One." The president of the State Board of Education then wrote to the same officials, stating that "the State Board of Education neither supports nor opposes the use of Channel One in the classroom.... Our resolution simply states that the decision concerning the use of commercial products and services are the domain of local governing boards, consistent with state law."

In December 1991 the Superintendent of Public Instruction, joined by the California Congress of Parents, Teachers, and Students, Inc., and by two teachers at Overfelt, sued the school district for preliminary and permanent injunctions against contracting for or using "Channel One," for a declaration that the school district's use of "Channel One" was illegal in various respects, and for ancillary relief. Whittle was granted leave to intervene in the lawsuit. ***1015**

The trial court denied a preliminary injunction. By acquiescence of the parties the issues were tried on declarations, other written submissions, and argument by counsel. The trial court issued a lengthy and thoughtful memorandum of decision. After a further hearing and additional written submissions the trial court issued an "order determining submitted issues and directing issuance of permanent injunction" which altered its previously announced decision in some respects and refined it in others.

The judgment ultimately entered, and from which these appeals are taken, essentially incorporates the memorandum of decision "as modified and supplemented by" the subsequent order. Read together, these documents effected the following disposition:

(1) The trial court rejected the plaintiffs' contention that (as paraphrased by the court) "the mere presence in public schools of commercial advertising, even the type of advertising shown on 'Channel One,' is illegal per se."

(2) The court took the position that "[t]he law is offended only if students are coerced directly or indirectly into viewing commercial material or if the material they are shown has such great quantitative or qualitative impact upon the educational process that it cannot reasonably be considered to be incidental."

(3) The court concluded that there was no evidence of direct coercion but that "plaintiffs have demonstrated a reasonable possibility that indirect coercion of teachers and/or students with respect to 'Channel One' may be occurring or may occur in the future in the absence of appropriate safeguards ...." The court expressed the view that "coerced or otherwise involuntary viewing of 'Channel One' would violate both the letter and the spirit of California's compulsory education law ...."

(4) The court did not find "any convincing social scientific evidence," one way or the other, as to the impact of "Channel One" commercials on the educational process.

(5) On these bases the trial court ordered that the school district and Whittle "shall be permanently enjoined and restrained from broadcasting ... 'Channel

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

One' in any classroom during school hours in which students are required to be in class, except on the condition that formal policies and procedures which insure that student viewing of 'Channel One' is strictly voluntary are implemented and observed. No student shall be required to view 'Channel One,' nor shall a student's standing with his or her classroom teacher(s), school administration or school district be affected adversely by a ***1016** decision not to view 'Channel One.' " The court specified what would "constitute sufficient compliance" by the school district:

(a) The school district "shall inform in writing the parent or guardian of each student in each classroom in which it broadcasts or proposes to broadcast 'Channel One' ...," and each teacher in the district, of the student's right to opt out;

(b) The school district "shall provide a structured, supervised alternative activity during the time period in which 'Channel One' is broadcast," and shall provide "[s]ufficient time for student relocation ...;"

(c) All required written notices shall be given at the beginning of each semester, and opt-out decisions shall be operative for the entire semester subject to possible accommodation of the desires of individual parents or guardians to change initial elections during a semester.

(6) "Because the record shows that the institutional environment of the school is one in which the risk of coercion is always present, and because the effectiveness of the [prescribed] policies and procedures ... in achieving the purposes of the injunctive relief ... can be determined only in practice, the Court in the exercise of its inherent power to insure compliance with its orders and judgments shall retain jurisdiction to appoint a qualified individual to monitor [the school district's] compliance herewith."

The court also expressly retained "its inherent power to modify its orders and judgments in light of changed circumstances, including the availability of new social scientific evidence not available at the time of trial." The court declined to appoint an expert to evaluate the impact of commercial advertising in the classroom setting, and denied Whittle's request for a stay of the judgment.

The plaintiffs, the school district, and Whittle all appealed. (Cf. *Pahl v. Ribero* (1961) 193 Cal.App.2d 154, 160 [14 Cal.Rptr. 174] [final determination of issues presented by existing facts is appealable notwithstanding reservation of jurisdiction].)

The essence of the plaintiffs' position in this court, supported by amicus curiae California Teachers Association, is that it is unlawful in any circumstances for a public school district to contract for use in its classrooms of video programming which contains commercial advertising.

Whittle endorses the trial court's rejection of the plaintiffs' position, but challenges the court's determination that student viewing of the "Channel ***1017** One" commercials must be strictly voluntary and the court's orders requiring specified opt-out procedures and reserving jurisdiction to appoint a monitor.

The school district has abandoned its appeal, but supports Whittle's arguments.

To save words, we shall use the phrase "classroom video advertising" to mean commercial advertising embedded in video programming and displayed, or agreed or intended to be displayed, in public school classrooms during instructional time in furtherance of the advertisers' intent to persuade students to buy their goods or services.

General Principles

Our consideration of the issues will take account of two broad and interrelated principles: That in California local school districts are granted substantial discretionary control of public education, and that in the exercise of this discretion the school districts have some latitude to adopt or permit uses or procedures which in and of themselves are not strictly educational so long as the uses or procedures are no more than incidental to valid educational purposes.

We shall conclude, on the other hand, that disposition of this matter is not ultimately controlled by constitutional provisions for protection of free speech.

1. *Local Control*

Since 1849 the California Constitution has contained a broad mandate for public education: "A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement." (Cal. Const., art. IX, § 1.)

(1) By the terms of the mandate itself, primary authority over public education is vested in the Legislature (cf. also *Hall v. City of Taft* (1956) 47 Cal.2d 177, 179-183 [302 P.2d 574]; *California Teachers Assn. v. Hayes* (1992) 5 Cal.App.4th 1513, 1524-1525 [7 Cal.Rptr.2d 699]), but the Constitution, and the Legislature itself, have ceded substantial discretionary control to local school districts. Since 1973 the Constitution has provided that "[t]he Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any ***1018** manner which is not in conflict with the laws and purposes for which school districts are established." (Cal. Const., art. IX, § 14.) The Legislature has echoed this constitutional provision in Education Code section 35160: "[T]he governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established." In 1987, as "a clarification of existing law under Section 35160," the Legislature found and declared "that school districts, county boards of education, and county superintendents of schools have diverse needs unique to their individual communities and programs. Moreover, in addressing their needs, common as well as unique, school districts, county boards of education, and county superintendents of schools should have the flexibility to create their own unique solutions. [¶] ... In enacting Section 35160, it is the intent of the Legislature to give school districts, county boards of education, and county superintendents of schools broad authority to carry on activities and programs, including the expenditure of funds for programs and activities which, in the determination of the governing board of the school district, the county board of education, or the county superintendent of schools are necessary or desirable in meeting their needs and are not inconsistent with the purposes for which the funds were appropriated. It is the intent of the Legislature that Section 31560 be liberally construed to effect this objective." (Ed. Code, § 35160.1; cf. also *id.*, § 14000 ["The system of public school support should be designed to strengthen and encourage local responsibility for control of public education"]; *California Teachers Assn. v. Hayes, supra*, 5 Cal.App.4th 1513, 1523-1524.)

The Legislature has explicitly recognized that "because of economic, geographic, physical, political, educational, and social diversity, specific choices about instructional materials need to be made at the local level" (Ed. Code, § 60002), that it has given school district governing boards "broad powers to establish courses of study, and that school district governing boards must have the ability to choose instructional materials which are appropriate to their courses of study" (*id.* § 60003).

There is a correlative limitation upon the authority of courts to control the actions of local school districts. (Cf. *Johnson v. Board of Education* (1986) 179 Cal.App.3d 593, 600-601 [224 Cal.Rptr. 885].) "The United States Supreme Court has long recognized that school boards have broad discretion in the management of school affairs. [Citation.] By and large, public education is committed to the control of state and local authorities. 'Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate ***1019** basic constitutional values.' [Citation.] '[P]ublic schools are vitally important "in the preparation of individuals for participation as citizens," and as vehicles for "inculcating fundamental values necessary to the maintenance of a democratic political system." ' [Citation.] Therefore, 'local school boards must be permitted "to establish and apply their curriculum in such a way as to transmit community values, ..." ' [Citation.] 'As a result, it is generally permissible and appropriate for local boards to make educational decisions based upon their personal social, political and moral views.' [Citation.]" (*McCarthy v. Fletcher* (1989) 207 Cal.App.3d 130, 139 [254 Cal.Rptr. 714]; cf. also *Board of Education v. Pico* (1982) 457 U.S. 853, 866 [73 L.Ed.2d 435, 446, 102 S.Ct. 2799].)

It follows that courts should give substantial deference to the decisions of local school districts and boards within the scope of their broad discretion, and should intervene only in clear cases of abuse of discretion.

2. *Incidental Noneducational Matters*

(2) Under the Constitution and statutes, every activity of a California public school must be focused upon valid educational purposes achieved by suitable

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

means. Nevertheless it has long been recognized that activities or procedures other than those which can be characterized as purely and universally educational may be deemed suitable to further the purposes of education (cf. *Veterans' Welfare Board v. Riley* (1922) 189 Cal. 159, 164-166 [208 P. 678, 22 A.L.R. 1531] [special educational opportunities for veterans]; *University of So. California v. Robbins* (1934) 1 Cal.App.2d 523, 528 [37 P.2d 163] [landscaping on grounds of private university]; see also *California Teachers Assn. v. Hayes, supra*, 5 Cal.App.4th 1513, 1528 [Child Care and Development Services Act]) and thus, implicitly, to be "not in conflict with the ... purposes for which school districts are established" within the meaning of the constitutional provisions.

By direct extension of these principles, it must be deemed permissible for a public school district to expose its students to matters not comprehended within a strictly defined orthodox educational curriculum so long as the exposure is not proscribed by constitutional doctrine or explicit rule of law and so long as the exposure may be said to be *incidental* to use of educational materials reasonably necessary to a valid educational purpose, in that its practical impact on the educational process is relatively slight and may be viewed as simply a subordinate consequence of use of the materials, or other action taken, to serve the educational purpose. Examples range from matters as mundane as commercially provided food services (cf. *California School Emp. Assn. v. Sequoia etc. School Dist.* (1969) 272 Cal.App.2d 98, 112 [***102**77 Cal.Rptr. 187]) to the various kinds of commercial activities and solicitations, quite apart from "Channel One," to which students have long been exposed at Overfelt and many other public schools.

The parties have directed our attention to what they have characterized as a " 'necessary and incidental' standard" attributed to *Board of Trustees v. County of Santa Clara* (1978) 86 Cal.App.3d 79 [150 Cal.Rptr. 109], and have debated at some length whether *Board of Trustees* does or does not bear directly on the issues before us. In our view *Board of Trustees* is of no more than limited assistance in this case, because it does not deal with the precise issues before us: It addresses not the question whether particular material to which public school students may be exposed is "not in conflict with or inconsistent with, or preempted by, any law, and ... not in conflict with the purposes for which school districts are established" (Ed. Code, § 35160), but rather the meaning of the phrase "land ... used exclusively for educational purposes" in the California provisions for exemption from property taxation (Cal. Const., art. XIII, § 3, subd. (e)) as applied to a private university. The question in *Board of Trustees* was whether Stanford University was entitled to an exemption from property taxes for its 166-acre golf course, notwithstanding that more than half of the use of the golf course had been made by members of the Stanford Golf Club and their guests, most of whom were Stanford alumni but not otherwise affiliated with Stanford University. The Court of Appeal's conclusion that the golf course had been used "exclusively for educational purposes" in the requisite sense was necessarily structured by considerations particularly pertinent to colleges and universities and to exemption from property taxation. Among other things, the Court of Appeal's references to academic freedom in the context of higher education, and its observation that the uses of the golf course were not undertaken as a means of generating revenue, cannot be deemed dispositive in the distinguishable factual and theoretical context of this case.

But we need not rely on *Board of Trustees* to conclude that, as an abstract proposition, a California public school district may lawfully expose its students to matters, not otherwise expressly proscribed, which may reasonably be characterized as incidental to a valid educational purpose.

Under the principles of *local control* to which we have referred, the essentially factual question whether particular noncurricular matters are or are not incidental must be addressed in the first instance to the broad discretion of local school districts and boards, and a court would be justified in disturbing the local decision only upon a clear showing of abuse of the local district's or board's sound discretion. ***1021**

3. *Commercial Speech*

Whittle began its briefing to this court with the striking assertion that "[t]his is a case about State censorship and suppression of First Amendment protected speech." Whittle argued that neither Whittle nor the school district could constitutionally be limited, by the Superintendent of Public Instruction or the other plaintiffs or by a state court acting at their behest, in its right to communicate both editorial and commercial messages to public school students. The school district has added an argument that "[t]here simply is no

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

constitutional right not to listen to commercial speech, and [the plaintiffs'] arguments, in effect, would instead permit censorship of speech."

(3a) The arguments are oversimplifications: Neither Whittle nor the school district had an absolute right of constitutional dimension to display classroom video advertising, because the advertising, as commercial speech, was entitled only to qualified protection.

(4) It has been recognized that as a broad general proposition commercial speech is entitled to First and Fourteenth Amendment *protection* (*Va. Pharmacy Bd. v. Va. Consumer Council* (1976) 425 U.S. 748, 761-770 [48 L.Ed.2d 346, 358-363, 96 S.Ct. 1817]; cf. *Central Hudson Gas & Elec. v. Public Serv. Comm'n* (1980) 447 U.S. 557, 561 [65 L.Ed.2d 341, 347-348, 100 S.Ct. 2343]; *Near v. Minnesota* (1931) 283 U.S. 697, 707 [75 L.Ed. 1357, 1362-1363, 51 S.Ct. 625] [Fourteenth Amendment protects freedoms of speech, press]), in furtherance of "society's interest ... in assuring the free flow of commercial information" (*Ohralik v. Ohio State Bar Assn.* (1978) 436 U.S. 447, 454 [56 L.Ed.2d 444, 452, 98 S.Ct. 1912]; cf. *Central Hudson Gas & Elec. v. Public Serv. Comm'n, supra,* 447 U.S. at pp. 561-562 [65 L.Ed.2d at pp. 347-348]; *Va. Pharmacy Bd. v. Va. Consumer Council, supra,* 425 U.S. at pp. 763-765 [48 L.Ed.2d at pp. 359-361]), but that the protection is by no means absolute (cf. generally *Va. Pharmacy Bd. v. Va. Council, supra,* 425 U.S. at pp. 770-773 [48 L.Ed.2d at p. 365]): The United States Supreme Court has "recognized 'the "common-sense" distinction between speech proposing a commercial transaction, which occurs in an area traditionally subject to government regulation, and other varieties of speech.' [Citations.] The Constitution therefore accords a lesser protection to commercial speech than to other constitutionally guaranteed expression. [Citation.] The protection available for particular commercial expression turns on the nature both of the expression and of the governmental interests served by its regulation." (*Central Hudson Gas & Elec. v. Public Serv. Comm'n, supra,* 447 U.S. at pp. 562-563 [65 L.Ed.2d at pp. 348-349]; cf. also *Cincinnati v. Discovery Network* (1993) 507 U.S. _____, _____ [123 L.Ed.2d 99, 110-115, 113 S.Ct. 1505]; *Board of Trustees, State Univ. of N.Y. v. Fox* (1989) 492 U.S. 469, 473-481 [106 L.Ed.2d 388, 398-405, 109 S.Ct. 3028].) ***1022**

(3b) Citing *Riley v. National Federation of Blind* (1988) 487 U.S. 781 [101 L.Ed.2d 669, 108 S.Ct. 2667], Whittle suggests that the commercial speech portions of "Channel One" are "inextricably intertwined" with its current events content and therefore "we cannot parcel out the speech, applying one test to one phrase and another test to another phrase," but must instead "apply our test for fully protected expression." (487 U.S. at p. 796 [101 L.Ed.2d at p. 689].) But the United States Supreme Court has more recently made clear that *Riley*, which involved professional fundraising for charitable organizations, was a special case: In *Board of Trustees, State Univ. of N.Y. v. Fox, supra,* 492 U.S. at page 474 [106 L.Ed.2d at pp. 399-400], it said of *Riley* that "[t]here ..., the commercial speech ... was 'inextricably intertwined' because the state law *required* it to be included." *Fox* dealt with a state university's attempt, by resolution, to bar "Tupperware parties" from the campus. (*Id.* at p. 473 [106 L.Ed.2d at p. 399].) Students who conducted Tupperware parties both sought to sell housewares and "touch[ed] on other subjects ..., such as how to be financially responsible and how to run an efficient home." (*Id.* at p. 474 [106 L.Ed.2d at p. 399].) Rejecting an argument, under *Riley*, that the commercial and noncommercial speech aspects of Tupperware parties are inextricably intertwined, the United States Supreme Court said that "[n]o law of man or of nature makes it impossible to sell housewares without teaching home economics, or to teach home economics without selling housewares. Nothing in the [state university's] resolution prevents the speaker from conveying, or the audience from hearing, these noncommercial messages, and nothing in the nature of things requires them to be combined with commercial messages." (*Ibid.*; cf. also *Association of Nat. Advertisers, Inc. v. Lungren* (N.D.Cal. 1992) 809 F.Supp. 747, 752-753.)

Similarly, here, neither Whittle's decision to package current events programming (to which the plaintiffs do not appear to object) with commercial advertising (to which they do), nor the school district's decision to accept the package, was ultimately compelled by any "law of man or nature": but for economic considerations, either message might have been conveyed without the other. Thus Whittle's classroom video advertising can properly be analyzed, for constitutional purposes, as commercial speech.

In any event we need not reach the constitutional

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

free speech issue because use of "Channel One" in the classroom may be validated on other grounds.

The Issues

Upon the issues directly presented by this appeal, we shall conclude that the trial court correctly rejected the plaintiffs' contentions that classroom ***1023** video advertising can never be deemed incidental to valid education purpose, and therefore that school district contracts for such advertising are illegal as a matter of law. We shall also conclude that the trial court correctly determined that the "Channel One" advertising, even though not shown to be more than incidental in this case, could lawfully be used in classrooms only so long as students were not coerced to view it. We shall further conclude, however, that the circumstances of record did not support the court's order for injunctive relief to compel adoption of a specified opt-out procedure.

1. *Could "Channel One's" Advertising Ever Be Incidental?*

The plaintiffs have conceded that the current events programming (as distinct from the classroom video advertising) of "Channel One" may be found to have legitimate educational value. The school district's implicit determination that "Channel One's" current events programming served a valid educational purpose is supported by the record and was well within the sound discretion of the school district.

On the other hand, Whittle has conceded that "[n]o one contends that the ["Channel One"] advertising is educational." Viewed, in isolation, as a commercial marketing vehicle, classroom video advertising has nothing whatsoever to do with the broad educational goal specified by the California Constitution. Neither Whittle nor anyone else suggests that the school district could properly have given Whittle carte blanche to display classroom video advertising without limitation as to content or duration. Whittle concedes that the district " 'cannot enter the advertising business.' "

(5a) As thus framed by the parties, the primary issue before us is whether the concededly noncurricular "Channel One" advertising could be deemed *incidental* to the valid educational purpose of the current events programming.

Addressing this issue on a factual level, the trial court determined that the classroom video advertising would be illegal "if the material ... has such great quantitative or qualitative impact upon the educational process that it cannot reasonably be considered to be incidental." We agree with the trial court's premises as we understand them: That particular classroom video advertising might be found to be either so inconsistent with, or otherwise disruptive of, orthodox curriculum in terms of content, or so disproportionately invasive of instructional time in terms of length, as to require a judicial conclusion that the classroom video advertising could not be deemed incidental, and that to permit the classroom video advertising in such circumstances would be an abuse of the school district's broad discretion notwithstanding the existence of a valid educational purpose. ***1024**

Whittle and the school district argued to the trial court that when the two minutes of classroom video advertising, limited and subject to faculty veto as to content, were evaluated in light of the students' known right to opt out and were compared to the 10 minutes of current events programming and to the substantially more than 240 minutes of instruction provided by the school district each school day, the classroom video advertising should be deemed incidental to the valid educational purpose to be served by the current events programming.

The trial court found, in essence, that "Channel One's" classroom video advertising had not been shown to be more than incidental to a valid educational purpose. (6) We would quibble with the trial court's findings only insofar as they might be read to imply that the trial court could and did try the factual question-whether the advertising was in fact more than incidental-de novo: As we have pointed out, the determination whether the advertising was incidental was to be entrusted in the first instance to the broad discretion of the local school district, and the trial court's only concern, on this issue, would have been whether the district's determination constituted a clear abuse of the district's discretion. For this purpose the trial court would, of course, have been required to assess whether the factual record provided some measure of support for the district's determination (cf. *Shapell Industries, Inc. v. Governing Board* (1991) 1 Cal.App.4th 218, 232 [1 Cal.Rptr.2d 818]), but the trial court would not have been authorized to decide for itself whether the advertising was more than incidental to a valid educational purpose.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

(5b) Reading the trial court's finding as a conclusion that the district had *not* abused its discretion, on the record before us we would agree with the trial court. We should point out, however, that our concurrence does not and cannot extend beyond the precise circumstances of record in this case: In another case, a showing of more intrusive commercial content, or of less effective editorial content, might warrant a conclusion that it would be an abuse of discretion for a school district to enter into such a contract. Nor should we be understood to suggest that it would have been a clear abuse of discretion for this (or another) school district to have *declined* to enter into the Whittle contract, either because it concluded that the classroom video advertising was not incidental or because it found that the editorial content of "Channel One" did not serve a valid educational purpose: We must emphasize once again that a local school district's discretion to make such determinations is broad and must be judicially respected as such.

The plaintiffs do not ask us to assess the school district's factual determinations. On appeal, as in the trial court, the plaintiffs attack neither the ***1025** abstract concept that public school students may be exposed to noncurricular matter incidental to a valid educational purpose, nor the sufficiency of the factual record to support a conclusion that, in implicitly finding as a factual matter that the classroom video advertising was incidental, the school district did not abuse its discretion. Instead, the plaintiffs argue that, as a matter of law, a school district may *never* lawfully contract for, or display, classroom video advertising such as "Channel One's." The thrust of this argument is that because use of classroom video advertising is unlawful *as a matter of law*, the factual question whether such advertising could be deemed incidental should not be reached and the school district's discretion would not be invoked. The plaintiffs assert that the incidental-noncurricular-matter concept does not and cannot apply to a contract for "commercial advertising during instructional time"; rejecting the suggestion that a maximum of two minutes of advertising may be deemed de minimis, they appear to adhere to their position that, as stated in the trial court, even "one second" of classroom video advertising would be impermissible. The plaintiffs assert that "[i]t is the advertising scheme itself that is the problem, not the educational resources purchased with the revenue from the advertising." Amicus curiae California Teachers Association adds that "[i]t is the use of designated classroom time for private commercial purposes that is offensive and this offense is not cured by making it voluntary with the student." The plaintiffs ask, essentially rhetorically, "whether the 19th century framers" of article IX, section 1, of the California Constitution "could have possibly considered commercial advertisements to be a 'suitable means' of providing for the schools."

Twentieth century enactments have considerably clarified the meaning of "the 19th century framers' " phrase: In light of the clear language of the California Constitution (as amended effective in 1973) and of Education Code sections 35160 and 35160.1, the essence of the plaintiffs' argument must be taken to be that in *every* case classroom video advertising such as "Channel One's" would be so clearly inconsistent with or preempted by one or more *laws*, or so clearly in conflict with the *purposes* for which school districts are established, that in no case could display of such advertising be deemed incidental to a valid educational purpose.

The trial court summarily rejected the plaintiffs' argument. (7) The argument presents a pure question of law which we are empowered to consider independently (*Sobeck & Associates, Inc. v. B & R Investments No. 24* (1989) 215 Cal.App.3d 861, 866 [264 Cal.Rptr. 156]), unbound by the conclusion the trial court reached.

The plaintiffs concede, as they must, that "[t]here is no California constitutional provision, statute, or regulation that expressly addresses" the legality ***1026** of classroom video advertising. The plaintiffs, and amicus curiae, do invoke various constitutional doctrines and Education Code provisions, but, as we shall make clear, none of them is directly applicable to this situation. Alternatively the plaintiffs rely on arguments

(a) By analogy from otherwise unrelated constitutional doctrines;

(b) By analogy from assertedly relevant statutes and administrative policy statements; and

(c) That classroom video advertising is fatally inconsistent with "our core values regarding 'public education.' "

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400
(Cite as: 28 Cal.App.4th 998)

We find none of these arguments persuasive. Each appears ultimately to return to a single theme: That entrepreneurs should not be permitted to enter the public school classroom in pursuit of profits and that public school districts should not be permitted to abet the entrepreneurs' attempts to do so. We shall conclude that the plaintiffs place excessive stress on the profit motive of entrepreneurs and on the perceived (but unpersuasively documented) commercialism of school districts that deal with the entrepreneurs, and pay insufficient attention to the dispositive question of impact upon the public school student and the educational process. The dispositive question must, in our view, be answered case by case, and in any but the clearest case it must be answered-as it was in this case-by local school officials rather than by a court.

We shall agree with the trial court that contracts for classroom video advertising are not illegal as a matter of law.

a. *Constitutional Doctrines*

(8) The plaintiffs first propose that "[t]elevision advertising should be treated like religion for constitutional purposes." Their argument appears to be that just as the establishment clause of the First Amendment, and comparable provisions of the California Constitution (Cal. Const., art. I, § 4), have been held to prohibit public schools from conveying religious messages to their students (cf., e.g., *Sands v. Morongo Unified School Dist.* (1991) 53 Cal.3d 863, 870-883 [281 Cal.Rptr. 34, 809 P.2d 809], citing many of the United States Supreme Court cases), so we should conclude that public schools may not convey commercial messages to their students through the medium of "Channel One."

On its face this argument is all but vitiated by the perception that constitutional provisions for religious freedom, ultimately based in philosophical concerns fundamental to the formation of our nation, simply have ***1027** nothing to do with whether school districts may lawfully be party to attempts to use video programming to market commercial products to their students.

In fairness, the plaintiffs neither directly suggest an analogy between religious messages and video commercials nor directly assert that the establishment clauses would apply to classroom video advertising. They appear, instead, to rely on rhetoric from these and other cases to support an hypothesis that public school students are in essence a captive audience and are also particularly susceptible to being influenced by a perception that the public school itself endorses the products sought to be marketed through classroom video advertising.

But, thus analyzed, this is not a constitutional argument at all: Rather the plaintiffs simply propose a variant of their basic assertion that as a matter of public policy classroom video advertising can never be considered a suitable means by which to provide any part of a public school education.

Nor does the plaintiffs' argument add appreciable weight to the basic assertion.

That the audience may be deemed in some sense captive, and in some degree suggestible, would not as a general proposition render unsuitable as a matter of law a message not otherwise proscribed. The question is whether classroom video advertising is otherwise proscribed. An argument based in constitutional provisions for freedom of religion does not reach this question.

The plaintiffs tendered no evidence to support their assertion that students, susceptible or not, would be likely to perceive that Overfelt itself endorses a particular soft drink or deodorant. The plaintiffs suggest that their own collective expertise as Superintendent of Public Instruction, California Congress of Parents and Teachers, and individual high school teachers should be deemed sufficient to support a presumption that their assertion is reasonable, but the suggestion is not a satisfactory substitute for evidence.

(9) Next the plaintiffs propose that "[t]elevision advertising should be treated the same as partisan political campaigning."

In this instance the plaintiffs argue from the premise that an agency of the state, supported by public funds, cannot be permitted to advocate partisan political positions as to particular issues or electoral candidates. (Cf. *Stanson v. Mott* (1976) 17 Cal.3d 206, 217 [130 Cal.Rptr. 697, 551 P.2d 1]; *Miller v. Miller* (1978) 87 Cal.App.3d 762, 768-770 [151 Cal.Rptr. 197]; see also ***1028** *League of Women Voters v. Countywide Crim. Justice Coordination Com.* (1988)

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

203 Cal.App.3d 529, 546 [250 Cal.Rptr. 161].)

Assuming the validity of the plaintiffs' broadly stated premise, once again the plaintiffs do not directly relate the premise to the question before us. Their argument appears to be that there is a broader principle-that publicly provided resources or opportunities may not be used to advocate a course of action (whether it be endorsement of a particular partisan candidate or initiative or purchase and use of a particular brand of soft drink) which not all members of the underwriting public might otherwise choose, and that the partisan-political-activity cases are simply paradigmatic applications of the broader principle which (the plaintiffs assert) should also be applied to school district contracts for classroom video advertising.

The plaintiffs' broader principle is too broad to be persuasive, or even useful, in this case. The principle could as readily be applied to any element of orthodox school curriculum as to which a difference of opinion could be anticipated; relatively few of the elements of the most orthodox of curricula would survive.

In sum the plaintiffs' constitutional arguments do not support the plaintiffs' position.

b. *Statutes and Policy Statements*

The plaintiffs, and amicus curiae California Teachers Association, list a number of California statutes, and two policy statements of the State Board of Education, from which, they argue, a policy against advertising in the public schools may be inferred.

The plaintiffs argue that "a number of related education statutes" indicate a "legislative intent to separate public education from private commerce," and suggest that these statutes are evidence of authoritative legislative construction of the California Constitution's reference to "suitable means" of public education.

(10a) The plaintiffs first assert that general proscriptions against misuse of public school property dictate a conclusion that the school district cannot legally "turn Overfelt ... into a telemarketing center" or "enter the advertising business ...." The plaintiffs cite three statutes:

Education Code section 40041 provides for use of school facilities or grounds as a "civic center" for community activities, including discussion by ***1029** a wide variety of civic groups of "any subjects and questions which in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside." (Ed. Code, § 40041, subd. (a).) The section goes on to enumerate divers purposes for which school facilities may properly be used and adds a catchall category for "[o]ther purposes deemed appropriate by the governing board" of the school district. (*Id.*, subd. (b)(7).)

Education Code section 40042, subdivision (3) vests management and control of school facilities in school district governing boards but requires the governing boards to promulgate rules to provide, among other things, "[t]hat the use of school facilities or grounds is not inconsistent with the use of the school facilities or grounds for school purposes or interferes with the regular conduct of schoolwork."

Education Code section 35272 permits the governing board of a school district to "acquire and pay for educational and athletic equipment, supplies and materials, and other personal property necessary to its operation of the schools, as provided by law." The plaintiffs rely on an opinion of the Attorney General that school districts may *sell* school supplies only in limited circumstances: "School districts are not in the business of providing school supplies to private persons or organizations.... [S]chool districts may not engage in unlimited sales of school supplies under [Education Code] section 35160, since such actions would be inconsistent with state law and also in conflict with the purposes for which school districts are established." (60 Ops.Cal.Atty.Gen. 184, 188 (1977).)

(11a) The plaintiffs argue that statutes require that students be instructed in "principles of ... truth," and that "all instructional materials shall be 'accurate, objective, and ... suited to the needs of pupils" and must "encourage thrift," but that, at odds with these statutory admonitions, "Channel One's" advertisements "exag[g]erate and glorify consumption by pandering to adolescent desires for popularity, status, glitter, and sexual attractiveness. The school that shows 'Channel One' appears to endorse those images, which may itself be a false message. Advertising cannot ... reasonably be considered to be 'truthful,

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

accurate, or objective' in presenting the merits of a product. Advertising for junk food and expensive shoes cannot reasonably be considered to 'meet the needs of the pupils.' Advertising certainly does not promote 'thrift' among California's youth." To support this argument the plaintiffs cite three statutes:

Education Code section 44806 provides that "[e]ach teacher shall endeavor to impress upon the minds of the pupils the principles of morality, ***1030** truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, including kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government."

Education Code section 60045 (also cited by amicus curiae) provides that "[a]ll instructional materials adopted by any governing board for use in the schools shall be, to the satisfaction of the governing board, accurate, objective, and current and suited to the needs and comprehension of pupils at their respective grade levels."

Education Code section 60042 provides that "[w]hen adopting instructional materials for use in the schools, governing boards shall require such materials as they deem necessary and proper to encourage thrift, fire prevention and the humane treatment of animals and people."

(12a) The plaintiffs also quote from a compilation, in the record on appeal, of policy statements of the State Board of Education regarding selection of instructional materials.

"To prevent unfair exposure for any privately produced product," in 1977 the State Board adopted a position that "[i]nstructional materials shall not contain illustrations of any identifiable commercial brand names, products, or corporate or company logos unless such illustrations are necessary to the educational purpose of the instructional material and that purpose cannot be achieved without using such illustrations, or unless such illustrations are incidental to a scene of a general nature .... [¶] ... These exceptions aside, if a brand name, representation, or company logo is illustrated, prominence shall not be given to any one brand or company unless, in turn, such illustration is necessary to the educational purpose of the instructional material and that purpose cannot be achieved without using such illustration ...." Arguably this policy statement has been superseded to the extent the State Board's October 1990 resolution regarding "Use of Commercial Television Advertising in the Classroom," to which we have referred, is inconsistent with the earlier statement.

"To accustom students to seeing and dealing with representations of nutritious foods and to foster a positive attitude toward exercise," in 1986 the State Board suggested "emphasizing, when appropriate, foo[ds of] high nutritive value and regular exercise," but added that the suggestion did not "constitute an absolute prohibition against [por]trayal of foods of low nutritive value and the ab[sence] of exercise, but rather deal with the applicatio[n of] emphasis." ***1031**

The plaintiffs argue, broadly, that "[t]he advertising scheme embodied by 'Channel One' is inconsistent with each of these statutory purposes and State Board policies."

We disagree. The plaintiffs and amicus curiae cannot be said to have established that existing statutes and administrative declarations render contracts to display television commercials in their classrooms *unlawful in all circumstances.*

(10b) Education Code sections 40041 and 40042, and the Attorney General's opinion concerning Education Code section 35272, fall far short of establishing that the Legislature has forbidden all classroom video advertising. Speculation as to what these sections indicate the Legislature *might* have to say about classroom video advertising is, of course, idle until such time as the Legislature chooses to speak. It appears that bills to forbid classroom video advertising, presumably supported by the Superintendent of Public Instruction, have in fact been submitted to the Legislature, which has not passed them. (Cf., e.g., Sen. Bill No. 741 (1991-1992 Reg. Sess.); Assem. Bill No. 2009 (1991-1992 Reg. Sess.); Sen. Bill No. 1047 (1993-1994 Reg. Sess.).)

(11b) The various statutes the plaintiffs cite that bear on instruction methods and the content of instructional materials are unpersuasive primarily because of the willingness of both the school district and Whittle to concede that the classroom video adver-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

tising embedded in "Channel One" is not itself instructional but should be rationalized solely and simply as an incidental concomitant of materials which *are* instructional and the educational value of which has not been seriously challenged.

(12b) The State Board's policy statements add very little to the plaintiffs' argument: One appears to have been superseded in relevant respects and the other makes clear that it is directed not so much against portrayal of nonnutritious foods as in favor of exercise.

The plaintiffs cite two additional statutes.

(13) *Education Code section 60061, subdivision (e)* requires that every publisher or manufacturer of instructional materials offered for adoption or sale in California "[n]ot in any way, directly or indirectly, become associated or connected with any combination in restraint of trade in instructional materials, or enter into any understanding, agreement, or combination to control prices or restrict competition in the sale of instructional materials for use in this state." Apparently conceding that "Channel One" and comparable ***1032** programming may be considered "instructional materials," the plaintiffs argue that Whittle's contractual provisions against unpermitted use of "any other news program specifically designed for viewing by teenagers in schools and which contains advertising" must be deemed to "restrict competition." Section 60061's patent purpose is to discourage activity which would reduce the availability of *instructional materials*. Whittle's contract clause is manifestly intended to clear the classroom video advertising field for Whittle's advertisers insofar as the *classroom video advertising* is associated with exactly this kind of instructional programming. There is no restriction on either instructional materials-Cable News Network (CNN), for one, provides current events programming for school districts-or advertising-various kinds of commercial marketing, other than classroom video advertising, has long been tolerated in the school district-as such. Whittle's restriction on a particular kind of *advertising* in combination with current events programming would not appear to come within section 60061.

(14) *Education Code section 51520* provides, with exceptions not relevant to the issues before us, that during (and within short periods before and after) school hours "pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, to become members of, or to work for, any organization not directly under the control of the school authorities ...." The plaintiffs do not elaborate upon the perceived relevance of this statute; amicus curiae argues that "[t]he daily commercial solicitations in the classroom in Channel One are prohibited by the language of this section. [¶] ... It is undisputed that Whittle ... and the commercial enterprises advertising on Channel One are not under the control of school authorities," and thus that use of "Channel One" in the classroom violates section 51520. Section 51520 proscribes solicitation in behalf of organizations "not directly under the control of the school authorities ...." Whittle and the school district argue that, by virtue of the monitoring and veto powers in their contract, Overfelt and its teachers do in fact exercise control over "Channel One's" classroom video advertising. In our view a clearer answer is provided by the perception that section 51520 is in fact directed at, and intended to control, the activities of organizations which seek *donations* of money or time, and that the section does not in terms reach commercial advertising. Certainly this perception is consistent with the longstanding toleration, in this and other school districts, for many other forms of commercial advertising on public school campuses.

We are satisfied that the various statutes and State Board policy statements the plaintiffs cite by no means establish as a matter of law that classroom video advertising will be illegal in all circumstances. ***1033**

c. *"Core Values"*

Finally, the plaintiffs assert that "[w]hile this case presents novel and difficult issues, it must ultimately be resolved by reliance upon our core values regarding 'public education.' "

(1) *Commercial Advertising*

(15) The crux of the plaintiffs' core values argument appears to be their perception that the motives and methods of commercial advertising are simply and irreconcilably antithetical to the ideals of public education.

The plaintiffs acknowledge that "[i]n our view, the case rises or falls on the characterization of the transaction itself " and that "[w]e believe, as matter

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

more of principle than of absolute fact, that selling the minds of public school students to commercial advertisers is simply inappropriate and an invitation to compromise the integrity of the entire public school system." In the plaintiffs' view, "we are dealing with a commercial advertising scheme that uses student attendance and attention as saleable property. That scheme cannot reasonably be characterized as educational. It does not matter that the television equipment and nonadvertising portion of 'Channel One' serve educational purposes. It is the advertising scheme itself that is the problem, not the educational resources purchased with the revenue from the advertising. [¶] ... In our view, [the school district] has entered into a three-way advertising partnership with Whittle and its commercial advertisers. Each party is selling something and receiving something valuable in return: [the school district] sells the students' attention; Whittle sells advertising opportunities; and [the advertiser] sells candy bars. If 'Channel One' is a legitimate way for school districts to raise money, then eventually the entire public school system will be one big market opportunity with the children available to the highest bidder."

Amicus curiae suggests that "[p]resumably all parties would agree that had the District contracted with the Mars Candy Company to show students daily ads for Mars candy bars, this would be in conflict with the purposes for which the District was established, whether or not the District used the income from the advertising campaign to purchase curricular materials or classroom technology. The only question here, then, is whether this result can be escaped when, rather than being paid with money which is then used to buy curriculum or technology, the District is paid directly with curriculum and technology."

The plaintiffs generalize, broadly, that "[t]he children are inherently vulnerable; they deserve our extraordinary protection from indoctrination in ***1034** all of its forms," and that they "are grossly offended by the very idea of television advertising as a regular part of a child's school day," but they identify no specific harm to students, or to their educational experience, to be anticipated from commercial advertising in the classroom. Nor do the plaintiffs appear to address the specific facts of this case, and in particular, the strict limits as to content and length applicable to "Channel One" advertising. Nor is the argument supported by citation to the record or to any source of legal precedent of which this court may take cognizance. The gist of the argument, from factual premises the plaintiffs perhaps assume would be subject to judicial notice (cf. Evid. Code, § 459), is that sellers of goods and services cannot be allowed to use video to market their wares in the classroom, and that school districts cannot become parties to the sellers' attempts to do so. The argument appears to focus on the financial motives of the sellers and of the school districts with which the sellers might contract, and primarily to express the plaintiffs' aversion to such motives.

The misdirection of the plaintiffs' argument is illustrated by the plaintiffs' assertion that "[i]f the ads were 'incidental,' Whittle could not sell them at a rate that would support the investment." The argument misses the point that, to meet what we perceive to be the applicable standard, the noncurricular material need only be incidental in relation to a *valid educational purpose.* That Whittle stands to make a great deal of money from "Channel One" has nothing whatsoever to do with whether, from the educational standpoint of the school district and its students, the "Channel One" advertisements were incidental to a valid educational purpose.

The record before us contains no evidence to suggest that the school district was motivated by anything other than a wish to obtain "Channel One," other Whittle video programming, and video equipment for educational purposes. Whittle, on the other hand, has already conceded and could hardly deny that its motivation is (as the plaintiffs assert) to make a profit by selling advertising opportunities. But in our view Whittle's concession (if relevant at all to the question whether classroom video advertising must inevitably be "in conflict with the purposes for which school districts are established") supports a negative rather than an affirmative answer to the question: To sell advertising opportunities, Whittle must be able to persuade advertisers that it can deliver the market. To deliver the market, by obtaining school district contracts for "Channel One," Whittle must produce a current events program of educational quality sufficient to attract the interest of teachers and at the same time to pass muster with school boards and educational administrators under California's educational standards. If the current events product is not well done and attractive it will not be accepted; if it does not serve valid educational purposes it cannot be used in the ***1035** classroom; in either event advertisers will

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

not buy Whittle's advertising time and Whittle will not realize the profit it seeks.

The plaintiffs' argument also glosses over the public education system's longstanding tolerance for many other forms of commercial encroachment on the public schools.

The record reflects, and the plaintiffs do not deny, that student exposure to many forms of advertising, often directly associated with overt commercial ventures, has long been tolerated, if not encouraged, within the school district: Vending machines containing a wide variety of brand-marked snacks, commercial logos on computer equipment and sports scoreboards, printed advertisements in library periodicals and in assigned reading materials from magazines or newspapers as well as in school yearbooks, direct promotion of school-authorized class photographers, brand-name identification of food service products, sale of school rings and jackets, commercial announcements on the public address system, and even commercials in programs students are assigned to watch on commercial television channels.

The plaintiffs undertake to distinguish these forms of commercialism (which they characterize as "less intrusive") from "the invasive and pervasive nature of the televised program known as 'Channel One' " which, in the plaintiffs' view, "clearly crosses the line of appropriateness and changes 'school' from an educational to a commercial experience." Amicus curiae argues that none of these other commercial advertisements "involve classroom *time* that is taken up by the video showing of commercial advertisements. These other commercial advertising presences ... can appropriately be deemed passive presences, i.e., ones that need not take any of a student's time." Amicus curiae adds that "[t]he issue in this case is not whether any commercial advertising in the school is appropriate. The issue is whether the use of designated classroom time to show video commercial advertisements constitutes an abuse of school district discretion." The plaintiffs' position on this point is clear: "[A]s a matter of law, advertising as powerful as that found in 'Channel One' *should be prohibited per se*."

The record in the case before us would not appear to warrant these arguments. The absolutism of the positions taken by the plaintiffs-"one second" of classroom video advertising would be too much-and amicus curiae-"[t]here is simply no way to draw a line between one minute a day of commercials, five minutes a day of commercials, and an hour a day of commercials"-strongly suggests that both the plaintiffs and amicus curiae are troubled not so much by this case as by where this case might lead. Both in their briefs and at oral argument the plaintiffs have essentially acknowledged their concern that this case might be simply the entry point for ***1036** unlimited commercial advertising in the classroom. As they put it in their reply brief: "Given the shortage of funds for public education, it is easy to reach for Whittle's 'quick fix.' The implications of television advertising, however, present a dire future for public education. If 'Channel 1' is legal, then all manner of commercial, profit-making schemes will gradually seep into the school day. If two minutes per day of advertising is harmless, why not ten minutes or twenty? What if entire class periods are devoted to commercial indoctrination and the sponsors offer to give out free soda and candy to students who attend? How much of the school day-that is supposed to be dedicated to learning-can be diverted into an active advertising campaign before the public education system ceases to be either public or educational? This is a case for line-drawing."

We are more optimistic of the abilities of school districts, administrators, and teachers, and (in an extreme case) of trial courts, to draw any lines that need be drawn on a case-by-case basis. Neither the plaintiffs nor amicus curiae have given us a judicially cognizable basis for a declaration that classroom video advertising can never be deemed incidental to a valid educational purpose, or that on any other basis such advertising must invariably be declared unlawful.

(2) *Separation of Powers*

(16) In any event an abstract appeal to "core values" of public education is not within our purview.

"The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution." (Cal. Const., art. III, § 3.)

"[C]ourts are not school boards or legislatures ...." (*Wisconsin v. Yoder* (1972) 406 U.S. 205, 235 [32 L.Ed.2d 15, 36-37, 92 S.Ct. 1526].) Abstract assess-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

ment of "core values" is beyond the scope of our judicial function. Our own perceptions of "core values regarding 'public education' " would be essentially irrelevant: As judges we can be neither makers of educational policy nor arbiters of the philosophical propriety of educational policies developed, in accordance with our system of government, by the Legislature and by state and local school officials. The plaintiffs must address their argument to local school districts, to the Legislature, and ultimately to the people, in whom the power to develop public educational policy proper ly resides. We are by no means insensitive to the will of the people, to which counsel for the Superintendent of Public Instruction referred at oral argument. But our system of government requires, probably in part as a ***1037** safeguard against possible misunderstanding, that a court of law receive the will of the people not by way of presentations made by articulate advocates for particular causes but rather by way of the coequal legislative and executive branches, in the form of statutes or administrative regulations having the force of law. A court cannot be, as the plaintiffs repeatedly urge us to be, a substitute Legislature.

2. *Must Student Viewing Be Voluntary?*

The trial court also made clear that in its view student exposure to "Channel One" should be "strictly voluntary." It would have found particular classroom video advertising illegal "if students are coerced directly or indirectly into viewing commercial material ...." The trial court found no evidence of *direct* coercion but concluded that the plaintiffs had "raised a legitimate concern about the possibility of indirect coercion" upon teachers to use, and students to watch, "Channel One." On this basis the trial court ultimately required that the school district, as a condition to continued use of "Channel One," take specified steps to assure that students were aware of their options not to use, or not to watch, "Channel One," and that the school district require "a regular, structured, supervised alternative to 'Channel One' " for students who wished to opt out.

(17) In support of its own appeal in this court, Whittle argues that students *can* be compelled to watch classroom video advertising.

The crux of Whittle's argument is that if (as Whittle has consistently asserted) the trial court was correct in its determination that the commercial advertising in "Channel One" was necessary and incidental to a legitimate educational purpose, then *by virtue of that determination* any arguable coercion upon students to watch the commercial advertising must be deemed incidental as well. Whittle argues that "[s]chools *require* students to do things"-implicitly, things more integral to orthodox public education than video commercials-"all the time ...," and that compulsory noneducational activities are not illegal if incidental to a valid educational purpose.

Whittle's argument is superficially attractive. If the impact of "Channel One's" commercial solicitation upon the educational process is in fact so slight as to warrant a finding that it is incidental, then at least as a practical matter the significance of a requirement that students submit to the solicitation might be similarly discounted. This is not, after all, a case of asserted state-sponsored religious (cf., e.g., *Abington School Dist. v. Schempp* (1963) 374 U.S. 203, 226 [10 L.Ed.2d 844, 860-861, 83 S.Ct. 1560]) or ideological (cf., e.g., ***1038***Board of Education v. Barnette* (1943) 319 U.S. 624, 637, 642 [87 L.Ed. 1628, 1637,1639-1640, 63 S.Ct. 1178, 147 A.L.R. 674]) indoctrination but simply another manifestation of a commercial ethic to which all of us have been increasingly exposed, but which, despite its proliferation, has not yet been authoritatively characterized as indoctrination in any constitutionally significant sense.

But amicus curiae California Teachers Association suggests a plausible reason, of constitutional provenance if not of constitutional dimension, why students cannot be compelled to listen to commercial speech in the public school classroom *during mandatory instructional time*. As we perceive it, the argument is that mandatory school attendance laws such as California's (Ed. Code, § 48200 et seq.) effectively confine students during the school day, that students share with all other citizens a constitutional right not to be confined without compelling reason (cf., e.g., *Parham v. J.R.* (1979) 442 U.S. 584, 600 [61 L.Ed.2d 101, 117, 99 S.Ct. 2493] [commitment of children to mental hospital]), and that although mandatory attendance laws have been constitutionally validated for orthodox educational purposes "where nothing more than the general interest of the parent in the nurture and education of his children is involved" (*Wisconsin v. Yoder, supra*, 406 U.S. 205, 233 [32 L.Ed.2d 15, 35]; cf. also *Meyer v. Nebraska* (1923) 262 U.S. 390, 402 [67 L.Ed. 1042, 1046, 43 S.Ct. 625, 29 A.L.R.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

1446]; *Pierce v. Society of Sisters* (1925) 268 U.S. 510, 534 [69 L.Ed. 1070, 1077-1078, 45 S.Ct. 571, 39 A.L.R. 468]), the power to decree universal compulsory education "is by no means absolute ...." (*Wisconsin v. Yoder, supra*, 406 U.S. at p. 215 [32 L.Ed.2d at p. 25].) Amicus curiae argues that "[t]he justification for depriving the liberty of juveniles by compelling their attendance at school simply does not apply" to classroom video advertising. "In [such a] situation, the fundamental educational purpose that justifies compelled school attendance is missing. The constitutional violation inherent in compelling student attendance to view commercial advertisements can be overcome only if the viewing is purely voluntary."

Having previously acknowledged that the "Channel One" commercials cannot be deemed educational, Whittle relies, in response to amicus curiae, entirely on its argument that the commercials have been found to be, and in fact are, incidental.

We agree with the trial court, on the basis of amicus curiae's argument, that public school students *cannot* be *compelled* to watch classroom video advertising. The fact that the concededly noneducational classroom video advertising is incidental to a valid educational purpose or purposes does not alter the fact that the advertising is noneducational. Whittle's proffered examples of assertedly noneducational activities which *can* be required of ***1039** students do not support its position: "Passing time" between classes can properly be regarded as integral to the educational process; certainly students can be required to move, in accordance with a reasonable timetable, from one class to the next. Recesses, even if not dedicated to other education-related activities such as passing between classes and opportunities for meals, may reasonably be regarded as periods of respite essential to effective classroom performance by both students and teachers. Printed advertisements adjacent to assigned reading materials in commercial magazines and newspapers presumably have no educational value in and of themselves, but students are not compelled to read the advertisements. The essence of amicus curiae's plausible argument is that students should no more be compelled to watch classroom video advertising than they are compelled to read printed advertisements adjacent to assigned reading materials. And because the commercial video advertising is seamlessly integrated into "Channel One's" current events programming, we perceive no practical way to permit students to opt out of only the classroom video advertising: to assure that student viewing of the advertisements is voluntary, the students must be allowed to opt out of "Channel One" altogether.

Patently the conclusion we reach offends neither Whittle's asserted constitutional right to transmit commercial speech to students nor the students' constitutional right (asserted by Whittle in their behalf) to receive it (cf. *Va. Pharmacy Bd. v. Va. Consumer Council, supra*, 425 U.S. at pp. 756-757 [48 L.Ed.2d at pp. 334-355]): Whittle remains free to transmit, and the students to receive, as much commercial speech (within the constraints of Whittle's contract with the school district) as the students are freely willing to hear. Nor can Whittle assert that our conclusion would frustrate its reasonable expectations under its contract with the school district: Whittle's own contract form permits the school district to "accommodate" students who wish to opt out.

3. *Did the Record Support Injunctive Relief?*

(18a) Alternatively Whittle argues that even if students could not lawfully be compelled to watch the classroom video advertising, the record in this case does not support a finding of actual or threatened compulsion sufficient to justify the injunctive relief the trial court ordered.

In an appropriate case, the opt-out procedures the trial court decreed in this case would arguably be permissible and desirable. The procedures rationally address the underlying concern that students be provided with constructive alternatives to "Channel One," and that they be made aware of their right to opt out, provide a workable mechanism by which to exercise ***1040** that right, and assure that (as a means of recognizing parental interest and of controlling potential misuse) the power to exercise the opt-out right be subject to parental control.

But upon the record before us we are obliged to agree with Whittle that the injunctive portion of the judgment cannot be affirmed, because the record does not support an essential finding that the students *would* be compelled to watch the classroom video advertising. Absent such a finding, the trial court lacked authority to burden the school district with court-devised procedures to avert a speculative possibility that students otherwise *might* be so compelled.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

The plaintiffs sought, and the trial court ultimately gave, essentially equitable relief embodied primarily in a permanent injunction.

(19) It has been said that a court called upon to afford relief historically or analytically equitable in its nature "has broad powers to fashion a remedy. [Citation.] It may create new remedies to deal with novel factual situations. [Citation.] Further, the court is not strictly limited to the particular relief requested in the prayer of the complaint. [Citation.]" (*Oceanside Community Assn. v. Oceanside Land Co.* (1983) 147 Cal.App.3d 166, 177 [195 Cal.Rptr. 14].)

But it is clear that the power to give equitable relief is not unlimited. Years ago the United States Supreme Court pointed out that "[i]t is always the duty of a court of equity to strike a proper balance between the needs of the plaintiff and the consequences of giving the desired relief. Especially where governmental action is involved, courts should not intervene unless the need for equitable relief is clear, not remote or speculative." (*Eccles v. Peoples Bank* (1948) 333 U.S. 426, 431 [92 L.Ed. 784, 789, 68 S.Ct. 641]; cf. *Henschen v. City of Houston, Tex.* (5th Cir. 1992) 959 F.2d 584, 588.) (20) Similarly, California adheres to the rule, particularized to injunctive relief, that "[i]njunction 'is an extraordinary power, and is to be exercised always with great caution' and the power rarely, if ever, should be exercised in a doubtful case. [Citations.] If, therefore, at the time of the order or judgment, in the absence of special circumstances ..., there is no reasonable probability that past acts complained of will recur, injunctive relief will be denied. Injunctive power is not used as punishment for past acts and is ordered against them only if there is evidence they will probably recur. [Citations.] A court of equity will not afford an injunction to prevent in the future that which in good faith has been discontinued in the absence of any evidence that the acts are likely to be repeated in the future. [Citations.]" (*Mallon v. City of Long Beach* (1958) 164 Cal.App.2d 178, 190 [***1041** 330 P.2d 423]; cf. *Feminist Women's Health Center v. Blythe* (1993) 17 Cal.App.4th 1543, 1555 [22 Cal.Rptr.2d 184]; *Phipps v. Saddleback Valley Unified School Dist.* (1988) 204 Cal.App.3d 1110, 1117 [251 Cal.Rptr. 720]; *Engle v. City of Oroville* (1965) 238 Cal.App.2d 266, 270 [47 Cal.Rptr. 630].)

(21) Although a decision whether to issue, and how to phrase, a permanent injunction is essentially discretionary (cf., e.g., *Feminist Women's Health Center v. Blythe, supra*, 17 Cal.App.4th at pp. 1554-1555), the trial court's discretion is by no means as broad as that which it might exercise in weighing the equities of the parties' positions for the purpose of deciding whether to issue a *preliminary* injunction or other provisional relief. "A permanent injunction is very different from a pendente lite injunction.... A permanent injunction is a determination on the merits that a plaintiff has prevailed on a cause of action ... against a defendant and that equitable relief is appropriate. A permanent injunction is not issued to maintain the status quo but is a final judgment on the merits. [Citation.]" (*Art Movers, Inc. v. NI West, Inc.* (1992) 3 Cal.App.4th 640, 646 [4 Cal.Rptr.2d 689].) Like any judgment, a permanent injunction, notwithstanding its discretionary component, must be sufficiently supported by the evidence of record. (*Ibid.*; cf. also *Richards v. Dower* (1883) 64 Cal. 62, 64 [28 P. 113].) If the evidence is insufficient to justify issuance of a permanent injunction, the trial court simply had no discretion to exercise. The Supreme Court has gone so far as to state that "[w]hether a permanent injunction should issue becomes a question of law where the ultimate facts are undisputed and in such a case the appellate court may determine the issue without regard to the conclusion of the trial court. [Citations.]" (*Eastern Columbia, Inc. v. Waldman* (1947) 30 Cal.2d 268, 273 [181 P.2d 865].)

(18b) In this case the pertinent factual record was essentially undisputed. It showed that:

(1) Whittle's own form of agreement for use of "Channel One" explicitly provides that school districts may develop opt-out procedures.

(2) Consistent with this provision, Whittle and the school district reached oral agreement at the outset that (among other things) "the District would not require students to watch Channel One but would instead make this an optional student activity."

(3) In 1990, "[w]hen the District first presented Channel One to parents of Overfelt students, the parents were advised both by letter and at the 'Back-To-School' meeting that students could opt out of viewing Channel One with parental permission. [¶] ... Since that time, in order to ensure that parents ***1042** understand that student viewing of Channel One is optional, the District has developed the policy

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

and practice of advising parents that such viewing is optional, and that if any parent objects to Channel One, accommodations will be made to permit the student to study in the career center or quad area during third period when Channel One is being shown." By August 1992, according to the district superintendent, students could "opt out of the Channel One broadcast entirely at parental request. If they do choose to remain in the classroom, students are not limited to the alternative of reading quietly or doing homework while Channel One is aired. They have wide discretion in what they do, including talking, reading, writing, and doing homework. Students may also be excused from the classroom to attend school meetings."

(4) In September 1992, after the trial court issued its memorandum of decision, the Overfelt principal "sent all Overfelt parents/legal guardians a letter ..., at the start of the school year, discussing various school matters, including Channel One. The letter advised parents that the Court had upheld the voluntary viewing of Channel One ... and had instructed the district to give written notice to parents, legal guardians and students that the viewing of Channel One is optional. Further, the letter explains that students who opt out of Channel One will report to room F-9 for a study hall. Spanish and Vietnamese translations were included with the letter; thus, the letter was provided in the primary language of the homes of approximately 98 percent of Overfelt's students." The school district did not send the formal opt-out notice or the opt-out form the trial court had indicated it would require, pending "the Court's final order and clarification of required procedures ...."

In short the record reflects that at all relevant times the school district has had, and has made known to the parents of every student, a policy to permit students, with parental approval, to opt out of "Channel One," and that in any instance in which the trial court announced a preference for procedures at variance with those specified by the school district, the district adapted its procedures to what it perceived the court's preference to be as soon as the district received notice of the court's position. There is no showing whatsoever to the contrary, and no indication that the school district had proceeded in anything other than good faith with respect to the issue of voluntariness. Nor was there any showing whatsoever that the school district's own opt-out procedures, or the means by which the district publicized them, were less than effective to permit students to make informed and in all other respects voluntary decisions whether or not to opt out. We consider it significant that the school district's opt-out procedures are quite similar to those specified (and a fortiori approved) by the Legislature for opting out of instruction in ***1043** health, family life education, sex education, and venereal disease education. (Ed. Code, §§ 51240, 51550, 51820.)

On this state of the record we perceive no factual basis for the trial court's findings that (although no actual coercion had been demonstrated) "[p]laintiffs have ... raised a legitimate concern about the possibility of indirect coercion.... While the evidence shows that both students and their parents are advised that viewing of 'Channel One' is voluntary, there is considerable doubt as to whether the alternatives to viewing offered to the students are reasonably equal in terms of the physical resources and supervision incident to them. One reasonably may ask whether it is realistic to expect a student to choose the inconvenience of opting out of 'Channel One' over the familiar passive role of sitting and watching television. These factors in combination raise a real and substantial question as to whether indirect coercion of teachers and students with respect to the use of 'Channel One' exists."

With all respect to the careful and thoughtful analysis the trial court gave to the difficult issues before it, we cannot agree *either* that "a real and substantial question as to whether indirect coercion ... exists" would be sufficient to warrant judicial intervention in the school district's opt-out procedure *or* that the evidence is sufficient, in any event, to raise so much as a "real and substantial question" as to coercion. The record reflects that students and their parents were given several alternatives to "Channel One," varying from simply not paying attention to opting out by leaving the classroom to attend school meetings or a study hall in a preassigned room. The burden would have been upon the plaintiffs to show that these alternatives were unsatisfactory; if (as the trial court implies) the evidence left it in doubt on the issue, the doubt should have been resolved against the plaintiffs. The inconvenience of opting out to which the trial court refers appears to us a modest condition upon, and in no significant sense an obstacle to, a student's right to choose. The plaintiffs suggest, on the basis of language from establishment clause cases, that "[t]he

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

choice not to participate in the 'normal' school activity is inherently stigmatizing and makes dissenting students feel 'excluded and unwelcome' at their own school." The suggestion is unpersuasive: The evidence of record simply does not support a conclusion that a reasonable student would have been dissuaded by the prospect of stigma from a decision to opt out of viewing a 12-minute videotape on current events. The opt-out procedures adopted by the school district were closely similar to those approved by the Legislature with respect to the measurably more controversial subject of sex education.

(22) "Special circumstances" may, in particular cases, relax the requirement that a court base its injunctive order on circumstances known as of the ***1044** time of the order or judgment (cf. *Mallon v. City of Long Beach, supra,* 164 Cal.App.2d at pp. 188, 190); examples would include issues relevant to acquired immune deficiency syndrome (*Phipps v. Saddleback Valley Unified School Dist., supra,* 204 Cal.App.3d at p. 1119) and, arguably, circumstances which clearly implicate constitutional issues of separation of church and state or freedom from ideological indoctrination. (18c) We find no comparable special circumstances here; absent plainly applicable legal doctrine we reiterate our view that value judgments as to use of television commercials in the classroom must be made by the people through their Legislature or their school officials, and that courts must limit themselves to review of the legality of the actions legislators and school officials take.

That the trial court's opt-out procedures might have been more thorough, and might ultimately have been more effective, than those the school district voluntarily constructed is essentially irrelevant in this case. We conclude that the record afforded the trial court no basis on which to intervene by way of injunctive relief.

4. *Could the Court Retain Jurisdiction to Appoint a Monitor?*

The trial court reserved jurisdiction "to appoint a qualified individual to monitor ... compliance" with its judgment. (23a) Whittle argues that the powers proposed to be vested in a monitor under the trial court's reservation of jurisdiction were too broad.

We note preliminarily that the trial court clearly could retain general jurisdiction to assure compliance with its judgment. The relief for which the plaintiffs prayed was essentially equitable, and the judgment as we shall modify it will be, in essence, a declaration of rights which is a form of equitable relief. (Cf. *Culbertson v. Cizek* (1964) 225 Cal.App.2d 451, 462 [37 Cal.Rptr. 548]; *Mills v. Mills* (1956) 147 Cal.App.2d 107, 116 [305 P.2d 61].) (24) " 'The jurisdiction of a court of equity to enforce its decrees is coextensive with its jurisdiction to determine the rights of the parties, and it has power to enforce its decrees as a necessary incident to its jurisdiction. Except where the decree is self-executing, jurisdiction of the cause continues for this purpose, or leave may be expressly reserved to reinstate the cause for the purpose of enforcing the decree, or to make such further orders as may be necessary.' " (*Day v. Sharp* (1975) 50 Cal.App.3d 904, 912 [123 Cal.Rptr. 918], quoting from *Klinker v. Klinker* (1955) 132 Cal.App.2d 687, 694 [283 P.2d 83]; cf. also, e.g., *Rynsburger v. Dairymen's Fertilizer Coop., Inc.* (1968) 266 Cal.App.2d 269, 278-279 [76 Cal.Rptr. 1022]; *Mills v. Mills, supra,* 147 Cal.App.2d at p. 116.) It follows that retention of jurisdiction by the court for the purpose of interpreting and enforcing its judgment is within ***1045** the scope of declaratory relief. (Cf. *Bertero v. National General Corp.* (1967) 254 Cal.App.2d 126, 136-137 [62 Cal.Rptr. 714]; *City of L.A. v. City of Glendale* (1943) 23 Cal.2d 68, 81 [142 P.2d 289]; cf. also *Mills v. Mills, supra,* 147 Cal.App.2d at p. 116.) And as we have noted, in this as in other aspects of its equitable jurisdiction, the trial court, as what would historically have been an equity court, would have had broad powers to fashion "new remedies to deal with novel factual situations. [Citation.]" (*Oceanside Community Assn. v. Oceanside Land Co., supra,* 147 Cal.App.3d at p. 177; cf. *Roman v. Ries* (1968) 259 Cal.App.2d 65, 70 [66 Cal.Rptr. 120].)

Whittle does not dispute these principles. It has acknowledged, both in its brief and at oral argument, that as an abstract proposition the trial court might properly appoint a compliance monitor. But Whittle suggests, apparently on the basis of inference from remarks the trial court made at hearings, that what the trial court proposed was to ask such a monitor not only to assure compliance with the judgment but also to gather evidence in areas already fully litigated before the court.

We would agree with Whittle that an appointment for this second purpose would be inappropriate in any

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

event: Although the trial court might have reopened the evidence before entry of judgment, once judgment was entered it would be empowered to reopen the evidence on which the judgment was based only by means of procedures tantamount to an order for a new trial. In the exercise of its retained jurisdiction the trial court could (among other things) properly consider new evidence directly pertinent to the ongoing rights of the parties, including but not limited to "new social scientific evidence," so long as the evidence is in fact *new* in the sense that it was not available at the time of trial, either because the events to which it relates had not yet occurred, or (in the case of "new social scientific evidence") the relevant data had not yet been collected, or the relevant expertise had not yet been developed. But the trial court could not properly use the mechanism of a monitor or referee to readdress facts previously litigated.

(23b) But we disagree with Whittle's reading of the judgment which, as we perceive it, contemplates possible future use of a monitor only for the purpose of observing and reporting events *after* the judgment so that the court might be advised, in the exercise of its retained jurisdiction, of any need which might arise *in the future* to interpret or to enforce the terms of the judgment. A monitor might properly be appointed for such a purpose.

Thus the trial court's retention of jurisdiction to appoint a monitor was unobjectionable in and of itself. We should emphasize, however, that the record before us reflects no need to appoint such a monitor at this point, and ***1046** that the trial court should not exercise its retained power unless and until such a need is demonstrated. A compliance monitor's activities will inevitably be in some measure intrusive upon the function he or she is directed to monitor; it is for this reason that such an intrusion must in each case be justified by a sufficient showing of need. We anticipate that any perceived failure to comply with the trial court's declaration of rights in this case can and will be promptly reported to the court by parents, students, or teachers.

Disposition

Upon the essentially uncontradicted record before us we are satisfied that we may effect judicial economy by directly modifying the trial court's judgment in accordance with the views we have stated (cf. *Eastern Columbia, Inc. v. Waldman, supra,* 30 Cal.2d at p. 273), and by affirming the judgment as so modified.

The paragraph beginning at page 2, line 10, of the judgment entered on January 4, 1993, in Santa Clara County Superior Court action No. 717380, Bill Honig, etc., et al., v. East Side Union High School District et al., is modified to read as follows:

"It Is Adjudged

"1. That the contract between East Side Union High School District and Whittle Communications L.P., a Delaware limited partnership, for use by the school district of certain television programming including the current affairs program known as 'Channel One,' is not illegal as a matter of law;

"2. That the parties to the contract may lawfully perform the terms of the contract so long as

"a. The commercial advertising embedded in the video programming known as 'Channel One' is, and remains, incidental to a valid educational purpose, and

"b. No student is compelled to view 'Channel One,' and no student's standing with his or her classroom teachers, school administration or school district is affected adversely by a decision by the student not to view 'Channel One';

"3. That plaintiffs Bill Honig, Superintendent of Public Instruction, and others, have not borne their burden of proving that any of the acts of either party (or those in privity with them) in execution of the contract is illegal as ***1047** a matter of fact or demonstrates a reasonable probability of future illegality or of future infringement upon the rights of any person; and therefore that there is no basis for injunctive relief at this time;

"4. That the court shall retain jurisdiction to interpret and enforce its judgment (by means which may if appropriate include appointment of a qualified individual to monitor the parties' compliance with the terms of this judgment) as and to the extent hereafter shown, after notice to all affected parties, to be necessary; and

"5. That each party shall bear his, her, or its own

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

fees and costs."

As so modified the judgment is affirmed. Each party shall bear his, her, or its own costs on appeal.

Cottle, P. J., and Elia, J., concurred. ***1048**

Cal.App.6.Dist.
Dawson v. East Side Union High School Dist.
28 Cal.App.4th 998, 34 Cal.Rptr.2d 108, 94 Ed. Law Rep. 400

END OF DOCUMENT

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

100 Cal.App.4th 1066, 123 Cal.Rptr.2d 278, 02 Cal. Daily Op. Serv. 6981, 2002 Daily Journal D.A.R. 8699
(Cite as: 100 Cal.App.4th 1066)

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL, Petitioner,
v.
ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD, Respondent; NORMAN C. DELEUZE et al., Real Parties in Interest.

No. A096928.

Court of Appeal, First District, Division 4, California.
Aug. 1, 2002.

SUMMARY

The Department of Alcoholic Beverage Control found cause to suspend the license of a winegrower/supplier, upon finding the winegrower/supplier paid for advertising in the exclusive sales catalog of a retail licensee in violation of the tied-house laws. The Alcoholic Beverage Control Appeals Board reversed the department's decision, finding that the department's interpretation of the statute was too restrictive.

The Court of Appeal vacated the board's decision and reinstated the department's decision. The court held that the department properly found cause to suspend the license of the winegrower/supplier. The board erred in reversing the department's decision by substituting its interpretation of the Alcoholic Beverage Control Act (Bus. & Prof. Code, § 23000 et seq.) for that of the department's, thus exceeding its limited scope of review. Under Bus. & Prof. Code, § 25502, subd. (a)(2), no winegrower shall furnish any money or other thing of value, directly or indirectly, to, or guarantee the repayment of any loan or the fulfillment of any financial obligation of, any person engaged in operating, owning, or maintaining any off-sale licensed premises. The winegrower/supplier furnished money to a publisher to pay a portion of the retailer's financial obligation to the publisher for production of the retailer's exclusive catalog. Thus, the winegrower/supplier contributed a valuable and tangible benefit to the retailer by participating in paying for the production of its catalog. (Opinion by Rivera, J., with Reardon, Acting P. J., and Sepulveda, J., concurring.)

HEADNOTES
Classified to California Digest of Official Reports

(1a, 1b, 1c) Alcoholic Beverages § 16--Alcoholic Beverage Control Act--Licensing--Suspension--Violation of Tied-house Laws--Supplier's Payment for Advertising in Retailer's Exclusive Catalog.

The Department of Alcoholic Beverage Control properly found cause to suspend the license of a winegrower/supplier, upon finding the winegrower/supplier paid for advertising in the exclusive sales catalog of a retail licensee in violation of the tied-house laws. The Alcoholic Beverage Control Appeals Board erred in reversing the department's decision by substituting its interpretation of the Alcoholic Beverage Control Act (Bus. & Prof. Code, § 23000 et seq.) for that of the department's, thus exceeding its limited scope of review. Under Bus. & Prof. Code, § 25502, subd. (a)(2), no winegrower shall furnish any money or other thing of value, directly or indirectly, to, or guarantee the repayment of any loan or the fulfillment of any financial obligation of, any person engaged in operating, owning, or maintaining any off-sale licensed premises. The winegrower/supplier furnished money to a publisher to pay a portion of the retailer's financial obligation to the publisher for production of the retailer's exclusive catalog. Thus, the winegrower/supplier contributed a valuable and tangible benefit to the retailer by participating in paying for the production of its catalog. The department's decision was consistent with the legislative purpose of the tied-house laws, whereby all firms operating at one level of distribution were to remain free from involvement in, or influence over, any other level.

[See 2 Witkin & Epstein, Cal. Criminal Law (3d ed. 2000) Crimes Against Public Peace and Welfare, § 288; West's Key Number Digest, Intoxicating Liquors ⚷124.]

(2) Alcoholic Beverages § 18--Alcoholic Beverage Control Act--Licensing-- Administrative Review--Judicial Review.

Following a decision by the Department of Alcoholic Beverage Control, the scope of review of both the Alcoholic Beverage Control Appeals Board and the courts is a narrow one. The board's review of the department's decision is limited to those questions specified in Bus. & Prof. Code, § 23084. Bus. & Prof. Code, § 23090.2, directs the courts to review not the board's decision, but the department's decision, ad-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

dressing the same enumerated questions. The courts' role is limited to determining, based upon a review of the department's whole record, whether the department's decision is subject to reversal on the grounds specified in Bus. & Prof. Code, § 23090.2.

(3) Alcoholic Beverages § 18--Alcoholic Beverage Control Act--Licensing-- Administrative Review--Judicial Review--Limited Nature of Review--Deferential Standard.

If the Department of Alcoholic Beverage Control's administrative action declares or applies legal rules, or sets forth conclusions of law that are drawn from adjudicated or undisputed facts, it is subject to review only for insufficiency of the evidence, excess of jurisdiction, errors of law, or abuse of discretion. The discretion exercised by the department is not absolute but must be exercised in accordance with the law, and the provision that it may revoke or deny a license for good cause necessarily implies that its decisions should be based on sufficient evidence and that it should not act arbitrarily in determining what is contrary to public welfare or morals. Nevertheless, it is the department, and not the Alcoholic Beverage Control Appeals Board or the courts, which must determine whether good cause exists for denying a license upon the ground that its issuance would be contrary to public welfare or morals. Although most cases address the department's discretionary powers in the context of the revocation, granting, or denial of a license, the same deferential standard of review should and would apply to the department's discretionary powers to determine whether there is good cause to suspend a license, since all of the powers derive from the same constitutional source (Cal. Const., art. XX, § 22). Courts evaluate the department's decision in light of the department's jurisdiction and the legislative purposes of the Alcoholic Beverage Control Act.

(4) Alcoholic Beverages § 18--Alcoholic Beverage Control Act--Licensing-- Administrative Review--Judicial Review--Discretion of Department of Alcoholic Beverage Control.

The discretion legally vested in an administrative body, such as the Department of Alcoholic Beverage Control, is broad and inclusive and is not subject to judicial control when exercised within its legal limits. However, deference to the department's interpretation of the Alcoholic Beverage Control Act is not unlimited. It is subject to review and intervention by the Alcoholic Beverage Control Appeals Board and the courts in the event that the department acts in an arbitrary and capricious manner, or in a manner that does not conform to the spirit of the law.

(5) Alcoholic Beverages § 4--Alcoholic Beverage Control Act--Tied-house Laws.

Following repeal of U.S. Const., 18th Amend., the vast majority of states, including California, enacted alcoholic beverage control laws. These statutes sought to forestall the generation of such evils and excesses as intemperance and disorderly marketing conditions that had plagued the public and the alcoholic beverage industry prior to prohibition. By enacting prohibitions against tied-house arrangements, state legislatures aimed to prevent two particular dangers: the ability and potentiality of large firms to dominate local markets through vertical and horizontal integration and the excessive sales of alcoholic beverages produced by the overly aggressive marketing techniques of larger alcoholic beverage concerns. The principal method utilized by state legislatures to avoid these antisocial developments was the establishment of a triple-tiered distribution and licensing scheme. Manufacturing interests were to be separated from wholesale interests; wholesale interests were to be segregated from retail interests. Thus, business endeavors engaged in the production, handling, and final sale of alcoholic beverages were to be kept distinct and apart. All levels of the alcoholic beverage industry were to remain segregated; firms operating at one level of distribution were to remain free from involvement in, or influence over, any other level. It is these legislative objectives that the tied-house provisions of California's alcoholic beverage control laws seek to effectuate.

(6) State of California § 10--Attorney General--Opinions.

While an opinion of the Attorney General is entitled to great weight, it is not controlling legal authority. This is particularly true where there is case authority in existence interpreting the statute at issue.

COUNSEL

Bill Lockyer, Attorney General, Damon M. Connolly, Miguel A. Neri and Shari B. Posner, Deputy Attorneys General, for Petitioner.

No appearance for Respondent.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

100 Cal.App.4th 1066, 123 Cal.Rptr.2d 278, 02 Cal. Daily Op. Serv. 6981, 2002 Daily Journal D.A.R. 8699
(Cite as: 100 Cal.App.4th 1066)

Pillsbury Winthrop, James M. Seff, J. Daniel Davis; Bartko, Zankel, Tarrant & Miller, William I. Edlund and Ramiz I. Rafeedie for Real Parties in Interest.

RIVERA, J.

The Department of Alcoholic Beverage Control (Department) seeks an order of this court reinstating its determination that there is cause to suspend the license of Norman C. Deleuze and Rosa Lee Deleuze doing business as ZD Wines, a winegrower/supplier licensee (collectively ZD). The Department had issued a decision that ZD's payment for advertising in the exclusive sales catalog of an individual retail licensee violated the proscriptions of the "tied-house" laws. The Alcoholic Beverage Control ***1070** Appeals Board (Board) reversed the decision, finding that the Department's interpretation of the statute was too restrictive. We conclude that the Department's decision contains a reasoned interpretation and application of the alcoholic beverage control laws and, therefore, must be affirmed.

I. Factual and Procedural Background

The facts in this matter are not in dispute. The parties submitted the following stipulated facts: "1. Norman C. de Leuze and Rosa Lee de Leuze doing business as ZD Wines ('[ZD]') hold a winegrower's license. [¶] 2. Mel-Jen, a California corporation doing business as Wally's ('Wally's'), holds an off-sale general retail license at 2107-09 Westwood Boulevard, Los Angeles, California. [¶] 3. George Rice & Sons ('George Rice') is a printer and holds no alcoholic beverage licenses. [¶] 4. George Rice contracted with Wally's to produce a holiday gift catalog ('Wally's catalog') in 1995 and 1996. [¶] 5. [ZD] paid George Rice $650 for a wine advertisement placed in the 1995 Wally's catalog and $750 for a wine advertisement placed in the 1996 Wally's catalog. [¶] 6. The Wally's catalogs contained exclusively products carried by Wally's. [¶] 7. The Wally's catalogs were distributed to over 125,000 customers in the Los Angeles area. [¶] 8. The Wally's catalogs contained Wally's phone number, fax number and address, information about the products and how to order them exclusively from Wally's. [¶] 9. In April 1996, George Rice placed $7,164.03 in Wally's US Postal Service Account." It was also undisputed that, but for payment by ZD and others, Wally's would have been required to pay George Rice & Sons for the cost of producing the catalog.

In August 1998 the Department filed an accusation against ZD, alleging two violations of Business and Professions Code [FN1] section 25502, subdivision (a)(2). The first count alleged that "[o]n or about August 11, 1995, [ZD] did furnish, give or lend money or other thing of value, directly or indirectly, to a person engaged in operating, owning or maintaining an off-sale licensed premises, to wit: a $650.00 payment to George Rice & Sons, Inc., for a wine product advertisement placed in a publication belonging to Mel Jen, a California corporation, [Wally's] who then and there held an off-sale general license, in violation of Section 25502(a)(2) of the California Business and Professions Code." The second count mirrored the allegations for a $750 payment made the following year. ZD filed a notice of defense pursuant to Government Code section 11506 and the matter was set for a hearing.

FN1 Unless otherwise noted all statutory references are to the Business and Professions Code.

Following a one-day hearing the administrative law judge (ALJ) issued his proposed decision, in which he concluded that section 25502, subdivision ***1071** (a)(2) had been violated and that cause for suspension of ZD's license had been established. The ALJ found that payments by ZD to George Rice & Sons were indirect payments to Wally's, the sponsor of the catalogs and the only retail outlet mentioned in the two catalogs. The ALJ proposed that a fine of $10,000 be paid as an alternative to actual suspension of the license in accord with section 23095. The Department adopted the proposed decision.

ZD appealed the Department's decision to the Board. The Board reversed the decision of the Department. Conceding that "there is something to be said for the Department's arguments based on the 'tied house' legislation," the Board nonetheless was "not ... convinced." Relying primarily on California Attorney General Opinion No. NS216 (Mar. 22, 1937) (hereafter 1937 opinion), the Board concluded that the interpretation the Department placed on the transactions at issue was "unreasonably restrictive."

We granted the Department's petition for a writ of review pursuant to section 23090.2.

II. Discussion

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

100 Cal.App.4th 1066, 123 Cal.Rptr.2d 278, 02 Cal. Daily Op. Serv. 6981, 2002 Daily Journal D.A.R. 8699
(Cite as: 100 Cal.App.4th 1066)

(1a) The Department's primary contention is that the Board erred in reversing the Department's decision by substituting its interpretation of the Alcoholic Beverage Control Act (§ 23000 et seq.) (Act) for that of the Department's, thus exceeding its limited scope of review. We agree.

A. *Standard of Review*

The administration of the Act, within its scope and purposes, is initially vested in the Department. (Cal. Const., art. XX, § 22; see also § 23000 et seq.) The Department's decisions are subject to administrative review by the Board. (§ 23084.) After the Board has issued a final order, the Department's decision is also subject to judicial review in the Supreme Court or the Court of Appeal. (§ 23090.2.)

(2) The scope of review of both the Board and the courts is a narrow one. "The review by the board of a decision of the department shall be limited to the questions: [¶] (a) Whether the department has proceeded without, or in excess of, its jurisdiction. [¶] (b) Whether the department has proceeded in the manner required by law. [¶] (c) Whether the decision is supported by the findings. [¶] (d) Whether the findings are supported by substantial evidence in the light of the whole record. [¶] (e) Whether there is relevant evidence, which, in the exercise of reasonable diligence, could not ***1072** have been produced or which was improperly excluded at the hearing before the department." (§ 23084.)

Section 23090.2 directs the courts to review, not the Board's decision, but the Department's decision, addressing the same enumerated questions. The statute goes on to provide: "Nothing in this article shall permit the court to hold a trial de novo, to take evidence, or to exercise its independent judgment on the evidence." (*Ibid.*) Thus, in deciding the issues before us our role is limited to determining, based upon a review of "the whole record of the department," whether the *Department's* decision is subject to reversal on the grounds specified in section 23090.2.

(3) If the Department's administrative action declares or applies legal rules, or sets forth conclusions of law which are drawn from adjudicated or undisputed facts, it is subject to review only for insufficiency of the evidence, excess of jurisdiction, errors of law, or abuse of discretion. (*Boreta Enterprises, Inc. v. Department of Alcoholic Beverage Control* (1970) 2 Cal.3d 85, 95 [84 Cal.Rptr. 113, 465 P.2d 1].) " '[T]he discretion exercised by the Department ... ' 'is not absolute but must be exercised in accordance with the law, and the provision that it may revoke [or deny] a license "for good cause" necessarily implies that its decisions should be based on sufficient evidence and that it should not act arbitrarily in determining what is contrary to public welfare or morals.' " [Citations.] Nevertheless, *it is the Department, and not the Board or the courts, which must determine whether "good cause" exists for denying a license upon the ground that its issuance would be contrary to public welfare or morals.* [Citations.]' " (*Kirby v. Alcoholic Bev. etc. Appeals Bd.* (1973) 33 Cal.App.3d 732, 736-737 [109 Cal.Rptr. 291]; see also *Sepatis v. Alcoholic Bev. etc. Appeals Bd.* (1980) 110 Cal.App.3d 93, 102 [167 Cal.Rptr. 729] [if the Department's determination is a reasonable one, neither the Board nor the courts may substitute a contrary decision even if such decision would be equally or more reasonable].) Although most cases address the Department's discretionary powers in the context of the revocation, granting or denial of a license, the same deferential standard of review should and would apply to the Department's discretionary powers to determine whether there is good cause to suspend a license, since all of the powers derive from the same constitutional source. (Cal. Const., art. XX, § 22.)

We evaluate the decision of the Department in light of the jurisdiction of the Department and the legislative purposes of the Act.

B. *Jurisdiction of the Department*

The Department has been granted exclusive jurisdiction to "license the manufacture, importation and sale of alcoholic beverages in the State ...." ***1073** (Cal. Const., art. XX, § 22, par. 9.) The Department also has the power, "in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude." (*Ibid.*) (4) The discretion legally vested in an administrative body, such as the Department, is broad and inclusive and is not subject to judicial control when exercised within its legal limits. (*Walsh v. Kirby* (1974) 13 Cal.3d 95, 103 [118 Cal.Rptr. 1, 529 P.2d 33]; *Martin v. Alcoholic Bev. etc. Appeals Bd.* (1959) 52 Cal.2d 287, 295

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

100 Cal.App.4th 1066, 123 Cal.Rptr.2d 278, 02 Cal. Daily Op. Serv. 6981, 2002 Daily Journal D.A.R. 8699
(Cite as: 100 Cal.App.4th 1066)

[341 P.2d 296].) However, deference to the Department's interpretation of the Act is not unlimited. It is subject to review and intervention by the Board and the courts in the event that the Department acts in an arbitrary and capricious manner, or in a manner which is not in conformity with the spirit of the law. (*Walsh v. Kirby, supra,* 13 Cal.3d at p. 106.)

C. *Background of Alcoholic Beverage Control Laws*

(5) The legislative background of the alcoholic beverage control laws and of section 25502 was aptly summarized by the California Supreme Court in *California Beer Wholesalers Assn., Inc. v. Alcoholic Bev. etc. Appeals Bd.* (1971) 5 Cal.3d 402, 407-408 [96 Cal.Rptr. 297, 487 P.2d 745] (*California Beer Wholesalers*): "Following repeal of the Eighteenth Amendment, the vast majority of states, including California, enacted alcoholic beverage control laws. These statutes sought to forestall the generation of such evils and excesses as intemperance and disorderly marketing conditions that had plagued the public and the alcoholic beverage industry prior to prohibition. [Citations.] By enacting prohibitions against 'tied-house' arrangements, state legislatures aimed to prevent two particular dangers: the ability and potentiality of large firms to dominate local markets through vertical and horizontal integration [citation] and the excessive sales of alcoholic beverages produced by the overly aggressive marketing techniques of larger alcoholic beverage concerns [citations]. [¶] The principal method utilized by state legislatures to avoid these antisocial developments was the establishment of a triple-tiered distribution and licensing scheme. [Citations.] Manufacturing interests were to be separated from wholesale interests; wholesale interests were to be segregated from retail interests. In short, business endeavors engaged in the production, handling, and final sale of alcoholic beverages were to be kept 'distinct and apart.' [Citation.] [¶] ... All levels of the alcoholic beverage industry were to remain segregated; firms operating at one level of distribution were to remain free from involvement in, or influence over, any other level." (Fn. omitted.) It is these legislative objectives that the tied-house provisions of California's alcoholic beverage control laws seek to effectuate. ***1074**

D. *Department's Interpretation and Application of Section 25502, Subdivision (a)(2)*

(1b) Section 25502, one of the so-called tied-house laws, provides: "(a) No ... winegrower, ... California winegrower's agent, ... or wholesaler ... shall ...: [¶] ... [¶] (2) Furnish, give, or lend any money or other thing of value, directly or indirectly, to, or guarantee the repayment of any loan or the fulfillment of any financial obligation of, any person engaged in operating, owning, or maintaining any off-sale licensed premises." Based upon the stipulated facts presented, the Department concluded that all of the elements of section 25502, subdivision (a)(2) were present: ZD is a winegrower and a licensed supplier. Wally's is a licensed off-sale retailer. ZD furnished money to publisher George Rice & Sons to pay a portion of Wally's financial obligation to the publisher for the production of Wally's exclusive catalog. Therefore, ZD furnished to Wally's something of value in violation of the statute.

ZD challenges that determination. It argued below and argues here that section 25502, subdivision (a)(2) only prohibits gifts or other unilateral transfers from manufacturers or wholesalers to retailers and, therefore, this transaction is not a violation of the statute but only a straightforward purchase of advertising-a bilateral contract for which consideration was paid. Although this contention finds some support in the Attorney General's 1937 opinion, the Department concluded that ZD's interpretation of the statute "would place the Department in the impracticable position of having to examine transactions between winegrowers and licensed retailers to determine whether the transactions constituted fair value exchanges.... [¶] ... [¶] To limit the reach of the statute's use of 'furnish' to unilateral contracts as urged by [ZD] would invite suppliers to engage in subterfuges regarding the fair value exchanges cited by [ZD] as a non-proscribed activity between suppliers and retailers and [would] defeat the Legislature's intent to limit vertical and horizontal integration of the alcoholic beverage industry." We agree with the Department.

Viewed in the context of the purposes of the tied-house laws, ZD did not merely "purchase ... an advertisement" as it might do, for example, in a newspaper or magazine of general circulation. Rather, ZD paid money to place wine advertisements in a licensed retailer's sales catalog. The catalog promoted Wally's exclusively, containing only Wally's telephone number, fax number, and address and only information about the products sold at Wally's and how to order them from Wally's. The catalog was then sent to over 125,000 consumers in the Los Angeles

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

area, bringing Wally's and all of ***1075** its products directly to the consumer's doorstep. Thus, ZD contributed a valuable and tangible benefit to Wally's by participating in paying for the production of its exclusive sales catalog-in essence, a "virtual" retail establishment.

The Department's decision that this violated the prohibition against a winegrower's furnishing anything of value to a retailer is consistent with the legislative purpose of the tied-house laws, as articulated in the *California Beer Wholesalers* decision. There, the Supreme Court made clear that all "firms operating at one level of distribution were to remain free from involvement in, or influence over, any other level." (*California Beer Wholesalers, supra,* 5 Cal.3d at p. 408.) An ongoing relationship between a winegrower and a retailer such as that between ZD and Wally's could easily lead to the kind of influence of a supplier over a retailer the statutes were intended to prevent, for example, by causing the retailer to favor or "push" the products of the wholesaler who chooses to pay for advertising in the retailer's catalog. " '[T]he [tied-house] prohibition ... exists primarily to remove the influence by the manufacturer over the wholesaler and the wholesaler over the retailer, a practice which might result in preference for the manufacturer's or wholesaler's product....' 32 Ops.Cal.Atty.Gen. 75, 76 (1958)." (*Id.* at p. 408, fn 8.)

ZD contends the 1937 opinion, interpreting the statutory predecessor to section 25502, and relied upon by the Board, is controlling. In that opinion, the Attorney General concluded the statute would not be violated "if advertising were placed [by a supplier] in the magazine of a club which held an on-sale license, where the magazine was circulated to the members and friends of the club at their homes or offices, even though a few copies of the magazine might also be retained in the reading rooms of the club." (1937 opn.) The Attorney General construed the word "giving" in the statute to mean "donating" and, therefore, opined that a "bona fide purchase of advertising space" would not be prohibited. (*Ibid.*) The Department did not act unreasonably in declining to follow this opinion.

(6),(1c) First, while an opinion of the Attorney General is entitled to great weight, it is not controlling legal authority. This is particularly true where, as here, there is case authority in existence interpreting the statute at issue. [FN2] (*Thorpe v. Long Beach Community College Dist.* (2000) 83 Cal.App.4th 655, 662-663 [99 Cal.Rptr.2d 897].) Furthermore, the facts upon which the 1937 opinion was predicated are substantially different from ***1076** the stipulated facts presented for review in this case. The 1937 opinion involved advertising in a club's magazine, not in the sales catalog of a retailer. Presumably, the magazine was a club newsletter, not a means for soliciting mail-order purchases by club members from the club. [FN3] Thus, the benefit of the advertising in the club's magazine would inure to the advertiser whose purpose is to generate sales of its product at bars, restaurants and stores. The Attorney General was not asked to comment upon a situation where, as here, the benefit of the advertising would inure not only to the advertiser, but also to a single off-sale retail licensee.

> FN2 ZD correctly argues that there is no legal authority that directly interprets subdivision (a)(2) of section 25502. However, *California Beer Wholesalers*, cited by the Department in its decision, contains an extensive discussion of the tied-house laws generally and of section 25502 specifically.

> FN3 Indeed, in the context of the law prohibiting a supplier from advertising on the premises of a retail establishment, the 1937 opinion distinguishes between a magazine in general circulation and a program handed out where a licensed retail establishment conducts business, such as at a baseball game.

ZD next contends that the Department's interpretation of section 25502, subdivision (a)(2) would lead to the absurd result of prohibiting winegrowers or suppliers from purchasing *any* goods and services from any licensed retailers. It argues that if the purchase of an advertisement placement is prohibited under section 25502, subdivision (a)(2), then the purchase of any goods or services from a licensed retailer, whether a loaf of bread, a tube of toothpaste or a pound of onions is also a prohibited purchase. But the purchase of a loaf of bread at a grocery store is not analogous to the placement of a wine advertisement in a retailer's catalog; the "thing of value" furnished here related directly to sales of alcoholic beverages. As the Department noted, it "exercises its discretion to not consider regular commercial transactions unrelated to the sale or distribution of alcoholic beverages as a violation of Section 25502(a)(2)."

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

100 Cal.App.4th 1066, 123 Cal.Rptr.2d 278, 02 Cal. Daily Op. Serv. 6981, 2002 Daily Journal D.A.R. 8699
(Cite as: 100 Cal.App.4th 1066)

ZD counters with the contention that the "regular consumer transactions" exception is, in effect, an improper, ad hoc amendment to the statute and, therefore, the Department has not proceeded as required by law and its decision is in excess of its jurisdiction. [FN4] ZD also contends the Department's decision renders the reach of the statute "unknown and unknowable" and is an invitation to arbitrary and discriminatory enforcement actions by the ***1077** Department. This contention fundamentally ignores both the authority conferred on the Department by the Constitution to exercise "its discretion, to deny, suspend or revoke any specific alcoholic beverages license" (Cal. Const., art. XX, § 22, par. 9) and the power conferred on the Department by statute to liberally construe and strictly enforce the alcoholic beverage control laws (§§ 23001 & 23049). It is thus well within the Department's purview to determine that section 25502 applies to certain transactions but not to others.

> FN4 ZD argues: "In essence the Department's newly promulgated 'enforcement condition' ... would rewrite Section 25502 to state: [¶] 'No [supplier] ... shall ... [f]urnish, give, or lend any money or other thing of value OR PURCHASE, directly or indirectly, to, OR FROM ..., any person engaged in operating, owning, or maintaining any off-sale licensed premises UNLESS THE DEPARTMENT DETERMINES IN ITS DISCRETION THAT SUCH CONDUCT (A) IS NOT IN CONNECTION WITH OR UNRELATED TO THE SALE OR DISTRIBUTION OF ALCOHOLIC BEVERAGES AND (B) HAS BEEN PERFORMED BY SUCH SUPPLIER ... IN THE CAPACITY OF AN INDIVIDUAL OR REGULAR CONSUMER.' "

The fact that the application of section 25502, subdivision (a)(2) has been and will be subject to interpretation by the Department in the exercise of its discretion is unremarkable. Hundreds of laws and regulations are subject to interpretation and application by state and local agencies designated to administer them; in so doing, the exercise of discretion is common. And the courts routinely review these decisions for "abuse of discretion." (Code Civ. Proc., § 1094.5.) As with other agencies, the Department's discretion is circumscribed by articulated standards and is subject to both administrative and judicial review. (§§ 23084 & 23090.2; see also *Kirby v. Alcoholic Bev. etc. Appeals Bd., supra*, 33 Cal.App.3d at p. 738 [court upheld the Department's interpretation of a statute because it was a "reasonable" one, while noting that a different interpretation would have been unreasonable].) Accordingly, we need not address or anticipate the specter, conjured by ZD, of arbitrary and subjective decisionmaking by the Department in determining what is and is not prohibited under section 25502, subdivision (a)(2).

ZD contends that section 25502, subdivision (a)(2) cannot prohibit paid advertising through a retailer's mailed catalog because section 25503, subdivision (h), which governs other prohibited conduct between suppliers and retailers, specifically prohibits only *on-premises* advertising. Therefore, ZD reasons, any other kind of advertising must be permitted. First, this contention cannot be correct, because if it were, then section 25503.3, subdivision (b)-permitting a supplier to advertise in the publication of a bona fide trade association *only* "if that publication does not advertise on behalf of, or directly benefit, any individual retail licensee"-would be superfluous. Additionally, in this day and age, it would make no sense to prohibit advertising on the *premises* of a retailer but allow advertising in a retailer's exclusive *catalog*. For mail order houses, the catalog is often the only "premises" the retailer has.

A similar argument was rejected by the California Supreme Court in *California Beer Wholesalers*. There, the Department denied the application of a licensed off-sale retailer for a wholesale liquor license as being a ***1078** violation of the tied-house provisions of section 25502. The Board reversed the Department's decision, applying the following reasoning: Section 25502 provides that no wholesaler of beer, wine or distilled spirits may hold an interest in a retailer's off-sale liquor license. But section 25506 by its terms only prohibits a retailer from holding any interest in the business of a "distilled spirits wholesaler, ... manufacturer, ... or manufacturer's agent." Therefore, under the doctrine of *inclusio unius est exclusio alterius* a retailer is free to acquire a wholesaler's beer and wine license. (*California Beer Wholesalers, supra,* 5 Cal.3d at pp. 405-406.) The court disagreed. "[T]he attempt to use section 25506 to nullify the general prohibition of section 25502 would also nul-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

100 Cal.App.4th 1066, 123 Cal.Rptr.2d 278, 02 Cal. Daily Op. Serv. 6981, 2002 Daily Journal D.A.R. 8699
(Cite as: 100 Cal.App.4th 1066)

lify the Legislature's basic objective of erecting a triple-tiered system of distribution and licensing and would thereby weaken the entire framework of the statutory structure." (*Id.* at p. 411.) Similarly, here, the narrow prohibition contained in section 25503, subdivision (h) cannot be used to nullify the general prohibition of section 25502 and the basic objective of the tied-house statutes.

Finally, ZD makes the unadorned assertion that the only constitutionally permissible interpretation of section 25502 would be one which allows ZD to place paid advertising *anywhere* except on the premises of a retailer, citing *Actmedia, Inc. v. Stroh* (9th Cir. 1986) 830 F.2d 957. ZD complains that the Department "ignores *Actmedia* and its analysis" and engages in a " 'duck and avoid' technique" by "asserting that administrative agencies cannot declare a statute unconstitutional." In our opinion, however, it is ZD who "ducks" the issue. ZD fails to provide this court with its own analysis of *Actmedia* or any other relevant authority, as applied to the facts in this case, which might lead us to conclude that the Department's enforcement action under section 25502 in this limited context creates a constitutional question. [FN5] Mere suggestions of error without supporting argument or authority other than general abstract principles do not properly present grounds for appellate review. The court is not required to make an independent, unassisted study of the record in search of error. The point is treated as waived and we pass it without further consideration. (*Lowery v. Robinson* (1965) 238 Cal.App.2d 36, 39 [47 Cal.Rptr. 495]; *Interinsurance Exchange v. Collins* (1994) 30 Cal.App.4th 1445, 1448 [37 Cal.Rptr.2d 126].)

> FN5 For example, ZD nowhere mentions the four-part analysis set forth in *Central Hudson Gas & Elec. v. Public Serv. Comm'n* (1980) 447 U.S. 557, 566 [100 S.Ct. 2343, 2351, 65 L.Ed.2d 341], which provides the framework for testing the constitutionality of laws that limit commercial speech.

ZD's reliance on *Actmedia* seems to be misplaced, in any event, because the rationale of *Actmedia* supports, rather than undercuts, the Department's ***1079** decision. There, the court related the legislative history of the alcoholic beverage control laws. (*Actmedia, Inc. v. Stroh, supra,* 830 F.2d at pp. 959-961.) *Actmedia* concluded that section 25503, subdivision (h) (prohibiting suppliers from purchasing on-premises advertising from retailers) was designed to "eliminate the possibility that such [advertising] payments could be used by large-scale operators to purchase favored treatment for their products by individual retailers, or even exclusion of their products' competing brands.... The concern that advertising payments could be used to conceal illegal payoffs to alcoholic beverage retailers appears to have been widely held at the time of section 25503(h)'s enactment, ... and we 'hesitate to disagree with the accumulated, common-sense judgments of [the] lawmakers' who originally enacted the provision or who have retained it in effect. [Citation.]" (*Actmedia,* at pp. 966-967.)

The same rationale applies to section 25502, subdivision (a)(2) and the extant facts. Here, the manufacturer paid for advertising in the exclusive catalog of the retailer. Unquestionably, the purpose of the exclusive catalog was to have the consumer purchase the winemaker's product *from the retailer*. This creates the potential for manufacturers and suppliers to gain "favored treatment for their products by individual retailers, or even exclusion of their products' competing brands" in violation of the tied-house laws. (*Actmedia, Inc. v. Stroh, supra,* 830 F.2d at pp. 966-967.) Further, a flat prohibition precluding manufacturers from making any payments to retailers for advertising has the salutary effect of "eliminat[ing] any danger that such payments will be used to conceal illegal payoffs and violations of the tied-house laws ...." (*Id.* at p. 967.)

E. *No Applicable Exception to Section 25502 Governs These Facts*

Having concluded that the Department correctly found the elements of a violation of section 25502, subdivision (a)(2) were established, it remains for us to determine whether such conduct is otherwise authorized anywhere else in the Act. [FN6] Our review of the Act turns up no authorization for supplier/winegrower licensees to pay for advertising in a catalog for a single retail licensee. To the contrary, the Legislature specifically authorized suppliers to advertise in "any regular publication of a bona fide trade association the members of which are ... retailers" *but only if* that publication "does not advertise on behalf of, or directly benefit, any individual retail licensee." (§ 25503.3, subd. (b).) As noted by the Department, if section 25502, subdivision (a)(2) is somehow construed to allow suppliers to advertise in ***1080** the

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

catalog of a single retailer, why would the Legislature have created this exception allowing suppliers to advertise in a generic trade association publication so long as the publication does *not* benefit an individual retailer? We conclude the Legislature could not have intended to make an exception where there was no rule.

FN6 Section 25502, subdivision (a)(2) prohibits a supplier from furnishing anything of value to a retailer "except as authorized by this [Act]."

III. Disposition

In this proceeding we do not determine whether the decision of the Board can or should be affirmed; we determine only whether the Department's decision must be overturned based on any of the grounds set forth in section 23090.2. For the reasons set forth above, we hold-and the Board appears to concede-that the Department's interpretation of the statute is a rational one. Accordingly, it was error for the Board to substitute its own interpretation for that of the Department, nor are we allowed to supplant the Department's decision with one of our own. Having discovered no grounds for reversing the Department's decision, the Board's decision is vacated and the decision of the Department is reinstated.

Reardon, Acting P. J., and Sepulveda, J., concurred.
***1081**

Cal.App.1.Dist.
Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.
100 Cal.App.4th 1066, 123 Cal.Rptr.2d 278, 02 Cal. Daily Op. Serv. 6981, 2002 Daily Journal D.A.R. 8699

END OF DOCUMENT

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

SCOTT RUSSELL DuBOIS, Petitioner,
v.
WORKERS' COMPENSATION APPEALS BOARD, ROBERT A. ROHRER et al., Respondents.
No. S018824.

Supreme Court of California
Jun 28, 1993.

SUMMARY

The state Uninsured Employers Fund (UEF) stipulated with an injured employee to pay his workers' compensation benefits. When the UEF failed to make payments, the employee petitioned the Workers' Compensation Appeals Board (WCAB) requesting the assessment against the UEF of a 10 percent penalty for unreasonable delay in the payment of benefits pursuant to Lab. Code, § 5814. The workers' compensation judge found that the UEF had unreasonably delayed payment and assessed the penalty. The WCAB reversed the decision, concluding that Lab. Code, § 3716.2, exempted the UEF from payment of penalties for its own delay in paying benefits. The Court of Appeal, Second Dist., Div. Six, No. B053655, annulled the decision of the WCAB, determining that Lab. Code, § 3716.2, only exempted the UEF from penalties assessed against an employer and that the UEF was liable for penalties for its own unreasonable delay.

The Supreme Court reversed the judgment of the Court of Appeal and remanded to that court with directions to reinstate the decision of the WCAB annulling the penalties for unreasonable delay imposed against the UEF. The court held that Lab. Code, § 3716.2, exempted the UEF from payment of penalties, including penalties for its own delay in paying benefits. The Legislature created the UEF as a source of benefits for injured employees whose employers had failed to obtain workers' compensation liability coverage. However, the Legislature expressed no concern for the timeliness of the UEF's payments of benefits and intended the liability of the UEF to be derivative of the employer's liability rather than vicarious. Nothing suggests a legislative intent that the UEF pay anything other than the amount awarded against the employer. Moreover, Lab. Code, § 5814, was enacted to induce prompt payment from employers and insurers who have an economic incentive not to pay promptly, and the UEF has no such incentive. Further, statutory penalties generally do not apply to public entities. (Opinion by George, J., with Lucas, C. J., Panelli, Kennard, Arabian and Baxter, JJ., concurring. Separate dissenting opinion by Mosk, J.)

HEADNOTES

Classified to California Digest of Official Reports

(1a, 1b, 1c, 1d, 1e, 1f, 1g) Workers' Compensation § 86-- Proceedings Before Workers' Compensation Appeals Board--Penalty for Delay of Payment of Benefits--Application of Penalty to State Uninsured Employers Fund.
Lab. Code, § 3716.2, which provides that the state Uninsured Employers Fund (UEF) is not liable for any penalties, exempted the UEF from the 10 percent penalty of Lab. Code, § 5814, for its own unreasonable delay in paying benefits to an injured worker with whom it had stipulated to pay benefits. The Legislature created the UEF as a source of benefits for injured employees whose employers had failed to obtain workers' compensation liability coverage. However, the Legislature expressed no concern for the timeliness of the UEF's payments of benefits and intended the liability of the UEF to be derivative of the employer's rather than vicarious. Nothing suggests a legislative intent that the UEF pay anything other than the amount awarded against the uninsured employer. Moreover, Lab. Code, § 5814, was enacted to induce prompt payment from employers and insurers who have an economic incentive not to pay promptly, and the UEF has no such incentive. Further, statutory penalties generally do not apply to public entities (Gov. Code, § 818).
[See **Cal.Jur.3d**, Work Injury Compensation, §§ 317, 318; 2 **Witkin**, Summary of Cal. Law (9th ed. 1987) Workers' Compensation, §§ 142, 408.]
(2) Statutes § 29--Construction--Language--Legislative Intent.
A fundamental rule of statutory construction is that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. In construing a statute, the court's first task is to look to the language of the statute itself. When the language is clear and

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

there is no uncertainty as to the legislative intent, the court looks no further and simply enforces the statute according to its terms.

(3) Statutes § 39--Construction--Giving Effect to Statute--Conformation of Parts.
In construing statutory language, a court must consider the language in the context of the entire statute and the statutory scheme of which it is a part. The court is required to give effect to statutes according to the usual, ordinary import of the language employed in framing them. If possible, significance should be given to every word, phrase, sentence, and part of an act in pursuance of the legislative purpose. When used in a statute, words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear. Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole.

(4) Workers' Compensation § 3--Nature and Purpose.
The right to workers' compensation benefits is wholly statutory and is not derived from common law.

(5) Workers' Compensation § 121--Insurance--Uninsured Employers Fund-- Employers' Nonpayment as Prerequisite to Claim.
Failure of the employer to pay a benefit award within 10 days of notification, as required by Lab. Code, § 3715 (action against employer failing to secure payment of compensation), is a condition precedent to the employee's demand for payment upon the Uninsured Employers Fund.

(6) Statutes § 43--Construction--Aids--Committee Reports.
Reports made by legislative committees and commissions during the legislative process come within the category of material a court may consider when the meaning of a statute is uncertain.

(7) Workers' Compensation § 86--Proceedings Before Workers' Compensation Appeals Board--Penalty for Delay in Payment of Benefits--Purpose of Statute.
The assessment for late payment of workers' compensation benefits, imposed by Lab. Code, § 5814, is designed to compel the employer of the injured employee, or the employer's workers' compensation insurance carrier, to make payments of compensation in a reasonable and timely fashion, and to effect the equally important purpose of the statutory scheme, which is to encourage timely payments of compensation to injured working people to promptly ameliorate economic hardship resulting from the interruption of their employment and concomitant loss of income. The penalty applies to virtually all types of benefits provided by the workers' compensation laws, including temporary and permanent disability indemnity, interest on an award, amounts awarded as reimbursement for self-procured medical costs, and medical-legal costs. Although § 5814 is denominated a penalty statute, it is considered to be both remedial and penal. The 10 percent increase is an increase in the compensation awarded to the injured worker, and the statute itself requires that the award be amended to include the amount of the penalty imposed.

(8) Workers' Compensation § 5--Construction of Statutes.
The rule of liberal construction of workers' compensation statutes, stated in Lab. Code, § 3202, should not be used to defeat the overall statutory framework and fundamental rules of statutory construction.

COUNSEL

William A. Herreras for Petitioner.

Phillip N. Bruce as Amicus Curiae on behalf of Petitioner.

John M. Rea, Leland D. Starkey, Vanessa L. Holton, Raoul Thorbourne and Sue Tuskes for Respondents.

GEORGE, J.

In this case we must determine whether the State of California Uninsured Employers Fund (UEF), whose function it is to pay workers' compensation benefits in the event the employer of an injured worker is not insured for workers' compensation liability, is subject to payment of a penalty pursuant to Labor Code section 5814 [FN1] for the UEF's own unreasonable delay in payment of benefits to the injured worker.

FN1 All further statutory references are to the Labor Code unless otherwise indicated.

The UEF asserts that section 3716.2 exempts it from any penalty for unreasonable delay in the payment of

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

benefits pursuant to section 5814, whether the entity responsible for the delay is the employer or the UEF. Scott Russell DuBois, an employee whose benefits were delayed, asserts that section 3716.2 exempts the UEF only from paying those penalties that otherwise would be due from an employer for unreasonable delay or other misconduct on the part of the employer, but not from the UEF's own unreasonable delay in paying benefits. We conclude that sections 3716 and 3716.2, defining the obligations and limiting the liability of the UEF, do not permit imposition of any penalty mandated by section 5814 against the UEF, even for its own unreasonable delay in paying valid claims for workers' compensation. Accordingly, we reverse the judgment of the Court of Appeal and order it to reinstate the decision of the Workers' Compensation Appeals Board (WCAB), which had determined that the UEF is not liable for the payment of a penalty pursuant to section 5814.

I

On June 24, 1988, applicant DuBois sustained an injury to his neck while employed by Robert Rohrer, doing business as Rohrer Trucking, which ***386** entity subsequently was determined by the WCAB to be willfully uninsured for its liability to pay workers' compensation. The Rehabilitation Bureau of the Division of Industrial Accidents (Rehabilitation Bureau) determined DuBois was eligible for temporary disability indemnity payments during vocational rehabilitation (§§ 139.5, 3207) and, on April 20, 1989, awarded him vocational rehabilitation temporary disability (VRTD) benefits from the date of October 13, 1988, forward, its decision and order subsequently becoming final when Rohrer Trucking did not object or appeal. Despite its lack of insurance, Rohrer Trucking until mid-1989 paid most of DuBois's medical bills and provided VRTD benefits. On August 22, 1989, after conducting a hearing, a workers' compensation judge (WCJ) made "findings and [an] award" against Rohrer Trucking for the payment of the VRTD benefits to DuBois.

When Rohrer Trucking failed to make such payments, DuBois requested a supplemental hearing before the WCAB, seeking, pursuant to section 3716, subdivision (a), to collect from the UEF the award DuBois had received against Rohrer Trucking, and seeking, pursuant to section 5814, an additional amount in penalties for the unreasonable delay on the part of Rohrer Trucking in paying the benefits. On December 14, 1989, defendant Director of Industrial Relations, as administrator of the UEF Fund (§ 3710), stipulated with DuBois that his injury had caused his temporary disability and had created the need for VRTD benefits from June 25, 1988, to December 14, 1989, and for medical treatment. The UEF further stipulated it would administer and pay the balance of unpaid VRTD benefits that were owed DuBois through December 14, 1989, continue to pay VRTD benefits pursuant to the Rehabilitation Bureau's decision and order of April 20, 1989, satisfy an outstanding lien for rehabilitation services previously received by DuBois, and "pay, adjust or litigate unpaid self-procured medical" expenses. On the same date, this stipulation was entered by a WCJ as an award in favor of DuBois against the UEF. Neither the stipulation nor the award included provision for any penalties.

Not having received any payment from the UEF, DuBois on February 15, 1990, filed a petition with the WCAB, requesting that, pursuant to section 5814, a penalty of 10 percent be assessed against the UEF for its own unreasonable delay in paying the stipulated benefits. On May 24, 1990, the WCJ conducted a hearing to determine whether the UEF unreasonably had delayed making the payments. At that proceeding, DuBois stated he had received no payments under the December 14, 1989, award, and a UEF representative stated that the UEF had been unable to determine whether payments to DuBois had been made. Having requested and received written briefing on the question whether section 3716.2 precluded the assessment of ***387** any penalties against the UEF, the WCJ on June 14, 1990, issued findings and an award, determining that the UEF unreasonably had delayed payment of the stipulated benefits, and that the UEF was not exempted by section 3716.2 from penalties for its own unreasonable delay in paying the award. The WCJ ordered the UEF to pay the benefits as well as a penalty of 10 percent of the benefits awarded on December 14, 1989, pursuant to section 5814.

The UEF petitioned the WCAB for reconsideration. After granting the petition, the WCAB reversed the decision of the WCJ, concluding that section 3716.2 exempted the UEF from payment of any penalties for its own failure to pay benefits in a timely manner. Thereafter, the Court of Appeal summarily denied DuBois's petition for a writ of review, and DuBois petitioned for our review. We granted review and

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

ordered the case transferred to the Court of Appeal, directing that it issue the writ requested and review the case.

The Court of Appeal, over the dissent of one justice, determined that the language of section 3716.2 is ambiguous, and, relying upon the legislative history of that statute, construed it to provide that, although the UEF may not be held liable for penalties assessed against the uninsured employer, it is not exempt from the payment of penalties for its own unreasonable delay in paying workers' compensation benefits. The dissent concluded that section 3716.2 precludes the imposition of any penalties against the UEF for its own unreasonable delay. We granted review.

II

(1a) The parties and the Court of Appeal have focussed upon the meaning of the sentence, contained in section 3716.2, that provides: "The Uninsured Employers Fund shall not be liable for any penalties or for the payment of interest on any awards." The parties request that we determine whether that directive exempts the UEF from the penalties for unreasonable delay that may be imposed upon employers or their insurance carriers in workers' compensation cases.

(2) A fundamental rule of statutory construction is that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. (*Nickelsberg v. Workers' Comp. Appeals Bd.* (1991) 54 Cal.3d 288, 294 [285 Cal.Rptr. 86, 814 P.2d 1328]; *Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230 [110 Cal.Rptr. 144, 514 P.2d 1224].) In construing a statute, our first task is to look to the language of the statute itself. (*Ibid.*) When the language is clear and there is no uncertainty as to the ***388** legislative intent, we look no further and simply enforce the statute according to its terms. (*Hutnick v. United States Fidelity & Guaranty Co.* (1988) 47 Cal.3d 456, 464 [253 Cal.Rptr. 236, 763 P.2d 1326]; *Atlantic Richfield Co. v. Workers' Comp. Appeals Bd.* (1982) 31 Cal.3d 715, 726 [182 Cal.Rptr. 778, 644 P.2d 1257]; see Code Civ. Proc., §§ 1858, 1859.)

(3) Additionally, however, we must consider the above quoted sentence in the context of the entire statute (§ 3716.2) and the statutory scheme of which it is a part. "We are required to give effect to statutes 'according to the usual, ordinary import of the language employed in framing them.' [Citations.]" (*Moyer v. Workmen's Comp. Appeals Bd., supra,* 10 Cal.3d 222, 230; see also *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386-1387 [241 Cal.Rptr. 67, 743 P.2d 1323].) " 'If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose.' [Citation.] .... 'When used in a statute [words] must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear.' [Citations.] Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole. [Citations.]" (*Moyer v. Workmen's Comp. Appeals Bd., supra,* 10 Cal.3d 222, 230-231; see also *Nickelsberg v. Workers' Comp. Appeals Bd., supra,* 54 Cal.3d 288, 298; *Nunn v. State of California* (1984) 35 Cal.3d 616, 624-625 [200 Cal.Rptr. 440, 677 P.2d 846].) (1b) Therefore, to determine whether the Legislature intended to render the UEF liable, pursuant to section 5814, for its own unreasonable delay in paying benefits, we review not only the language of section 3716.2 but the legislative enactments of which it is a part.

III

Pursuant to the "plenary power" the Constitution has granted to the Legislature "to create, and enforce a complete system of workers' compensation" (Cal. Const., art. XIV, § 4), the Legislature has created a statutory scheme requiring all employers to secure the payment of workers' compensation to injured workers, either by obtaining insurance coverage of their liability or by obtaining a certificate of consent to self-insure issued by the Director of Industrial Relations. (§ 3700 et seq.) (4) The right to workers' compensation benefits is wholly statutory and is not derived from common law. (*Graczyk v. Workers' Comp. Appeals Bd.* (1986) 184 Cal.App.3d 997, 1002-1003 [229 Cal.Rptr. 494, 58 A.L.R.4th 1245].)

In 1971, the California Legislature created the UEF in order to provide a source of funds for injured workers whose employers have failed or refused ***389** either to obtain workers' compensation insurance coverage or to qualify as self-insurers for the employers' liability. (§ 3716, subd. (b); see *Flores v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 171, 173 [113 Cal.Rptr. 217, 520 P.2d 1033]; *Jenkins v. Workmen's Comp. Appeals Bd.* (1973) 31 Cal.App.3d 259, 263 [107

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Cal.Rptr. 130].) The program was "designed to be financed from various penalties which may be assessed against an uninsured employer," as well as from state tax revenues. (1 Herlick, Cal. Workers' Comp. Law (4th ed. 1990) § 3.20, p. 3-18; see also, *id.*, § 11.9, p. 11-8.)

(1c) The nature of the intended restrictions upon the liability of the UEF is reflected in the statutes creating that fund and defining its obligations. Initially, we consider the Legislature's express statement of its intent. Section 3716, subdivision (b), provides in pertinent part that the UEF was created "to ensure that workers who happen to be employed by illegally uninsured employers are not *deprived* of workers' compensation benefits, and is not created as a source of contribution to insurance carriers, or self-insured, or legally insured employers." (Italics added.) The language of this subdivision indicates that the primary concern of the Legislature was to create a source of benefits to the employee who otherwise would receive no benefits because of the failure or refusal of his or her employer to obtain workers' compensation liability coverage. This provision does not express a legislative concern for the timeliness of the benefits to be provided by the UEF. The clause specifying that the UEF is not to be a source of contribution for the benefit of employers or carriers emphasizes the Legislature's intent to limit the purposes for which the UEF's funds are to be applied, and to impose only derivative liability upon the UEF.

Under the statutory scheme, section 3715 requires that an injured employee who seeks payment of compensation and whose employer is uninsured apply to the WCAB, which must make an award against the employer as if the employer *had* complied with the mandate that it secure the payment of workers' compensation. If the uninsured employer fails to pay the compensation or furnish a bond within 10 days after receiving notice of the award entered against the employer, the injured employee then may apply to obtain payment from the UEF. (§ 3716, subd. (a). [FN2])

> FN2 Section 3716, subdivision (a), provides in pertinent part: "If the employer fails to pay the compensation required by Section 3715 to the person entitled thereto, or fails to furnish the bond required by Section 3715 within a period of 10 days after notification of the award, the award, upon application by the person entitled thereto, shall be paid by the director from the Uninsured Employers Fund, which fund is hereby created in the State Treasury."

(5) Pursuant to section 3716, subdivision (a), failure of the employer to pay the award within 10 days of notification thereof is made a condition ***390** precedent to a demand for payment by the employee upon the UEF. (*Ortiz v. Workers' Comp. Appeals Bd.* (1992) 4 Cal.App.4th 392, 396-397 [5 Cal.Rptr.2d 484]; *Sobiniak v. Workers' Comp. Appeals Bd.* (1984) 156 Cal.App.3d 448, 451-452 [202 Cal.Rptr. 789]; *Symmar, Inc. v. Workers' Comp. Appeals Bd.* (1982) 135 Cal.App.3d 65, 70- 71 [185 Cal.Rptr. 67]; see *Jenkins v. Workmen's Comp. Appeals Bd., supra,* 31 Cal.App.3d 259, 263 [right created (to payment of benefits by UEF) is based upon fact of nonpayment of the preexisting obligation, i.e., the award of compensation]; cf. *Germann v. Workers' Comp. Appeals Bd.* (1981) 123 Cal.App.3d 776, 780, fn. 2 [176 Cal.Rptr. 868].) (1d) Thus, it is apparent the Legislature intended to define the liability of the UEF for the payment of an award as derivative rather than vicarious, and to render the employer primarily responsible for the payment of the award even in a case in which the UEF has participated and ultimately may be required to pay the award. Nothing in these sections suggests the Legislature intended the UEF to pay any amount in excess of, or different from, the amount awarded against the uninsured employer.

We also observe that although section 3716, subdivision (a), requires the UEF to pay benefits upon demand in the event the employer fails to do so within 10 days after being notified of an award against the employer, that statute does not set a deadline by which the UEF must commence making payments. (Contrast, e.g., §§ 4650 [fixing time of commencement of temporary and permanent disability payments by employer or insurer], and 4650.5 [fixing time of commencement of disability payments arising from injury by criminal act].)

In light of the apparent legislative intent to ensure basic compensation to all employees otherwise deprived of benefits, the derivative nature of the UEF's statutory liability, and the failure of the Legislature expressly to provide a deadline within which the UEF must pay benefits after entry of the award and failure by the uninsured employer to pay the award, we be-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

lieve there is no statutory basis to support the underlying assertion of DuBois and amicus curiae that the UEF may be subject to a penalty for its own unreasonable delay in paying benefits.

Subsequent enactments pertaining to the UEF add no support to the foregoing assertion by DuBois and amicus curiae. Following the creation of the UEF, this court in 1976, in *Flores v. Workmen's Comp. Appeals Bd., supra,* 11 Cal.3d 171, interpreted the "award" for which the UEF was liable (pursuant to § 3716) to include a penalty representing a 10 percent increment in the basic amount of the award imposed against an employer wilfully failing to secure the payment of workers' compensation (§ 4554), and to ***391** include additional attorney fees awarded by reason of the employer's failure (whether wilful or negligent) to secure payment of compensation (§ 4555). (11 Cal.3d 171, 175-178.) In reaching this conclusion in *Flores,* we responded to the argument made by the UEF that, "as a matter of policy, the limited money available to the Fund should be reserved for the payment of basic compensation awards rather than statutory 'penalties,' " by observing: "[T]hat is not what the present statutory provisions dictate. As A. P. Herbert so unforgettably quipped: 'If Parliament does not mean what it says it must say so.' (Herbert, The Uncommon Law (6th ed. 1948) p. 313.)" (11 Cal.3d 171, 177.)

It is important to recognize that in *Flores,* the liability of the UEF for its own delay or for other misconduct was not in question, and, in fact, we expressly acknowledged in our decision that the UEF was not at fault. (*Flores v. Workmen's Comp. Appeals Bd., supra,* 11 Cal.3d 171, 177-178.) Thus, although that decision briefly (as explained below) provided authority for the proposition that the UEF could be liable for the entire amount of an award assessed against an employer, including (in excess of basic compensation payments) amounts representing penalties for the *employer's* failure to secure the payment of compensation, the decision did not introduce an interpretation of the basic language of section 3716 or related sections that would permit the UEF to be held liable for similar penalties based upon *its own* misconduct.

In 1976, apparently in response to our decision in *Flores v. Workmen's Comp. Appeals Bd., supra,* 11 Cal.3d 171 (see 1 Herlick, Cal. Workers' Comp. Law, *supra,* § 3.20, pp. 3- 18, 3-19; *id.,* § 11.9, p. 11-10), the Legislature enacted section 3716.2. [FN3] The first sentence of that statute resolves the issue raised in *Flores*-whether the UEF ought to be liable for the penalties (and attorney fees) imposed upon an employer who has failed to secure the payment of workers' compensation-by providing explicitly that the director shall pay only such benefits as would accrue against an employer properly insured for workers' compensation liability.

> FN3 As originally enacted, section 3716.2 provided: "Notwithstanding the precise elements of an award of compensation benefits, and notwithstanding the claim and demand for payment being made therefor to the Director of Industrial Relations, the director, as administrator of the Uninsured Employers Fund, shall pay the claimant only such benefits allowed, recognizing proper liens thereon, that would have accrued against an employer properly insured for workers' compensation liability. However, in civil suits by the director to enforce payment of an award, including procedures pursuant to Section 3717, the total amount of the award, including interest, other penalties and attorney fees granted by the award, shall be sought. Recovery, by the director, in a civil suit, or other means, of awarded benefits in excess of amounts paid the claimant by the Uninsured Employers Fund, shall be paid over to the injured employee, or his representative as the case may be." (Stats. 1976, ch. 1036, § 7, p. 4642.)

More significant to the issue presented in the present case, however, is the Legislature's intent, manifested in section 3716.2, to limit the liability of the ***392** UEF by equating the benefits it must pay with those due from the employer. The imposition of a penalty upon the UEF for its own unreasonable delay would be inconsistent with the express limitation placed upon its liability by this provision. The next sentence of the statute underscores the "employer" limitation upon the liability of the UEF, by authorizing that entity to pursue, in a civil action against the employer, enforcement of payment of the entire award, including penalties, interest, and attorney fees granted by the award (notwithstanding the UEF's own immunity from penalties and interest) and to pay to the employee any amounts collected from the employer that exceed those for which the UEF was liable.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

In 1980, following enactment of section 3716.2, the Legislature also provided that an injured employee whose employer has failed to secure the payment of workers' compensation is not limited to the exclusive remedy of seeking compensation benefits from the UEF. The employee possesses the right to proceed against the employer in the courts, by initiating a civil action for damages (§ 3706), as well as to seek compensation in a proceeding before the WCAB. (§ 3715.) [FN4] The provision of these dual rights is consistent with legislative recognition of the limited resources of the UEF and with a related legislative intent not to render entirely coextensive, with the liability of an employer, the liability of the UEF for penalties.

> FN4 Prior to the creation of the UEF in 1971, the employee of an uninsured employer was not required to elect remedies and could bring a civil action for damages against the employer as well as initiate an administrative proceeding to collect compensation. (*Jenkins v. Workmen's Comp. Appeals Bd., supra,* 31 Cal.App.3d 259, 262-263.) At the time it created the UEF, however, the Legislature amended section 3715 to afford alternative remedies to the injured employee of an uninsured employer, thus providing that any proceeding to obtain compensation ultimately culminating in liability for payment on the part of the UEF would be exclusive. (*Ibid.*) Subsequent to the enactment of section 3716.2 in 1976, and prior to its amendment in 1981 absolving the UEF of liability for penalties and interest on an award, the Legislature in 1980 reinstated cumulative remedies by amending section 3715 to allow the injured employee both a civil action and an administrative proceeding. (Stats. 1980, ch. 1091, § 5, p. 3503; see Historical Note, 44A West's Ann. Lab. Code (1989 ed.) § 3715, p. 251.)

The subsequent amendment of section 3716.2 in 1981 only reinforces the conclusion the Legislature never intended that the UEF should be liable for penalties for its own delay, and in fact intended to narrow further the scope of the UEF's liability. This amendment provides that the UEF "shall not be liable for any penalties or for the payment of interest on any awards." (Assem. Bill No. 1529 (1981-1982 Reg. Sess.), enacted by Stats. 1981, ch. 894, § 4, pp. 3409-3410.) [FN5] ***393**

> FN5 As amended, section 3716.2 provides: "Notwithstanding the precise elements of an award of compensation benefits, and notwithstanding the claim and demand for payment being made therefor to the director, the director, as administrator of the Uninsured Employers Fund, shall pay the claimant only such benefits allowed, recognizing proper liens thereon, that would have accrued against an employer properly insured for workers' compensation liability. *The Uninsured Employers Fund shall not be liable for any penalties or for the payment of interest on any awards.* However, in civil suits by the director to enforce payment of an award, including procedures pursuant to Section 3717, the total amount of the award, including interest, other penalties and attorney fees granted by the award, shall be sought. Recovery, by the director, in a civil suit, or other means, of awarded benefits in excess of amounts paid the claimant by the Uninsured Employers Fund, shall be paid over to the injured employee, or his representative as the case may be." (Italics added.)

DuBois suggests the amendment simply demonstrates a legislative intent to exempt the UEF from liability for penalties accruing because of an employer's failure to secure payment of compensation. In view of the historical development of this statute, however, which we may take into account in ascertaining the Legislature's intent (*Dyna-Med, Inc. v. Fair Employment & Housing Com., supra,* 43 Cal.3d 1379, 1387), it is manifest that the language affording the UEF exemption from any penalties was not added to section 3716.2 merely to establish that the UEF would not be liable for any penalties arising from the employer's failure to secure the payment of workers' compensation (§ 4554; see § 4555), because the Legislature already had accomplished that goal in 1976 simply by enacting, in the wake of our decision in *Flores,* section 3716.2 in its original form, limiting the UEF's liability only to payment of those benefits that would accrue against a properly insured employer. In the period between the 1976 enactment of section 3716.2 and its amendment in 1981, no additional statutory or decisional authority emerged to furnish any basis for

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

concluding that the Legislature perceived the need to make more explicit the intent of section 3716.2 effectively to abrogate the holding in *Flores* that the UEF could be liable for penalties and attorney fees imposed upon an employer for its failure to secure the payment of workers' compensation.

DuBois and amicus curiae offer the alternative suggestion that the provision exempting the UEF from the payment of any penalties refers merely to the potential liability of the UEF to pay amounts representing penalties imposed upon the employer for the employer's unreasonable delay in paying benefits (§ 5814) or for some other form of misconduct by the employer (see § 4553 [employee's injury caused by employer's serious and wilful misconduct]; § 4557 [injured employee is a minor illegally employed]), but does not exempt the UEF from liability for its own delay.

(6) In support of this interpretation, DuBois points to various reports, made by legislative committees and commissions during the legislative process, which come within the category of material we may consider when the meaning of a statute is uncertain. (*Hutnick v. United States Fidelity & Guaranty Co., supra,* 47 Cal.3d 456, 465, fn. 7; *Dyna-Med, Inc. v. Fair Employment & Housing Com., supra,* 43 Cal.3d 1379, 1387; see ***394***Napa Valley Wine Train, Inc. v. Public Utilities Com.* (1990) 50 Cal.3d 370, 382, fn. 19 [267 Cal.Rptr. 569, 787 P.2d 976]; *Southern Cal. Gas Co. v. Public Utilities Com.* (1979) 24 Cal.3d 653, 659 [156 Cal.Rptr. 733, 596 P.2d 1149].)

(1e) In the course of the Legislature's consideration of the amendment to section 3716.2 exempting the UEF from liability for penalties and interest, the Assembly Committee on Finance, Insurance, and Commerce issued a report explaining the purpose of the amendment as follows: "Section 4 is amended to preclude the Fund from being liable for any penalties or for the payment of interest on awards. Because of the nature of the Uninsured Employers Fund, it has no liability for benefits until after a formal proceeding and the employer has failed to act. *Sanctions should not be applied against the Fund for the employer's wrong,* according to proponents." (Italics added.)

The Legislature also received an analysis of Assembly Bill No. 1529, provided by the Department of Industrial Relations, which noted that in most cases in which the UEF was made a party, a penalty was imposed against the uninsured employer pursuant to section 5814 because of the employer's delay in paying benefits. After observing that the payment of such penalties was a substantial fiscal drain on the UEF, the department stated: "The justification for imposing the penalty does not apply to the U.E.F. The penalty is designed to deter carriers and employers from delaying benefits. Since the U.E.F. has no liability for benefits until after they are demanded after a formal award, imposing the penalty on the U.E.F. for the employer's delay will not hasten the U.E.F.'s payment. *The State should not be penalized for the employer's delay.*" (Italics added.)

On the other hand, the description of Assembly Bill No. 1529 prepared by the Legislative Analyst, after the bill twice had been amended, simply provides that the UEF is exempt from "a penalty of 10% in cases where payments of workers' compensation benefits to workers are delayed." The latter description of the bill thus did not serve to limit the nature of the exemption from penalties granted the UEF to those situations in which such delay is attributable to the employer. (See *Hutnick v. United States Fidelity & Guaranty Co., supra,* 47 Cal.3d 456, 465, fn. 7 [such materials provide some indication of how a measure was understood by those who voted to enact it]; *Napa Valley Wine Train, Inc. v. Public Utilities Com., supra,* 50 Cal.3d 370, 382, fn. 19 [same].)

Even if we were to accept DuBois's interpretation of the amendment to section 3716.2 (based upon statements, in the reports accompanying the bill, that the amendment was intended to exempt the UEF from liability for the ***395** delay or other misconduct of the *employer*), such a construction would not alter our conclusion that the Legislature never intended the UEF to be liable-like an employer or an insurer-for its own delay. Construed in the latter manner, the amendment merely provides an additional limitation on the liability of the UEF for any penalties it might be required to pay as a result of misconduct on the part of the employer. The amendment does not alter the circumstance that nothing in section 3716.2 or in any related statute suggests the UEF has any obligation to pay the employee any amount in excess of the amount recoverable by the employee from his or her uninsured employer. [FN6]

FN6 We also take note of the circumstance that, at the time the Legislature added lan-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

guage exempting the UEF from liability for any penalites and interest added to an award, it also amended various other related statutes so as to limit the liability of the UEF, while enhancing the ability of that entity to recover amounts that it had paid out. Section 3716, subdivision (b), was added to declare that the legislative purpose in creating the UEF was to ensure the payment of funds to employees rather than to afford contribution to carriers or employers, and subdivision (c) was added to exempt the UEF from the requirement of reimbursing the State Department of Health Services for treatment provided by that department to injured workers. Section 3717 was amended to provide the UEF the right to obtain reimbursement from any individual owning 15 percent or more of the outstanding stock in a corporation that had failed to secure coverage for its workers' compensation liability. (Stats. 1981, ch. 894, § 2, p. 3408; *id.,* § 5, p. 3410.)

Most significantly, section 5814.1 was added, providing (in language similar to section 5814) that when the payment of compensation unreasonably has been delayed or refused prior to the issuance of an award, and the director has provided discretionary compensation, the WCAB shall award the director a penalty to be paid by the employer in the amount of 10 percent of the compensation provided by the director, "such penalty to be in addition to the penalty imposed by Section 5814." (Stats. 1981, ch. 894, § 10, p. 3413.) The provision of a penalty pursuant to section 5814.1, in favor of the director and against the employer for the latter's unreasonable delay, is inconsistent with any legislative intent to permit imposition of a penalty in favor of the *employee* and against the director pursuant to section 5814.

IV

DuBois contends, nonetheless, that the penalty prescribed by section 5814 was intended to apply to the UEF. Section 5814, first enacted in 1945 (Stats. 1945, ch. 802, § 2, p. 1497), and last amended in 1965 (Stats. 1965, ch. 1513, § 169, p. 3599), was intended to encourage the timely payment of benefits by rendering costly any delay in payment. (*Jensen v. Workers' Comp. Appeals Bd.* (1985) 170 Cal.App.3d 244, 247 [216 Cal.Rptr. 33]; *Jardine v. Workers' Comp. Appeals Bd.* (1984) 163 Cal.App.3d 1, 8 [209 Cal.Rptr. 139].) [FN7] When section 5814 originally was enacted, the UEF was not yet established, and thus it is obvious the Legislature did not have the UEF in mind in creating the penalty provision. ***396**

FN7 Section 5814 provides: "When payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the full amount of the order, decision or award shall be increased by 10 percent. The question of delay and the reasonableness of the cause therefor shall be determined by the appeals board in accordance with the facts. Such delay or refusal shall constitute good cause under Section 5803 to rescind, alter or amend the order, decision or award for the purpose of making the increase provided for herein."

DuBois observes, however, that section 5814, contained in a division of the Labor Code mandated to "be liberally construed by the courts with the purpose of extending [that division's] benefits for the protection of persons injured in the course of their employment" (§ 3202; see also *LeBoeuf v. Workers' Comp. Appeals Bd.* (1983) 34 Cal.3d 234, 241 [193 Cal.Rptr. 547, 666 P.2d 989]; *Webb v. Workers' Comp. Appeals Bd.* (1980) 28 Cal.3d 621, 626 [170 Cal.Rptr. 32, 620 P.2d 618]; *Klee v. Workers' Comp. Appeals Bd.* (1989) 211 Cal.App.3d 1519, 1524 [260 Cal.Rptr. 217]), is not, by its terms, limited specifically to employers or their insurers. By the same token, nothing in the language of section 5814 suggests it *was* intended to extend beyond such employers or insurers to a governmental entity such as the UEF.

(7) Consistent with the other provisions of the workers' compensation scheme, the assessment imposed by section 5814 is designed to compel the employer of the injured employee, or the employer's workers' compensation insurance carrier, to make payments of compensation in a reasonable and timely fashion (*Adams v. Workers' Comp. Appeals Bd.* (1976) 18 Cal.3d 226, 229 [133 Cal.Rptr. 517, 555 P.2d 303]; *Carver v. Workers' Comp. Appeals Bd.* (1990) 217 Cal.App.3d 1539, 1547 [266 Cal.Rptr. 718]), and to effect the "equally important purpose" of the statutory

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

scheme-"to encourage timely payments of compensation to injured working people to promptly ameliorate economic hardship [resulting from] the interruption of their employment and concomitant loss of income." (*Consani v. Workers' Comp. Appeals Bd.* (1991) 227 Cal.App.3d 12, 23 [277 Cal.Rptr. 619]; see also *Adams v. Workers' Comp. Appeals Bd., supra,* 18 Cal.3d at p. 229.) "The penalty has been applied to virtually all types of benefits provided by the workers' compensation laws, including temporary and permanent disability indemnity, interest on an award, ... amounts awarded as reimbursement for self-procured medical costs" and medical-legal costs. (*Adams, supra,* 18 Cal.3d 226, 229.)

Although section 5814 is denominated a penalty statute, it is considered to be both remedial and penal. (*Carver v. Workers' Comp. Appeals Bd., supra,* 217 Cal.App.3d 1539, 1547-1548; *Davison v. Industrial Acc. Com.* (1966) 241 Cal.App.2d 15, 18 [50 Cal.Rptr. 76] [the remedial aspect is to facilitate return to work of the injured employee as quickly as possible, the penal aspect is to compel the employer to comply with the law fully and promptly].) The 10 percent increase "has been characterized as an increase in the compensation awarded to the injured worker" (*Carver v. Workers' Comp. Appeals Bd., supra,* 217 Cal.App.3d 1539, 1547, citing ***397***Anderson v. Workers' Comp. Appeals Bd.* (1981) 116 Cal.App.3d 954, 960 [172 Cal.Rptr. 398]), and the statute itself requires that the award be amended to include the amount of the penalty imposed. (E.g., *Davison v. Industrial Acc. Com., supra,* 241 Cal.App.2d 15, 16.)

(1f) It is clear that section 5814 was enacted as an inducement to prompt payment on the part of private employers and their insurers, which otherwise would have an economic incentive to delay or deny the payment of workers' compensation benefits. In contrast, the UEF does not possess this economic incentive. Our decision in *Isaacson v. California Ins. Guarantee Assn.* (1988) 44 Cal.3d 775 [244 Cal.Rptr. 655, 750 P.2d 297] is illustrative of this distinction. In *Isaacson,* we were confronted with a somewhat similar question of statutory interpretation: whether the provisions of the Unfair Practices Act, imposing liability upon an insurer for unreasonably refusing to settle a case, should be applied to the California Insurance Guarantee Association (CIGA), a governmental entity created to provide an insured with coverage for claims in the event his or her insurer becomes insolvent.

In rejecting the insured's attempt to impose liability upon CIGA for its own conduct in unreasonably refusing to settle a case, we relied in part upon the circumstance that CIGA did not share the economic motives of the private insurer. "[T]he protective function served by the Unfair Practices Act is less necessary with CIGA than with an ordinary insurer. Because CIGA is not a private, profit-oriented enterprise, it does not gain financially by refusing to defend or settle claims. It therefore lacks economic incentive to deal unfairly with insureds." (*Isaacson v. California Ins. Guarantee Assn., supra,* 44 Cal.3d 775, 786.) Similarly, in the present case it is clear the protective function of section 5814 would not be served by application of that statute to the UEF in cases in which that entity delays paying benefits, because the UEF does not profit by such delay.

Additionally, the UEF advises that it may have no alternative but to defer payment of benefits whenever it lacks full funding due to state budgetary limitations, a recurring problem since the inception of the UEF. (1 Herlick, Cal. Workers' Comp. Law, *supra,* § 11.9, p. 11-8; see, e.g., *Morris v. County of Marin* (1977) 18 Cal.3d 901, 905- 906, fn. 1 [136 Cal.Rptr. 251, 559 P.2d 606].) The UEF also points out that it does not enjoy the same immediate access to its funds possessed by a private employer or carrier, and, therefore, the threat of penalties for delay would not have the same practical deterrent effect. Checks for disbursements are drawn on the UEF, a fund created in the State Treasury (§ 3716, subd. (a)), necessitating that the UEF apply to the State Controller for the issuance of payment warrants (Gov. Code, § 12440), a process that may be slowed or halted during periods in which the state's budget has not yet been enacted. ***398**

DuBois suggests, however, that in any case in which delay on the part of the UEF in paying benefits is attributable to budgetary limitations, such delay could and would not be found unreasonable within the meaning of section 5814 and, therefore, the UEF would not incur the penalty provided by that statute. Under existing authority, the only delay recognized as reasonable as a matter of law, for the purpose of exonerating the employer or the insurance carrier from the penalty imposed by section 5814, is delay caused by the existence of a genuine medical or legal doubt as

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

to the employer's liability for workers' compensation benefits. (*Kerley v. Workmen's Comp. App. Bd.* (1971) 4 Cal.3d 223, 230 [93 Cal.Rptr. 192, 481 P.2d 200]; *Jensen v. Workers' Comp. Appeals Bd., supra,* 170 Cal.App.3d 244, 247.) Delay caused by state budgetary shortfalls (or by the multiple-step disbursement process) does not fall within either category of delay (delay caused by medical or legal doubt) deemed acceptable under present law, and would necessitate the creation of special definitions for "reasonable delay" applicable exclusively to the UEF. This need (under DuBois's theory) for separate definitions contradicts DuBois's assertion that the Legislature intended the UEF to be treated in the same fashion as an employer who unreasonably delays benefit payments.

Apart from the foregoing definitional concerns, as a practical matter the proposal that the UEF be permitted to demonstrate that its delay was reasonable, because necessitated by budgetary shortfalls or procedural hindrances, would require the UEF to establish, at an evidentiary hearing, that its delay was reasonable in each case. We do not believe the Legislature intended that the UEF be required to expend its resources in this manner in each case in which delay has occurred.

Finally, it must be observed that, as a general rule, statutory penalty provisions do not apply to public entities. Government Code section 818 provides: "Notwithstanding any other provision of law, a public entity is not liable for damages awarded under section 3294 of the Civil Code or other damages imposed primarily for the sake of example and by way of punishing the defendant." In light of the partially penal nature of section 5814, we believe that application of the statutory penalty provision to the UEF is not permitted, absent express legislative authorization.

(8) Although, as noted earlier, section 5814 is to be liberally construed, we previously have commented that "the rule of liberal construction stated in section 3202 should not be used to defeat the overall statutory framework and fundamental rules of statutory construction." (*Nickelsberg v. Workers' Comp. Appeals Bd., supra,* 54 Cal.3d 288, 298.) (1g) A number of additional factors must be considered, including the absence of any express ***399** language (rendering the UEF liable for its own unreasonable delay) in the statutes defining the obligations and liability of the UEF (§§ 3716 and 3716.2; contrast § 3743, subd. (b) ["the (Self-Insurers' Security Fund) shall not be liable for the payment of any penalties assessed for any act or omission on the part of any person other than the fund," including the penalties provided in § 5814]), the absence of an express time limit within which the UEF is to pay an award following nonpayment by an employer and the employee's demand for compensation by the UEF (§ 3716, subd. (a)), the presence in sections 3716 and 3716.2 of language limiting the liability of the UEF to the payment of those benefits that would accrue against a properly insured employer and exempting the UEF from the payment of penalties and interest on awards, the absence of express language in section 5814 indicating that the UEF may be liable under that statute, the protective purpose served by the statute, the WCAB's view that the UEF is not liable for penalties pursuant to section 5814 (see *Nickelsberg v. Workers' Comp. Appeals Bd., supra,* 54 Cal.3d 288, 299-300; *Judson Steel Corp. v. Workmen's Comp. Appeals Bd.* (1978) 22 Cal.3d 658, 668-669 [150 Cal.Rptr. 250, 586 P.2d 564] [agency interpretation entitled to significant respect upon judicial review]), and the general immunity afforded governmental entities (such as the UEF) by Government Code section 818. Our examination of all of these factors leads us to conclude that the Legislature did not intend that the UEF be liable, pursuant to section 5814, for penalties premised upon its own delay, even where the delay engaged in by that entity properly may be characterized as unreasonable.

We greatly sympathize with the plight of injured employees who obtain the right to payment from the UEF, only to face delays in recovering the amounts to which they are legally entitled. We believe, however, that the examination and resolution of this apparently recurring problem is most appropriately left to the Legislature, which will be able to address it by enacting legislation tailored to the unique (and limited) statutory role of the UEF.

V

The judgment of the Court of Appeal is reversed and the case is remanded to that court with directions to reinstate the decision of the WCAB annulling the penalties for unreasonable delay imposed against the UEF.

Lucas, C. J., Panelli, J., Kennard, J., Arabian, J., and

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Baxter, J., concurred.

MOSK, J.

I dissent. The government insurance fund responsible for supplying DuBois with compensation benefits while he was disabled acted with ***400** complete incompetence in handling his claim. Though it stipulated to the award, it failed to pay him, failed to respond to his request for payment, appeared at the hearing regarding payment unable to say whether it had paid him or not, and finally, six months after the award was made, asked for a continuance to check its records to see if it had paid him or not.

A government insurance fund that so injures a worker by such unreasonable delay of the payment of a stipulated workers' compensation award should pay the same penalty to the worker that is assessed against a private workers' compensation insurance company or employer for unreasonable delay. I agree with the majority of the Court of Appeal in this case that the goal of our workers' compensation system to provide prompt support for injured workers, our duty to interpret this statutory scheme liberally with a view to promoting the goal of compensation, and the legislative history of the particular statute at issue support this outcome.

We have observed that the underlying policy of the workers' compensation statutes " 'as well as the recurrent theme of countless appellate decisions on the matter has been one of a pervasive and abiding solicitude for the work [er].' " (*Webb v. Workers' Comp. Appeals Bd.* (1980) 28 Cal.3d 621, 626 [170 Cal.Rptr. 32, 620 P.2d 618], quoting *Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 233 [110 Cal.Rptr. 144, 514 P.2d 1224].)

Our state's body of workers' compensation laws provides for relief from industrial injury and financial support in order to encourage the worker's ultimate return to the work force. (*Moyer v. Workmen's Comp. Appeals Bd., supra,* 10 Cal.3d at p. 233.)

The prompt payment of statutory benefits-here, vocational rehabilitation benefits-is crucial to the operation of the statutory compensation plan and its central purpose of prompt treatment of industrial injury and encouraging workers' early return to productive labor. Therefore, since 1945 Labor Code section 5814 [FN1] has provided for a penalty for unreasonable delay in payment. [FN2]

FN1 All statutory references are to the Labor Code unless otherwise indicated.

FN2 Section 5814 provides: "When payment of compensation has been unreasonably delayed or refused, either prior to or subsequent to the issuance of an award, the full amount of the order, decision or award shall be increased by 10 percent. The question of delay and the reasonableness of the cause therefor shall be determined by the appeals board in accordance with the facts. Such delay or refusal shall constitute good cause under Section 5803 to rescind, alter or amend the order, decision or award for the purpose of making the increase provided for herein."

"Section 5814 is the goad for securing timely payment of compensation of injured working men and women without delay. [Citation.] One of its ***401** principal purposes is to encourage employers or their workers' compensation insurance carriers to make payments of compensation in a reasonable and *timely* fashion to *speed* the recovery and return to work of injured employees as *rapidly* as possible. [Citation.] An equally important purpose of section 5814 is to encourage *timely* payments of compensation to injured working people to *promptly* ameliorate economic hardship because of the interruption of their employment and concomitant loss of income." (*Consani v. Workers' Comp. Appeals Bd.* (1991) 227 Cal.App.3d 12, 23 [277 Cal.Rptr. 619], italics added.)

The statutory scheme of workers' compensation is to be "liberally construed by the courts with the purpose of extending ... benefits for the protection of persons injured in the course of their employment." (§ 3202.) We have frequently applied the rule of liberal construction to all aspects of workers' compensation law. (*Webb v. Workers' Comp. Appeals Bd., supra,* 28 Cal.3d at p. 626, and cases cited.)

The case law establishes that as to section 5814, providing for penalties for delay in payment of benefits, the rule of liberal construction in favor of the employee is particularly necessary. (*Kerley v. Workmen's Comp. App. Bd.* (1971) 4 Cal.3d 223, 227 [93 Cal.Rptr. 192, 481 P.2d 200]; *Klee v. Workers' Comp. Appeals Bd.* (1989) 211 Cal.App.3d 1519, 1524 [260 Cal.Rptr. 217]; *Pascoe v. Workmen's Comp. Appeals*

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Bd. (1975) 46 Cal.App.3d 146, 157 [120 Cal.Rptr. 199]; see also *Gallamore v. Workers' Comp. Appeals Bd.* (1979) 23 Cal.3d 815, 823, 826 [153 Cal.Rptr. 590, 591 P.2d 1242].)

The majority express the view that the Uninsured Employers Fund (Fund) should be exempt from section 5814. Section 5814 provides for no exemption; the rule of liberal construction in favor of the worker does not permit us to read such an exemption into the statute.

The majority claim that section 3716.2 provides the exemption that is missing from section 5814. The statutory history of the provision persuades me otherwise, as does our duty to interpret any ambiguity in favor of the injured worker.

Until 1971, injured workers of employers who had failed to procure workers' compensation insurance had difficulty obtaining prompt payment of benefits. For this reason the Legislature created the Fund, and obliged the Workers' Compensation Appeals Board (Board) to make awards for such employees, and, if payment was not forthcoming, order the payment of the award to the injured employee out of the Fund of the state treasury. (§§ 3715, 3716.) Soon thereafter we held that the Fund is liable not only for ***402** the underlying compensation award, but also for penalties *imposed on employers* under sections 4554 and 4555. (*Flores v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 171, 176- 178 [113 Cal. Rptr 217, 520 P.2d 1033].)

As the majority concede, the Legislature responded to our decision in *Flores v. Workmen's Comp. Appeals Bd., supra,* 11 Cal.3d 171, in 1976 by adding section 3716.2, which, when enacted, provided in pertinent part that "[n]otwithstanding the precise elements of an award of compensation benefits ... the ... Fund [ ] shall pay the claimant only such benefits allowed ... that would have accrued against an employer properly insured for workers' compensation liability." (Stats. 1976, ch. 1036, § 7, p. 4642.)

Unlike the majority, who view this language as clearly establishing that the Fund was liable only for benefits and not for penalties arising from the employer's failure to pay compensation (maj. opn., *ante,* p. 391), my view is that this enactment left the Legislature's precise intent vague. In fact, unless the reader of the statute knew of the *Flores* decision, the statute on its face relates only to benefits, and says nothing at all about the subject of penalties. Accordingly, it was necessary for the Legislature in 1981 to add the provision that the Fund "shall not be liable for any penalties or for the payment of interest on any awards." (Stats. 1981, ch. 894, § 4, pp. 3409-3410.) But this language must be read in the context of the statute as a whole, which is aimed at limiting the vicarious liability of the Fund for the *misconduct of the employer.* It says nothing at all about the *liability of the Fund for its own misconduct,* that is, unreasonable delay. After all, the misconduct of the Fund had certainly not been an issue in *Flores,* which was the apparent impetus for the enactment of section 3716.2. Thus it is anomalous to seek a rule as to the Fund's liability for penalties in that section.

The majority point to no committee report, letter from a proponent or other direct evidence that the Legislature was concerned with exempting the Fund from penalties for its own misconduct when it enacted section 3716.2. The majority point to circumstantial evidence, as in the right of the employee of an uninsured employer to maintain a civil action as well as a claim for workers' compensation benefits (§§ 3706, 3715), and in the lack of a deadline for the Fund's payment of benefits. The latter is easily disposed of the penalty is imposed for "unreasonable delay," and not for failing to meet the statutory deadline. (§ 5814.) Thus the exact deadline for payment of benefits is not determinative in the imposition of a penalty, whether the delay is attributable to the Fund or to an employer. As for the availability of a civil action, again I see no way in which this reflects any legislative intent with respect to penalties to be imposed upon the Fund for misconduct in cases in which the employee has chosen to maintain a claim for workers' compensation benefits. ***403**

The majority argue that the penalty provision of section 5814 should not apply to the Fund as, unlike a private insurance fund, it has no incentive for delay, and is often slow simply in response to its perpetual shortage of money. The argument is a smokescreen; it has no applicability whatever to the facts of this case. There is no evidence that lack of money was the cause for the delay in the instant case, and, in fact, the Fund offered no explanation or justification for its delay at the hearing before the Board, and ultimately conceded that its delay had been unreasonable. As I demonstrate

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

in detail below, the Fund simply acted with gross incompetence in handling the applicant's claim. In any event, in a case in which the issue of budget shortfall was actually presented, I would find that to the extent that delay is attributable to lack of funds it is not "unreasonable" in the terms of the statute, and should not be penalized. The majority's citation to authority limiting excused delay to medical or legal doubt of entitlement to benefits is inapposite; these cases did not consider the question of the Fund's liability for its own institutional misconduct. (See, e.g., *Kerley v. Workmen's Comp. App. Bd., supra,* 4 Cal.3d at p. 230.)

The profit motive may not cause the Fund to delay, but it is clear from the record in this case that some other improper cause of delay is at work and needs to be addressed. There is disturbing evidence in this record that the Fund is operating with chronic, inexcusable delays and is so slow and unresponsive that it has caused workers' compensation attorneys to refuse to take cases in which the Fund will be involved. That there is chaos in the administration of the Fund is demonstrated by the evidence of the representative of the Fund at the hearing on this matter long after the award was stipulated that he still could not say whether the Fund had made any payments to the applicant or not! In fact, counsel for the Fund conceded at oral argument that the Fund did not ultimately determine what it had done with respect to payment for more than a year after the stipulated award.

The Board, the body that originally assessed the penalty against the Fund, evidently found the following chronology of incompetence as striking as I do: "On 12/14/89, a hearing was held .... The Applicant, his attorney, and a representative for the Uninsured Employers Fund signed and submitted Stipulations With Request for Award .... [¶] The Stipulations With Request for Award were reviewed and approved by Workers' Compensation Judge James M. Bass on 12/14/89. Copies of the Award ... [were] served by hand on ... the representative of the Uninsured Employers Fund at the hearing. [¶] On 1/2/90 and 1/24/90, Applicant's Counsel wrote to the Uninsured Employers Fund requesting compliance with the Award .... On 2/15/90, the Applicant filed a ... Petition for Penalty alleging that the Uninsured Employers Fund had not made payment in accordance with the ***404** Award. ... There was no objection or other response filed by the Uninsured Employers Fund. [¶] On 5/24/90, a hearing was held ... [before the Board]. The Applicant made an offer of proof that he had received no payments from the Uninsured Employers Fund .... The representative of the Uninsured Employers Fund noted for the record that he could not say one way or the other whether the Uninsured Employers Fund had made any payments. The parties were allowed 15 days to submit written arguments regarding the penalty issue. [¶] On 5/31/90, the Applicant submitted his written argument regarding the penalty issue. On 6/6/90, the Uninsured Employers Fund filed a motion requesting that submission of this matter be delayed so it could investigate what payments might have been made to the Applicant. [¶] The motion filed by the Uninsured Employers Fund requesting additional time to investigate what payments it might have made to the Applicant is improper and untimely. More than 5 months elapsed between the time of the Award and the penalty hearing. More than 4 months elapsed between the Applicant's first demand for payment for Award and the penalty hearing. More than 3 months elapsed between the filing of the Applicant's DOR/Petition for Penalty and the penalty hearing. There is no indication in the record, and there was no representation made by the representative of the Uninsured Employers Fund at the trial hearing, that the Uninsured Employers Fund had taken any steps to make payment to the Applicant or to investigate what payments ... might have been made."

My only hesitation about urging that a penalty should be assessed against the Fund is that the 10 percent penalty for delay may have little effect on such a torpid agency. Certainly the majority opinion will not be helpful. Hercules's method at the Augean stables may be more to the point.

For the foregoing reasons, I would hold that the mandate of section 5814 relating to benefits to the injured worker must apply to aid employees whose payments should come promptly, subject only to the reasonableness of the efforts of the Fund. I would affirm the decision of the Court of Appeal. ***405**

Cal. 1993.
DuBois v. Workers' Comp. Appeals Bd.
5 Cal.4th 382, 853 P.2d 978, 20 Cal.Rptr.2d 523, 58 Cal. Comp. Cases 286

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

P Estate of DENIS H. GRISWOLD, Deceased.
NORMA B. DONER-GRISWOLD, Petitioner and Respondent,
v.
FRANCIS V. SEE, Objector and Appellant.
No. S087881.

Supreme Court of California
June 21, 2001.

SUMMARY

After an individual died intestate, his wife, as administrator of the estate, filed a petition for final distribution. Based on a 1941 judgment in a bastardy proceeding in Ohio, in which the decedent's biological father had confessed paternity, an heir finder who had obtained an assignment of partial interest in the estate from the decedent's half siblings filed objections. The biological father had died before the decedent, leaving two children from his subsequent marriage. The father had never told his subsequent children about the decedent, but he had paid court-ordered child support for the decedent until he was 18 years old. The probate court denied the heir finder's petition to determine entitlement, finding that he had not demonstrated that the father was the decedent's natural parent pursuant to Prob. Code, § 6453, or that the father had acknowledged the decedent as his child pursuant to Prob. Code, § 6452, which bars a natural parent or a relative of that parent from inheriting through a child born out of wedlock on the basis of the parent/child relationship unless the parent or relative acknowledged the child and contributed to the support or care of the child. (Superior Court of Santa Barbara County, No. B216236, Thomas Pearce Anderle, Judge.) The Court of Appeal, Second Dist., Div. Six, No. B128933, reversed.

The Supreme Court affirmed the judgment of the Court of Appeal. The court held that, since the father had acknowledged the decedent as his child and contributed to his support, the decedent's half siblings were not subject to the restrictions of Prob. Code, § 6452. Although no statutory definition of "acknowledge" appears in Prob. Code, § 6452, the word's common meaning is: to admit to be true or as stated; to confess. Since the decedent's father had confessed paternity in the 1941 bastardy proceeding, he had acknowledged the decedent under the plain terms of the statute. The court also held that the 1941 Ohio judgment established the decedent's biological father as his natural parent for purposes of intestate succession under Prob. Code, § 6453, subd. (b). Since the identical issue was presented both in the Ohio proceeding and in this California proceeding, the Ohio proceeding bound the parties in this proceeding. (Opinion by Baxter, J., with George, C. J., Kennard, Werdegar, and Chin, JJ., concurring. Concurring opinion by Brown, J. (see p. 925).)

HEADNOTES

Classified to California Digest of Official Reports

(1a, 1b, 1c, 1d) Parent and Child § 18--Parentage of Children-- Inheritance Rights--Parent's Acknowledgement of Child Born Out of Wedlock:Descent and Distribution § 3--Persons Who Take--Half Siblings of Decedent.
In a proceeding to determine entitlement to an intestate estate, the trial court erred in finding that the half siblings of the decedent were precluded by Prob. Code, § 6452, from sharing in the intestate estate. Section 6452 bars a natural parent or a relative of that parent from inheriting through a child born out of wedlock unless the parent or relative acknowledged the child and contributed to that child's support or care. The decedent's biological father had paid court-ordered child support for the decedent until he was 18 years old. Although no statutory definition of "acknowledge" appears in § 6452, the word's common meaning is: to admit to be true or as stated; to confess. Since the decedent's father had appeared in a 1941 bastardy proceeding in another state, where he confessed paternity, he had acknowledged the decedent under the plain terms of § 6452. Further, even though the father had not had contact with the decedent and had not told his other children about him, the record disclosed no evidence that he disavowed paternity to anyone with knowledge of the circumstances. Neither the language nor the history of § 6452 evinces a clear intent to make inheritance contingent upon the decedent's awareness of the relatives who claim an inheritance right.
[See 12 Witkin, Summary of Cal. Law (9th ed. 1990)

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Wills and Probate, §§ 153, 153A, 153B.]

(2) Statutes § 29--Construction--Language--Legislative Intent.
In statutory construction cases, a court's fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. A court begins by examining the statutory language, giving the words their usual and ordinary meaning. If the terms of the statute are unambiguous, the court presumes the lawmakers meant what they said, and the plain meaning of the language governs. If there is ambiguity, however, the court may then look to extrinsic sources, including the ostensible objects to be achieved and the legislative history. In such cases, the court selects the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoids an interpretation that would lead to absurd consequences.

(3) Statutes § 46--Construction--Presumptions--Legislative Intent--Judicial Construction of Certain Language.
When legislation has been judicially construed and a subsequent statute on the same or an analogous subject uses identical or substantially similar language, a court may presume that the Legislature intended the same construction, unless a contrary intent clearly appears.

(4) Statutes § 20--Construction--Judicial Function.
A court may not, under the guise of interpretation, insert qualifying provisions not included in a statute.

(5a, 5b) Parent and Child § 18--Parentage of Children--Inheritance Rights--Determination of Natural Parent of Child Born Out of Wedlock:Descent and Distribution § 3--Persons Who Take--Half Siblings of Decedent.
In a proceeding to determine entitlement to an intestate estate, the trial court erred in finding that the half siblings of the decedent, who had been born out of wedlock, were precluded by Prob. Code, § 6453 (only "natural parent" or relative can inherit through intestate child), from sharing in the intestate estate. Prob. Code, § 6453, subd. (b), provides that a natural parent and child relationship may be established through Fam. Code, § 7630, subd. (c), if a court order declaring paternity was entered during the father's lifetime. The decedent's father had appeared in a 1941 bastardy proceeding in Ohio, where he confessed paternity. If a valid judgment of paternity is rendered in Ohio, it generally is binding on California courts if Ohio had jurisdiction over the parties and the subject matter, and the parties were given reasonable notice and an opportunity to be heard. Since the Ohio bastardy proceeding decided the identical issue presented in this California proceeding, the Ohio proceeding bound the parties in this proceeding. Further, even though the decedent's mother initiated the bastardy proceeding prior to adoption of the Uniform Parentage Act, and all procedural requirements of Fam. Code, § 7630, may not have been followed, that judgment was still binding in this proceeding, since the issue adjudicated was identical to the issue that would have been presented in an action brought pursuant to the Uniform Parentage Act.

(6) Judgments § 86--Res Judicata--Collateral Estoppel--Nature of Prior Proceeding--Criminal Conviction on Guilty Plea.
A trial court in a civil proceeding may not give collateral estoppel effect to a criminal conviction involving the same issues if the conviction resulted from a guilty plea. The issue of the defendant's guilt was not fully litigated in the prior criminal proceeding; rather, the plea bargain may reflect nothing more than a compromise instead of an ultimate determination of his or her guilt. The defendant's due process right to a civil hearing thus outweighs any countervailing need to limit litigation or conserve judicial resources.

(7) Descent and Distribution § 1--Judicial Function.
Succession of estates is purely a matter of statutory regulation, which cannot be changed by the courts.

COUNSEL

Kitchen & Turpin, David C. Turpin; Law Office of Herb Fox and Herb Fox for Objector and Appellant.

Mullen & Henzell and Lawrence T. Sorensen for Petitioner and Respondent.

BAXTER, J.

Section 6452 of the Probate Code (all statutory references are to this code unless otherwise indicated) bars a "natural parent" or a relative of that parent from inheriting through a child born out of wedlock on the basis of the parent and child relationship unless the parent or relative "acknowledged the child" and

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

"contributed to the support or the care of the child." In this case, we must determine whether section 6452 precludes the half siblings of a child born out of wedlock from sharing in the child's intestate estate where the record is undisputed that their father appeared in an Ohio court, admitted paternity of the child, and paid court-ordered child support until the child was 18 years old. Although the father and the out-of-wedlock child apparently never met or communicated, and the half siblings did not learn of the child's existence until after both the child and the father died, there is no indication that the father ever denied paternity or knowledge of the out-of-wedlock child to persons who were aware of the circumstances.

Since succession to estates is purely a matter of statutory regulation, our resolution of this issue requires that we ascertain the intent of the lawmakers who enacted section 6452. Application of settled principles of statutory ***908** construction compels us to conclude, on this uncontroverted record, that section 6452 does not bar the half siblings from sharing in the decedent's estate.

Factual and Procedural Background

Denis H. Griswold died intestate in 1996, survived by his wife, Norma B. Doner-Griswold. Doner-Griswold petitioned for and received letters of administration and authority to administer Griswold's modest estate, consisting entirely of separate property.

In 1998, Doner-Griswold filed a petition for final distribution, proposing a distribution of estate property, after payment of attorney's fees and costs, to herself as the surviving spouse and sole heir. Francis V. See, a self-described "forensic genealogist" (heir hunter) who had obtained an assignment of partial interest in the Griswold estate from Margaret Loera and Daniel Draves, [FN1] objected to the petition for final distribution and filed a petition to determine entitlement to distribution.

> FN1 California permits heirs to assign their interests in an estate, but such assignments are subject to court scrutiny. (See § 11604.)

See and Doner-Griswold stipulated to the following background facts pertinent to See's entitlement petition.

Griswold was born out of wedlock to Betty Jane Morris on July 12, 1941 in Ashland, Ohio. The birth certificate listed his name as Denis Howard Morris and identified John Edward Draves of New London, Ohio as the father. A week after the birth, Morris filed a "bastardy complaint" [FN2] in the juvenile court in Huron County, Ohio and swore under oath that Draves was the child's father. In September of 1941, Draves appeared in the bastardy proceeding and "confessed in Court that the charge of the plaintiff herein is true." The court adjudged Draves to be the "reputed father" of the child, and ordered Draves to pay medical expenses related to Morris's pregnancy as well as $5 per week for child support and maintenance. Draves complied, and for 18 years paid the court-ordered support to the clerk of the Huron County court.

> FN2 A "bastardy proceeding" is an archaic term for a paternity suit. (Black's Law Dict. (7th ed. 1999) pp. 146, 1148.)

Morris married Fred Griswold in 1942 and moved to California. She began to refer to her son as "Denis Howard Griswold," a name he used for the rest of his life. For many years, Griswold believed Fred Griswold was his father. At some point in time, either after his mother and Fred Griswold ***909** divorced in 1978 or after his mother died in 1983, Griswold learned that Draves was listed as his father on his birth certificate. So far as is known, Griswold made no attempt to contact Draves or other members of the Draves family.

Meanwhile, at some point after Griswold's birth, Draves married in Ohio and had two children, Margaret and Daniel. Neither Draves nor these two children had any communication with Griswold, and the children did not know of Griswold's existence until after Griswold's death in 1996. Draves died in 1993. His last will and testament, dated July 22, 1991, made no mention of Griswold by name or other reference. Huron County probate documents identified Draves's surviving spouse and two children-Margaret and Daniel-as the only heirs.

Based upon the foregoing facts, the probate court denied See's petition to determine entitlement. In the court's view, See had not demonstrated that Draves was Griswold's "natural parent" or that Draves "acknowledged" Griswold as his child as required by

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

section 6452.

The Court of Appeal disagreed on both points and reversed the order of the probate court. We granted Doner-Griswold's petition for review.

Discussion

(1a) Denis H. Griswold died without a will, and his estate consists solely of separate property. Consequently, the intestacy rules codified at sections 6401 and 6402 are implicated. Section 6401, subdivision (c) provides that a surviving spouse's share of intestate separate property is one-half "[w]here the decedent leaves no issue but leaves a parent or parents or their issue or the issue of either of them." (§ 6401, subd. (c)(2)(B).) Section 6402, subdivision (c) provides that the portion of the intestate estate not passing to the surviving spouse under section 6401 passes as follows: "If there is no surviving issue or parent, to the issue of the parents or either of them, the issue taking equally if they are all of the same degree of kinship to the decedent ...."

As noted, Griswold's mother (Betty Jane Morris) and father (John Draves) both predeceased him. Morris had no issue other than Griswold and Griswold himself left no issue. Based on these facts, See contends that Doner-Griswold is entitled to one-half of Griswold's estate and that Draves's issue (See's assignors, Margaret and Daniel) are entitled to the other half pursuant to sections 6401 and 6402.

Because Griswold was born out of wedlock, three additional Probate Code provisions-section 6450, section 6452, and section 6453-must be considered. ***910**

As relevant here, section 6450 provides that "a relationship of parent and child exists for the purpose of determining intestate succession by, through, or from a person" where "[t]he relationship of parent and child exists between a person and the person's natural parents, regardless of the marital status of the natural parents." (*Id.*, subd. (a).)

Notwithstanding section 6450's general recognition of a parent and child relationship in cases of unmarried natural parents, section 6452 restricts the ability of such parents and their relatives to inherit from a child as follows: "If a child is born out of wedlock, neither a *natural parent* nor a relative of that parent inherits from or through the child on the basis of the parent and child relationship between that parent and the child unless both of the following requirements are satisfied: [¶] (a) The parent or a relative of the parent *acknowledged the child.* [¶] (b) The parent or a relative of the parent contributed to the support or the care of the child." (Italics added.)

Section 6453, in turn, articulates the criteria for determining whether a person is a "natural parent" within the meaning of sections 6450 and 6452. A more detailed discussion of section 6453 appears *post*, at part B.

It is undisputed here that section 6452 governs the determination whether Margaret, Daniel, and See (by assignment) are entitled to inherit from Griswold. It is also uncontroverted that Draves contributed court-ordered child support for 18 years, thus satisfying subdivision (b) of section 6452. At issue, however, is whether the record establishes all the remaining requirements of section 6452 as a matter of law. First, did Draves acknowledge Griswold within the meaning of section 6452, subdivision (a)? Second, did the Ohio judgment of reputed paternity establish Draves as the natural parent of Griswold within the contemplation of sections 6452 and 6453? We address these issues in order.

A. *Acknowledgement*

As indicated, section 6452 precludes a natural parent or a relative of that parent from inheriting through a child born out of wedlock unless the parent or relative "acknowledged the child." (*Id.*, subd. (a).) On review, we must determine whether Draves acknowledged Griswold within the contemplation of the statute by confessing to paternity in court, where the record reflects no other acts of acknowledgement, but no disavowals either.

(2) In statutory construction cases, our fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute. (*Day v. City of Fontana* (2001) 25 Cal.4th 268, 272 [***911**105 Cal.Rptr.2d 457, 19 P.3d 1196].) "We begin by examining the statutory language, giving the words their usual and ordinary meaning." (*Ibid.*; *People v. Lawrence* (2000) 24 Cal.4th 219, 230 [99 Cal.Rptr.2d

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

570, 6 P.3d 228].) If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs. (*Day v. City of Fontana*, *supra*, 25 Cal.4th at p. 272; *People v. Lawrence*, *supra*, 24 Cal.4th at pp. 230-231.) If there is ambiguity, however, we may then look to extrinsic sources, including the ostensible objects to be achieved and the legislative history. (*Day v. City of Fontana*, *supra*, 25 Cal.4th at p. 272.) In such cases, we " ' "select the construction that comports most closely with the apparent intent of the Legislature, with a view to promoting rather than defeating the general purpose of the statute, and avoid an interpretation that would lead to absurd consequences." ' " (*Ibid.*)

(1b) Section 6452 does not define the word "acknowledged." Nor does any other provision of the Probate Code. At the outset, however, we may logically infer that the word refers to conduct other than that described in subdivision (b) of section 6452, i.e., contributing to the child's support or care; otherwise, subdivision (a) of the statute would be surplusage and unnecessary.

Although no statutory definition appears, the common meaning of "acknowledge " is "to admit to be true or as stated; confess." (Webster's New World Dict. (2d ed. 1982) p. 12; see Webster's 3d New Internat. Dict. (1981) p. 17 ["to show by word or act that one has knowledge of and agrees to (a fact or truth) ... [or] concede to be real or true ... [or] admit"].) Were we to ascribe this common meaning to the statutory language, there could be no doubt that section 6452's acknowledgement requirement is met here. As the stipulated record reflects, Griswold's natural mother initiated a bastardy proceeding in the Ohio juvenile court in 1941 in which she alleged that Draves was the child's father. Draves appeared in that proceeding and publicly " confessed" that the allegation was true. There is no evidence indicating that Draves did not confess knowingly and voluntarily, or that he later denied paternity or knowledge of Griswold to those who were aware of the circumstances. [FN3] Although the record establishes that Draves did not speak of Griswold to Margaret and Daniel, there is no evidence suggesting he sought to actively conceal the facts from them or anyone else. Under the plain terms of section 6452, the only sustainable conclusion on this record is that Draves acknowledged Griswold.

FN3 Huron County court documents indicate that at least two people other than Morris, one of whom appears to have been a relative of Draves, had knowledge of the bastardy proceeding.

Although the facts here do not appear to raise any ambiguity or uncertainty as to the statute's application, we shall, in an abundance of caution, ***912** test our conclusion against the general purpose and legislative history of the statute. (See *Day v. City of Fontana*, *supra*, 25 Cal.4th at p. 274; *Powers v. City of Richmond* (1995) 10 Cal.4th 85, 93 [40 Cal.Rptr.2d 839, 893 P.2d 1160].)

The legislative bill proposing enactment of former section 6408.5 of the Probate Code (Stats. 1983, ch. 842, § 55, p. 3084; Stats. 1984, ch. 892, § 42, p. 3001), the first modern statutory forerunner to section 6452, was introduced to effectuate the Tentative Recommendation Relating to Wills and Intestate Succession of the California Law Revision Commission (the Commission). (See 17 Cal. Law Revision Com. Rep. (1984) p. 867, referring to 16 Cal. Law Revision Com. Rep. (1982) p. 2301.) According to the Commission, which had been solicited by the Legislature to study and recommend changes to the then existing Probate Code, the proposed comprehensive legislative package to govern wills, intestate succession, and related matters would "provide rules that are more likely to carry out the intent of the testator or, if a person dies without a will, the intent a decedent without a will is most likely to have had." (16 Cal. Law Revision Com. Rep., *supra*, at p. 2319.) The Commission also advised that the purpose of the legislation was to "make probate more efficient and expeditious." (*Ibid.*) From all that appears, the Legislature shared the Commission's views in enacting the legislative bill of which former section 6408.5 was a part. (See 17 Cal. Law Revision Com. Rep., *supra*, at p. 867.)

Typically, disputes regarding parental acknowledgement of a child born out of wedlock involve factual assertions that are made by persons who are likely to have direct financial interests in the child's estate and that relate to events occurring long before the child's death. Questions of credibility must be resolved without the child in court to corroborate or rebut the claims of those purporting to have witnessed the parent's statements or conduct concerning the child. Recognition that an in-court admission of the parent

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

and child relationship constitutes powerful evidence of an acknowledgement under section 6452 would tend to reduce litigation over such matters and thereby effectuate the legislative objective to "make probate more efficient and expeditious." (16 Cal. Law Revision Com. Rep., *supra*, at p. 2319.)

Additionally, construing the acknowledgement requirement to be met in circumstances such as these is neither illogical nor absurd with respect to the intent of an intestate decedent. Put another way, where a parent willingly acknowledged paternity in an action initiated to establish the parent-child relationship and thereafter was never heard to deny such relationship (§ 6452, subd. (a)), and where that parent paid all court-ordered support for that child for 18 years (*id.*, subd. (b)), it cannot be said that the participation ***913** of that parent or his relative in the estate of the deceased child is either (1) so illogical that it cannot represent the intent that one without a will is most likely to have had (16 Cal. Law Revision Com. Rep., *supra*, at p. 2319) or (2) "so absurd as to make it manifest that it could not have been intended" by the Legislature (*Estate of De Cigaran* (1907) 150 Cal. 682, 688 [89 P. 833] [construing Civ. Code, former § 1388 as entitling the illegitimate half sister of an illegitimate decedent to inherit her entire intestate separate property to the exclusion of the decedent's surviving husband]).

There is a dearth of case law pertaining to section 6452 or its predecessor statutes, but what little there is supports the foregoing construction. Notably, *Lozano v. Scalier* (1996) 51 Cal.App.4th 843 [59 Cal.Rptr.2d 346] (*Lozano*), the only prior decision directly addressing section 6452's acknowledgement requirement, declined to read the statute as necessitating more than what its plain terms call for.

In *Lozano*, the issue was whether the trial court erred in allowing the plaintiff, who was the natural father of a 10-month-old child, to pursue a wrongful death action arising out of the child's accidental death. The wrongful death statute provided that where the decedent left no spouse or child, such an action may be brought by the persons "who would be entitled to the property of the decedent by intestate succession." (Code Civ. Proc., § 377.60, subd. (a).) Because the child had been born out of wedlock, the plaintiff had no right to succeed to the estate unless he had both "acknowledged the child " and "contributed to the support or the care of the child" as required by section 6452. *Lozano* upheld the trial court's finding of acknowledgement in light of evidence in the record that the plaintiff had signed as "Father" on a medical form five months before the child's birth and had repeatedly told family members and others that he was the child's father. (*Lozano*, *supra*, 51 Cal.App.4th at pp. 845, 848.)

Significantly, *Lozano* rejected arguments that an acknowledgement under Probate Code section 6452 must be (1) a witnessed writing and (2) made after the child was born so that the child is identified. In doing so, *Lozano* initially noted there were no such requirements on the face of the statute. (*Lozano*, *supra*, 51 Cal.App.4th at p. 848.) *Lozano* next looked to the history of the statute and made two observations in declining to read such terms into the statutory language. First, even though the Legislature had previously required a witnessed writing in cases where an illegitimate child sought to inherit from the father's estate, it repealed such requirement in 1975 in an apparent effort to ease the evidentiary proof of the parent-child relationship. (*Ibid.*) Second, other statutes that required a parent-child relationship expressly contained more formal acknowledgement requirements for the assertion of certain other rights or privileges. (See *id.* at p. 849, citing ***914**Code Civ. Proc., § 376, subd. (c), Health & Saf. Code, § 102750, & Fam. Code, § 7574.) Had the Legislature wanted to impose more stringent requirements for an acknowledgement under section 6452, *Lozano* reasoned, it certainly had precedent for doing so. (*Lozano*, *supra*, 51 Cal.App.4th at p. 849.)

Apart from Probate Code section 6452, the Legislature had previously imposed an acknowledgement requirement in the context of a statute providing that a father could legitimate a child born out of wedlock for all purposes "by publicly acknowledging it as his own." (See Civ. Code, former § 230.) [FN4] Since that statute dealt with an analogous subject and employed a substantially similar phrase, we address the case law construing that legislation below.

> FN4 Former section 230 of the Civil Code provided: "The father of an illegitimate child, by publicly acknowledging it as his own, receiving it as such, with the consent of his wife, if he is married, into his family, and otherwise treating it as if it were a legitimate child, thereby adopts it as such; and such

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> child is thereupon deemed for all purposes legitimate from the time of its birth. The foregoing provisions of this Chapter do not apply to such an adoption." (Enacted 1 Cal. Civ. Code (1872) § 230, p. 68, repealed by Stats. 1975, ch. 1244, § 8, p. 3196.)
>
> In 1975, the Legislature enacted California's Uniform Parentage Act, which abolished the concept of legitimacy and replaced it with the concept of parentage. (See *Adoption of Kelsey S.* (1992) 1 Cal.4th 816, 828-829 [4 Cal.Rptr.2d 615, 823 P.2d 1216].)

In *Blythe v. Ayres* (1892) 96 Cal. 532 [31 P. 915], decided over a century ago, this court determined that the word "acknowledge," as it appeared in former section 230 of the Civil Code, had no technical meaning. (*Blythe v. Ayers*, *supra*, 96 Cal. at p. 577.) We therefore employed the word's common meaning, which was " 'to own or admit the knowledge of.' " (*Ibid.* [relying upon Webster's definition]; see also *Estate of Gird* (1910) 157 Cal. 534, 542 [108 P. 499].) Not only did that definition endure in case law addressing legitimation (*Estate of Wilson* (1958) 164 Cal.App.2d 385, 388-389 [330 P.2d 452]; see *Estate of Gird*, *supra*, 157 Cal. at pp. 542-543), but, as discussed, the word retains virtually the same meaning in general usage today-"to admit to be true or as stated; confess." (Webster's New World Dict., *supra*, at p. 12; see Webster's 3d New Internat. Dict., *supra*, at p. 17.)

Notably, the decisions construing former section 230 of the Civil Code indicate that its public acknowledgement requirement would have been met where a father made a single confession in court to the paternity of a child.

In *Estate of McNamara* (1919) 181 Cal. 82 [183 P. 552, 7 A.L.R. 313], for example, we were emphatic in recognizing that a single unequivocal act could satisfy the acknowledgement requirement for purposes of statutory legitimation. Although the record in that case had contained additional evidence of the father's acknowledgement, we focused our attention on his ***915** one act of signing the birth certificate and proclaimed: "A more public acknowledgement than the act of [the decedent] in signing the child's birth certificate describing himself as the father, it would be difficult to imagine." (*Id.* at pp. 97-98.)

Similarly, in *Estate of Gird*, *supra*, 157 Cal. 534, we indicated in dictum that "a public avowal, made in the courts" would constitute a public acknowledgement under former section 230 of the Civil Code. (*Estate of Gird*, *supra*, 157 Cal. at pp. 542-543.)

Finally, in *Wong v. Young* (1947) 80 Cal.App.2d 391 [181 P.2d 741], a man's admission of paternity in a verified pleading, made in an action seeking to have the man declared the father of the child and for child support, was found to have satisfied the public acknowledgement requirement of the legitimation statute. (*Id.* at pp. 393-394.) Such admission was also deemed to constitute an acknowledgement under former Probate Code section 255, which had allowed illegitimate children to inherit from their fathers under an acknowledgement requirement that was even more stringent than that contained in Probate Code section 6452. [FN5] (*Wong v. Young*, *supra*, 80 Cal.App.2d at p. 394; see also *Estate of De Laveaga* (1904) 142 Cal. 158, 168 [75 P. 790] [indicating in dictum that, under a predecessor to Probate Code section 255, father sufficiently acknowledged an illegitimate child in a single witnessed writing declaring the child as his son].) Ultimately, however, legitimation of the child under former section 230 of the Civil Code was not found because two other of the statute's express requirements, i.e., receipt of the child into the father's family and the father's otherwise treating the child as his legitimate child (see *ante*, fn. 4), had not been established. (*Wong v. Young*, *supra*, 80 Cal.App.2d at p. 394.)

> FN5 Section 255 of the former Probate Code provided in pertinent part: " 'Every illegitimate child, whether born or conceived but unborn, in the event of his subsequent birth, is an heir of his mother, and also of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father, and inherits his or her estate, in whole or in part, as the case may be, in the same manner as if he had been born in lawful wedlock ....' " (*Estate of Ginochio* (1974) 43 Cal.App.3d 412, 416 [117 Cal.Rptr. 565], italics omitted.)

Although the foregoing authorities did not involve section 6452, their views on parental acknowledgement of out-of-wedlock children were part of the legal landscape when the first modern statutory forerunner

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

to that provision was enacted in 1985. (See former § 6408.5, added by Stats. 1983, ch. 842, § 55, p. 3084, and amended by Stats. 1984, ch. 892, § 42, p. 3001.) (3) Where, as here, legislation has been judicially construed and a subsequent statute on the same or an analogous subject uses identical or substantially similar language, we may presume that the Legislature intended the ***916** same construction, unless a contrary intent clearly appears. (*In re Jerry R.* (1994) 29 Cal.App.4th 1432, 1437 [35 Cal.Rptr.2d 155]; see also *People v. Masbruch* (1996) 13 Cal.4th 1001, 1007 [55 Cal.Rptr.2d 760, 920 P.2d 705]; *Belridge Farms v. Agricultural Labor Relations Bd.* (1978) 21 Cal.3d 551, 557 [147 Cal.Rptr. 165, 580 P.2d 665].) (1c) Since no evidence of a contrary intent clearly appears, we may reasonably infer that the types of acknowledgement formerly deemed sufficient for the legitimation statute (and former § 255, as well) suffice for purposes of intestate succession under section 6452. FN6

FN6 Probate Code section 6452's acknowledgement requirement differs from that found in former section 230 of the Civil Code, in that section 6452 does not require a parent to "publicly" acknowledge a child born out of wedlock. That difference, however, fails to accrue to Doner-Griswold's benefit. If anything, it suggests that the acknowledgement contemplated in section 6452 encompasses a broader spectrum of conduct than that associated with the legitimation statute.

Doner-Griswold disputes whether the acknowledgement required by Probate Code section 6452 may be met by a father's single act of acknowledging a child in court. In her view, the requirement contemplates a situation where the father establishes an ongoing parental relationship with the child or otherwise acknowledges the child's existence to his subsequent wife and children. To support this contention, she relies on three other authorities addressing acknowledgement under former section 230 of the Civil Code: *Blythe v. Ayers*, *supra*, 96 Cal. 532, *Estate of Wilson*, *supra*, 164 Cal.App.2d 385, and *Estate of Maxey* (1967) 257 Cal.App.2d 391 [64 Cal.Rptr. 837].

In *Blythe v. Ayres*, *supra*, 96 Cal. 532, the father never saw his illegitimate child because she resided in another country with her mother. Nevertheless, he "was garrulous upon the subject" of his paternity and "it was his common topic of conversation." (*Id.* at p. 577.) Not only did the father declare the child to be his child, "to all persons, upon all occasions," but at his request the child was named and baptized with his surname. (*Ibid.*) Based on the foregoing, this court remarked that "it could almost be held that he shouted it from the house-tops." (*Ibid.*) Accordingly, we concluded that the father's public acknowledgement under former section 230 of the Civil Code could "hardly be considered debatable." (*Blythe v. Ayres*, *supra*, 96 Cal. at p. 577.)

In *Estate of Wilson*, *supra*, 164 Cal.App.2d 385, the evidence showed that the father had acknowledged to his wife that he was the father of a child born to another woman. (*Id.* at p. 389.) Moreover, he had introduced the child as his own on many occasions, including at the funeral of his mother. (*Ibid.*) In light of such evidence, the Court of Appeal upheld the trial court's finding that the father had publicly acknowledged the child within the contemplation of the legitimation statute. ***917**

In *Estate of Maxey*, *supra*, 257 Cal.App.2d 391, the Court of Appeal found ample evidence supporting the trial court's determination that the father publicly acknowledged his illegitimate son for purposes of legitimation. The father had, on several occasions, visited the house where the child lived with his mother and asked about the child's school attendance and general welfare. (*Id.* at p. 397.) The father also, in the presence of others, had asked for permission to take the child to his own home for the summer, and, when that request was refused, said that the child was his son and that he should have the child part of the time. (*Ibid.*) In addition, the father had addressed the child as his son in the presence of other persons. (*Ibid.*)

Doner-Griswold correctly points out that the foregoing decisions illustrate the principle that the existence of acknowledgement must be decided on the circumstances of each case. (*Estate of Baird* (1924) 193 Cal. 225, 277 [223 P. 974].) In those decisions, however, the respective fathers had not confessed to paternity in a legal action. Consequently, the courts looked to what other forms of public acknowledgement had been demonstrated by fathers. (See also *Lozano*, *supra*, 51 Cal.App.4th 843 [examining father's acts both before and after child's birth in ascertaining acknowledgement under § 6452].)

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

That those decisions recognized the validity of different forms of acknowledgement should not detract from the weightiness of a father's in-court acknowledgement of a child in an action seeking to establish the existence of a parent and child relationship. (See *Estate of Gird*, *supra*, 157 Cal. at pp. 542-543; *Wong v. Young*, *supra*, 80 Cal.App.2d at pp. 393-394.) As aptly noted by the Court of Appeal below, such an acknowledgement is a critical one that typically leads to a paternity judgment and a legally enforceable obligation of support. Accordingly, such acknowledgements carry as much, if not greater, significance than those made to certain select persons (*Estate of Maxey*, *supra*, 257 Cal.App.2d at p. 397) or "shouted ... from the house-tops " (*Blythe v. Ayres*, *supra*, 96 Cal. at p. 577).

Doner-Griswold's authorities do not persuade us that section 6452 should be read to require that a father have personal contact with his out-of-wedlock child, that he make purchases for the child, that he receive the child into his home and other family, or that he treat the child as he does his other children. First and foremost, the language of section 6452 does not support such requirements. (See *Lozano*, *supra*, 51 Cal.App.4th at p. 848.) (4) We may not, under the guise of interpretation, insert qualifying provisions not included in the statute. (*California Fed. Savings & Loan Assn. v. City of Los Angeles* (1995) 11 Cal.4th 342, 349 [45 Cal.Rptr.2d 279, 902 P.2d 297].)

(1d) Second, even though *Blythe v. Ayres*, *supra*, 96 Cal. 532, *Estate of Wilson*, *supra*, 164 Cal.App.2d 385, and *Estate of Maxey*, *supra*, ***918**257 Cal.App.2d 391, variously found such factors significant for purposes of legitimation, their reasoning appeared to flow directly from the express terms of the controlling statute. In contrast to Probate Code section 6452, former section 230 of the Civil Code provided that the legitimation of a child born out of wedlock was dependent upon three distinct conditions: (1) that the father of the child "publicly acknowledg[e] it as his own"; (2) that he "receiv[e] it as such, with the consent of his wife, if he is married, into his family"; and (3) that he "otherwise treat[] it as if it were a legitimate child." (*Ante*, fn. 4; see *Estate of De Laveaga*, *supra*, 142 Cal. at pp. 168-169 [indicating that although father acknowledged his illegitimate son in a single witnessed writing, legitimation statute was not satisfied because the father never received the child into his family and did not treat the child as if he were legitimate].) That the legitimation statute contained such explicit requirements, while section 6452 requires only a natural parent's acknowledgement of the child and contribution toward the child's support or care, strongly suggests that the Legislature did not intend for the latter provision to mirror the former in all the particulars identified by Doner-Griswold. (See *Lozano*, *supra*, 51 Cal.App.4th at pp. 848-849; compare with Fam. Code, § 7611, subd. (d) [a man is "presumed" to be the natural father of a child if "[h]e receives the child into his home and openly holds out the child as his natural child"].)

In an attempt to negate the significance of Draves's in-court confession of paternity, Doner-Griswold emphasizes the circumstance that Draves did not tell his two other children of Griswold's existence. The record here, however, stands in sharp contrast to the primary authority she offers on this point. *Estate of Baird*, *supra*, 193 Cal. 225, held there was no public acknowledgement under former section 230 of the Civil Code where the decedent admitted paternity of a child to the child's mother and their mutual acquaintances but actively concealed the child's existence and his relationship to the child's mother from his own mother and sister, with whom he had intimate and affectionate relations. In that case, the decedent not only failed to tell his relatives, family friends, and business associates of the child (193 Cal. at p. 252), but he affirmatively denied paternity to a half brother and to the family coachman (*id.* at p. 277). In addition, the decedent and the child's mother masqueraded under a fictitious name they assumed and gave to the child in order to keep the decedent's mother and siblings in ignorance of the relationship. (*Id.* at pp. 260-261.) In finding that a public acknowledgement had not been established on such facts, *Estate of Baird* stated: "A distinction will be recognized between a mere failure to disclose or publicly acknowledge paternity and a willful misrepresentation in regard to it; in such circumstances there must be no purposeful concealment of the fact of paternity. " (*Id.* at p. 276.) ***919**

Unlike the situation in *Estate of Baird*, Draves confessed to paternity in a formal legal proceeding. There is no evidence that Draves thereafter disclaimed his relationship to Griswold to people aware of the circumstances (see *ante*, fn. 3), or that he affirmatively denied he was Griswold's father despite his confession

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

of paternity in the Ohio court proceeding. Nor is there any suggestion that Draves engaged in contrivances to prevent the discovery of Griswold's existence. In light of the obvious dissimilarities, Doner-Griswold's reliance on *Estate of Baird* is misplaced.

Estate of Ginochio, *supra*, 43 Cal.App.3d 412, likewise, is inapposite. That case held that a judicial determination of paternity following a vigorously contested hearing did not establish an acknowledgement sufficient to allow an illegitimate child to inherit under section 255 of the former Probate Code. (See *ante*, fn. 5.) Although the court noted that the decedent ultimately paid the child support ordered by the court, it emphasized the circumstance that the decedent was declared the child's father *against his will* and at no time did he admit he was the father, or sign any writing acknowledging publicly or privately such fact, or otherwise have contact with the child. (*Estate of Ginochio*, *supra*, 43 Cal.App.3d at pp. 416-417.) Here, by contrast, Draves did not contest paternity, vigorously or otherwise. Instead, Draves stood before the court and openly admitted the parent and child relationship, and the record discloses no evidence that he subsequently disavowed such admission to anyone with knowledge of the circumstances. On this record, section 6452's acknowledgement requirement has been satisfied by a showing of what Draves did and did not do, not by the mere fact that paternity had been judicially declared.

Finally, Doner-Griswold contends that a 1996 amendment of section 6452 evinces the Legislature's unmistakable intent that a decedent's estate may not pass to siblings who had no contact with, or were totally unknown to, the decedent. As we shall explain, that contention proves too much.

Prior to 1996, section 6452 and a predecessor statute, former section 6408, expressly provided that their terms did not apply to "a natural brother or a sister of the child" born out of wedlock. [FN7] In construing former section 6408, *Estate of Corcoran* (1992) 7 Cal.App.4th 1099 [9 Cal.Rptr.2d 475] held that a half sibling was a "natural brother or sister" within the meaning of such ***920** exception. That holding effectively allowed a half sibling and the issue of another half sibling to inherit from a decedent's estate where there had been no parental acknowledgement or support of the decedent as ordinarily required. In direct response to *Estate of Corcoran*, the Legislature amended section 6452 by eliminating the exception for natural siblings and their issue. (Stats. 1996, ch. 862, § 15; see Sen. Com. on Judiciary, Analysis of Assem. Bill No. 2751 (1995-1996 Reg. Sess.) as amended June 3, 1996, pp. 17-18 (Assembly Bill No. 2751).) According to legislative documents, the Commission had recommended deletion of the statutory exception because it "creates an undesirable risk that the estate of the deceased out-of-wedlock child will be claimed by siblings with whom the decedent had no contact during lifetime, and of whose existence the decedent was unaware." (Assem. Com. on Judiciary, Analysis of Assem. Bill No. 2751 (1995-1996 Reg. Sess.) as introduced Feb. 22, 1996, p. 6; see also Sen. Com. on Judiciary, Analysis of Assem. Bill No. 2751, *supra*, at pp. 17-18.)

> FN7 Former section 6408, subdivision (d) provided: "If a child is born out of wedlock, neither a parent nor a relative of a parent (except for the issue of the child *or a natural brother or sister of the child or the issue of that brother or sister*) inherits from or through the child on the basis of the relationship of parent and child between that parent and child unless both of the following requirements are satisfied: [¶] (1) The parent or a relative of the parent acknowledged the child. [¶] (2) The parent or a relative of the parent contributed to the support or the care of the child. " (Stats. 1990, ch. 79, § 14, p. 722, italics added.)

This legislative history does not compel Doner-Griswold's construction of section 6452. Reasonably read, the comments of the Commission merely indicate its concern over the "undesirable risk" that unknown siblings could rely on the statutory exception to make claims against estates. Neither the language nor the history of the statute, however, evinces a clear intent to make inheritance contingent upon the decedent's awareness of or contact with such relatives. (See Assem. Com. on Judiciary, Analysis of Assem. Bill No. 2751, *supra*, at p. 6; see also Sen. Com. on Judiciary, Analysis of Assem. Bill No. 2751, *supra*, at pp. 17-18.) Indeed, had the Legislature intended to categorically preclude intestate succession by a natural parent or a relative of that parent who had no contact with or was unknown to the deceased child, it could easily have so stated. Instead, by deleting the statutory exception for natural siblings, thereby sub-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

jecting siblings to section 6452's dual requirements of acknowledgement and support, the Legislature acted to prevent sibling inheritance under the type of circumstances presented in *Estate of Corcoran, supra,* 7 Cal.App.4th 1099, and to substantially reduce the risk noted by the Commission. [FN8] ***921**

> FN8 We observe that, under certain former versions of Ohio law, a father's confession of paternity in an Ohio juvenile court proceeding was not the equivalent of a formal probate court "acknowledgement" that would have allowed an illegitimate child to inherit from the father in that state. (See *Estate of Vaughan* (2001) 90 Ohio St.3d 544 [740 N.E.2d 259, 262-263].) Here, however, Doner-Griswold does not dispute that the right of the succession claimants to succeed to Griswold's property is governed by the law of Griswold's domicile, i.e., California law, not the law of the claimants' domicile or the law of the place where Draves's acknowledgement occurred. (Civ. Code, §§ 755, 946; see *Estate of Lund* (1945) 26 Cal.2d 472, 493-496 [159 P.2d 643, 162 A.L.R. 606] [where father died domiciled in California, his out-of-wedlock son could inherit where all the legitimation requirements of former § 230 of the Civ. Code were met, even though the acts of legitimation occurred while the father and son were domiciled in two other states wherein such acts were not legally sufficient].)

B. *Requirement of a Natural Parent and Child Relationship*

(5a) Section 6452 limits the ability of a "natural parent" or "a relative of that parent" to inherit from or through the child "on the basis of the parent and child relationship between that parent and the child."

Probate Code section 6453 restricts the means by which a relationship of a natural parent to a child may be established for purposes of intestate succession. [FN9] (See *Estate of Sanders* (1992) 2 Cal.App.4th 462, 474-475 [3 Cal.Rptr.2d 536].) Under section 6453, subdivision (a), a natural parent and child relationship is established where the relationship is presumed under the Uniform Parentage Act and not rebutted. (Fam. Code, § 7600 et seq.) It is undisputed, however, that none of those presumptions applies in this case.

> FN9 Section 6453 provides in full: "For the purpose of determining whether a person is a 'natural parent' as that term is used is this chapter: [¶] (a) A natural parent and child relationship is established where that relationship is presumed and not rebutted pursuant to the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code. [¶] (b) A natural parent and child relationship may be established pursuant to any other provisions of the Uniform Parentage Act, except that the relationship may not be established by an action under subdivision (c) of Section 7630 of the Family Code unless any of the following conditions exist: [¶] (1) A court order was entered during the father's lifetime declaring paternity. [¶] (2) Paternity is established by clear and convincing evidence that the father has openly held out the child as his own. [¶] (3) It was impossible for the father to hold out the child as his own and paternity is established by clear and convincing evidence."

Alternatively, and as relevant here, under Probate Code section 6453, subdivision (b), a natural parent and child relationship may be established pursuant to section 7630, subdivision (c) of the Family Code, [FN10] if a court order was entered during the father's lifetime declaring paternity. [FN11] (§ 6453, subd. (b)(1).)

> FN10 Family Code section 7630, subdivision (c) provides in pertinent part: "An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7611 ... may be brought by the child or personal representative of the child, the Department of Child Support Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. An action under this subdivision shall be consolidated with a proceeding pursuant to Section 7662 if a proceeding has been filed under Chapter 5 (commencing with Section 7660). The pa-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> rental rights of the alleged natural father shall be determined as set forth in Section 7664."
>
> FN11 See makes no attempt to establish Draves's natural parent status under other provisions of section 6453, subdivision (b).

See contends the question of Draves's paternity was fully and finally adjudicated in the 1941 bastardy proceeding in Ohio. That proceeding, he ***922** argues, satisfies both the Uniform Parentage Act and the Probate Code, and should be binding on the parties here.

If a valid judgment of paternity is rendered in Ohio, it generally is binding on California courts if Ohio had jurisdiction over the parties and the subject matter, and the parties were given reasonable notice and an opportunity to be heard. (*Ruddock v. Ohls* (1979) 91 Cal.App.3d 271, 276 [154 Cal.Rptr. 87].) California courts generally recognize the importance of a final determination of paternity. (E.g., *Weir v. Ferreira* (1997) 59 Cal.App.4th 1509, 1520 [70 Cal.Rptr.2d 33] (*Weir*); *Guardianship of Claralyn S.* (1983) 148 Cal.App.3d 81, 85 [195 Cal.Rptr. 646]; cf. *Estate of Camp* (1901) 131 Cal. 469, 471 [63 P. 736] [same for adoption determinations].)

Doner-Griswold does not dispute that the parties here are in privity with, or claim inheritance through, those who are bound by the bastardy judgment or are estopped from attacking it. (See *Weir*, *supra*, 59 Cal.App.4th at pp. 1516-1517, 1521.) Instead, she contends See has not shown that the issue adjudicated in the Ohio bastardy proceeding is identical to the issue presented here, that is, whether Draves was the natural parent of Griswold.

Although we have found no California case directly on point, one Ohio decision has recognized that a bastardy judgment rendered in Ohio in 1950 was res judicata of any proceeding that might have been brought under the Uniform Parentage Act. (*Birman v. Sproat* (1988) 47 Ohio App.3d 65 [546 N.E.2d 1354, 1357] [child born out of wedlock had standing to bring will contest based upon a paternity determination in a bastardy proceeding brought during testator's life]; see also Black's Law Dict., *supra*, at pp. 146, 1148 [equating a bastardy proceeding with a paternity suit].) Yet another Ohio decision found that parentage proceedings, which had found a decedent to be the "reputed father" of a child, [FN12] satisfied an Ohio legitimation statute and conferred standing upon the illegitimate child to contest the decedent's will where the father-child relationship was established prior to the decedent's death. (*Beck v. Jolliff* (1984) 22 Ohio App.3d 84 [489 N.E.2d 825, 829]; see also *Estate of Hicks* (1993) 90 Ohio App.3d 483 [629 N.E.2d 1086, 1088-1089] [parentage issue must be determined prior to the father's death to the extent the parent-child relationship is being established under the chapter governing descent and distribution].) While we are not bound to follow these Ohio authorities, they persuade us that the 1941 bastardy proceeding decided the identical issue presented here.

> FN12 The term "reputed father" appears to have reflected the language of the relevant Ohio statute at or about the time of the 1941 bastardy proceeding. (See *State ex rel. Discus v. Van Dorn* (1937) 56 Ohio App. 82 [8 Ohio Op. 393, 10 N.E.2d 14, 16].)

Next, Doner-Griswold argues the Ohio judgment should not be given res judicata effect because the bastardy proceeding was quasi-criminal in nature. ***923** It is her position that Draves's confession may have reflected only a decision to avoid a jury trial instead of an adjudication of the paternity issue on the merits.

To support this argument, Doner-Griswold relies upon *Pease v. Pease* (1988) 201 Cal.App.3d 29 [246 Cal.Rptr. 762] (*Pease*). In that case, a grandfather was sued by his grandchildren and others in a civil action alleging the grandfather's molestation of the grandchildren. When the grandfather cross-complained against his former wife for apportionment of fault, she filed a demurrer contending that the grandfather was collaterally estopped from asserting the negligent character of his acts by virtue of his guilty plea in a criminal proceeding involving the same issues. On appeal, the judgment dismissing the cross-complaint was reversed. (6) The appellate court reasoned that a trial court in a civil proceeding may not give collateral estoppel effect to a criminal conviction involving the same issues if the conviction resulted from a guilty plea. "The issue of appellant's guilt was not fully litigated in the prior criminal proceeding; rather, appellant's plea bargain may reflect nothing more than a compromise instead of an ultimate determination of his guilt. Appellant's due process right to a hearing

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

thus outweighs any countervailing need to limit litigation or conserve judicial resources." (*Id.* at p. 34, fn. omitted.)

(5b) Even assuming, for purposes of argument only, that *Pease*'s reasoning may properly be invoked where the father's admission of paternity occurred in a bastardy proceeding (see *Reams v. State ex rel. Favors* (1936) 53 Ohio App. 19 [6 Ohio Op. 501, 4 N.E.2d 151, 152] [indicating that a bastardy proceeding is more civil than criminal in character]), the circumstances here do not call for its application. Unlike the situation in *Pease*, neither the in-court admission nor the resulting paternity judgment at issue is being challenged by the father (Draves). Moreover, neither the father, nor those claiming a right to inherit through him, seek to litigate the paternity issue. Accordingly, the father's due process rights are not at issue and there is no need to determine whether such rights might outweigh any countervailing need to limit litigation or conserve judicial resources. (See *Pease*, *supra*, 201 Cal.App.3d at p. 34.)

Additionally, the record fails to support any claim that Draves's confession merely reflected a compromise. Draves, of course, is no longer living and can offer no explanation as to why he admitted paternity in the bastardy proceeding. Although Doner-Griswold suggests that Draves confessed to avoid the publicity of a jury trial, and not because the paternity charge had merit, that suggestion is purely speculative and finds no evidentiary support in the record. ***924**

Finally, Doner-Griswold argues that See and Griswold's half siblings do not have standing to seek the requisite paternity determination pursuant to the Uniform Parentage Act under section 7630, subdivision (c) of the Family Code. The question here, however, is whether the judgment in the bastardy proceeding initiated by Griswold's mother forecloses Doner-Griswold's relitigation of the parentage issue.

Although Griswold's mother was not acting pursuant to the Uniform Parentage Act when she filed the bastardy complaint in 1941, neither that legislation nor the Probate Code provision should be construed to ignore the force and effect of the judgment she obtained. That Griswold's mother brought her action to determine paternity long before the adoption of the Uniform Parentage Act, and that all procedural requirements of an action under Family Code section 7630 may not have been followed, should not detract from its binding effect in this probate proceeding where the issue adjudicated was identical with the issue that would have been presented in a Uniform Parentage Act action. (See *Weir*, *supra*, 59 Cal.App.4th at p. 1521.) Moreover, a prior adjudication of paternity does not compromise a state's interests in the accurate and efficient disposition of property at death. (See *Trimble v. Gordon* (1977) 430 U.S. 762, 772 & fn. 14 [97 S.Ct. 1459, 1466, 52 L.Ed.2d 31] [striking down a provision of a state probate act that precluded a category of illegitimate children from participating in their intestate fathers' estates where the parent-child relationship had been established in state court paternity actions prior to the fathers' deaths].)

In sum, we find that the 1941 Ohio judgment was a court order "entered during the father's lifetime declaring paternity" (§ 6453, subd. (b)(1)), and that it establishes Draves as the natural parent of Griswold for purposes of intestate succession under section 6452.

Disposition

(7) " 'Succession to estates is purely a matter of statutory regulation, which cannot be changed by the courts.' " (*Estate of De Cigaran*, *supra*, 150 Cal. at p. 688.) We do not disagree that a natural parent who does no more than openly acknowledge a child in court and pay court-ordered child support may not reflect a particularly worthy predicate for inheritance by that parent's issue, but section 6452 provides in unmistakable language that it shall be so. While the Legislature remains free to reconsider the matter and may choose to change the rules of succession at any time, this court will not do so under the pretense of interpretation.

The judgment of the Court of Appeal is affirmed.

George, C. J., Kennard, J., Werdegar, J., and Chin, J., concurred. ***925 BROWN, J.**
I reluctantly concur. The relevant case law strongly suggests that a father who admits paternity in court with no subsequent disclaimers "acknowledge[s] the child" within the meaning of subdivision (a) of Probate Code section 6452. Moreover, neither the statutory language nor the legislative history supports an alternative interpretation. Accordingly, we must af-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

firm the judgment of the Court of Appeal.

Nonetheless, I believe our holding today contravenes the overarching purpose behind our laws of intestate succession-to carry out "the intent a decedent without a will is most likely to have had." (16 Cal. Law Revision Com. Rep. (1982) p. 2319.) I doubt most children born out of wedlock would have wanted to bequeath a share of their estate to a "father" who never contacted them, never mentioned their existence to his family and friends, and only paid court-ordered child support. I doubt even more that these children would have wanted to bequeath a share of their estate to that father's other offspring. Finally, I have *no* doubt that most, if not all, children born out of wedlock would have balked at bequeathing a share of their estate to a "forensic genealogist."

To avoid such a dubious outcome in the future, I believe our laws of intestate succession should allow a parent to inherit from a child born out of wedlock only if the parent has some sort of parental connection to that child. For example, requiring a parent to treat a child born out of wedlock as the parent's own before the parent may inherit from that child would prevent today's outcome. (See, e.g., *Bullock v. Thomas* (Miss. 1995) 659 So.2d 574, 577 [a father must "openly treat" a child born out of wedlock "as his own " in order to inherit from that child].) More importantly, such a requirement would comport with the stated purpose behind our laws of succession because that child likely would have wanted to give a share of his estate to a parent that treated him as the parent's own.

Of course, this court may not remedy this apparent defect in our intestate succession statutes. Only the Legislature may make the appropriate revisions. I urge it to do so here. ***926**

Cal. 2001.
Estate of Griswold
25 Cal.4th 904, 24 P.3d 1191, 108 Cal.Rptr.2d 165, 01 Cal. Daily Op. Serv. 5116, 2001 Daily Journal D.A.R. 6305.

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

FONTANA UNIFIED SCHOOL DISTRICT,
Plaintiff and Appellant,
v.
NANCY BURMAN, Defendant and Appellant
L.A. No. 32230.

Supreme Court of California
May 12, 1988.

SUMMARY

In a hearing by a commission on professional competence to consider charges against a tenured teacher initiated by a school district's notice of intent to dismiss her (Ed. Code, § 44932, subd. (a)), the commission determined that the teacher should not be dismissed, even though it found her guilty of dishonesty, a cause for discipline and a ground for dismissal. In mandamus proceedings by the school district, the trial court denied the writ. (Superior Court of San Bernardino County, No. 223230, Charles Bierschbach, Judge.) The Court of Appeal, Fourth Dist., Div. Two, No. E001561, reversed.

The Supreme Court reversed the judgment of the Court of Appeal with directions to enter judgment affirming the trial court in part and reversing in part and directing it to enter judgment denying the petition for a writ of mandate and to award the teacher reasonable costs and attorney fees. Stating the principal question on appeal was whether the commission had the discretion to determine that the teacher should not be dismissed as a permanent employee once it found her guilty of dishonesty within the meaning of Ed. Code, § 44932, subd. (a)(3), or whether, as the Court of Appeal found, her dismissal was mandatory once cause for discipline on that ground had been found to exist, the court held a commission on professional competence is empowered to exercise its collective wisdom and discretion to determine that dismissal is not appropriate in a given case. The court also held the commission was not an indispensable party in the administrative mandamus proceedings. (Opinion by Arguelles, J., expressing the unanimous view of the court.)

HEADNOTES

Classified to California Digest of Official Reports

(1a, 1b, 1c, 1d) Schools § 46--Teachers--Suspension or Dismissal-- Appeals Before Personnel Commission--Commission on Professional Competence--Discretion.
In a hearing by a commission on professional competence to consider charges against a tenured teacher initiated by the school district's notice of intent to dismiss her (Ed. Code, § 44932, subd. (a)), the commission had the discretion to determine that the teacher should not be dismissed, even though the commission found her guilty of dishonesty, a cause for discipline and a ground for dismissal. Under Ed. Code, § 44944, subd. (c), a commission has only two options when a school district seeks only to dismiss a teacher: It may choose to dismiss or not to dismiss. The fact the commission found a cause for discipline existed did not mandate the imposition of the only statutorily authorized discipline of dismissal and it was prohibited from imposing suspension. The commission's role is not limited to resolving the factual question whether the charged conduct occurred, but also to resolve the ultimate issue presented by a disciplinary proceeding: whether the conduct demonstrates such unfitness to teach as to warrant terminating the teacher's employment.
[See **Cal.Jur.3d**, Schools, § 440; **Am.Jur.2d**, Schools, § 185.]
(2) Statutes § 21--Construction--Legislative Intent.
A fundamental rule of statutory construction is that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent the court turns first to the words themselves for the answer. It is required to give effect to statutes according to the usual, ordinary import of the language employed in framing them, and, if possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose. A construction making some words surplusage is to be avoided, and when used in a statute, words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear. Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

(3) Schools § 40--Teachers--Suspension or Dismissal--Statutory Scheme.
Viewed in the context of the entire statutory scheme, a fair reading of Ed. Code, § 44944, recognizes the discretion given both an employing school district and a commission on professional competence in disciplinary matters. The district may determine when to seek disciplinary action and what discipline to seek. It may, by choosing to pursue only a dismissal sanction, preclude the commission from imposing suspension. And it may, by invoking the procedures of Ed. Code, § 44939, accompany the notice of dismissal with an immediate suspension of the employee without pay. But nothing in the statutory scheme indicates that the commission must be bound by the district's choice to the extent that it is required to approve the employee's dismissal if it is not persuaded, in the exercise of its discretion, that an offense is serious enough to warrant that step.

(4) Statutes § 45--Construction--Presumptions--Prior Judicial Construction.
When the Legislature amends a statute without altering portions of the provision that have previously been judicially construed, the Legislature is presumed to have been aware of and to have acquiesced in the previous judicial construction. The judicial construction given words and phrases are presumed adopted when those portions of an existing statute are used in a subsequent legislative enactment.

(5) Administrative Law § 104--Judicial Review and Relief--Methods-- Administrative Mandamus--Parties--Dismissal of Teacher--Commission on Professional Competence--Indispensable Parties.
In a mandamus proceeding (Code Civ. Proc., § 1094.5) by a school district to review a decision of a commission on professional competence that the penalty of dismissal should not be imposed on a tenured teacher, in which the teacher was named the respondent, the commission was not an indispensable party. The commission is not a standing body but an ad hoc group whose decision, once made, becomes the decision of the employing school district (Ed. Code, § 44944, subd. (c)), and the commission serves no identifiable function in the remainder of the review process. As the commission need not be before the court to enable the court to accord complete relief between the employing school district and the employee, it is not an indispensable party within the meaning of Code Civ. Proc., § 389, subd. (a).

(6) Costs § 20--Attorney Fees--Statutory Provisions--Teacher Dismissal Proceedings.
Although Ed. Code, § 44944, subd. (e), authorizing the payment of attorney fees to an employee whom the commission on professional competence has determined should not be dismissed or suspended, does not expressly provide for the award of fees if judicial review of a commission decision is sought, fees should be awarded to a prevailing employee for any such review proceedings as well, and costs should be awarded under the general provisions of Code Civ. Proc., § 1032, subd. (b) (costs to prevailing party). The amount of attorney fees is not limited by Gov. Code, § 800, allowing $1,500 in costs and attorney fees on determination that the administrative proceeding was the result of arbitrary or capricious action.

COUNSEL

Wagner, Sisneros & Wagner and John J. Wagner for Plaintiff and Appellant.

Joseph R. Symkowick and Michael E. Hersher as Amici Curiae on behalf of Plaintiff and Appellant.

George W. Shaeffer, Jr., and Silver, Kreisler, Goldwasser & Shaeffer for Defendant and Appellant.

A. Eugene Huguenin, Jr., Kirsten L. Zerger, Diane Ross and Ramon E. Romero as Amici Curiae on behalf of Defendant and Appellant.

ARGUELLES, J.

The decision of a school district to dismiss or to suspend a permanent certificated employee, such as a tenured teacher, for disciplinary or performance-related reasons is subject to review at the employee's request by a local commission on professional competence. The commission is charged by statute with the responsibility of determining whether the employee should or should not be dismissed or suspended, but its powers are circumscribed in part by the employing district's initial choice of sanction. Under Education Code section 44944, subdivision (c), [FN1] the commission has no power "to dispose of [a] charge of dismissal by imposing probation or other alternative sanctions" and may impose suspension as a

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

sanction only if the employing district sought that result.

FN1 All further statutory references are to the Education Code unless otherwise indicated.

We are called upon in this case to decide whether the statute requires a local commission on professional competence to sustain a school district's notice of intent to dismiss a tenured elementary school teacher whenever the commission finds that one of the statutorily authorized grounds for dismissal exists, or whether such a commission has discretion to determine that dismissal is not warranted although cause for some measure of ***212** discipline may exist. We conclude the Court of Appeal erred in holding the commission had no discretion and therefore reverse its order mandating the teacher's discharge.

Facts

The facts of this case are not complex and are undisputed on all material points. Nancy Burman, a tenured teacher employed for 14 years with the Fontana Unified School District in San Bernardino County (district) and then serving as a school principal, decided some time prior to December 8, 1983, to call in sick so that she could attend the first California landing of the space shuttle at Edwards Air Force Base on that day. She arranged for a third party to call her school on December 8 to report that she was ill and would not be at work. In fact, she was not ill and the information given at her request was false.

On the evening of December 7, Burman had dinner with the principal of another school. During the course of a long evening that extended into the following morning, Burman (a) invited a custodian from the friend's school to join the two women for dinner during the custodian's duty hours, (b) returned to her own school after dinner and invited the custodian on duty there to go along with the three to a nightclub, where the group remained for several hours and consumed alcoholic beverages, and (c) invited the others to accompany her to see the space shuttle land at 5 in the morning. The shuttle was delayed by computer problems, and the group left without seeing the landing. Burman returned to her house early that afternoon, where she was confronted by the district superintendent and other district personnel. She initially lied about where she had been that day and denied knowing where the other principal was, but confessed after a short period of time that she had not been ill and that the other principal was at that moment inside the house.

The district's board of education voted to discharge Burman for immoral conduct. Proceeding under section 44939, the district placed Burman on immediate suspension without pay and served notice on her that she would be dismissed 30 days later unless she demanded a hearing. [FN2] The notice set ***213** forth four of the statutorily authorized grounds for dismissal of a teacher, charging Burman with immoral conduct, dishonesty, evident unfitness for service, and persistent violation of or refusal to obey district regulations. [FN3]

FN2 Section 44939 provides, in pertinent part: "*Upon the filing of written charges, duly signed and verified by the person filing them with the governing board of a school district, or upon a written statement of charges formulated by the governing board, charging a permanent employee of the district with immoral conduct*, conviction of a felony or of any crime involving moral turpitude, with incompetency due to mental disability, with willful refusal to perform regular assignments without reasonable cause, as prescribed by reasonable rules and regulations of the employing school district, with violation of Section 51530, with knowing membership by the employee in the Communist Party or with violation of any provision in Sections 7001 to 7007, inclusive [sections repealed by Stats. 1981, ch. 470, § 11, p. 1738], *the governing board may, if it deems such action necessary, immediately suspend the employee from his duties and give notice to him of his suspension, and that 30 days after service of the notice, he will be dismissed, unless he demands a hearing.*" (Italics added.)

This portion of section 44939 augments, at the option of a district and in the limited circumstances specified, the procedures found in section 44934 for disciplining a permanent employee. Section 44934 similarly requires a written statement of charges

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

and 30 days notice of the intent to take disciplinary action, but incorporates by reference the full (and more extensive) range of statutory grounds for imposing discipline (see § 44932, subd. (a)) and authorizes proceedings to suspend the employee for a specified period of time rather than to dismiss. Immediate suspension of the employee without pay before expiration of the 30-day notice period is available only if the district institutes a dismissal proceeding based upon one of the grounds specified in section 44939.

FN3 The grounds for dismissal of a teacher are specified in section 44932, subdivision (a): "No permanent employee shall be dismissed except for one or more of the following causes: [¶] (1) Immoral or unprofessional conduct. [¶] (2) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof. [¶] (3) Dishonesty. [¶] (4) Incompetency. [¶] (5) Evident unfitness for service. [¶] (6) Physical or mental condition unfitting him to instruct or associate with children. [¶] (7) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him. [¶] (8) Conviction of a felony or of any crime involving moral turpitude. [¶] (9) Violation of Section 51530 of this code or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947. [¶] (10) Violation of any provision in Sections 7001 to 7007, inclusive, of this code [sections repealed by Stats. 1981, ch. 470, § 11, p. 1738]. [¶] (11) Knowing membership by the employee in the Communist Party. [¶] (12) Alcoholism or other drug abuse which makes the employee unfit to instruct or associate with children."

Subdivision (b) of section 44932 provides in turn that, unless the question is governed by a collective bargaining agreement adopted in accordance with Government Code section 3543.2, a permanent employee may be suspended for unprofessional conduct, a ground that under subdivision (a)(1) may also support the dismissal of such an employee. These two provisions are supplemented by section 44933, which allows the suspension or the dismissal of a permanent employee for unprofessional conduct consisting of acts or omissions other than those specified in section 44932.

Burman timely requested a hearing under section 44944, subdivision (a), and a commission on professional competence was convened to consider the matter. [FN4] The commission, on a two-to-one vote, found her guilty only of ***214** the dishonesty charge. The charges of immoral conduct, evident unfitness for duty, and persistent violation of or refusal to obey reasonable regulations of the district were not sustained.

FN4 Subdivision (b) of section 44944 specifies the composition of the body charged with conducting the hearing called for in the section and provides, in pertinent part: "The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be an administrative law judge of the Office of Administrative Hearings who shall be chairperson and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. ... [¶] The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal or suspension and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee."

Although the commission made a finding that "[c]ause exists for disciplinary action against respondent under Education Code Section 44932(a)(3), based upon the charge of dishonesty," it found dismissal unwarranted. The commission noted that Burman had a previously

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

unblemished record and made an express finding that her actions "represented isolated conduct ... not likely of repetition under any set of circumstances in the future." The commission also found by way of mitigation that Burman had not been involved in any prior disciplinary action, that she had received no prior warnings or counseling with regard to abuse of sick leave or her dealings with school custodians, that there was no evidence of any prior abuse of sick leave, and that her evaluations as a district employee had been satisfactory or better. On this record, the commission determined that Burman was not unfit to continue as a teacher and concluded that "the penalty of dismissal should not be imposed." [FN5]

FN5 The commission observed that it would have unanimously found Burman "guilty of unprofessional conduct within the meaning of Sections 44932(a)(1) and 44933" - apparently on the basis of her initial dishonest responses to the superintendent's questions and what it seems to have viewed as "questionable conduct" with the custodians - and would have ordered her suspended had that course been open to it. As the district had sought only Burman's dismissal, the proceeding was not "a suspension proceeding" within the meaning of section 44944, subdivision (c), and the commission lacked the authority to order Burman suspended.

The commission's finding that "[c]ause exists for disciplinary action against respondent under Education Code Section 44932(a)(3), based upon the charge of dishonesty" was therefore technically incorrect - as suspension, which the commission deemed the appropriate discipline, is available only in a proceeding under section 44932, subdivision (b) or section 44933, and cause may have existed for disciplinary action under those statutes, not under subdivision (a) of section 44932. We view the commission's "finding" as an attempt to specify the proper *substantive* ground for the discipline it thought appropriate, not as a determination in favor of dismissal inconsistent with its express conclusion that Burman was not unfit to continue as a teacher.

The district sought review in the superior court by petition for a writ of mandate. [FN6] The petition named only Burman as the respondent, and she demurred on the ground that the commission was the proper party ***215** respondent and the district had accordingly failed to join an indispensable party within the applicable statute of limitations. The trial court overruled the demurrer and considered the merits of the matter, exercising its independent judgment on the evidence as required by section 44945. The court incorporated the commission's findings and decision into its own statement of decision and entered judgment denying the writ, also awarding Burman $1,500 in costs and attorney fees.

FN6 Section 44945 specifies that "[t]he decision of the Commission on Professional Competence may, on petition of either the governing board or the employee, be reviewed by a court of competent jurisdiction in the same manner as a decision made by a hearing officer under Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. ..." Government Code section 11523 in turn states that "[j]udicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure ...." A proceeding in administrative mandamus commenced by a petition under Code of Civil Procedure section 1094.5 is the proper avenue for review of a decision rendered under section 44944. (*San Dieguito Union High School Dist. v. Commission on Professional Competence* (1982) 135 Cal.App.3d 278, 283 [185 Cal.Rptr. 203].)

The district appealed on the merits, and Burman cross-appealed to challenge the overruling of her demurrer and the trial court's failure to award her a greater amount in costs and attorney fees. The Court of Appeal reversed, rejecting Burman's contention that the commission was an indispensable party and concluding that under section 44944, subdivision (c), neither the commission nor the trial court had any alternative but to rule that Burman should be dismissed "once a cause for discipline under Education Code section 44932, subdivision (a)(3) had been found ... to exist ...." We granted review to determine whether the Court of Appeal properly interpreted the statute.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Discussion

1. *Commission Discretion*

(1a) The principal question on this appeal is whether the commission had the discretion to determine that Burman should not be dismissed as a permanent employee once it found her "guilty of dishonesty within the meaning of Education Code Section 44932(a)(3)," or whether, as the Court of Appeal held, her dismissal was mandatory once cause for discipline on that ground had been found to exist. Resolution of this question requires us to determine the proper interpretation of subdivision (c) of section 44944, a task we cannot perform without a clear understanding of the statutory framework within which a commission on professional competence acts. We turn first to an examination of that subject.

A. *The Statutory Framework.* The provisions of the Education Code allow a district substantial leeway in determining when to take disciplinary action against a permanent employee and what action to take. Except in the case of an employee charged with certain sex offenses (see §§ 44010, 44940), a district is not required to take action. In all other situations, the district has discretion. It *may*, if it so chooses, initiate disciplinary proceedings under section 44934. It *may*, if it so chooses and if one of the grounds specified in subdivision (a) of section 44932 exists, seek the dismissal rather than the suspension of an employee. And it *may*, if it so chooses and if the ground for dismissal is also one of those specified in section 44939, ***216** immediately suspend the employee without pay pending the disposition of the dismissal proceeding. Its discretion is limited only by the requirement that the ground asserted as the basis for taking disciplinary action be one authorized by statute *and* by the provision for review of its decision by a commission on professional competence if the employee requests a hearing.

Sections 44932 and 44933 specify the grounds for dismissal and suspension of teachers. Subdivision (a) of section 44932 identifies 12 specific grounds - including immoral or unprofessional conduct and, most relevant for present purposes, dishonesty - for which a permanent employee may be dismissed. It states, in fact, that "[n]o permanent employee shall be dismissed *except for* one or more of [those] causes ..." (italics added). Subdivision (b) provides in turn that a permanent employee may be suspended on grounds of unprofessional conduct, and section 44933 indicates that either dismissal or suspension may be sought on a charge of unprofessional conduct consisting of acts or omissions other than those enumerated in section 44932. [FN7] In the present case, the district proceeded solely on the basis of subdivision (a) of section 44932 and sought only to dismiss, not to suspend, Burman.

> FN7 Although "unprofessional conduct" is identified in section 44932 as one of the 12 specific grounds for which a permanent employee may be dismissed, it appears to have a broader import than the others. The phrase refers generally to conduct demonstrating unfitness to teach (*Perez v. Commission on Professional Competence* (1983) 149 Cal.App.3d 1167, 1174 [197 Cal.Rptr. 390]), and a particular act or omission on the part of a teacher may constitute unprofessional conduct as well as one of the other enumerated grounds. (*Id.* at p. 1175; see *Board of Education v. Swan* (1953) 41 Cal.2d 546, 551 [261 P.2d 261].) Section 44933 - by providing that unprofessional conduct may consist of "acts or omissions other than those specified in section 44932" - suggests that each of the specific acts or omissions listed in subdivisions (a)(2) through (a)(12) of section 44932 may also amount to unprofessional conduct supporting either a dismissal proceeding under subdivision (a)(1) or a suspension proceeding under subdivision (b).

The distinction between charges brought under subdivision (a) of section 44932 and those brought under subdivision (b) of that section - and between an attempt under either section 44932 or 44933 to dismiss an employee and an attempt under the statutes only to suspend - is significant. Subdivision (c) of section 44944 offers a commission on professional competence only three choices in resolving a disciplinary proceeding. It must determine either that the employee should be dismissed, that the employee should be suspended, or that the employee should not be dismissed or suspended. And the subdivision expressly provides: "The commission shall not have the power to dispose of [a] charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension ... shall be available only in a suspension proceeding authorized pursuant to subdivi-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

sion (b) of Section 44932 or Section 44933." [FN8] *217

FN8 Subdivision (c) of section 44944 provides in full: "The decision of the Commission on Professional Competence shall be made by a majority vote, and the commission shall prepare a written decision containing findings of fact, determinations of issues, and a disposition which shall be, solely: [¶] (1) That the employee should be dismissed. [¶] (2) That the employee should be suspended for a specific period of time without pay. [¶] (3) That the employee should not be dismissed or suspended. [¶] The decision of the Commission on Professional Competence that the employee should not be dismissed or suspended shall not be based on nonsubstantive procedural errors committed by the school district or governing board unless the errors are prejudicial errors. [¶] The commission shall not have the power to dispose of the charge of dismissal by imposing probation or other alternative sanctions. The imposition of suspension pursuant to paragraph (2) shall be available only in a suspension proceeding authorized pursuant to subdivision (b) of Section 44932 or Section 44933. [¶] The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board. [¶] The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section as may be necessary to effectuate this section. [¶] The governing board and the employee shall have the right to be represented by counsel."

The statutory scheme thus limits a commission to only two options where, as here, a school district seeks only to dismiss a teacher under subdivision (a) of section 44932. The commission then may not impose suspension, nor may it achieve the same result by ordering dismissal and staying its order on conditions amounting to probation. [FN9] It may only choose to dismiss or not to dismiss.

FN9 The latter possibility, in fact, was foreclosed by the Legislature in direct response to a Court of Appeal decision (*Governing Board v. Commission on Professional Competence (Pickering)* (1977) 72 Cal.App.3d 447 [140 Cal.Rptr. 206]) holding that the power to dismiss included the power to stay an order of dismissal on conditions of probation, effectively resulting in suspension rather than dismissal. (See *Powers v. Commission on Professional Competence* (1984) 157 Cal.App.3d 560, 580-581 [204 Cal.Rptr. 185].) Within six months of the *Pickering* decision, a bill was introduced to "clarify that the commission is limited in its disposition of the case to dismissing the employee or not dismissing the employee" (Legis. Counsel's Dig., Assem. Bill No. 2401, 4 Stats. 1978 (Reg. Sess.) Summary Dig., p. 324), and subdivision (c) of section 44944 was amended to provide: "The commission shall not have the power to dispose of the charge of dismissal by imposing probation, suspension of a dismissal or a nondismissal, or other alternative sanctions." (Stats. 1978, ch. 1172, § 1, p. 3782.)

Although the section was later amended by the Hughes-Hart Educational Reform Act of 1983 (Stats. 1983, ch. 498, § 59, p. 2086) to read in its present form, and the explicit bar against "suspension of a dismissal or a nondismissal" was eliminated, the legislative history indicates that no substantive change was intended. The Senate's attempt to give a commission on professional competence the authority to dispose of a charge of dismissal by suspending the employee (Sen. Bill No. 813 (1982-1983 Reg. Sess.) as amended May 16, 1983) was rejected by the Assembly in favor of the language of the 1978 amendment (Assem. Amend. to Sen. Bill No. 813 (1982-1983 Reg. Sess.) June 8, 1983), and the final bill reported out of conference established the present statutory scheme - for the first time differentiating between dismissal and suspension charges, and expressly limiting the power to suspend to proceedings seeking that end. In light of that limitation, no explicit prohibition against "suspension of a dismissal or a nondismissal" was necessary to effectuate the legislative intent.

In the present case, the commission chose not to dismiss. Although the trial court upheld the commission's action, the Court of Appeal found the decision im-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

proper, ruling that if a commission finds that cause for discipline exists, then, as a matter of law, discipline must be imposed, and that, in light of the statutory limitations on the commission's power to impose suspension, the discipline here could only be dismissal. Burman contends ***218** that the Court of Appeal misinterpreted section 44944, subdivision (c) as barring the exercise of discretion and requiring a commission to authorize dismissal even when the commission concludes that dismissal is inappropriate. The proposition that section 44944, subdivision (c) compels the imposition of discipline, when a finding is made that cause for discipline exists, thus lies at the heart of this case. We turn then to that question.

B. *Education Code Section 44944*. We are guided by numerous precepts of statutory construction as we approach the task of determining whether subdivision (c) of section 44944 should be interpreted to bar the exercise of discretion by a commission on the propriety of the sanction of dismissal where cause for discipline is established. (2) "We begin with the fundamental rule that a court 'should ascertain the intent of the Legislature so as to effectuate the purpose of the law.' [Citation.] In determining such intent '[t]he court turns first to the words themselves for the answer.' [Citation.] We are required to give effect to statutes 'according to the usual, ordinary import of the language employed in framing them.' [Citations.] 'If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose.' [citation]; 'a construction making some words surplusage is to be avoided.' [Citation.] 'When used in a statute [words] must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear.' [Citations.] Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole. [Citations.]" (*Palos Verdes Faculty Assn.* v. *Palos Verdes Peninsula Unified Sch. Dist.* (1978) 21 Cal.3d 650, 658-659 [147 Cal.Rptr. 359, 580 P.2d 1155] [quoting *Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230 [110 Cal.Rptr. 144, 514 P.2d 1224]].)

(1b) The "words [of the statute] themselves" do not compel the interpretation advanced by the Court of Appeal. Section 44932 provides that a teacher cannot be dismissed unless certain grounds are found to exist; it does not provide that a teacher *must* be dismissed if one of those grounds is found. Similarly, section 44944 provides that the commission is to decide whether a teacher should or should not be dismissed; it does not provide that the commission *must* dismiss a teacher if it finds that one of the statutory grounds exists.

(3) Viewed in the context of the entire statutory scheme, a fair reading of section 44944 recognizes the discretion given both an employing school district and a commission. The district may determine when to seek disciplinary action and what discipline to seek. It may, by choosing to pursue only a dismissal sanction, preclude the commission from imposing ***219** suspension. [FN10] And it may, by invoking the procedures of section 44939, accompany the notice of dismissal with an immediate suspension of the employee without pay. But nothing in the statutory scheme indicates that the commission must be bound by the district's choice to the extent that it is required to approve an employee's dismissal if it is not persuaded, in the exercise of its discretion, that an offense is serious enough to warrant that step.

> FN10 By way of example, the commission's inability here to impose discipline on an employee who plainly merited some measure of punishment flowed not from the commission's exercise of a power it did not possess (i.e., to choose not to dismiss Burman) but from the district's decision to take an all or nothing tack - exercising its power to suspend Burman immediately without pay and seeking perhaps to preclude the commission from determining, as it indicated it would have, that suspension was the more appropriate sanction for Burman's misconduct.

(1c) We thus cannot accept the proposition that discipline *must* be imposed, when a finding is made that cause for discipline exists. The Court of Appeal thought this the clear intent of the 1978 legislative nullification of the decision in *Pickering, supra*, 72 Cal.App.3d 447, that a commission had the power to stay an order of dismissal. But the Legislature acted only to bar a commission from suspending the impact of its order once the statutory determination was made "[t]hat the employee should be dismissed" or "[t]hat the employee should not be dismissed ...." Nothing in either the 1978 or later amendments purported to limit a commission's ability to determine that, although

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

cause for *some* discipline existed, the harsh sanction of *dismissal* was not warranted. [FN11]

> FN11 Indeed, the fact that the Legislature acted in 1978 to foreclose a commission from suspending "a nondismissal," as well as a dismissal, suggests on the face of things that a commission had been and remained empowered to choose not to dismiss, and was precluded only from attempting to make other than an all-or-nothing decision.

(4) In addition to the general rules for ascertaining legislative intent previously noted, "[i]t is a well-established principle of statutory construction that when the Legislature amends a statute without altering portions of the provision that have previously been judicially construed, the Legislature is presumed to have been aware of and to have acquiesced in the previous judicial construction." (*Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721, 734 [180 Cal.Rptr. 496, 640 P.2d 115, 30 A.L.R.4th 1161].) The judicial construction given words and phrases are presumed adopted when those portions of an existing statute are used in a subsequent legislative enactment. (*Ibid.*; *People v. Curtis* (1969) 70 Cal.2d 347, 355 [74 Cal.Rptr. 713, 450 P.2d 33].)

This presumption facilitates our examination of a commission's role in disciplinary matters. We held in *Morrison v. State Board of Education* (1969) 1 Cal.3d 214, 229-230 [82 Cal.Rptr. 175, 461 P.2d 375], that the ***220** phrase "immoral or unprofessional conduct," one of the statutory grounds for dismissing or suspending a permanent employee (§ 44932, subd. (a)(1)), embraced only conduct demonstrating unfitness to teach. Reasoning that the phrase was otherwise too vague and too broad to withstand constitutional challenge, we held that the alleged misconduct of a tenured teacher should be measured against seven criteria in determining whether dismissal was warranted: (1) the likelihood that the conduct would recur; (2) the existence of aggravating or extenuating circumstances; (3) the impact of publicity; (4) the effect on teacher-student relationships; (5) any disruption of the educational process; (6) the employee's motive for the conduct; and (7) the proximity or remoteness in time of the conduct. (*Id.* at p. 230; see also *Board of Education v. Jack M.* (1977) 19 Cal.3d 691, 696-697 [139 Cal.Rptr. 700, 566 P.2d 602]; *San Dieguito High School Dist., supra*, 135 Cal.App.3d at p. 284.) The Legislature must be presumed to have adopted this construction in its continued use of the identical phrase in both the 1978 and the more extensive 1983 amendments to the Education Code.

(1d) Application of this standard indicates that a commission has broad discretion in disciplinary matters. Its role is not merely to determine whether the charged conduct in fact occurred, but to decide whether that conduct - measured against the *Morrison* criteria (*supra*, 1 Cal.3d 214) - demonstrates unfitness to teach and thus constitutes "immoral or unprofessional conduct" within the meaning of the statute. [FN12]

> FN12 Although *Morrison* concerned itself only with the proper definition of "immoral or unprofessional conduct," its analysis requires an identical approach to an attempt to discipline a permanent employee on grounds of dishonesty, as here. Dishonest conduct may range from the smallest fib to the most flagrant lie. Not every impropriety will constitute immoral or unprofessional conduct, and not every falsehood will constitute "dishonesty" as a ground for discipline.

We find other provisions relevant to our inquiry in section 44944. Subdivision (c) itself does not merely restrict a commission's options for the disposition of a particular disciplinary proceeding; it also requires a commission to issue "a written decision containing findings of fact, [and] determinations of issues ...." (§ 44944, subd. (c).) That a commission must determine issues as well as make findings of fact supports our conclusion that its role is not limited to resolving the factual question whether the charged conduct occurred, but that it is to resolve the ultimate issue presented by a disciplinary proceeding: whether the conduct demonstrates such unfitness to teach as to warrant terminating the teacher's employment. [FN13]
***221**

> FN13 Still other subdivisions of section 44944 tend to confirm the discretionary role of a commission. Subdivision (a) subjects proceedings before a commission to the provisions of the Administrative Procedure Act (Gov. Code, § 11500 et seq.), with minor exclusions and modifications not relevant to present purposes. Among the provisions so incorporated is Government Code section

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

11506, subdivision (d), which allows a respondent to file a statement in mitigation even if no defense to the charges is tendered. This permission would be less relevant in commission proceedings if a commission did not retain the power to take mitigating factors into consideration and to determine that, under the *Morrison* criteria, dismissal was not an appropriate penalty even though a particular charge of misconduct was found to be true. Absent such discretion, there would also seem to be less purpose to the requirement that the members of the commission selected by the district and the employee be credentialed teachers with substantial recent experience in the employee's particular field. (§ 44944, subd. (b).)

That a commission must play a discretionary role is also suggested by contrasting the proceedings for the dismissal or suspension of permanent, tenured employees with those now in effect for the dismissal or suspension of probationary, nontenured employees. A probationary employee may be dismissed during the school year for unsatisfactory performance or for cause or, as an alternative to dismissal, may be suspended without pay for a specified period of time. (§ 44948.3, subds. (a), (b).) [FN14] The employee may demand a hearing, as in the case of a permanent employee, but a commission on professional competence is not convened. Instead, the hearing may be conducted by an administrative law judge, who prepares a "recommended decision" for the governing board of the employing school district. (§ 44948.3, subd. (a)(2).) The final decision, however, is that of the district. The commission occupies a position of greater import in proceedings involving a permanent employee, for "[t]he decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board." (§ 44944, subd. (c).) The Legislature was quite able to specify a procedure placing the final disciplinary decision in the hands of a teacher's employer when it so chose. The significantly different provisions of section 44944 necessarily betoken a greater and a discretionary role for a commission in disciplinary proceedings involving a permanent employee.

FN14 Section 44948.3 (adopted by Stats. 1983, ch. 498, § 61, p. 2090) applies only to probationary employees whose terms commenced during or after the 1983-1984 fiscal year or who are employed by a school district having an average daily attendance of at least 250 pupils. Other probationary employees have greater rights, commensurate with those accorded permanent employees, as far as disciplinary proceedings during the school year are concerned (see §§ 44932, subd. (b), 44948), but are subject to procedures similar to those specified in section 44948.3 in challenging a denial of reemployment for the succeeding school year. (See § 44948.5.)

Given the structure of the proceedings and, in particular, the words of the statute and the need to measure conduct against the criteria specified in *Morrison, supra*, 1 Cal.3d 214, we conclude the Legislature intended more of a commission on professional competence than a simple determination whether cause exists for disciplinary action, resulting inexorably in the imposition of the sanction previously selected by the employing school district. We avoid surplusage, give effect to each portion of the statute and harmonize each part of the entire statutory scheme by recognizing that the commission retains discretion to choose between the options given it by statute. ***222**

This interpretation of the statute works no great infringement on the ability of school districts to govern their affairs and to control the conduct of their permanent employees. The same conduct, in the judgment of the employing district, may constitute grounds for suspending or for dismissing a permanent employee, and nothing in the statutory scheme limits the ability of a district to pursue alternative sanctions, either simultaneously (cf. *Von Durjais v. Board of Trustees* (1978) 83 Cal.App.3d 681, 686-687 [148 Cal.Rptr. 192]; *Board of Education* v. *Commission on Professional Competence (Smyth)* (1976) 61 Cal.App.3d 664, 670 [132 Cal.Rptr. 516]) or, as principles of double jeopardy do not bar successive administrative proceedings to revoke a license (see *Kendall v. Bd. of Osteopathic Examiners* (1951) 105 Cal.App.2d 239, 248-249 [233 P.2d 107]; cf. *Rinaldo v. Board of Medical Examiners* (1932) 123 Cal.App. 712, 716 [12 P.2d 32]), in succession. [FN15]

FN15 Although generally "no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> occurring more than four years prior to the filing of the notice" (§ 44944, subd. (a)), this limitation seems to be more of a bar against the use of stale information to buttress a current charge than a true statute of limitations restricting a district's options. To the extent that it might be taken as an explicit statute of limitations, it would seem inapplicable to a successive application based upon the same charge of misconduct and differing only as to the proposed discipline.
>
> Limitations questions in administrative matters are properly evaluated under rules similar to those employed in judicial proceedings. (See 2 Cal.Jur.3d, Administrative Law, § 144, p. 366.) Given that the identical conduct would be at issue in the two proceedings and that the employee would have received timely notice of the charges, could complain of no prejudice in gathering evidence and could ordinarily point to no bad faith or unreasonable conduct on the part of the employing district, the doctrine of equitable tolling would generally preserve a district's right to proceed in this fashion. (See *Addison v. State of California* (1978) 21 Cal.3d 313, 319 [146 Cal.Rptr. 224, 578 P.2d 941].) Complaints of stale claims would be more appropriately subject to a laches analysis than a strict statute of limitations bar. (Cf. *Gore v. Board of Medical Quality Assurance* (1980) 110 Cal.App.3d 184 [167 Cal.Rptr. 881].)

We conclude that a commission on professional competence is empowered to exercise its collective wisdom and discretion to determine that dismissal is not appropriate in a given case. The statutes do not preclude a district from preserving its options by seeking alternative sanctions simultaneously or successively, and no other reading of the statutes is capable of fully implementing the balance struck by the Legislature between the discretion given districts to select the degree of discipline and limit the options available to the commission, and the protection from arbitrary action accorded their permanent employees. FN16 *223

> FN16 By recognizing that alternative sanctions may be sought either simultaneously or successively, at a district's option, we harmonize the discretion accorded school districts to select the appropriate degree of discipline and that given a commission on professional competence. Were a school district limited to a single disciplinary proceeding, practical considerations might lead it to charge in the alternative in many, if not most, cases, for to seek an employee's dismissal alone might lead to no discipline being imposed and a district might deem suspension of the employee preferable to that outcome. But to charge in the alternative in every case would vest the commission with the power to opt for suspension in each case - a result that is at odds with the legislative limitations on the options available to a commission. The availablility of successive proceedings allays these concerns.
>
> Nor need we fear that the authority to institute successive proceedings would be invoked routinely to the prejudice of district employees guilty of only minor misconduct. If a district opted to seek first only the dismissal of an employee and its attempt was not sustained by a commission, it would be required to pay the costs of the hearing and the employee's attorney fees (§ 44944, subd. (e)), and the imposition of any lesser discipline would be delayed. Moreover, an employee suspended without pay whose dismissal was then not allowed would be entitled to compensation for lost wages even if some lesser measure of discipline were later permitted. (See *Von Durjais, supra*, 83 Cal.App.3d at p. 687.) These potential costs, and the simple inefficiency of moving separately rather than in a single proceeding, should suffice to limit exercise of the authority to cases in which a district held an abiding belief that no discipline less than dismissal was warranted, while at the same time preserving the district's ability to ensure that it could seek the imposition of some discipline if the commission disagreed with the initial judgment on the appropriate degree of discipline and if the district determined that a successive proceeding was warranted.

2. *Commission as Indispensable Party*

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

(5) As we reverse the Court of Appeal on the question of commission discretion, we need not, strictly speaking, address Burman's contention that her demurrer to the district's mandamus petition should have been granted because the commission was an unjoined, indispensable party. We did not limit our grant of review under California Rules of Court, rule 29.2(b), to the discretion issue, however, and we think it appropriate to speak to the indispensable party question for the guidance of the bench and bar in future cases, for on this point we agree with the Court of Appeal and find Burman's contentions unpersuasive.

We must acknowledge that Burman's arguments have facial appeal. The district's challenge to the commission's decision was properly brought under Code of Civil Procedure section 1094.5 (*San Dieguito Union High School Dist., supra,* 135 Cal.App.3d at p. 283), and that statute specifies only two possible dispositions of such a petition: "The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. ..." (Code Civ. Proc., § 1094.5, subd. (f).) Burman accordingly contends only the commission could be the subject of a judgment ordering it as respondent to set aside its decision (see *State of California v. Superior Court* (1974) 12 Cal.3d 237, 255 [115 Cal.Rptr. 524 P.2d 1281] [only the California Coastal Commission and its members could be proper subjects of petition for writ of administrative mandamus]) and asserts that the district's petition should have been dismissed because the statute of limitations specified in Government Code section 11523 expired without the joinder of the commission as an indispensable party. (See *Kupka v. Board of Administration* (1981) 122 Cal.App.3d 791, 794-795 [176 Cal.Rptr. 214]; *Sierra Club, Inc. v. California Coastal Com.* (1979) 95 Cal.App.3d 495, 502 [157 Cal.Rptr. 190].) ***224**

Facial appeal is all Burman's arguments have, however, for she overlooks the unusual nature of a commission on professional competence. It is not a standing body; it is an ad hoc group more akin to an arbitration tribunal, two of whose members are named by the parties to the dispute. (§ 44944, subd. (b).) It is a nominal, transitory body whose residence is immaterial for venue purposes in an administrative mandamus proceeding. (*Sutter Union High School Dist. v. Superior Court* (1983) 140 Cal.App.3d 795, 798 [190 Cal.Rptr. 182].) Its decision, once made, becomes the decision of the employing school district (§ 44944, subd. (c)), and the commission serves no identifiable function in the remainder of the review process. (Cf. *Compton v. Board of Trustees* (1975) 49 Cal.App.3d 150, 157-158 [122 Cal.Rptr. 493].) It is a different type of entity than the usual respondent named in a mandamus matter, and although it may be - and usually is - named in proceedings for review of a decision made under section 44944, it is not an indispensable party whose absence is fatal to the court's jurisdiction.

Although Code of Civil Procedure section 1094.5, subdivision (f) generally prescribes that an administrative mandamus proceeding be disposed of by denial of the writ or a direction to a named respondent to set aside its decision, that section comes into play in commission matters only by application of Government Code section 11523, which specifies that judicial review may be had "by filing a petition for writ of mandate in accordance with the provisions of the Code of Civil Procedure, *subject, however, to the statutes relating to the particular agency.*" (Italics supplied.) The "statutes relating to the [commission]" include section 44944, subdivision (e), which provides for the allocation of costs if the commission's decision "is finally reversed or vacated" by the reviewing court. The statutes thus recognize the power of a court to directly set aside the order of the commission. As the commission therefore need not be before the court to enable the court to accord complete relief between the employing school district and the employee, it is not an indispensable party within the meaning of Code of Civil Procedure section 389, subdivision (a), and Burman's demurrer was properly overruled. [FN17]

FN17 Moreover, under section 44944, subdivision (c), the decision of the commission becomes "the final decision of the governing board." In effect then, a strict application of the statutes relied on by Burman would require a district to bring an action against itself to set aside its own order. "Statutes are to be given a reasonable and commonsense interpretation consistent with the apparent legislative purpose and intent 'and which, when applied, will result in wise policy rather than mischief or absurdity.' [Citation.]" (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1392 [241

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Cal.Rptr. 67, 743 P.2d 1323].) We decline to construe the statutes as Burman urges.

3. *Award of Attorney Fees*

Finally, Burman contends the trial court erred in awarding her but $1,500 in costs and attorney fees. She requests that we remand the matter to ***225** permit her to demonstrate the greater amount of costs and fees actually incurred. The Court of Appeal had no occasion to address this question in view of its decision on the merits. The point is properly before us, and we will do as Burman requests.

(6) Section 44944, subdivision (e) specifies that "[i]f the Commission on Professional Competence determines that the employee should not be dismissed or suspended, the governing board shall pay the expenses of the hearing, including ... reasonable attorney fees incurred by the employee." Although the statute does not expressly provide for the award of fees if judicial review of a commission decision is sought, fees should be awarded to a prevailing employee for any such review proceedings as well (*Russell v. Thermalito Union School Dist.* (1981) 115 Cal.App.3d 880, 884 [176 Cal.Rptr. 1]; *Board of Education* v. *Commission on Professional Competence (Lujan)* (1980) 102 Cal.App.3d 555, 562-563 [162 Cal.Rptr. 590]), and costs should be awarded under the general provisions of the Code of Civil Procedure. (Code Civ. Proc., § 1032, subd. (b) ["Except as otherwise expressly provided by statute, a prevailing party is entitled as a matter of right to recover costs in any action or proceeding."].)

It appears that the trial court in this case may have awarded Burman $1,500 in costs and attorney fees in the mistaken belief that Government Code section 800 precluded it from awarding a greater amount. That section reads, in pertinent part: "In any civil action to ... review the ... determination of any administrative proceeding ... where it is shown that the ... determination of such proceeding was the result of arbitrary or capricious action ... the complainant if he prevails in the civil action may collect reasonable attorney's fees, but not to exceed one thousand five hundred dollars. ..." Because section 44944, subdivision (e) expressly provides for the award of fees in permanent employee dismissal proceedings, however, its provisions, imposing no limitation, should govern. (*Forker v. Board of Trustees* (1984) 160 Cal.App.3d 13, 21 [206 Cal.Rptr. 303].)

As we cannot tell whether the trial court based its award on an implicit finding that $1,500 was a reasonable fee or whether it erroneously believed that no more than that sum could be awarded, we conclude that Burman's request for a remand on this point should be granted. On remand, she is entitled to request reasonable fees for all trial and appellate proceedings. [FN18] (*Ibid.*) ***226**

FN18 In the Court of Appeal, the district contended that no remand on the attorney fee question was warranted because Burman had failed to provide the trial court with any information showing that she incurred a greater amount of fees. Given that section 44944, subdivision (e) specifies no procedure for claiming fees, it would have been appropriate for Burman to file such a memorandum after judgment was entered. (See Code Civ. Proc., § 1033.5, subd. (a)(10); Cal. Rules of Court, rule 870(a)(1).) The trial court, however, made its award of $1,500 in fees without affording Burman the opportunity to file such a memorandum. As the district has not raised any issue before us on the attorney fee question, we need not decide the appropriate procedure, nor need we discuss at this time Burman's avowed intention to seek enhancement of any fee award under a "lodestar" theory. (See *Sternwest Corp. v. Ash* (1986) 183 Cal.App.3d 74, 76-77 [227 Cal.Rptr. 804].)

Conclusion

We recognize that cogent arguments were made on both sides of this case. On the one hand, the statutory scheme contemplates the exercise of discretion by a commission on professional competence and the rendition of judgments on the propriety of dismissing an employee found guilty of misconduct. On the other hand, we have a clear legislative intent to limit the authority of a commission to dispose of dismissal charges by suspension.

On balance, we believe Education Code section 44944 is best read to vest discretion in a commission on professional competence not to dismiss an employee even though a cause for discipline is found to exist.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Our interpretation recognizes the discretion initially conferred on an employing school district to determine whether to charge an employee and what charges to pursue, but confirms the commission's role as the professional body charged with determining the appropriateness of a given sanction. We reject Burman's contention that the commission is an indispensable party in proceedings of this nature and remand the attorney fee question to the trial court for further proceedings consistent with this opinion.

The judgment of the Court of Appeal is reversed. The Court of Appeal is directed to enter judgment affirming the trial court in part and reversing in part and directing it to enter judgment denying the petition for a writ of mandate and to award Burman reasonable costs and attorney fees in accordance with this opinion.

Lucas, C. J., Mosk, J., Broussard, J., Panelli, J., Eagleson, J., and Spencer (Vaino H.), J., [FN*] concurred. *227

FN* Presiding Justice, Court of Appeal, Second Appellate District, Division One, assigned by the Chairperson of the Judicial Council.

Cal.
Fontana Unified School Dist. v. Burman
45 Cal.3d 208, 753 P.2d 689, 246 Cal.Rptr. 733, 46 Ed. Law Rep. 781

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Supreme Court of the United States
Alberto R. GONZALES, Attorney General, et al., Petitioners,
v.
OREGON et al.
No. 04-623.

Argued Oct. 5, 2005.
Decided Jan. 17, 2006.

Background: State of Oregon and others brought action seeking declaratory and injunctive relief preventing federal enforcement or application of United States Attorney General's interpretive rule indicating that physicians who assist suicide of terminally ill patients pursuant to Oregon Death With Dignity Act (ODWDA) would be violating the federal Controlled Substances Act (CSA). The United States District Court for the District of Oregon, Robert E. Jones, J., 192 F.Supp.2d 1077, permanently enjoined enforcement of the rule. The United States Court of Appeals for the Ninth Circuit, 368 F.3d 1118, granted petitions for review and held the rule invalid. Government's petition for certiorari was granted.

Holdings: The Supreme Court, Justice Kennedy, held that:
(1) interpretive rule was not entitled to deference as interpretation of allegedly ambiguous regulation;
(2) rule was not entitled to *Chevron* deference; and
(3) CSA did not authorize Attorney General to prohibit doctors from prescribing regulated drugs for use in physician-assisted suicide, as authorized by ODWDA.

Affirmed.

Justice Scalia filed dissenting opinion in which Chief Justice Roberts and Justice Thomas joined.

Justice Thomas filed dissenting opinion.

West Headnotes

[1] Administrative Law and Procedure 15A 413

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak412 Construction
15Ak413 k. Administrative construction. Most Cited Cases

Administrative Law and Procedure 15A 416.1

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak416 Effect
15Ak416.1 k. In general. Most Cited Cases
An administrative rule may receive substantial deference if it interprets the issuing agency's own ambiguous regulation.

[2] Administrative Law and Procedure 15A 416.1

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak416 Effect
15Ak416.1 k. In general. Most Cited Cases

Statutes 361 219(2)

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k213 Extrinsic Aids to Construction
361k219 Executive Construction
361k219(2) k. Existence of ambiguity. Most Cited Cases
An interpretation of an ambiguous statute may receive substantial deference, pursuant to *Chevron*, but *Chevron* deference is warranted only when it appears that Congress delegated authority to the agency generally to make rules carrying the force of law, and that the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

agency interpretation claiming deference was promulgated in the exercise of that authority; otherwise, the interpretation is entitled to respect only to the extent it has the power to persuade.

[3] Statutes 361 219(6.1)

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k213 Extrinsic Aids to Construction
361k219 Executive Construction
361k219(6) Particular Federal Statutes
361k219(6.1) k. In general. Most Cited Cases

Interpretive rule issued by United States Attorney General, providing that using controlled substances to assist suicide was not a legitimate medical practice and that dispensing or prescribing controlled substances for this purpose was unlawful under the Controlled Substances Act (CSA), was not entitled to deference as interpretation of issuing agency's own allegedly ambiguous regulation requiring that all prescriptions be issued for legitimate medical purpose by individual practitioner acting in usual course of his professional practice; language addressed by rule came from Congress, not Attorney General, underlying regulation did little more than restate terms of statute itself, and underlying regulation was enacted before relevant CSA amendments, so rule could not be justified as indicative of Attorney General's intent at time regulation was enacted. Comprehensive Drug Abuse Prevention and Control Act of 1970, § 101 et seq., 21 U.S.C.A. § 801 et seq.; 21 C.F.R. § 1306.04.

[4] Administrative Law and Procedure 15A 413

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak412 Construction
15Ak413 k. Administrative construction. Most Cited Cases

An agency does not acquire special authority to interpret its own words when, instead of using its expertise and experience to formulate a regulation, it has elected merely to paraphrase the statutory language.

[5] Statutes 361 219(6.1)

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k213 Extrinsic Aids to Construction
361k219 Executive Construction
361k219(6) Particular Federal Statutes
361k219(6.1) k. In general. Most Cited Cases

Interpretive rule issued by United States Attorney General, providing that using controlled substances to assist suicide was not a legitimate medical practice and that dispensing or prescribing controlled substances for this purpose was unlawful under the Controlled Substances Act (CSA), was not entitled to *Chevron* deference; powers expressly delegated to Attorney General by CSA in connection with registration and control, and with the efficient execution of his functions under the statute, were limited and did not extend to defining medical standards for care and treatment of patients. Comprehensive Drug Abuse Prevention and Control Act of 1970, §§ 102(5), 301, 303(f), 501(b), 21 U.S.C.A. §§ 802(5), 821, 823(f), 871(b).

[6] Administrative Law and Procedure 15A 386

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak385 Power to Make
15Ak386 k. Statutory basis. Most Cited Cases

Administrative Law and Procedure 15A 416.1

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak416 Effect
15Ak416.1 k. In general. Most Cited Cases

Chevron deference is not accorded to an administrative rule merely because the governing statute is ambiguous and an administrative official is involved; the rule must be promulgated pursuant to authority Con-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

gress has delegated to the official.

[7] Controlled Substances 96H 2

96H Controlled Substances
96HI In General
96Hk1 Nature and Power to Regulate
96Hk2 k. In general. Most Cited Cases

Health 198H 101

198H Health
198HI Regulation in General
198HI(A) In General
198Hk101 k. Power to regulate in general. Most Cited Cases
Controlled Substances Act (CSA) allocates decisionmaking powers among statutory actors so that medical judgments, if they are to be decided at the federal level and for the limited objects of the statute, are placed in the hands of the Secretary of Health and Human Services. Comprehensive Drug Abuse Prevention and Control Act of 1970, § 101 et seq., 21 U.S.C.A. § 801 et seq.

[8] Administrative Law and Procedure 15A 416.1

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak416 Effect
15Ak416.1 k. In general. Most Cited Cases
When administrative rule is entitled to only *Skidmore* deference, because rule is not within scope of agency's delegated authority, the weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control.

[9] Statutes 361 219(6.1)

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k213 Extrinsic Aids to Construction
361k219 Executive Construction
361k219(6) Particular Federal Statutes
361k219(6.1) k. In general. Most Cited Cases
Skidmore deference accorded to Attorney General's interpretive rule, which provided that using controlled substances to assist suicide was not a legitimate medical practice and that dispensing or prescribing controlled substances for this purpose was unlawful under the Controlled Substances Act (CSA), whereby court would follow rule only to extent it was persuasive, would be tempered by Attorney General's lack of expertise in the area and the apparent absence of any consultation with anyone outside the Department of Justice who might aid in a reasoned judgment. Comprehensive Drug Abuse Prevention and Control Act of 1970, § 101 et seq., 21 U.S.C.A. § 801 et seq.

[10] Controlled Substances 96H 2

96H Controlled Substances
96HI In General
96Hk1 Nature and Power to Regulate
96Hk2 k. In general. Most Cited Cases
In enacting Controlled Substances Act (CSA), which repealed most of earlier antidrug laws in favor of a comprehensive regime to combat the international and interstate traffic in illicit drugs, Congress sought to conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances. Comprehensive Drug Abuse Prevention and Control Act of 1970, § 101 et seq., 21 U.S.C.A. § 801 et seq.

[11] Attorney General 46 6

46 Attorney General
46k5 Powers and Duties
46k6 k. In general. Most Cited Cases

Health 198H 305

198H Health
198HI Regulation in General
198HI(E) Drugs; Medical Devices and Instruments
198Hk305 k. Prescription requirement; ethical drugs. Most Cited Cases
(Formerly 198Hk211)
Controlled Substances Act (CSA) did not authorize

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

United States Attorney General to prohibit doctors from prescribing regulated drugs for use in physician-assisted suicide, as authorized by the Oregon Death With Dignity Act (ODWDA); notwithstanding CSA's requirement that Schedule II drugs be dispensed pursuant to written prescription of a practitioner, CSA, when viewed as a whole, did not grant expansive federal authority to regulate medicine by defining scope of legitimate medical practice, in view of CSA's silence on the practice of medicine generally and its recognition of state regulation of the medical profession. Comprehensive Drug Abuse Prevention and Control Act of 1970, §§ 101 et seq., 309(a), 708, 21 U.S.C.A. §§ 801 et seq.,829(a), 903; West's Or.Rev. Stat. Ann. § 127.800 et seq.

[12] States 360 ⚿4.4(2)

360 States
360I Political Status and Relations
360I(A) In General
360k4.4 Powers Reserved to States
360k4.4(2) k. Police power. Most Cited Cases
Structure and limitations of federalism allow states great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons.

[13] States 360 ⚿18.13

360 States
360I Political Status and Relations
360I(B) Federal Supremacy; Preemption
360k18.13 k. State police power. Most Cited Cases
Even though regulation of health and safety is primarily, and historically, a matter of local concern, there is no question that the federal government can set uniform national standards in these areas.

[14] Statutes 361 ⚿205

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k204 Statute as a Whole, and Intrinsic Aids to Construction
361k205 k. In general. Most Cited Cases
Statutes should not be read as a series of unrelated and isolated provisions.

[15] Health 198H ⚿211

198H Health
198HI Regulation in General
198HI(B) Professionals
198Hk201 Discipline, Revocation, and Suspension
198Hk211 k. Prescriptions; controlled substances. Most Cited Cases

Health 198H ⚿305

198H Health
198HI Regulation in General
198HI(E) Drugs; Medical Devices and Instruments
198Hk305 k. Prescription requirement; ethical drugs. Most Cited Cases
Requirement of Controlled Substances Act (CSA) that Schedule II drugs be dispensed pursuant to written prescription of a practitioner ensures that patients use controlled substances under the supervision of a doctor, so as to prevent addiction and recreational abuse; as a corollary, the provision also bars doctors from peddling to patients who crave the drugs for those prohibited uses, but to read prescriptions for assisted suicide as constituting "drug abuse" under the CSA is discordant with the phrase's consistent use throughout the statute, as well as its ordinary meaning. Comprehensive Drug Abuse Prevention and Control Act of 1970, § 309(a), 21 U.S.C.A. § 829(a).

***907 *243 *Syllabus* [FN*]**

FN* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

The Controlled Substances Act (CSA or Act), which was enacted in 1970 with the main objectives of combating drug abuse and controlling legitimate and illegitimate traffic in controlled substances, criminalizes, *inter alia,* the unauthorized distribution and dispensation of substances classified in any of its five schedules. The Attorney General may add, remove, or

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

reschedule substances only after making particular findings, and on scientific and medical matters, he must accept the findings of the Secretary of Health and Human Services (Secretary). These proceedings must be on the record after an opportunity for comment. The dispute here involves controlled substances listed in Schedule II, which are generally available only by written prescription, 21 U.S.C. § 829(a). A 1971 regulation promulgated by the Attorney General requires that such prescriptions be used "for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 CFR § 1306.04. To prevent diversion of controlled substances, the CSA regulates the activity of physicians, who must register in accordance with rules and regulations promulgated by the Attorney General. He may deny, suspend, or revoke a registration that, as relevant here, would be "inconsistent with the public interest." 21 U.S.C. §§ 824(a)(4), 822(a)(2). In determining consistency with the public interest, he must consider five factors, including the State's recommendation, compliance with state, federal, and local law regarding controlled substances, and "public health and safety." § 823(f). The CSA explicitly contemplates a role for the States in regulating controlled substances. See § 903.

The Oregon Death With Dignity Act (ODWDA) exempts from civil or criminal liability state-licensed physicians who, in compliance with ODWDA's specific safeguards, dispense or prescribe a lethal dose of drugs upon the request of a terminally ill patient. In 2001, the Attorney General issued an Interpretive Rule to address the implementation and enforcement of the CSA with respect to ODWDA, declaring that using controlled substances to assist suicide is not a legitimate medical practice and that dispensing or prescribing them for this purpose is unlawful under the CSA. The State, a physician, a pharmacist, and ***244** some terminally ill state residents challenged the Rule. The District Court permanently enjoined its enforcement. The Ninth Circuit invalidated the Rule, reasoning that, by making a medical procedure authorized under Oregon law a federal offense, it altered the balance between the States and the Federal Government without the requisite clear statement that the CSA authorized the action; and in the alternative, that the Rule could not be squared with the CSA's plain language, ****908** which targets only conventional drug abuse and excludes the Attorney General from medical policy decisions.

Held: The CSA does not allow the Attorney General to prohibit doctors from prescribing regulated drugs for use in physician-assisted suicide under state law permitting the procedure. Pp. 914-926.

(a) An administrative rule interpreting the issuing agency's own ambiguous regulation may receive substantial deference. *Auer v. Robbins,* 519 U.S. 452, 461-463, 117 S.Ct. 905, 137 L.Ed.2d 79. So may an interpretation of an ambiguous statute, *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.,* 467 U.S. 837, 842-845, 104 S.Ct. 2778, 81 L.Ed.2d 694, but only "when it appears that Congress delegated authority to the agency generally to make rules carrying the force of law, and that the agency interpretation claiming deference was promulgated in the exercise of that authority," *United States v. Mead Corp.,* 533 U.S. 218, 226-227, 121 S.Ct. 2164, 150 L.Ed.2d 292. Otherwise, the interpretation is "entitled to respect" only to the extent it has the "power to persuade." *Skidmore v. Swift & Co.,* 323 U.S. 134, 140, 65 S.Ct. 161, 89 L.Ed. 124. Pp. 914-915.

(b) The Interpretive Rule at issue is not entitled to *Auer* deference as an interpretation of 21 CFR § 1306.04. Unlike the underlying regulations in *Auer,* which gave specificity to a statutory scheme the Secretary of Labor was charged with enforcing and reflected the Labor Department's considerable experience and expertise, the underlying regulation here does little more than restate the terms of the statute itself. The CSA allows prescription of drugs that have a "currently accepted medical use," 21 U.S.C. § 812(b); requires a "medical purpose" for dispensing the least controlled substances of those on the schedules, § 829(c); and defines a "valid prescription" as one "issued for a legitimate medical purpose," § 830(b)(3)(A)(ii). Similarly, physicians are considered practitioners if they dispense controlled substances "in the course of professional practice." 21 U.S.C. § 802(21). The regulation just repeats two of these statutory phrases and attempts to summarize the others. An agency does not acquire special authority to interpret its own words when, instead of using its expertise and experience to formulate a regulation, it has elected merely to paraphrase the statutory language. Furthermore, any statutory authority for the Interpretive Rule would have to come from 1984 CSA amendments adding the "public ***245** interest" requirement, but 21 CFR § 1306.04 was adopted in

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

1971. That the current interpretation runs counter to the intent at the time of the regulation's promulgation is an additional reason why *Auer* deference is unwarranted. Pp. 915-916.

(c) The Interpretive Rule is also not entitled to *Chevron* deference. The statutory phrase "legitimate medical purpose" is ambiguous in the relevant sense. However, *Chevron* deference is not accorded merely because the statute is ambiguous and an administrative official is involved. A rule must be promulgated pursuant to authority Congress has delegated to the official. The specific respects in which the Attorney General is authorized to make rules under the CSA show that he is not authorized to make a rule declaring illegitimate a medical standard for patient care and treatment specifically authorized under state law. Congress delegated to the Attorney General only the authority to promulgate rules relating to "registration" and "control" of the dispensing of controlled substances, 21 U.S.C. § 821 (2000 ed., Supp.V), and "for the efficient execution of his [statutory] functions," **909 21 U.S.C. § 871(b). Control means "to add a ... substance ... to a schedule," § 802(5), following specified procedures. Because the Interpretive Rule does not concern scheduling of substances and was not issued under the required procedures, it cannot fall under the Attorney General's control authority. Even if "control" were understood to signify something other than its statutory definition, it could not support the Interpretive Rule. Nor can the Interpretive Rule be justified under the CSA's registration provisions. It does not undertake the Act's five-factor analysis for determining when registration is "inconsistent with the public interest," § 823(f), and it deals with much more than registration. It purports to declare that using controlled substances for physician-assisted suicide is a crime, an authority going well beyond the Attorney General's statutory power to register or deregister physicians. It would be anomalous for Congress to have painstakingly described the Attorney General's limited authority to deregister a single physician or schedule a single drug, but to have given him, just by implication, authority to declare an entire class of activity outside the course of professional practice and therefore a criminal violation of the CSA. It is not enough that "public interest," "public health and safety," and "Federal law" are used in the part of the Act over which the Attorney General has authority. Cf. *Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 119 S.Ct. 2139, 144 L.Ed.2d 450. The first two terms do not call on the Attorney General, or any executive official, to make an independent assessment of the meaning of federal law. The Attorney General did not base the Interpretive Rule on an application of the five-factor test generally, or the "public health and safety" factor specifically. Even if he had, it is doubtful that he could cite those factors to deregister a ***246** physician simply because he deemed a controversial practice permitted by state law to have an illegitimate medical purpose. The federal-law factor requires the Attorney General to decide "[c]ompliance" with the law but does not suggest that he may decide what the law is. To say that he can define the substantive standards of medical practice as part of his authority would also put 21 U.S.C. § 871(b) in considerable tension with the narrowly defined control and registration delegation. It would go, moreover, against the plain language of the text to treat a delegation for the "execution" of his functions as a further delegation to define other functions well beyond the Act's specific grants of authority. The authority desired by the Government is inconsistent with the Act's design in other fundamental respects, *e.g.*, the Attorney General must share power with, and in some respect defer to, the Secretary, whose functions are likewise delineated and confined by the Act. Postenactment congressional commentary on the CSA's regulation of medical practice is also at odds with the Attorney General's claimed authority. The Government's claim that the Attorney General's decision is a legal, not medical, one does not suffice, for the Interpretive Rule places extensive reliance on medical judgments and views of the medical community in concluding that assisted suicide is not a legitimate medical purpose. The idea that Congress gave him such broad and unusual authority through an implicit delegation is not sustainable. The importance of the issue of physician-assisted suicide makes the oblique form of the claimed delegation all the more suspect. Pp. 916-922.

(d) The Attorney General's opinion is unpersuasive under *Skidmore*. The CSA and this Court's case law amply support the conclusion that Congress regulates medical practice insofar as it bars doctors from using their prescription-writing powers**910 as a means to engage in illicit drug dealing and trafficking as conventionally understood. Beyond this, the Act manifests no intent to regulate the practice of medicine generally, which is understandable given federalism's structure and limitations. The CSA's structure and operation presume and rely upon a functioning medical profession regulated under the States' police

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

powers. The Federal Government can set uniform standards for regulating health and safety. In connection with the CSA, however, the only provision in which Congress set general, uniform medical practice standards, § 290bb-2a, strengthens the understanding of the CSA as a statute combating recreational drug abuse, and also indicates that when Congress wants to regulate medical practice in the given scheme, it does so by explicit statutory language. The difficulty in defending the Attorney General's declaration that the CSA impliedly criminalizes physician-assisted suicide is compounded by the Act's consistent delegation of medical judgments to the Secretary and its otherwise careful ***247** allocation of powers for enforcing the CSA's limited objectives. The Government's contention that the terms "medical" or "medicine" refer to a healing or curative art, and thus cannot embrace the intentional hastening of a patient's death, rests on a reading of 21 U.S.C. § 829(a)'s prescription requirement without the illumination of the rest of the statute. Viewed in context, that requirement is better understood as ensuring that patients use controlled substances under a doctor's supervision so as to prevent addiction and recreational abuse. To read prescriptions for assisted suicide as "drug abuse" under the CSA is discordant with the phrase's consistent use throughout the Act, not to mention its ordinary meaning. The Government's interpretation of the prescription requirement also fails under the objection that the Attorney General is an unlikely recipient of such broad authority, given the Secretary's primacy in shaping medical policy under the CSA and the Act's otherwise careful allocation of decisionmaking powers. Pp. 922-926.

368 F.3d 1118, affirmed.

KENNEDY, J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, SOUTER, GINSBURG, and BREYER, JJ., joined. SCALIA, J., filed a dissenting opinion, in which ROBERTS, C. J., and THOMAS, J., joined, *post,* p. 926. THOMAS, J., filed a dissenting opinion, *post,* p. 939.
Paul D. Clement, Solicitor General, Counsel of Record, Department of Justice, Washington, D.C., Brief for the Petitioners.

Ncholas W. van Aelstyn, Counsel of Record, Aaron S. Jacobs, David A. Thomas, Heller Ehrman LLP, San Francisco, CA, Kathryn L. Tucker Compassion & Choices, Seattle, WA, Counsel for Patient-Respondents.

Eli D. Stutsman, Counsel of Record, Portland, OR, Brief for the Respondents filed by Peter A. Rasmussen, M.D. and David M. Hochhalter.

Hardy Myers, Attorney General of Oregon, Peter Shepherd, Deputy Attorney General, Counsel of Record, Mary H. Williams, Solicitor General, Robert M. Atkinson, Assistant Attorney General, Salem, OR, Counsel for Respondent State of Oregon.

Paul D. Clement, Acting Solicitor General, Counsel of Record, Peter D. Keisler, Assistant Attorney General, Edwin S. Kneedler, Deputy Solicitor General, Gregory G. Katsas, Deputy Assistant Attorney General, Douglas Hallward-Driemeier, Assistant to the Solicitor General, ****911**Mark B. Stern, Jonathan H. Levy, Attorneys, Department of Justice, Washington, D.C., for the Petitioners.

For U.S. Supreme Court briefs, see:2005 WL 1126079 (Pet.Brief)2005 WL 1749169 (Resp.Brief)2005 WL 1749168 (Resp.Brief)2005 WL 1687168 (Resp.Brief)2005 WL 2083964 (Reply.Brief)

Justice KENNEDY delivered the opinion of the Court.

***248** The question before us is whether the Controlled Substances Act allows the United States Attorney General to ***249** prohibit doctors from prescribing regulated drugs for use in physician-assisted suicide, notwithstanding a state law permitting the procedure. As the Court has observed, "Americans are engaged in an earnest and profound debate about the morality, legality, and practicality of physician-assisted suicide." *Washington v. Glucksberg,* 521 U.S. 702, 735, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997). The dispute before us is in part a product of this political and moral debate, but its resolution requires an inquiry familiar to the courts: interpreting a federal statute to determine whether executive action is authorized by, or otherwise consistent with, the enactment.

In 1994, Oregon became the first State to legalize assisted suicide when voters approved a ballot measure enacting the Oregon Death With Dignity Act (ODWDA). Ore.Rev.Stat. § 127.800 *et seq.* (2003). ODWDA, which survived a 1997 ballot measure

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

seeking its repeal, exempts from civil or criminal liability state-licensed physicians who, in compliance with the specific safeguards in ODWDA, dispense or prescribe a lethal dose of drugs upon the request of a terminally ill patient.

The drugs Oregon physicians prescribe under ODWDA are regulated under a federal statute, the Controlled Substances Act (CSA or Act). 84 Stat. 1242, as amended, 21 U.S.C. § 801 *et seq.* The CSA allows these particular drugs to be available only by a written prescription from a registered physician. In the ordinary course the same drugs are prescribed in smaller doses for pain alleviation.

A November 9, 2001, Interpretive Rule issued by the Attorney General addresses the implementation and enforcement of the CSA with respect to ODWDA. It determines that using controlled substances to assist suicide is not a legitimate medical practice and that dispensing or prescribing them for this purpose is unlawful under the CSA. The Interpretive Rule's validity under the CSA is the issue before us.

***250** I

A

We turn first to the text and structure of the CSA. Enacted in 1970 with the main objectives of combating drug abuse and controlling the legitimate and illegitimate traffic in controlled substances, the CSA creates a comprehensive, closed regulatory regime criminalizing the unauthorized manufacture, distribution, dispensing, and possession of substances classified in any of the Act's five schedules. *Gonzales v. Raich*, 545 U.S. 1, 12-13, 125 S.Ct. 2195, 2203-2204, 162 L.Ed.2d 1 (2005); 21 U.S.C. § 841 (2000 ed. and Supp. II); 21 U.S.C. § 844. The Act places substances in one of five schedules based on their potential for abuse or dependence, their accepted medical use, and their accepted safety for use under medical supervision. Schedule I contains the most severe restrictions on access and use, and Schedule V the least. *Raich, supra*, at 14, 125 S.Ct., at 2204; 21 U.S.C. § 812. Congress classified a host of substances when it enacted the CSA, but the statute permits the Attorney****912** General to add, remove, or reschedule substances. He may do so, however, only after making particular findings, and on scientific and medical matters he is required to accept the findings of the Secretary of Health and Human Services (Secretary). These proceedings must be on the record after an opportunity for comment. See 21 U.S.C. § 811 (2000 ed. and Supp.V).

The present dispute involves controlled substances listed in Schedule II, substances generally available only pursuant to a written, nonrefillable prescription by a physician. 21 U.S.C. § 829(a). A 1971 regulation promulgated by the Attorney General requires that every prescription for a controlled substance "be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 CFR § 1306.04(a) (2005).

To prevent diversion of controlled substances with medical uses, the CSA regulates the activity of physicians. To issue ***251** lawful prescriptions of Schedule II drugs, physicians must "obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him." 21 U.S.C. § 822(a)(2). The Attorney General may deny, suspend, or revoke this registration if, as relevant here, the physician's registration would be "inconsistent with the public interest." § 824(a)(4); § 822(a)(2). When deciding whether a practitioner's registration is in the public interest, the Attorney General "shall" consider:

> "(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
>
> "(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.
>
> "(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.
>
> "(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.
>
> "(5) Such other conduct which may threaten the public health and safety." § 823(f).

The CSA explicitly contemplates a role for the States in regulating controlled substances, as evidenced by its pre-emption provision.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> "No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates ... to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision ... and that State law so that the two cannot consistently stand together." § 903.

B

Oregon voters enacted ODWDA in 1994. For Oregon residents to be eligible to request a prescription under ***252** ODWDA, they must receive a diagnosis from their attending physician that they have an incurable and irreversible disease that, within reasonable medical judgment, will cause death within six months. Ore.Rev.Stat. §§ 127.815, 127.800(12) (2003). Attending physicians must also determine whether a patient has made a voluntary request, ensure a patient's choice is informed, and refer patients to counseling if they might be suffering from a psychological disorder or depression causing impaired judgment. §§ 127.815, 127.825. A second "consulting" physician must examine the patient and the medical record and confirm the attending physician's conclusions. § 127.800(8). Oregon physicians may dispense****913** or issue a prescription for the requested drug, but may not administer it. §§ 127.815(1)(L), 127.880.

The reviewing physicians must keep detailed medical records of the process leading to the final prescription, § 127.855, records that Oregon's Department of Human Services reviews, § 127.865. Physicians who dispense medication pursuant to ODWDA must also be registered with both the State's Board of Medical Examiners and the federal Drug Enforcement Administration (DEA). § 127.815(1)(L). In 2004, 37 patients ended their lives by ingesting a lethal dose of medication prescribed under ODWDA. Oregon Dept. of Human Servs., Seventh Annual Report on Oregon's Death with Dignity Act 20 (Mar. 10, 2005).

C

In 1997, Members of Congress concerned about ODWDA invited the DEA to prosecute or revoke the CSA registration of Oregon physicians who assist suicide. They contended that hastening a patient's death is not legitimate medical practice, so prescribing controlled substances for that purpose violates the CSA. Letter from Sen. Orrin Hatch and Rep. Henry Hyde to Thomas A. Constantine (July 25, 1997), reprinted in Hearing on S. 2151 before the Senate Committee on the Judiciary, 105th Cong., 2d Sess., 2-3 (1999) ***253** hereinafter Hearing). The letter received an initial, favorable response from the director of the DEA, see Letter from Thomas A. Constantine to Sen. Orrin Hatch (Nov. 5, 1997), Hearing 4-5, but Attorney General Reno considered the matter and concluded that the DEA could not take the proposed action because the CSA did not authorize it to "displace the states as the primary regulators of the medical profession, or to override a state's determination as to what constitutes legitimate medical practice," Letter from Attorney General Janet Reno to Sen. Orrin Hatch, on Oregon's Death with Dignity Act (June 5, 1998), Hearing 5-6. Legislation was then introduced to grant the explicit authority Attorney General Reno found lacking; but it failed to pass. See H.R. 4006, 105th Cong., 2d Sess. (1998); H.R. 2260, 106th Cong., 1st Sess. (1999).

In 2001, John Ashcroft was appointed Attorney General. Perhaps because Mr. Ashcroft had supported efforts to curtail assisted suicide while serving as a Senator, see, *e.g.,* 143 Cong. Rec. 5589-5590 (1997) (remarks of Sen. Ashcroft), Oregon Attorney General Hardy Myers wrote him to request a meeting with Department of Justice officials should the Department decide to revisit the application of the CSA to assisted suicide. Letter of Feb. 2, 2001, App. to Brief for Patient-Respondents in Opposition 55a. Attorney General Myers received a reply letter from one of Attorney General Ashcroft's advisers writing on his behalf, which stated:

> "I am aware of no pending legislation in Congress that would prompt a review of the Department's interpretation of the CSA as it relates to physician-assisted suicide. Should such a review be commenced in the future, we would be happy to include your views in that review." Letter from Lori Sharpe (Apr. 17, 2001), *id.,* at 58a.

On November 9, 2001, without consulting Oregon or apparently anyone outside his Department, the Attorney General ***254** issued an Interpretive Rule announcing his intent to restrict the use of controlled substances for physician-assisted suicide. Incorpo-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

rating the legal analysis of a memorandum he had solicited from his Office of Legal Counsel, the Attorney General ruled:

> "[A]ssisting suicide is not a 'legitimate medical purpose' within the meaning of 21 CFR 1306.04 (2001), and that prescribing, dispensing, or administering ****914** federally controlled substances to assist suicide violates the Controlled Substances Act. Such conduct by a physician registered to dispense controlled substances may 'render his registration ... inconsistent with the public interest' and therefore subject to possible suspension or revocation under 21 U.S.C. 824(a)(4). The Attorney General's conclusion applies regardless of whether state law authorizes or permits such conduct by practitioners or others and regardless of the condition of the person whose suicide is assisted." 66 Fed.Reg. 56608 (2001).

There is little dispute that the Interpretive Rule would substantially disrupt the ODWDA regime. Respondents contend, and petitioners do not dispute, that every prescription filled under ODWDA has specified drugs classified under Schedule II. A physician cannot prescribe the substances without DEA registration, and revocation or suspension of the registration would be a severe restriction on medical practice. Dispensing controlled substances without a valid prescription, furthermore, is a federal crime. See, *e.g.,* 21 U.S.C. § 841(a)(1); *United States v. Moore,* 423 U.S. 122, 96 S.Ct. 335, 46 L.Ed.2d 333 (1975).

In response the State of Oregon, joined by a physician, a pharmacist, and some terminally ill patients, all from Oregon, challenged the Interpretive Rule in federal court. The United States District Court for the District of Oregon entered a permanent injunction against the Interpretive Rule's enforcement.

***255** A divided panel of the Court of Appeals for the Ninth Circuit granted the petitions for review and held the Interpretive Rule invalid. *Oregon v. Ashcroft,* 368 F.3d 1118 (C.A.9 2004). It reasoned that, by making a medical procedure authorized under Oregon law a federal offense, the Interpretive Rule altered the " ' "usual constitutional balance between the States and the Federal Government" ' " without the requisite clear statement that the CSA authorized such action. *Id.,* at 1124-1125 (quoting *Gregory v. Ashcroft,* 501 U.S. 452, 460, 111 S.Ct. 2395, 115 L.Ed.2d 410 (1991), in turn quoting *Atascadero State Hospital v. Scanlon,* 473 U.S. 234, 242, 105 S.Ct. 3142, 87 L.Ed.2d 171 (1985)). The Court of Appeals held in the alternative that the Interpretive Rule could not be squared with the plain language of the CSA, which targets only conventional drug abuse and excludes the Attorney General from decisions on medical policy. 368 F.3d, at 1125-1129.

We granted the Government's petition for certiorari. 543 U.S. 1145, 125 S.Ct. 1299, 161 L.Ed.2d 104 (2005).

II

[1][2] Executive actors often must interpret the enactments Congress has charged them with enforcing and implementing. The parties before us are in sharp disagreement both as to the degree of deference we must accord the Interpretive Rule's substantive conclusions and whether the Rule is authorized by the statutory text at all. Although balancing the necessary respect for an agency's knowledge, expertise, and constitutional office with the courts' role as interpreter of laws can be a delicate matter, familiar principles guide us. An administrative rule may receive substantial deference if it interprets the issuing agency's own ambiguous regulation. *Auer v. Robbins,* 519 U.S. 452, 461-463, 117 S.Ct. 905, 137 L.Ed.2d 79 (1997). An interpretation of an ambiguous statute may also receive substantial deference. *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.,* 467 U.S. 837, 842-845, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). Deference in accordance****915** with *Chevron,* however, is warranted only "when it appears that Congress delegated authority to the agency generally to make rules carrying the force of law, ***256** and that the agency interpretation claiming deference was promulgated in the exercise of that authority." *United States v. Mead Corp.,* 533 U.S. 218, 226-227, 121 S.Ct. 2164, 150 L.Ed.2d 292 (2001). Otherwise, the interpretation is "entitled to respect" only to the extent it has the "power to persuade." *Skidmore v. Swift & Co.,* 323 U.S. 134, 140, 65 S.Ct. 161, 89 L.Ed. 124 (1944).

A

[3] The Government first argues that the Interpretive Rule is an elaboration of one of the Attorney General's own regulations, 21 CFR § 1306.04 (2005), which requires all prescriptions be issued "for a legitimate

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

medical purpose by an individual practitioner acting in the usual course of his professional practice." As such, the Government says, the Interpretive Rule is entitled to considerable deference in accordance with *Auer*.

In our view *Auer* and the standard of deference it accords to an agency are inapplicable here. *Auer* involved a disputed interpretation of the Fair Labor Standards Act of 1938 as applied to a class of law enforcement officers. Under regulations promulgated by the Secretary of Labor, an exemption from overtime pay depended, in part, on whether the employees met the "salary basis" test. 519 U.S., at 454-455, 117 S.Ct. 905. In this Court the Secretary of Labor filed an *amicus* brief explaining why, in his view, the regulations gave exempt status to the officers. *Id.*, at 461, 117 S.Ct. 905. We gave weight to that interpretation, holding that because the applicable test was "a creature of the Secretary's own regulations, his interpretation of it is, under our jurisprudence, controlling unless plainly erroneous or inconsistent with the regulation." *Ibid.* (internal quotation marks omitted).

In *Auer,* the underlying regulations gave specificity to a statutory scheme the Secretary was charged with enforcing and reflected the considerable experience and expertise the Department of Labor had acquired over time with respect to the complexities of the Fair Labor Standards ***257** Act. Here, on the other hand, the underlying regulation does little more than restate the terms of the statute itself. The language the Interpretive Rule addresses comes from Congress, not the Attorney General, and the near equivalence of the statute and regulation belies the Government's argument for *Auer* deference.

[4] The Government does not suggest that its interpretation turns on any difference between the statutory and regulatory language. The CSA allows prescription of drugs only if they have a "currently accepted medical use," 21 U.S.C. § 812(b); requires a "medical purpose" for dispensing the least controlled substances of those on the schedules, § 829(c); and, in its reporting provision, defines a "valid prescription" as one "issued for a legitimate medical purpose," § 830(b)(3)(A)(ii). Similarly, physicians are considered to be acting as practitioners under the statute if they dispense controlled substances "in the course of professional practice." § 802(21). The regulation uses the terms "legitimate medical purpose" and "the course of professional practice," *ibid.,* but this just repeats two statutory phrases and attempts to summarize the others. It gives little or no instruction on a central issue in this case: Who decides whether a particular activity is in "the course of professional practice" or done for a "legitimate medical purpose"? Since the regulation gives no indication how to decide this issue, the Attorney General's effort to decide it now ****916** cannot be considered an interpretation of the regulation. Simply put, the existence of a parroting regulation does not change the fact that the question here is not the meaning of the regulation but the meaning of the statute. An agency does not acquire special authority to interpret its own words when, instead of using its expertise and experience to formulate a regulation, it has elected merely to paraphrase the statutory language.

Furthermore, as explained below, if there is statutory authority to issue the Interpretive Rule it comes from the 1984 amendments to the CSA that gave the Attorney General authority***258** to register and deregister physicians based on the public interest. The regulation was enacted before those amendments, so the Interpretive Rule cannot be justified as indicative of some intent the Attorney General had in 1971. That the current interpretation runs counter to the "intent at the time of the regulation's promulgation" is an additional reason why *Auer* deference is unwarranted. *Thomas Jefferson Univ. v. Shalala,* 512 U.S. 504, 512, 114 S.Ct. 2381, 129 L.Ed.2d 405 (1994) (internal quotation marks omitted). Deference under *Auer* being inappropriate, we turn to the question whether the Interpretive Rule, on its own terms, is a permissible interpretation of the CSA.

B

[5][6] Just as the Interpretive Rule receives no deference under *Auer,* neither does it receive deference under *Chevron.* If a statute is ambiguous, judicial review of administrative rulemaking often demands *Chevron* deference; and the rule is judged accordingly. All would agree, we should think, that the statutory phrase "legitimate medical purpose" is a generality, susceptible to more precise definition and open to varying constructions, and thus ambiguous in the relevant sense. *Chevron* deference, however, is not accorded merely because the statute is ambiguous and an administrative official is involved. To begin with, the rule must be promulgated pursuant to authority Congress has delegated to the official. *Mead, supra,* at

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

226-227, 121 S.Ct. 2164.

The Attorney General has rulemaking power to fulfill his duties under the CSA. The specific respects in which he is authorized to make rules, however, instruct us that he is not authorized to make a rule declaring illegitimate a medical standard for care and treatment of patients that is specifically authorized under state law.

The starting point for this inquiry is, of course, the language of the delegation provision itself. In many cases authority is clear because the statute gives an agency broad power to enforce all provisions of the statute. See, *e.g., National**259** *Cable & Telecommunications Assn. v. Brand X Internet Services*, 545 U.S. 967, 980, 125 S.Ct. 2688, 2699, 162 L.Ed.2d 820 (2005) (explaining that a Federal Communications Commission regulation received *Chevron* deference because "Congress has delegated to the Commission the authority to ... 'prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions' of the Act" (quoting 47 U.S.C. § 201(b))); *Household Credit Services, Inc. v. Pfennig*, 541 U.S. 232, 238, 124 S.Ct. 1741, 158 L.Ed.2d 450 (2004) (giving *Chevron* deference to a Federal Reserve Board regulation where "Congress has expressly delegated to the Board the authority to prescribe regulations ... as, in the judgment of the Board, 'are necessary or proper to effectuate the purposes of' " the statute (quoting 15 U.S.C. § 1604(a))). The CSA does not grant the Attorney General this broad authority to promulgate rules.

**917 The CSA gives the Attorney General limited powers, to be exercised in specific ways. His rulemaking authority under the CSA is described in two provisions: (1) "The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and to listed chemicals," 21 U.S.C. § 821 (2000 ed., Supp.V); and (2) "The Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this subchapter," 21 U.S.C. § 871(b). As is evident from these sections, Congress did not delegate to the Attorney General authority to carry out or effect all provisions of the CSA. Rather, he can promulgate rules relating only to "registration" and "control," and "for the efficient execution of his functions" under the statute.

Turning first to the Attorney General's authority to make regulations for the "control" of drugs, this delegation cannot sustain the Interpretive Rule's attempt to define standards of medical practice. Control is a term of art in the CSA. **260 "As used in this subchapter," § 802-the subchapter that includes § 821-

> "The term 'control' means to add a drug or other substance, or immediate precursor, to a schedule under part B of this subchapter, whether by transfer from another schedule or otherwise." § 802(5).

To exercise his scheduling power, the Attorney General must follow a detailed set of procedures, including requesting a scientific and medical evaluation from the Secretary. See 21 U.S.C. §§ 811, 812 (2000 ed. and Supp.V). The statute is also specific as to the manner in which the Attorney General must exercise this authority: "Rules of the Attorney General under this subsection [regarding scheduling] shall be made on the record after opportunity for a hearing pursuant to the rulemaking procedures prescribed by [the Administrative Procedure Act, 5 U.S.C. § 553]." 21 U.S.C. § 811(a). The Interpretive Rule now under consideration does not concern the scheduling of substances and was not issued after the required procedures for rules regarding scheduling, so it cannot fall under the Attorney General's "control" authority.

Even if "control" in § 821 were understood to signify something other than its statutory definition, it would not support the Interpretive Rule. The statutory references to "control" outside the scheduling context make clear that the Attorney General can establish controls "against diversion," *e.g.*, § 823(a)(1), but do not give him authority to define diversion based on his view of legitimate medical practice. As explained below, the CSA's express limitations on the Attorney General's authority, and other indications from the statutory scheme, belie any notion that the Attorney General has been granted this implicit authority. Indeed, if "control" were given the expansive meaning required to sustain the Interpretive Rule, it would transform the carefully described **261 limits on the Attorney General's authority over registration and scheduling into mere suggestions.

We turn, next, to the registration provisions of the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

CSA. Before 1984, the Attorney General was required to register any physician who was authorized by his State. The Attorney General could only deregister a physician who falsified his application, was convicted of a felony relating to controlled substances, or had his state license or registration revoked. See 84 Stat. 1255. The CSA was amended in 1984 to allow the Attorney General to deny registration to an applicant "if he determines**918 that the issuance of such registration would be inconsistent with the public interest." 21 U.S.C. § 823(f). Registration may also be revoked or suspended by the Attorney General on the same grounds. § 824(a)(4). In determining consistency with the public interest, the Attorney General must, as discussed above, consider five factors, including: the State's recommendation; compliance with state, federal, and local laws regarding controlled substances; and public health and safety. § 823(f).

The Interpretive Rule cannot be justified under this part of the statute. It does not undertake the five-factor analysis and concerns much more than registration. Nor does the Interpretive Rule on its face purport to be an application of the registration provision in § 823(f). It is, instead, an interpretation of the substantive federal law requirements (under 21 CFR § 1306.04 (2005)) for a valid prescription. It begins by announcing that assisting suicide is not a "legitimate medical purpose" under § 1306.04, and that dispensing controlled substances to assist a suicide violates the CSA. 66 Fed.Reg. 56608. Violation is a criminal offense, and often a felony, under 21 U.S.C. § 841 (2000 ed. and Supp. II). The Interpretive Rule thus purports to declare that using controlled substances for physician-assisted suicide is a crime, an authority that goes well beyond the Attorney General's statutory power to register or deregister.

*262 The Attorney General's deregistration power, of course, may carry implications for criminal enforcement because if a physician dispenses a controlled substance after he is deregistered, he violates § 841. The Interpretive Rule works in the opposite direction, however: It declares certain conduct criminal, placing in jeopardy the registration of any physician who engages in that conduct. To the extent the Interpretive Rule concerns registration, it simply states the obvious because one of the five factors the Attorney General must consider in deciding the "public interest" is "[c]ompliance with applicable State, Federal, or local laws relating to controlled substances." 21 U.S.C. § 823(f)(4). The problem with the design of the Interpretive Rule is that it cannot, and does not, explain why the Attorney General has the authority to decide what constitutes an underlying violation of the CSA in the first place. The explanation the Government seems to advance is that the Attorney General's authority to decide whether a physician's actions are inconsistent with the "public interest" provides the basis for the Interpretive Rule.

By this logic, however, the Attorney General claims extraordinary authority. If the Attorney General's argument were correct, his power to deregister necessarily would include the greater power to criminalize even the actions of registered physicians, whenever they engage in conduct he deems illegitimate. This power to criminalize-unlike his power over registration, which must be exercised only after considering five express statutory factors-would be unrestrained. It would be anomalous for Congress to have so painstakingly described the Attorney General's limited authority to deregister a single physician or schedule a single drug, but to have given him, just by implication, authority to declare an entire class of activity outside "the course of professional practice," and therefore a criminal violation of the CSA. See *Federal Maritime Comm'n v. Seatrain Lines, Inc.*, 411 U.S. 726, 744, 93 S.Ct. 1773, 36 L.Ed.2d 620 (1973) ("In light of these specific *263 grants of ... authority, we are unwilling to construe the ambiguous provisions ... to serve this purpose [of creating further authority]-a purpose for which it obviously was not intended").

**919 *Sutton v. United Air Lines, Inc.*, 527 U.S. 471, 119 S.Ct. 2139, 144 L.Ed.2d 450 (1999), is instructive. The statute at issue was the Americans with Disabilities Act of 1990 (ADA), which, like the CSA, divides interpretive authority among various executive actors. The Court relied on "the terms and structure of the ADA" to decide that neither the Equal Employment Opportunity Commission (EEOC), nor any other agency, had authority to define "disability" in the ADA. *Id.*, at 479, 119 S.Ct. 2139. Specifically, the delegating provision stated that the EEOC "shall issue regulations ... to carry out this subchapter," 42 U.S.C. § 12116, and the section of the statute defining "disability" was in a different subchapter. The Court did not accept the idea that because "the employment subchapter, *i.e.*, '*this* subchapter,' includes other provisions that use the defined terms, ... [t]he EEOC

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

might elaborate, through regulations, on the meaning of 'disability' ... if elaboration is needed in order to 'carry out' the substantive provisions of 'this subchapter.' " 527 U.S., at 514, 119 S.Ct. 2139 (BREYER, J., dissenting). See also *Adams Fruit Co. v. Barrett,* 494 U.S. 638, 649-650, 110 S.Ct. 1384, 108 L.Ed.2d 585 (1990) (holding that a delegation of authority to promulgate motor vehicle safety *"standards"* did not include the authority to decide the pre-emptive scope of the federal statute because "[n]o such delegation regarding [the statute's] enforcement provisions is evident in the statute").

The same principle controls here. It is not enough that the terms "public interest," "public health and safety," and "Federal law" are used in the part of the statute over which the Attorney General has authority. The statutory terms "public interest" and "public health" do not call on the Attorney General, or any other executive official, to make an independent assessment of the meaning of federal law. The Attorney General did not base the Interpretive Rule on an ***264** application of the five-factor test generally, or the "public health and safety" factor specifically. Even if he had, it is doubtful the Attorney General could cite the "public interest" or "public health" to deregister a physician simply because he deemed a controversial practice permitted by state law to have an illegitimate medical purpose.

As for the federal-law factor, though it does require the Attorney General to decide "[c]ompliance" with the law, it does not suggest that he may decide what the law says. Were it otherwise, the Attorney General could authoritatively interpret "State" and "local laws," which are also included in 21 U.S.C. § 823(f), despite the obvious constitutional problems in his doing so. Just as he must evaluate compliance with federal law in deciding about registration, the Attorney General must as surely evaluate compliance with federal law in deciding whether to prosecute; but this does not entitle him to *Chevron* deference. See *Crandon v. United States,* 494 U.S. 152, 177, 110 S.Ct. 997, 108 L.Ed.2d 132 (1990) (SCALIA, J., concurring in judgment) ("The Justice Department, of course, has a very specific responsibility to determine for itself what this statute means, in order to decide when to prosecute; but we have never thought that the interpretation of those charged with prosecuting criminal statutes is entitled to deference").

The limits on the Attorney General's authority to define medical standards for the care and treatment of patients bear also on the proper interpretation of § 871(b). This section allows the Attorney General to best determine how to execute "his functions." It is quite a different matter, however, to say that the Attorney General can define the substantive standards of medical practice as part of his ****920** authority. To find a delegation of this extent in § 871 would put that part of the statute in considerable tension with the narrowly defined delegation concerning control and registration. It would go, moreover, against the plain language of the text to treat a delegation for the "execution" of his functions as a further delegation to define other functions well beyond ***265** the statute's specific grants of authority. When Congress chooses to delegate a power of this extent, it does so not by referring back to the administrator's functions but by giving authority over the provisions of the statute he is to interpret. See, *e.g., National Cable & Telecommunications Assn.,* 545 U.S. 967, 125 S.Ct. 2688; *Household Credit Services,* 541 U.S. 232, 124 S.Ct. 1741.

[7] The authority desired by the Government is inconsistent with the design of the statute in other fundamental respects. The Attorney General does not have the sole delegated authority under the CSA. He must instead share it with, and in some respects defer to, the Secretary, whose functions are likewise delineated and confined by the statute. The CSA allocates decisionmaking powers among statutory actors so that medical judgments, if they are to be decided at the federal level and for the limited objects of the statute, are placed in the hands of the Secretary. In the scheduling context, for example, the Secretary's recommendations on scientific and medical matters bind the Attorney General. The Attorney General cannot control a substance if the Secretary disagrees. 21 U.S.C. § 811(b). See H.R.Rep. No. 91-1444, pt. 1, p. 33 (1970), U.S.Code Cong. & Admin.News 1970, pp. 4566, 4600 (the section "is not intended to authorize the Attorney General to undertake or support medical and scientific research [for the purpose of scheduling], which is within the competence of the Department of Health, Education, and Welfare").

In a similar vein the 1970 Act's regulation of medical practice with respect to drug rehabilitation gives the Attorney General a limited role; for it is the Secretary who, after consultation with the Attorney General and

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

national medical groups, "determine[s] the appropriate methods of professional practice in the medical treatment of ... narcotic addiction." 42 U.S.C. § 290bb-2a; see 21 U.S.C. § 823(g) (2000 ed. and Supp. II) (stating that the Attorney General shall register practitioners who dispense drugs for narcotics treatment when the Secretary has determined the applicant is qualified to treat addicts and the Attorney General has concluded***266** the applicant will comply with recordkeeping and security regulations); *Moore*, 423 U.S., at 144, 96 S.Ct. 335 (noting that in enacting the addiction-treatment provisions, Congress sought to change the fact "that 'criminal prosecutions' in the past had turned on the opinions of federal prosecutors"); H.R.Rep. No. 93-884, p. 6 (1974), U.S.Code Cong. & Admin.News 1974, pp. 3029, 3034 ("This section preserves the distinctions found in the [CSA] between the functions of the Attorney General and the Secretary.... All decisions of a medical nature are to be made by the Secretary.... Law enforcement decisions respecting the security of stocks of narcotic drugs and the maintenance of records on such drugs are to be made by the Attorney General").

Postenactment congressional commentary on the CSA's regulation of medical practice is also at odds with the Attorney General's claimed authority to determine appropriate medical standards. In 1978, in preparation for ratification of the Convention on Psychotropic Substances, Feb. 21, 1971, [1979-1980] 32 U.S.T. 543, T.I.A.S. No. 9725, Congress decided it ****921** would implement the United States' compliance through "the framework of the procedures and criteria for classification of substances provided in the" CSA. 21 U.S.C. § 801a(3). It did so to ensure that "nothing in the Convention will interfere with ethical medical practice in this country as determined by [the Secretary] on the basis of a consensus of the views of the American medical and scientific community." *Ibid.*

The structure of the CSA, then, conveys unwillingness to cede medical judgments to an executive official who lacks medical expertise. In interpreting statutes that divide authority, the Court has recognized: "Because historical familiarity and policymaking expertise account in the first instance for the presumption that Congress delegates interpretive lawmaking power to the agency rather than to the reviewing court, we presume here that Congress intended to invest interpretive power in the administrative actor in the best position to develop these attributes." *Martin****267** *v. Occupational Safety and Health Review Comm'n*, 499 U.S. 144, 153, 111 S.Ct. 1171, 113 L.Ed.2d 117 (1991) (citations omitted). This presumption works against a conclusion that the Attorney General has authority to make quintessentially medical judgments.

The Government contends the Attorney General's decision here is a legal, not a medical, one. This generality, however, does not suffice. The Attorney General's Interpretive Rule, and the Office of Legal Counsel memo it incorporates, place extensive reliance on medical judgments and the views of the medical community in concluding that assisted suicide is not a "legitimate medical purpose." See 66 Fed.Reg. 56608 (noting the "medical" distinctions between assisting suicide and giving sufficient medication to alleviate pain); Memorandum from Office of Legal Counsel to Attorney General (June 27, 2001), App. to Pet. for Cert. 121a-122a, and n. 17 (discussing the "Federal medical policy" against physician-assisted suicide), *id.*, at 124a-130a (examining views of the medical community). This confirms that the authority claimed by the Attorney General is both beyond his expertise and incongruous with the statutory purposes and design.

The idea that Congress gave the Attorney General such broad and unusual authority through an implicit delegation in the CSA's registration provision is not sustainable. "Congress, we have held, does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions-it does not, one might say, hide elephants in mouseholes." *Whitman v. American Trucking Assns., Inc.*, 531 U.S. 457, 468, 121 S.Ct. 903, 149 L.Ed.2d 1 (2001); see *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 160, 120 S.Ct. 1291, 146 L.Ed.2d 121 (2000) ("[W]e are confident that Congress could not have intended to delegate a decision of such economic and political significance to an agency in so cryptic a fashion").

The importance of the issue of physician-assisted suicide, which has been the subject of an "earnest and profound debate" across the country, *Glucksberg*, 521 U.S., at 735, 117 S.Ct. 2258, makes the oblique form of the claimed delegation all the more suspect.***268** Under the Government's theory, moreover, the medical judgments the Attorney General could make are not limited to physician-assisted suicide. Were this argument accepted, he could decide whether any par-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

ticular drug may be used for any particular purpose, or indeed whether a physician who administers any controversial treatment could be deregistered. This would occur, under the Government's view, despite the statute's express limitation of the Attorney General's authority to registration and control, ****922** with attendant restrictions on each of those functions, and despite the statutory purposes to combat drug abuse and prevent illicit drug trafficking.

We need not decide whether *Chevron* deference would be warranted for an interpretation issued by the Attorney General concerning matters closer to his role under the CSA, namely, preventing doctors from engaging in illicit drug trafficking. In light of the foregoing, however, the CSA does not give the Attorney General authority to issue the Interpretive Rule as a statement with the force of law.

[8][9] If, in the course of exercising his authority, the Attorney General uses his analysis in the Interpretive Rule only for guidance in deciding when to prosecute or deregister, then the question remains whether his substantive interpretation is correct. Since the Interpretive Rule was not promulgated pursuant to the Attorney General's authority, its interpretation of "legitimate medical purpose" does not receive *Chevron* deference. Instead, it receives deference only in accordance with *Skidmore*. "The weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control." 323 U.S., at 140, 65 S.Ct. 161; see also *Mead*, 533 U.S., at 235, 121 S.Ct. 2164 (noting that an opinion receiving *Skidmore* deference may "claim the merit of its writer's thoroughness, logic, and expertness, its fit with prior interpretations, and any other ***269** sources of weight"). The deference here is tempered by the Attorney General's lack of expertise in this area and the apparent absence of any consultation with anyone outside the Department of Justice who might aid in a reasoned judgment. In any event, under *Skidmore*, we follow an agency's rule only to the extent it is persuasive, see *Christensen v. Harris County*, 529 U.S. 576, 587, 120 S.Ct. 1655, 146 L.Ed.2d 621 (2000); and for the reasons given and for further reasons set out below, we do not find the Attorney General's opinion persuasive.

III

[10] As we have noted before, the CSA "repealed most of the earlier antidrug laws in favor of a comprehensive regime to combat the international and interstate traffic in illicit drugs." *Raich*, 545 U.S., at 12, 125 S.Ct., at 2203. In doing so, Congress sought to "conquer drug abuse and to control the legitimate and illegitimate traffic in controlled substances." *Ibid.* It comes as little surprise, then, that we have not considered the extent to which the CSA regulates medical practice beyond prohibiting a doctor from acting as a drug " 'pusher' " instead of a physician. *Moore*, 423 U.S., at 143, 96 S.Ct. 335. In *Moore*, we addressed a situation in which a doctor "sold drugs, not for legitimate purposes, but primarily for the profits to be derived therefrom." *Id.*, at 135, 96 S.Ct. 335 (quoting H.R.Rep. No. 91-1444, pt. 1, at 10, U.S.Code Cong. & Admin.News 1970, pp. 4566, 4576; internal quotation marks omitted). There the defendant, who had engaged in large-scale overprescribing of methadone, "concede[d] in his brief that he did not observe generally accepted medical practices." 423 U.S., at 126, 96 S.Ct. 335. And in *United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483, 121 S.Ct. 1711, 149 L.Ed.2d 722 (2001), Congress' express determination that marijuana had no accepted medical use foreclosed any argument about statutory coverage of drugs available by a doctor's prescription.

[11][12] In deciding whether the CSA can be read as prohibiting physician-assisted suicide, we look to the statute's text and ****923** design. The statute and our case law amply support the ***270** conclusion that Congress regulates medical practice insofar as it bars doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking as conventionally understood. Beyond this, however, the statute manifests no intent to regulate the practice of medicine generally. The silence is understandable given the structure and limitations of federalism, which allow the States " 'great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons.' " *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475, 116 S.Ct. 2240, 135 L.Ed.2d 700 (1996) (quoting *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 756, 105 S.Ct. 2380, 85 L.Ed.2d 728 (1985)).

The structure and operation of the CSA presume and rely upon a functioning medical profession regulated

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

under the States' police powers. The Attorney General can register a physician to dispense controlled substances "if the applicant is authorized to dispense ... controlled substances under the laws of the State in which he practices." 21 U.S.C. § 823(f). When considering whether to revoke a physician's registration, the Attorney General looks not just to violations of federal drug laws; but he "shall" also consider "[t]he recommendation of the appropriate State licensing board or professional disciplinary authority" and the registrant's compliance with state and local drug laws. *Ibid.* The very definition of a "practitioner" eligible to prescribe includes physicians "licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices" to dispense controlled substances. § 802(21). Further cautioning against the conclusion that the CSA effectively displaces the States' general regulation of medical practice is the Act's pre-emption provision, which indicates that, absent a positive conflict, none of the Act's provisions should be "construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates ... to the exclusion of any State law on the same subject matter***271** which would otherwise be within the authority of the State." § 903.

Oregon's regime is an example of the state regulation of medical practice that the CSA presupposes. Rather than simply decriminalizing assisted suicide, ODWDA limits its exercise to the attending physicians of terminally ill patients, physicians who must be licensed by Oregon's Board of Medical Examiners. Ore.Rev.Stat. §§ 127.815, 127.800(10) (2003). The statute gives attending physicians a central role, requiring them to provide prognoses and prescriptions, give information about palliative alternatives and counseling, and ensure patients are competent and acting voluntarily. § 127.815. Any eligible patient must also get a second opinion from another registered physician, § 127.820, and the statute's safeguards require physicians to keep and submit to inspection detailed records of their actions, §§ 127.855, 127.865.

[13] Even though regulation of health and safety is "primarily, and historically, a matter of local concern," *Hillsborough County v. Automated Medical Laboratories, Inc.*, 471 U.S. 707, 719, 105 S.Ct. 2371, 85 L.Ed.2d 714 (1985), there is no question that the Federal Government can set uniform national standards in these areas. See *Raich, supra,* at 9, 125 S.Ct., at 2201. In connection to the CSA, however, we find only one area in which Congress set general, uniform standards of medical practice. Title I of the Comprehensive Drug Abuse Prevention and Control Act of 1970, of which the CSA was Title II, provides:

> ****924** "[The Secretary], after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress." § 4, 84 Stat. 1241, codified at 42 U.S.C. § 290bb-2a.

***272** This provision strengthens the understanding of the CSA as a statute combating recreational drug abuse, and also indicates that when Congress wants to regulate medical practice in the given scheme, it does so by explicit language in the statute.

In the face of the CSA's silence on the practice of medicine generally and its recognition of state regulation of the medical profession it is difficult to defend the Attorney General's declaration that the statute impliedly criminalizes physician-assisted suicide. This difficulty is compounded by the CSA's consistent delegation of medical judgments to the Secretary and its otherwise careful allocation of powers for enforcing the limited objects of the CSA. See Part II-B, *supra.* The Government's attempt to meet this challenge rests, for the most part, on the CSA's requirement that every Schedule II drug be dispensed pursuant to a "written prescription of a practitioner." 21 U.S.C. § 829(a). A prescription, the Government argues, necessarily implies that the substance is being made available to a patient for a legitimate medical purpose. The statute, in this view, requires an anterior judgment about the term "medical" or "medicine." The Government contends ordinary usage of these words ineluctably refers to a healing or curative art, which by these terms cannot embrace the intentional hastening of a patient's death. It also points to the teachings of Hippocrates, the positions of prominent medical organizations, the Federal Government, and the judgment of the 49 States that have not legalized physician-assisted suicide as further support for the proposition that the practice is not legitimate medicine. See Brief for Petitioners 22-24; Memorandum

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

from Office of Legal Counsel to Attorney General, App. to Pet. for Cert. 124a-130a.

[14] On its own, this understanding of medicine's boundaries is at least reasonable. The primary problem with the Government's argument, however, is its assumption that the CSA ***273** impliedly authorizes an Executive officer to bar a use simply because it may be inconsistent with one reasonable understanding of medical practice. Viewed alone, the prescription requirement may support such an understanding, but statutes "should not be read as a series of unrelated and isolated provisions." *Gustafson v. Alloyd Co.*, 513 U.S. 561, 570, 115 S.Ct. 1061, 131 L.Ed.2d 1 (1995). The CSA's substantive provisions and their arrangement undermine this assertion of an expansive federal authority to regulate medicine.

The statutory criteria for deciding what substances are controlled, determinations which are central to the Act, consistently connect the undefined term "drug abuse" with addiction or abnormal effects on the nervous system. When the Attorney General schedules drugs, he must consider a substance's psychic or physiological dependence liability. 21 U.S.C. § 811(c)(7). To classify a substance in Schedules II through V, the Attorney General must find abuse of the drug leads to psychological or physical dependence. § 812(b). Indeed, the differentiation of Schedules II through V turns in large part on a substance's habit-forming potential: The more addictive a substance, the stricter the controls. ****925** *Ibid.* When Congress wanted to extend the CSA's regulation to substances not obviously habit forming or psychotropic, moreover, it relied not on executive ingenuity, but rather on specific legislation. See § 1902(a) of the Anabolic Steroids Control Act of 1990, 104 Stat. 4851 (placing anabolic steroids in Schedule III).

The statutory scheme with which the CSA is intertwined further confirms a more limited understanding of the prescription requirement. When the Secretary considers Food and Drug Administration approval of a substance with "stimulant, depressant, or hallucinogenic effect," he must forward the information to the Attorney General for possible scheduling. Shedding light on Congress' understanding of drug abuse, this requirement appears under the heading "Abuse ***274** potential." 21 U.S.C. § 811(f). Similarly, when Congress prepared to implement the Convention on Psychotropic Substances, it did so through the CSA. § 801a.

[15] The Interpretive Rule rests on a reading of the prescription requirement that is persuasive only to the extent one scrutinizes the provision without the illumination of the rest of the statute. See *Massachusetts v. Morash*, 490 U.S. 107, 114-115, 109 S.Ct. 1668, 104 L.Ed.2d 98 (1989). Viewed in its context, the prescription requirement is better understood as a provision that ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, the provision also bars doctors from peddling to patients who crave the drugs for those prohibited uses. See *Moore*, 423 U.S., at 135, 143, 96 S.Ct. 335. To read prescriptions for assisted suicide as constituting "drug abuse" under the CSA is discordant with the phrase's consistent use throughout the statute, not to mention its ordinary meaning.

The Government's interpretation of the prescription requirement also fails under the objection that the Attorney General is an unlikely recipient of such broad authority, given the Secretary's primacy in shaping medical policy under the CSA, and the statute's otherwise careful allocation of decisionmaking powers. Just as the conventions of expression indicate that Congress is unlikely to alter a statute's obvious scope and division of authority through muffled hints, the background principles of our federal system also belie the notion that Congress would use such an obscure grant of authority to regulate areas traditionally supervised by the States' police power. It is unnecessary even to consider the application of clear statement requirements, see, *e.g.*, *United States v. Bass*, 404 U.S. 336, 349, 92 S.Ct. 515, 30 L.Ed.2d 488 (1971); cf. *BFP v. Resolution Trust Corporation*, 511 U.S. 531, 544-546, 114 S.Ct. 1757, 128 L.Ed.2d 556 (1994), or presumptions against pre-emption, see, *e.g.*, *Rush Prudential HMO, Inc. v. Moran*, 536 U.S. 355, 387, 122 S.Ct. 2151, 153 L.Ed.2d 375 (2002), to reach this commonsense conclusion. For all these reasons, we conclude the CSA's prescription requirement does not authorize***275** the Attorney General to bar dispensing controlled substances for assisted suicide in the face of a state medical regime permitting such conduct.

IV

The Government, in the end, maintains that the pre-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

scription requirement delegates to a single executive officer the power to effect a radical shift of authority from the States to the Federal Government to define general standards of medical practice in every locality. The text and structure of the CSA show that Congress did not have this far-reaching intent to alter the federal-state balance and the congressional role in maintaining it.

**926 The judgment of the Court of Appeals is

Affirmed.

Justice SCALIA, with whom Chief Justice ROBERTS and Justice THOMAS join, dissenting.
The Court concludes that the Attorney General lacked authority to declare assisted suicide illicit under the Controlled Substances Act (CSA), because the CSA is concerned only with "*illicit* drug dealing and trafficking," *ante,* at 923 (emphasis added). This question-begging conclusion is obscured by a flurry of arguments that distort the statute and disregard settled principles of our interpretive jurisprudence.

Contrary to the Court's analysis, this case involves not one but *three* independently sufficient grounds for reversing the Ninth Circuit's judgment. First, the Attorney General's interpretation of "legitimate medical purpose" in 21 CFR § 1306.04 (2005) (hereinafter Regulation) is clearly valid, given the substantial deference we must accord it under *Auer v. Robbins,* 519 U.S. 452, 461, 117 S.Ct. 905, 137 L.Ed.2d 79 (1997), and his two remaining conclusions follow naturally from this interpretation. See Part I, *infra.* Second, even if this interpretation of the Regulation is entitled to lesser deference or no deference*276 at all, it is by far the most natural interpretation of the Regulation-whose validity is not challenged here. This interpretation is thus correct even upon *de novo* review. See Part II, *infra.* Third, even if that interpretation of the Regulation were incorrect, the Attorney General's independent interpretation of the *statutory* phrase "public interest" in 21 U.S.C. §§ 824(a) and 823(f), and his implicit interpretation of the statutory phrase "public health and safety" in § 823(f)(5), are entitled to deference under *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.,* 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984), and they are valid under *Chevron.* See Part III, *infra.* For these reasons, I respectfully dissent.

I

The Interpretive Rule issued by the Attorney General (hereinafter Directive) provides in relevant part as follows:

> "For the reasons set forth in the OLC Opinion, I hereby determine that assisting suicide is not a 'legitimate medical purpose' within the meaning of 21 CFR § 1306.04 (2001), and that prescribing, dispensing, or administering federally controlled substances to assist suicide violates the CSA. Such conduct by a physician registered to dispense controlled substances may 'render his registration ... inconsistent with the public interest' and therefore subject to possible suspension or revocation under 21 U.S.C. [§] 824(a)(4)." 66 Fed.Reg. 56608 (2001).

The Directive thus purports to do three distinct things: (1) to interpret the phrase "legitimate medical purpose" in the Regulation to exclude physician-assisted suicide; (2) to determine that prescribing, dispensing, and administering federally controlled substances to assist suicide violates the CSA; and (3) to determine that participating in physician-assisted suicide may render a practitioner's registration "inconsistent with the public interest" within the meaning of 21 U.S.C. §§ 823(f) and 824(a)(4) (which incorporates § 823(f) by reference).*277 The Court's analysis suffers from an unremitting failure to distinguish among these distinct propositions in the Directive.

As an initial matter, the validity of the Regulation's interpretation of "prescription" in § 829 to require a "legitimate medical purpose" is not at issue. Respondents conceded the validity of this interpretation**927 in the lower court, see *Oregon v. Ashcroft,* 368 F.3d 1118, 1133 (C.A.9 2004), and they have not challenged it here. By its assertion that the Regulation merely restates the statutory standard of 21 U.S.C. § 830(b)(3)(A)(ii), see *ante,* at 915, the Court likewise accepts that the "legitimate medical purpose" interpretation for prescriptions is proper. See also *ante,* at 916 (referring to "legitimate medical purpose" as a "statutory phrase"). It is beyond dispute, then, that a "prescription" under § 829 must issue for a "legitimate medical purpose."

A

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Because the Regulation was promulgated by the Attorney General, and because the Directive purported to interpret the language of the Regulation, see 66 Fed.Reg. 56608, this case calls for the straightforward application of our rule that an agency's interpretation of its own regulations is "controlling unless plainly erroneous or inconsistent with the regulation." *Auer, supra,* at 461, 117 S.Ct. 905 (internal quotation marks omitted). The Court reasons that *Auer* is inapplicable because the Regulation "does little more than restate the terms of the statute itself." *Ante,* at 915. "Simply put," the Court asserts, "the existence of a parroting regulation does not change the fact that the question here is not the meaning of the regulation but the meaning of the statute." *Ante,* at 916.

To begin with, it is doubtful that any such exception to the *Auer* rule exists. The Court cites no authority for it, because there is none. To the contrary, our unanimous decision in *Auer* makes clear that broadly drawn regulations are entitled to no less respect than narrow ones. "A rule requiring***278** the Secretary to construe his own regulations narrowly would make little sense, *since he is free to write the regulations as broadly as he wishes, subject only to the limits imposed by the statute.*" 519 U.S., at 463, 117 S.Ct. 905 (emphasis added).

Even if there were an antiparroting canon, however, it would have no application here. The Court's description of 21 CFR § 1306.04 (2005) as a regulation that merely "paraphrase[s] the statutory language," *ante,* at 915, is demonstrably false. In relevant part, the Regulation interprets the word "prescription" as it appears in 21 U.S.C. § 829, which governs the dispensation of controlled substances other than those on Schedule I (which may not be dispensed at all). Entitled "[p]rescriptions," § 829 requires, with certain exceptions not relevant here, "the written prescription of a practitioner" (usually a medical doctor) for the dispensation of Schedule II substances (§ 829(a)), "a written or oral prescription" for substances on Schedules III and IV (§ 829(b)), and no prescription but merely a "medical purpose" for the dispensation of Schedule V substances (§ 829(c)).

As used in this section, "prescription" is susceptible of at least three reasonable interpretations. First, it might mean any oral or written direction of a practitioner for the dispensation of drugs. See *United States v. Moore,* 423 U.S. 122, 137, n. 13, 96 S.Ct. 335, 46 L.Ed.2d 333 (1975) ("On its face § 829 addresses only the form that a prescription must take.... [Section] 829 by its terms does not limit the authority of a practitioner"). Second, in light of the requirement of a "medical purpose" for the dispensation of Schedule V substances, see § 829(c), it might mean a practitioner's oral or written direction for the dispensation of drugs that the practitioner believes to be for a legitimate medical purpose. See Webster's New International Dictionary 1954 (2d ed.1950) (hereinafter Webster's Second) (defining "prescription" as ****928** "[a] written direction for the preparation and use of a *medicine* "); *id.,* at 1527 (defining "medicine" as "[a]ny substance or preparation used in *treating disease* ") (emphasis added). Finally, "prescription" might ***279** refer to a practitioner's direction for the dispensation of drugs that serves an *objectively* legitimate medical purpose, regardless of the practitioner's *subjective* judgment about the legitimacy of the anticipated use. See *ibid.*

The Regulation at issue constricts or clarifies the statute by adopting the last and narrowest of these three possible interpretations of the undefined statutory term: "A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose ...." 21 CFR § 1306.04(a) (2005). We have previously *acknowledged* that the Regulation gives added content to the text of the statute: "The medical purpose requirement explicit in subsection (c) [of § 829] could be implicit in subsections (a) and (b). Regulation § [1]306.04 makes it explicit." *Moore, supra,* at 137, n. 13, 96 S.Ct. 335.[FN1]

> FN1. To be sure, this acknowledgment did not go far enough, because it overlooked the significance of the word "legitimate," which is most naturally understood to create an objective, *federal* standard for appropriate medical uses. See *Mississippi Band of Choctaw Indians v. Holyfield,* 490 U.S. 30, 43, 109 S.Ct. 1597, 104 L.Ed.2d 29 (1989) ("We start ... with the general assumption that in the absence of a plain indication to the contrary, ... Congress when it enacts a statute is not making the application of the federal act dependent on state law" (internal quotation marks omitted)).

The Court points out that the Regulation adopts some of the phrasing employed in unrelated sections of the statute. See *ante,* at 915. This is irrelevant. A regula-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

tion that significantly clarifies the meaning of an otherwise ambiguous statutory provision is not a "parroting" regulation, *regardless* of the sources that the agency draws upon for the clarification. Moreover, most of the statutory phrases that the Court cites as appearing in the Regulation, see *ibid.* (citing 21 U.S.C. §§ 812(b) (" 'currently accepted medical use' "), 829(c) (" 'medical purpose' "), 802(21) (" 'in the course of professional practice' ")), are inapposite because they do *not* "parrot" the *only* phrase in the Regulation that the Directive purported to construe. See 66 Fed.Reg. 56608 ("I hereby ***280** determine that assisting suicide is not a 'legitimate medical purpose' within the meaning of 21 CFR § 1306.04 ..."). None of them includes the key word "legitimate," which gives the most direct support to the Directive's theory that § 829(c) presupposes a uniform federal standard of medical practice.[FN2]

> FN2. The only place outside 21 U.S.C. § 801 in which the statute uses the phrase "legitimate medical purpose" is in defining the phrase "valid prescription" for purposes of the reporting requirements that apply to mail orders of regulated substances. See § 830(b)(3)(A)(ii). The Regulation did not "parrot" this statutory section, because the Regulation was adopted in 1971 and the statutory language was added in 2000. See Brief for Petitioners 17 (citing the Children's Health Act of 2000, § 3652, 114 Stat. 1239, 21 U.S.C. § 830(b)(3)). But even if the statutory language had predated the Regulation, there would be no "parroting" of that phrase. In using the word "prescription" *without* definition in the much more critical § 829, Congress left the task of resolving any ambiguity in that word, used in that context, to the relevant executive officer. That the officer did so by deeming relevant a technically inapplicable statutory definition contained elsewhere in the statute does not make him a parrot. He has given to the statutory text a meaning it did not explicitly-and perhaps even not necessarily-contain.

Since the Regulation does not run afowl (so to speak) of the Court's newly invented prohibition of "parroting"; and since the Directive represents the agency's own interpretation****929** of that concededly valid regulation; the only question remaining is whether that interpretation is "plainly erroneous or inconsistent with the regulation"; otherwise, it is "controlling." *Auer*, 519 U.S., at 461, 117 S.Ct. 905 (internal quotation marks omitted). This is not a difficult question. The Directive is assuredly valid insofar as it interprets "prescription" to require a medical purpose that is "legitimate" as a matter of *federal* law-since that is an interpretation of "prescription" that we ourselves have adopted. *Webb v. United States*, 249 U.S. 96, 39 S.Ct. 217, 63 L.Ed. 497 (1919), was a prosecution under the Harrison Act of a doctor who wrote prescriptions of morphine "for the purpose of providing the user with morphine sufficient to keep him comfortable by maintaining his customary use," ***281***id.*, at 99, 39 S.Ct. 217 (internal quotation marks omitted). The dispositive issue in the case was whether such authorizations were "prescriptions" within the meaning of § 2(b) of the Harrison Act, predecessor to the CSA. *Ibid.* We held that "to call such an order for the use of morphine a physician's prescription would be so plain a perversion of meaning that no discussion of the subject is required." *Id.*, at 99-100, 39 S.Ct. 217. Like the Directive, this interprets "prescription" to require medical purpose that is legitimate as a matter of federal law. And the Directive is also assuredly valid insofar as it interprets "legitimate medical purpose" as a matter of federal law to exclude physician-assisted suicide, because that is not only a permissible but indeed the most natural interpretation of that phrase. See Part II, *infra*.

B

Even if the Regulation merely parroted the statute, and the Directive therefore had to be treated as though it construed the statute directly, see *ante*, at 916, the Directive would still be entitled to deference under *Chevron*. The Court does not take issue with the Solicitor General's contention that no alleged procedural defect, such as the absence of notice-and-comment rulemaking before promulgation of the Directive, renders *Chevron* inapplicable here. See Reply Brief for Petitioners 4 (citing *Barnhart v. Walton*, 535 U.S. 212, 219-222, 122 S.Ct. 1265, 152 L.Ed.2d 330 (2002); 5 U.S.C. § 553(b)(3)(A) (exempting interpretive rules from notice-and-comment rulemaking)). Instead, the Court holds that the Attorney General lacks interpretive authority to issue the Directive at all, on the ground that the explicit delegation provision, 21 U.S.C. § 821 (2000 ed., Supp.V), limits his rulemaking authority to "registration and control," which

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

(according to the Court) are not implicated by the Directive's interpretation of the prescription requirement. See *ante,* at 917-918.

Setting aside the implicit delegation inherent in Congress's use of the undefined term "prescription" in § 829, the Court's ***282** reading of "control" in § 821 is manifestly erroneous. The Court urges, *ante,* at 917, that "control" is a term defined in part A of the subchapter (entitled "Introductory Provisions") to mean "to add a drug or other substance ... to a schedule *under part B of this subchapter,*" 21 U.S.C. § 802(5) (emphasis added). But § 821 is not included in "part B of this subchapter," which is entitled "Authority to Control; Standards and Schedules," and consists of the sections related to *scheduling,* 21 U.S.C. §§ 811-814 (2000 ed. and Supp.V), where the statutory definition is uniquely appropriate. Rather, § 821 is found in *part C* of the subchapter, §§ 821-830, entitled "Registration of Manufacturers, Distributors, and Dispensers of Controlled Substances," which includes all and only the provisions relating to the "manufacture, distribution, and dispensing of controlled substances," § 821. The artificial****930** definition of "control" in § 802(5) has no conceivable application to the use of that word in § 821. Under that definition, "control" must take a *substance* as its direct object, see 21 U.S.C. § 802(5) ("to add a drug or other substance ... to a schedule")-and that is how "control" is consistently used throughout *part B.* See, *e.g.,* §§ 811(b) ("proceedings ... to *control* a drug or other substance"), 811(c) ("each drug or other substance proposed to be *controlled* or removed from the schedules"), 811(d)(1) ("If *control* is required ... the Attorney General shall issue an order *controlling* such drug ..."), 812(b) ("Except where *control* is required ... a drug or other substance may not be placed in any schedule ..."). In § 821, by contrast, the term "control" has as its object, not "a drug or other substance," but rather the *processes* of "manufacture, distribution, and dispensing of controlled substances." It could not be clearer that the artificial definition of "control" in § 802(5) is inapplicable. It makes no sense to speak of "adding the manufacturing, distribution, and dispensing of substances to a schedule." We do not force term-of-art definitions into contexts where they plainly do not fit and produce nonsense. What ***283** is obviously intended in § 821 is the ordinary meaning of "control"-namely, "[t]o exercise restraining or directing influence over; to dominate; regulate; hence, to hold from action; to curb," Webster's Second 580. "Control" is regularly used in this ordinary sense elsewhere in *part C* of the subchapter. See, *e.g.,* 21 U.S.C. §§ 823(a)(1), (b)(1), (d)(1), (e)(1), (h)(1) ("maintenance of effective *controls* against diversion"); §§ 823(a)(5), (d)(5) ("establishment of effective *control* against diversion"); § 823(g)(2)(H)(i) ("to exercise supervision or *control* over the practice of medicine"); § 830(b)(1)(C) ("a listed chemical under the *control* of the regulated person"); § 830(c)(2)(D) ("chemical *control* laws") (emphasis added).

When the word is given its ordinary meaning, the Attorney General's interpretation of the prescription requirement of § 829 plainly "relat[es] to the ... *control* of the ... dispensing of controlled substances," 21 U.S.C. § 821 (2000 ed., Supp.V) (emphasis added), since a prescription is the chief requirement for "dispensing" such drugs, see § 829. The same meaning is compelled by the fact that § 821 is the first section not of part B of the subchapter, which deals entirely with "control" in the artificial sense, but of part C, every section of which relates to the "registration and control of the manufacture, distribution, and dispensing of controlled substances," § 821. See §§ 822 (persons required to register), 823 (registration requirements), 824 (denial, revocation, or suspension of registration), 825 (labeling and packaging), 826 (production quotas for controlled substances), 827 (recordkeeping and reporting requirements of registrants), 828 (order forms), 829 (prescription requirements), 830 (regulation of listed chemicals and certain machines). It would be peculiar for the first section of this part to authorize rulemaking for matters covered by the *previous* part. The only sensible interpretation of § 821 is that it gives the Attorney General interpretive authority over the provisions of part C, all of which "relat[e] to the registration and control of the ***284** manufacture, distribution, and dispensing of controlled substances." These provisions include *both* the prescription requirement of § 829, and the criteria for registration and deregistration of §§ 823 and 824 (as relevant below, see Part III, *infra*).[FN3]

> FN3. The Court concludes that "[e]ven if 'control' in § 821 were understood to signify something other than its statutory definition, it would not support the Interpretive Rule." *Ante,* at 917. That conclusion rests upon a misidentification of the text that the Attorney General, pursuant to his "control" authority, is interpreting. No one argues that the word "control" in § 821 gives the Attorney General

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> "authority to define diversion based on his view of legitimate medical practice," *ibid.* Rather, that word authorizes the Attorney General to interpret (among other things) the "prescription" requirement of § 829. The question then becomes whether the phrase "*legitimate medical purpose* " (which all agree is included in "prescription") is at least *open* to the interpretation announced in the Directive. See *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). And of course it is-as the Court effectively concedes two pages earlier: "All would agree, we should think, that the statutory phrase 'legitimate medical purpose' is a generality, susceptible to more precise definition and open to varying constructions, and thus ambiguous in the relevant sense." *Ante,* at 916 (citing *Chevron*).

****931** C

In sum, the Directive's construction of "legitimate medical purpose" is a perfectly valid agency interpretation of its own regulation; and if not that, a perfectly valid agency interpretation of the statute. No one contends that the construction is "plainly erroneous or inconsistent with the regulation," *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 414, 65 S.Ct. 1215, 89 L.Ed. 1700 (1945), or beyond the scope of ambiguity in the statute, see *Chevron,* 467 U.S., at 843, 104 S.Ct. 2778. In fact, as explained below, the Directive provides *the most natural* interpretation of the Regulation and of the statute. The Directive thus definitively establishes that a doctor's order authorizing the dispensation of a Schedule II substance for the purpose of assisting a suicide is not a "prescription" within the meaning of § 829.

***285** Once this conclusion is established, the other two conclusions in the Directive follow inevitably. Under our reasoning in *Moore,* writing prescriptions that are illegitimate under § 829 is certainly not "in the [usual] course of professional practice" under § 802(21) and thus not "authorized by this subchapter" under § 841(a). See 423 U.S., at 138, 140-141, 96 S.Ct. 335. A doctor who does this may thus be prosecuted under § 841(a), and so it follows that such conduct "violates the Controlled Substances Act," 66 Fed.Reg. 56608. And since such conduct is thus not in "[c]ompliance with applicable ... Federal ... laws relating to controlled substances," 21 U.S.C. § 823(f)(4), and may also be fairly judged to "threaten the public health and safety," § 823(f)(5), it follows that "[s]uch conduct by a physician registered to dispense controlled substances *may* 'render his registration ... inconsistent with the public interest' and therefore subject to *possible* suspension or revocation under 21 U.S.C. [§] 824(a)(4)," 66 Fed.Reg. 56608 (emphasis added).

II

Even if the Directive were entitled to no deference whatever, the most reasonable interpretation of the Regulation and of the statute would produce the same result. Virtually every relevant source of authoritative meaning confirms that the phrase "legitimate medical purpose" [FN4] does not include intentionally assisting suicide. "Medicine" refers to "[t]he science and art dealing with the prevention, cure, or alleviation of disease." Webster's Second 1527. The use of the word "legitimate" connotes an *objective* standard of "medicine," and our presumption that the CSA creates a uniform federal law regulating the dispensation****932** of controlled substances, see ***286***Mississippi Band of Choctaw Indians v. Holyfield,* 490 U.S. 30, 43, 109 S.Ct. 1597, 104 L.Ed.2d 29 (1989), means that this objective standard must be a federal one. As recounted in detail in the memorandum for the Attorney General that is attached as an appendix to the Directive (OLC Memo), virtually every medical authority from Hippocrates to the current American Medical Association (AMA) confirms that assisting suicide has seldom or never been viewed as a form of "prevention, cure, or alleviation of disease," and (even more so) that assisting suicide is not a "legitimate" branch of that "science and art." See OLC Memo, App. to Pet. for Cert. 113a-130a. Indeed, the AMA has determined that " '[p]hysician-assisted suicide is fundamentally incompatible with the physician's role as healer.' " *Washington v. Glucksberg,* 521 U.S. 702, 731, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997). "[T]he overwhelming weight of authority in judicial decisions, the past and present policies of nearly all of the States and of the Federal Government, and the clear, firm and unequivocal views of the leading associations within the American medical and nursing professions, establish that assisting in suicide ... is not a legitimate medical purpose." OLC Memo, *supra,* at 129a. See also *Glucksberg, supra,* at 710, n. 8, 117 S.Ct. 2258

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

(prohibitions or condemnations of assisted suicide in 50 jurisdictions, including 47 States, the District of Columbia, and 2 Territories).

> FN4. This phrase appears only in the Regulation and not in the relevant section of the statute. But as pointed out earlier, the Court does not contest that this is the most reasonable interpretation of the section-regarding it, indeed, as a mere "parroting" of the statute.

In the face of this "overwhelming weight of authority," the Court's admission that "[o]n its own, this understanding of medicine's boundaries is *at least reasonable,*" *ante,* at 924 (emphasis added), tests the limits of understatement. The only explanation for such a distortion is that the Court confuses the *normative* inquiry of what the boundaries of medicine *should be*-which it is laudably hesitant to undertake-with the *objective* inquiry of what the accepted definition of "medicine" *is*. The same confusion is reflected in the Court's remarkable statement that "[t]he primary problem with the Government's argument ... is its assumption that the CSA impliedly authorizes an executive officer to bar a use simply ***287** because it may be inconsistent with *one reasonable understanding* of medical practice." *Ibid.* (emphasis added). The fact that many in Oregon believe that the boundaries of "legitimate medicine" *should be* extended to include assisted suicide does not change the fact that the overwhelming weight of authority (including the 47 States that condemn physician-assisted suicide) confirms that they have not yet been so extended. Not even those of our Eighth Amendment cases most generous in discerning an "evolution" of national standards would have found, on this record, that the concept of "legitimate medicine" has evolved so far. See *Roper v. Simmons,* 543 U.S. 551, 564-567, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005).

The Court contends that the phrase "legitimate medical purpose" *cannot* be read to establish a broad, uniform federal standard for the medically proper use of controlled substances. *Ante,* at 922. But it also rejects the most plausible alternative proposition, urged by the State, that any use authorized under state law constitutes a "legitimate medical purpose." (The Court is perhaps leery of embracing this position because the State candidly admitted at oral argument that, on its view, a State could exempt from the CSA's coverage the use of morphine to achieve euphoria.) Instead, the Court reverse-engineers an approach somewhere between a uniform national standard and a state-by-state approach, holding (with no basis in the CSA's text) that "legitimate medical purpose" refers to *all* uses of drugs unrelated****933** to "addiction and recreational abuse." *Ante,* at 925. Thus, though the Court pays lipservice to state autonomy, see *ante,* 922-923, its standard for "legitimate medical purpose" is in fact a hazily defined *federal* standard based on its purposive reading of the CSA, and extracted from obliquely relevant sections of the Act. In particular, relying on its observation that the criteria for scheduling controlled substances are primarily concerned with "addiction or abnormal effects on the nervous system," *ante,* at 924 (citing ***288**21 U.S.C. §§ 811(c)(7), 812(b), 811(f), 801a), the Court concludes that the CSA's prescription requirement must be interpreted in light of this narrow view of the statute's purpose.

Even assuming, however, that the *principal* concern of the CSA is the curtailment of "addiction and recreational abuse," there is no reason to think that this is its *exclusive* concern. We have repeatedly observed that Congress often passes statutes that sweep more broadly than the main problem they were designed to address. "[S]tatutory prohibitions often go beyond the principal evil to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed." *Oncale v. Sundowner Offshore Services, Inc.,* 523 U.S. 75, 79, 118 S.Ct. 998, 140 L.Ed.2d 201 (1998). See also *H.J. Inc. v. Northwestern Bell Telephone Co.,* 492 U.S. 229, 248, 109 S.Ct. 2893, 106 L.Ed.2d 195 (1989).

The scheduling provisions of the CSA on which the Court relies confirm that the CSA's "design," *ante,* at 923, is not as narrow as the Court asserts. In making scheduling determinations, the Attorney General must not only consider a drug's "psychic or physiological dependence liability" as the Court points out, *ante,* at 924 (citing 21 U.S.C. § 811(c)(7)), but must also consider such broad factors as "[t]he state of current scientific knowledge regarding the drug or other substance," § 811(c)(3), and (most notably) "[w]hat, if any, risk there is to the public health," § 811(c)(6). If the latter factor were limited to addiction-related health risks, as the Court supposes, it would be redundant of § 811(c)(7). Moreover, in making regis-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

tration determinations regarding manufacturers and distributors, the Attorney General "shall" consider "such *other* factors as may be relevant to and consistent with the public health and safety," §§ 823(a)(6), (b)(5), (d)(6), (e)(5) (emphasis added)-over and above the risk of "diversion" of controlled substances, §§ 823(a)(1), (a)(5), (b)(1), (d)(1), (d)(5), (e)(1). And, most relevant of all, in registering and deregistering *physicians,* the Attorney General "may deny an applicationfor ***289** such registration if he determines that the issuance of such registration would be inconsistent with the public interest," § 823(f); see also § 824(a)(4), and in making that determination "shall" consider "[s]uch other conduct which may threaten the public health and safety," § 823(f)(5). *All* of these provisions, not just those selectively cited by the Court, shed light upon the CSA's repeated references to the undefined term "abuse." See §§ 811(a)(1)(A), (c)(1), (c)(4), (c)(5); §§ 812(b)(1)(A), (b)(2)(A), (b)(3)(A), (b)(4)(A), (b)(5)(A).

By disregarding all these public-interest, public-health, and public-safety objectives, and limiting the CSA to "addiction and recreational abuse," the Court rules out the prohibition of anabolic-steroid use for bodybuilding purposes. It seeks to avoid this consequence by invoking the Anabolic Steroids Control Act of 1990, 104 Stat. 4851. *Ante,* at 925. But the only effect of that legislation is to make anabolic steroids controlled drugs under Schedule III of the CSA. If the only *basis* for control is (as the Court says) "addiction and recreational ****934** abuse," dispensation of these drugs for bodybuilding could not be proscribed.

Although, as I have described, the Court's opinion no more defers to state law than does the Directive, the Court relies on two provisions for the conclusion that "[t]he structure and operation of the CSA presume and rely upon a functioning medical profession regulated under the States' police powers," *ante,* at 923-namely, the registration provisions of § 823(f) and the non-pre-emption provision of § 903. Reliance on the former is particularly unfortunate, because the Court's own analysis recounts how Congress amended § 823(f) in 1984 in order to *liberate* the Attorney General's power over registration from the control of state regulators. See *ante,* at 917-918; 21 U.S.C. § 823(f); see also Brief for Petitioners 34-35. And the non-pre-emption clause is embarrassingly inapplicable, since it merely disclaims field pre-emption, and affirmatively *prescribes* federal pre-emption ***290** whenever state law creates a conflict.[FN5] In any event, the Directive does not purport to pre-empt state law in any way, not even by conflict pre-emption-unless the Court is under the misimpression that some States *require* assisted suicide. The Directive merely interprets the CSA to prohibit, like countless other federal criminal provisions, conduct that happens not to be forbidden under state law (or at least the law of the State of Oregon).

> FN5. Title 21 U.S.C. § 903 reads, in relevant part, as follows: "No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter ... unless there is a positive conflict ...."

With regard to the CSA's registration provisions, 21 U.S.C. §§ 823(f), 824(a), the Court argues that the statute cannot fairly be read to " 'hide elephants in mouseholes' " by delegating to the Attorney General the power to determine the legitimacy of medical practices in " 'vague terms or ancillary provisions.' " *Ante,* at 921 (quoting *Whitman v. American Trucking Assns., Inc.,* 531 U.S. 457, 468, 121 S.Ct. 903, 149 L.Ed.2d 1 (2001)). This case bears not the remotest resemblance to *Whitman,* which held that "Congress ... does not alter *the fundamental details* of a regulatory scheme in vague terms or ancillary provisions." *Ibid.* (emphasis added). The Attorney General's power to issue regulations against questionable uses of controlled substances in no way alters "the fundamental details" of the CSA. I am aware of only four areas in which the Department of Justice has exercised that power to regulate uses of controlled substances *unrelated* to "addiction and recreational abuse" as the Court apparently understands that phrase: assisted suicide, aggressive pain management therapy, anabolic-steroid use, and cosmetic weight-loss therapy. See, *e.g., In re Harline,* 65 Fed.Reg. 5665, 5667 (2000) (weight loss); *In re Tecca,* 62 Fed.Reg. 12842, 12846 (1997) (anabolic steroids); *In re Roth,* 60 Fed.Reg. 62262, 62263, 62267 (1995) (pain management). There is no indication that ***291** enforcement in these areas interferes with the prosecution of "drug abuse" as the Court understands it. Unlike in *Whitman,* the Attorney General's *additional* power to address other forms of drug "abuse" does *absolutely*

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

nothing to undermine the central features of this regulatory scheme. Of course it was critical to our analysis in *Whitman* that the language of the provision did not bear the meaning that respondents sought to give it. See 531 U.S., at 465, 121 S.Ct. 903. Here, for the reasons stated above, the provision is most naturally interpreted to incorporate a ****935** uniform federal standard for legitimacy of medical practice.[FN6]

> FN6. The other case cited by the Court, *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 120 S.Ct. 1291, 146 L.Ed.2d 121 (2000), is even more obviously inapt. There we relied on the first step of the *Chevron* analysis to determine that Congress had spoken to the precise issue in question, impliedly repealing the grant of jurisdiction on which the Food and Drug Administration relied. 529 U.S., at 160-161, 120 S.Ct. 1291. Here, Congress has not expressly or impliedly authorized the practice of assisted suicide, or indeed "spoken directly" to the subject in any way beyond the text of the CSA.

Finally, respondents argue that the Attorney General must defer to state-law judgments about what constitutes legitimate medicine, on the ground that Congress must speak clearly to impose such a uniform federal standard upon the States. But no line of our clear-statement cases is applicable here. The canon of avoidance does not apply, since the Directive does not push the outer limits of Congress's commerce power, compare *Solid Waste Agency of Northern Cook Cty. v. Army Corps of Engineers*, 531 U.S. 159, 172, 121 S.Ct. 675, 148 L.Ed.2d 576 (2001) (regulation of isolated ponds), with *United States v. Sullivan*, 332 U.S. 689, 698, 68 S.Ct. 331, 92 L.Ed. 297 (1948) (regulation of labeling of drugs shipped in interstate commerce), or impinge on a core aspect of state sovereignty, cf. *Atascadero State Hospital v. Scanlon*, 473 U.S. 234, 242, 105 S.Ct. 3142, 87 L.Ed.2d 171 (1985) (sovereign immunity); *Gregory v. Ashcroft*, 501 U.S. 452, 460, 111 S.Ct. 2395, 115 L.Ed.2d 410 (1991) (qualifications of state government officials). The clear-statement rule based on the presumption against pre-emption does not ***292** apply because the Directive does not pre-empt any state law, cf. *id.*, at 456-457, 111 S.Ct. 2395; *Rush Prudential HMO, Inc. v. Moran*, 536 U.S. 355, 359, 122 S.Ct. 2151, 153 L.Ed.2d 375 (2002). And finally, no clear statement is required on the ground that the Directive intrudes upon an area traditionally reserved exclusively to the States, cf. *BFP v. Resolution Trust Corporation*, 511 U.S. 531, 544, 114 S.Ct. 1757, 128 L.Ed.2d 556 (1994) (state regulation of titles to real property), because the Federal Government has pervasively regulated the dispensation of drugs for over 100 years. See generally Brief for Pro-Life Legal Defense Fund et al. as *Amici Curiae* 3-15. It would be a novel and massive expansion of the clear-statement rule to apply it in a commerce case *not involving pre-emption or constitutional avoidance,* merely because Congress has chosen to prohibit conduct that a State has made a contrary policy judgment to permit. See *Sullivan, supra,* at 693, 68 S.Ct. 331.

III

Even if the Regulation did not exist and "prescription" in § 829 could not be interpreted to require a "legitimate medical purpose," the Directive's conclusion that "prescribing, dispensing, or administering federally controlled substances ... by a physician ... may 'render his registration ... inconsistent with the public interest' and therefore subject to possible suspension or revocation under 21 U.S.C. [§]824(a)(4)," 66 Fed.Reg. 56608, would nevertheless be unassailable in this Court.

Sections 823(f) and 824(a) explicitly grant the Attorney General the authority to register and deregister physicians, and his discretion in exercising that authority is spelled out in very broad terms. He may refuse to register or deregister if he determines that registration is "inconsistent with the public interest," 21 U.S.C. § 823(f), after considering five factors, the fifth of which is "[s]uch other conduct which may threaten the public health and ****936** safety," § 823(f)(5). See also *In re Arora*, 60 Fed.Reg. 4447, 4448 (1995) ("It is well established that these factors are to be considered in the disjunctive,***293** i.e., the Deputy Administrator may properly rely on any one or a combination of factors, and give each factor the weight he deems appropriate"). As the Court points out, these broad standards were enacted in the 1984 amendments for the specific purpose of *freeing* the Attorney General's discretion over registration from the decisions of state authorities. See *ante,* at 917-918.

The fact that assisted-suicide prescriptions are issued in violation of § 829 is of course sufficient to support

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

the Directive's conclusion that issuing them may be cause for deregistration: such prescriptions would violate the fourth factor of § 823(f), namely, "[c]ompliance with applicable ... Federal ... laws relating to controlled substances," 21 U.S.C. § 823(f)(4). But the Attorney General did not rely solely on subsection (f)(4) in reaching his conclusion that registration would be "inconsistent with the public interest"; nothing in the text of the Directive indicates that. Subsection (f)(5) ("[s]uch other conduct which may threaten the public health and safety") provides an independent, alternative basis for the Directive's conclusion regarding deregistration-provided that the Attorney General has authority to interpret "public interest" and "public health and safety" in § 823(f) to exclude assisted suicide.

Three considerations make it perfectly clear that the statute confers authority to interpret these phrases upon the Attorney General. First, the Attorney General is solely and explicitly charged with administering the registration and deregistration provisions. See §§ 823(f), 824(a). By making the criteria for such registration and deregistration such obviously ambiguous factors as "public interest" and "public health and safety," Congress implicitly (but clearly) gave the Attorney General authority to interpret those criteria-*whether or not* there is any explicit delegation provision in the statute. "Sometimes the legislative delegation to an agency on a particular question is implicit rather than explicit. In such a case, a court may not substitute its own ***294** construction of a statutory provision for a reasonable interpretation made by the administrator of an agency." *Chevron,* 467 U.S., at 844, 104 S.Ct. 2778. The Court's exclusive focus on the *explicit* delegation provisions is, at best, a fossil of our pre-*Chevron* era; at least since *Chevron,* we have not conditioned our deferral to agency interpretations upon the existence of explicit delegation provisions. *United States v. Mead Corp.,* 533 U.S. 218, 229, 121 S.Ct. 2164, 150 L.Ed.2d 292 (2001), left this principle of implicit delegation intact.

Second, even if explicit delegation were required, Congress provided it in § 821, which authorizes the Attorney General to "promulgate rules and regulations ... relating to the *registration and control* of the manufacture, distribution, and dispensing of controlled substances ...." (Emphasis added.) Because "dispensing" refers to the delivery of a controlled substance "pursuant to the lawful order of, a practitioner," 21 U.S.C. § 802(10), the deregistration of such practitioners for writing impermissible orders "relat [es] to the registration ... of the ... dispensing" of controlled substances, 21 U.S.C. § 821 (2000 ed., Supp.V).

Third, § 821 also gives the Attorney General authority to promulgate rules and regulations "relating to the ... control of the ... dispensing of controlled substances." As discussed earlier, it is plain that the *ordinary* meaning of "control" must apply to § 821, so that the plain import of the provision is to grant the ****937** Attorney General rulemaking authority over all the provisions of part C of the CSA, §§ 821-830 (main ed. and Supp.2005). Registering and deregistering the practitioners who issue the prescriptions necessary for lawful dispensation of controlled substances plainly "relat[es] to the ... control of the ... dispensing of controlled substances." § 821 (Supp.2005).

The Attorney General is thus authorized to promulgate regulations interpreting §§ 823(f) and 824(a), both by implicit delegation in § 823(f) and by two grounds of explicit delegation in § 821. The Court nevertheless holds that this triply ***295** unambiguous delegation cannot be given full effect because "the design of the statute," *ante,* at 920, evinces the intent to grant the Secretary of Health and Human Services exclusive authority over scientific and medical determinations. This proposition is not remotely plausible. The Court cites as authority for the Secretary's exclusive authority two specific areas in which his medical determinations are said to be binding on the Attorney General-with regard to the "scientific and medical evaluation" of a drug's effects that precedes its scheduling, § 811(b), and with regard to "the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts," 42 U.S.C. § 290bb-2a; see also 21 U.S.C. § 823(g) (2000 ed. and Supp. II). See *ante,* at 920-921. Far from establishing a general principle of Secretary supremacy with regard to all scientific and medical determinations, the fact that Congress granted the Secretary specifically defined authority in the areas of scheduling and addiction treatment, *without otherwise mentioning him* in the registration provisions, suggests, to the contrary, that Congress envisioned *no* role for the Secretary in that area-where, as we have said, interpretive authority was both implicitly and explicitly conferred upon the Attorney General.

Even if we could rewrite statutes to accord with

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

sensible "design," it is far from a certainty that the Secretary, rather than the Attorney General, ought to control the registration of physicians. Though registration decisions sometimes require judgments about the legitimacy of medical practices, the Department of Justice has seemingly had no difficulty making them. See *In re Harline,* 65 Fed.Reg. 5665; *In re Tecca,* 62 Fed.Reg. 12842; *In re Roth,* 60 Fed.Reg. 62262. But unlike decisions about whether a substance should be scheduled or whether a narcotics addiction treatment is legitimate, registration decisions are not exclusively, or even primarily, concerned with "medical [and] scientific" factors. See 21 U.S.C. § 823(f). Rather, the decision to register, or ***296** to bring an action to deregister, an individual *physician* implicates all the policy goals and competing enforcement priorities that attend any exercise of prosecutorial discretion. It is entirely reasonable to think (as Congress evidently did) that it would be easier for the Attorney General occasionally to make judgments about the legitimacy of medical practices than it would be for the Secretary to get into the business of law enforcement. It is, in other words, perfectly consistent with an intelligent "design of the statute" to give the Nation's chief law enforcement official, not its chief health official, broad discretion over the substantive standards that govern registration and deregistration. That is *especially* true where the contested "scientific and medical" judgment at issue has to do with the legitimacy of physician-assisted suicide, which ultimately rests, not on "science" or "medicine," but on a naked value judgment. It no more depends upon a "quintessentially medical judgmen[t]," *ante,* at 921, than does the legitimacy of ****938** polygamy or eugenic infanticide. And it requires no particular *medical* training to undertake the objective inquiry into how the continuing traditions of Western medicine have consistently treated this subject. See OLC Memo, App. to Pet. for Cert. 113a-130a. The Secretary's supposedly superior "medical expertise" to make "medical judgments," *ante,* at 921, is strikingly irrelevant to the case at hand.

The Court also reasons that, even if the CSA grants the Attorney General authority to interpret § 823(f), the Directive does not purport to exercise that authority, because it "does not undertake the five-factor analysis" of § 823(f) and does not "on its face purport to be an *application* of the registration provision in § 823(f)." *Ante,* at 918 (emphasis added). This reasoning is sophistic. It would be improper-indeed, *impossible*-for the Attorney General to "undertake the five-factor analysis" of § 823(f) and to "appl[y] the registration provision" outside the context of an actual enforcement proceeding. But of course the Attorney General***297** may issue regulations to clarify his interpretation of the five factors, and to signal how he will apply them in future enforcement proceedings. That is what the Directive plainly purports to do by citing § 824(a)(4), and that is why the Directive's conclusion on deregistration is couched in conditional terms: "Such conduct by a physician ... *may* 'render his registration ... inconsistent with the public interest' and therefore subject to *possible* suspension or revocation under 21 U.S.C. [§]824(a)(4)." 66 Fed.Reg. 56608 (emphasis added).

It follows from what we have said that the Attorney General's authoritative interpretations of "public interest" and "public health and safety" in § 823(f) are subject to *Chevron* deference. As noted earlier, the Court does not contest that the absence of notice-and-comment procedures for the Directive renders *Chevron* inapplicable. And there is no serious argument that "Congress has directly spoken to the precise question at issue," or that the Directive's interpretations of "public health and safety" and "inconsistent with the public interest" are not "permissible." *Chevron,* 467 U.S., at 842-843, 104 S.Ct. 2778. On the latter point, in fact, the condemnation of assisted suicide by 50 American jurisdictions supports the Attorney General's view. The Attorney General may therefore weigh a physician's participation in assisted suicide as a factor counseling against his registration, or in favor of deregistration, under § 823(f).

In concluding to the contrary, the Court merely presents the conclusory assertion that "it is doubtful the Attorney General could cite the 'public interest' or 'public health' to deregister a physician simply because he deemed a controversial practice permitted by state law to have an illegitimate medical purpose." *Ante,* at 919. But why on earth not?-especially when he has interpreted the relevant statutory factors in advance to give fair warning that such a practice is "inconsistent with the public interest." The Attorney General's discretion to determine the public interest in this ***298** area is admittedly broad-but certainly no broader than other congressionally conferred executive powers that we have upheld in the past. See, *e.g., National Broadcasting Co. v. United States,* 319 U.S. 190, 216-217, 63 S.Ct. 997, 87 L.Ed. 1344 (1943) ("public interest"); *New York Central Securities Corp.*

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

v. United States, 287 U.S. 12, 24-25, 53 S.Ct. 45, 77 L.Ed. 138 (1932) (same); see also *Mistretta v. United States,* 488 U.S. 361, 415-416, 109 S.Ct. 647, 102 L.Ed.2d 714 (1989) (SCALIA, J., dissenting).

****939 * * ***

In sum, the Directive's first conclusion-namely, that physician-assisted suicide is not a "legitimate medical purpose"-is supported both by the deference we owe to the agency's interpretation of its own regulations and by the deference we owe to its interpretation of the statute. The other two conclusions-(2) that prescribing controlled drugs to assist suicide violates the CSA, and (3) that such conduct is also "inconsistent with the public interest"-are inevitable consequences of that first conclusion. Moreover, the third conclusion, standing alone, is one that the Attorney General is authorized to make.

The Court's decision today is perhaps driven by a feeling that the subject of assisted suicide is none of the Federal Government's business. It is easy to sympathize with that position. The prohibition or deterrence of assisted suicide is certainly not among the enumerated powers conferred on the United States by the Constitution, and it is within the realm of public morality *(bonos mores)* traditionally addressed by the so-called police power of the States. But then, neither is prohibiting the recreational use of drugs or discouraging drug addiction among the enumerated powers. From an early time in our national history, the Federal Government has used its enumerated powers, such as its power to regulate interstate commerce, for the purpose of protecting public morality-for example, by banning the interstate shipment of lottery tickets, or the interstate transport of women for immoral purposes. See ***299***Hoke v. United States,* 227 U.S. 308, 321-323, 33 S.Ct. 281, 57 L.Ed. 523 (1913); *Lottery Case,* 188 U.S. 321, 356, 23 S.Ct. 321, 47 L.Ed. 492 (1903). Unless we are to repudiate a long and well-established principle of our jurisprudence, using the federal commerce power to prevent assisted suicide is unquestionably permissible. The question before us is not whether Congress *can* do this, or even whether Congress *should* do this; but simply whether Congress *has* done this in the CSA. I think there is no doubt that it has. If the term "*legitimate* medical purpose" has any meaning, it surely excludes the prescription of drugs to produce death.

For the above reasons, I respectfully dissent from the judgment of the Court.

Justice THOMAS, dissenting.

When Angel Raich and Diane Monson challenged the application of the Controlled Substances Act (CSA), 21 U.S.C. § 801 *et seq.,* to their purely intrastate possession of marijuana for medical use as authorized under California law, a majority of this Court (a mere seven months ago) determined that the CSA effectively invalidated California's law because "the CSA is a comprehensive regulatory regime specifically designed to regulate which controlled substances can be utilized for medicinal purposes, *and in what manner.*" *Gonzales v. Raich,* 545 U.S. 1, 27, 125 S.Ct. 2195, 2211, 162 L.Ed.2d 1 (2005) (emphasis added). The majority employed unambiguous language, concluding that the "manner" in which controlled substances can be utilized "for medicinal purposes" is one of the "core activities regulated by the CSA." *Id.,* at 28, 125 S.Ct., at 2212. And, it described the CSA as "creating a comprehensive framework for regulating the production, distribution, and possession of ... 'controlled substances,' " including those substances that " 'have a useful and legitimate medical purpose,' " in order to "foster the beneficial use of those medications" and "to prevent their misuse." *Id.,* at 24, 125 S.Ct., at 2210.

Today the majority beats a hasty retreat from these conclusions. Confronted with a regulation that broadly requires***300** all prescriptions****940** to be issued for a "legitimate medical purpose," 21 CFR § 1306.04(a) (2005), a regulation recognized in *Raich* as part of the Federal Government's "closed ... system" for regulating the "manner" in "which controlled substances can be utilized for medicinal purposes," 545 U.S., at 13, 27, 125 S.Ct., at 2203, 2211, the majority rejects the Attorney General's admittedly "at least reasonable," *ante,* at 924, determination that administering controlled substances to facilitate a patient's death is not a " 'legitimate medical purpose.' " The majority does so based on its conclusion that the CSA is only concerned with the regulation of "medical practice insofar as it bars doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking as conventionally understood." *Ante,* at 923. In other words, in stark contrast to *Raich's* broad conclusions about the scope of the CSA as it pertains to the medicinal use of controlled substances, today this Court concludes that the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

CSA is merely concerned with fighting " 'drug abuse' " and only insofar as that abuse leads to "addiction or abnormal effects on the nervous system." [FN1] *Ante,* at 924.

> FN1. The majority does not expressly address whether the ingestion of a quantity of drugs that is sufficient to cause death has an "abnormal effec[t] on the nervous system," *ante,* at 924, though it implicitly rejects such a conclusion.

The majority's newfound understanding of the CSA as a statute of limited reach is all the more puzzling because it rests upon constitutional principles that the majority of the Court rejected in *Raich.* Notwithstanding the States' " 'traditional police powers to define the criminal law and to protect the health, safety, and welfare of their citizens,' " 545 U.S., at 30, n. 38, 125 S.Ct., at 2213, n. 38, the *Raich* majority concluded that the CSA applied to the intrastate possession of marijuana for medicinal purposes authorized by California law because "Congress could have rationally" concluded that such an application was necessary to the regulation of the "larger interstate marijuana market." *Id.,* at 30, 32, 125 S.Ct., at 2213, 2215. Here, by contrast, the majority's***301** restrictive interpretation of the CSA is based in no small part on "the structure and limitations of federalism, which allow the States ' "great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons." ' " *Ante,* at 923 (quoting *Medtronic, Inc. v. Lohr,* 518 U.S. 470, 475, 116 S.Ct. 2240, 135 L.Ed.2d 700 (1996), in turn quoting *Metropolitan Life Ins. Co. v. Massachusetts,* 471 U.S. 724, 756, 105 S.Ct. 2380, 85 L.Ed.2d 728 (1985)). According to the majority, these "background principles of our federal system ... belie the notion that Congress would use ... an obscure grant of authority to regulate areas traditionally supervised by the States' police power." *Ante,* at 925.

Of course there is nothing "obscure" about the CSA's grant of authority to the Attorney General. *Ante,* p. 926 (SCALIA, J., dissenting). And, the Attorney General's conclusion that the CSA prohibits the States from authorizing physician assisted suicide is admittedly "at least reasonable," *ante,* at 924 (opinion of the Court), and is therefore entitled to deference. *Ante,* at 931 (SCALIA, J., dissenting). While the scope of the CSA and the Attorney General's power thereunder are sweeping, and perhaps troubling, such expansive federal legislation and broad grants of authority to administrative agencies are merely the inevitable and inexorable consequence of this Court's Commerce Clause and separation-of-powers jurisprudence. See, *e.g., Raich, supra;* ****941***Whitman v. American Trucking Assns., Inc.,* 531 U.S. 457, 121 S.Ct. 903, 149 L.Ed.2d 1 (2001).

I agree with limiting the applications of the CSA in a manner consistent with the principles of federalism and our constitutional structure. *Raich, supra,* at 74, 125 S.Ct., at 2229 (THOMAS, J., dissenting); cf. *Whitman, supra,* at 486-487, 121 S.Ct. 903 (THOMAS, J., concurring) (noting constitutional concerns with broad delegations of authority to administrative agencies). But that is now water over the dam. The relevance of such considerations was at its zenith in *Raich,* when we considered whether the CSA could be applied to the intrastate possession of a controlled substance consistent with the limited federal power-senumerated ***302** by the Constitution. Such considerations have little, if any, relevance where, as here, we are merely presented with a question of statutory interpretation, and not the extent of constitutionally permissible federal power. This is particularly true where, as here, we are interpreting broad, straightforward language within a statutory framework that a majority of this Court has concluded is so comprehensive that it necessarily nullifies the States' " 'traditional ... powers ... to protect the health, safety, and welfare of their citizens.' " [FN2] *Raich, supra,* at 30, n. 38, 125 S.Ct., at 2213, n. 38. The Court's reliance upon the constitutional principles that it rejected in *Raich*-albeit under the guise of statutory interpretation-is perplexing to say the least. Accordingly, I respectfully dissent.

> FN2. Notably, respondents have not seriously pressed a constitutional claim here, conceding at oral argument that their "point is not necessarily that [the CSA] would be unconstitutional." Tr. of Oral Arg. 44. In any event, to the extent respondents do present a constitutional claim, they do so solely within the framework of *Raich.* Framed in this manner, the claim must fail. The respondents in *Raich* were "local growers and users of state-authorized, medical marijuana," who stood "outside the interstate drug market" and possessed " 'medicinal marijuana ... not

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> intended for ... the stream of commerce.' " 545 U.S., at 62, 72, 125 S.Ct., at 2213, 2215 (THOMAS, J., dissenting). Here, by contrast, the respondent-physicians are active participants in the interstate controlled substances market, and the drugs they prescribe for assisting suicide have likely traveled in interstate commerce. If the respondents in *Raich* could not sustain a constitutional claim, then *a fortiori* respondents here cannot sustain one. Respondents' acceptance of *Raich* forecloses their constitutional challenge.

U.S.,2006.
Gonzales v. Oregon
546 U.S. 243, 126 S.Ct. 904, 163 L.Ed.2d 748, 74 USLW 4068, 06 Cal. Daily Op. Serv. 433, 2006 Daily Journal D.A.R. 608, 19 Fla. L. Weekly Fed. S 49

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

121 Cal.App.3d 1, 175 Cal.Rptr. 201
(Cite as: 121 Cal.App.3d 1)

SORAYA GURFINKEL, Plaintiff and Appellant,
v.
LOS ANGELES COMMUNITY COLLEGE DISTRICT, Defendant and Respondent.

Civ. No. 59717.

Court of Appeal, Second District, Division 3, California.
May 27, 1981.

SUMMARY

A woman who had been classified by a California community college as a nonresident petitioned in superior court for a writ of mandate to require the school to classify her as a resident for the purpose of payment of tuition. She had entered the United States from France with a fiancee visa on June 19, 1978, had married a California resident on July 16, 1978, and had been classified as a nonresident student by the school on her registering as a full time student on January 19, 1979. Statutory provisions specify that each student shall be classified as a district resident, nondistrict resident or nonresident at a California community college (Ed. Code, § 68040, subd. (b)), that a nonresident is a student who does not have residence in the state for more than one year immediately preceding the residence determination date (Ed. Code, § 60818), and that a student classified as a nonresident shall be required, except as otherwise provided, to pay, in addition to other fees required by the institution, nonresident tuition (Ed. Code, 68050). (Superior Court of Los Angeles County, No. 287101, Robert Fainer, Judge.)

The Court of Appeal affirmed. It held that the fundamental right to an education does not encompass the right to a college education, to a community college education, or to both a community college and a college education. It also held that the durational residency requirement for tuition purposes set forth in statutory and administrative provisions (Ed. Code, §§ 68018, 68040, 68050, 68071, 76140, 89705, and Cal. Admin. Code, tit. 5, § 54001) does not constitute an unconstitutional restriction on a nonresident's fundamental right to travel, or an irrebuttable presumption of nonresidency that serves to deny a nonresident access to higher education. It additionally held that the regulation classifying students as residents or nonresidents for tuition purposes is not arbitrary or unreasonable and bears a rational relation to California's objective and purpose of financing, operating and maintaining its many publicly financed educational institutions of higher learning, and that the regulation thus does not violate equal protection standards. (Opinion by Klein, P. J., with Cobey and Potter, JJ., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1) Constitutional Law § 52--First Amendment and Other Fundamental Rights of Citizens--Scope and Nature--Right to Education--Limitations--Requirement of Nonresident Tuition for Community College.

The California community college requirements for nonresident tuition (Ed. Code, §§ 68018, 68040, subd. (b), 68050, 68071, 76140, 89705, and Cal. Admin. Code, tit. 5, § 54001) do not constitute an unconstitutional burden on the fundamental right to an education. The fundamental right to an education does not encompass a right to a college education, to a community college education, or to both a community college and a college education, but contemplates education ranging from kindergarten through grade 12.

(2) Constitutional Law § 52--First Amendment and Other Fundamental Rights of Citizens--Scope and Nature--Right to Travel.

The durational residency requirement for community college tuition purposes pursuant to statutory and administrative provisions (Ed. Code, §§ 68018, 68040, 68050, 68071, 76140, 89705,, and Cal. Admin. Code, tit. 5, § 54001) does not constitute an unconstitutional restriction on the fundamental right to travel.

(3) Constitutional Law § 89--Equal Protection--Essential and Nonessential Characteristics--Reasonableness of Classification in Light of Legislative Purpose--Community College Student as Resident or Nonresident.

The trial court did not err in denying a woman's petition for a writ of mandate to require a community college to classify her as a resident for the purpose of payment of tuition, where she had resided in the state

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

for less than one year (Ed. Code, § 68018). Classification of community college students as residents or nonresidents for tuition purposes is not arbitrary and bears a rational relation to California's objective and purpose of financing, operating and maintaining its many publicly financed institutions of higher learning. A legislative measure will be found to deny equal protection only if it is without any reasonable basis and therefore is purely arbitrary. Any classification by a state that is not palpably arbitrary and is reasonably based on substantial difference or distinction is not a violation of the equal protection clause so long as the classification is rationally related to a legitimate state object or purpose.

(4) Universities and Colleges § 1--Eligibility for Resident Tuition Rate-- Durational Residency Requirement.

In denying a woman's petition for a writ of mandate to require a California community college to classify her for the purpose of the payment of tuition as a resident, the trial court did not err in failing to find the durational residency requirement for tuition purposes set forth in statutory and administrative provisions (Ed. Code, §§ 68018, 68040, 68050, 68071, 76140, 89705, and Cal. Admin. Code, tit. 5, § 54001) constituted an irrebuttable presumption of nonresidency that served to deny her access to higher education. The durational residence requirement is not set up in terms of an absolute classification and a student from another state is classified as a nonresident because he is presumed to be in California primarily for educational purposes. There was no arbitrary permanent classification of nonresidency prohibiting the woman from subsequently proving that she did in fact qualify for resident tuition, and the residence requirement was reasonable.

COUNSEL

Mary-Lynne Fisher, Arnold I. Siegel and Michael J. Gurfinkel for Plaintiff and Appellant.

Robert J. Henry and Mary L. Dowell for Defendant and Respondent.

Donald L. Reidhaar, Gary Morrison and Lawrence B. Garcia as Amici Curiae on behalf of Defendant and Respondent. ***4**

KLEIN, P. J.

Appellant Soraya Gurfinkel (Gurfinkel) appeals from the denial of her petition for writ of mandate in favor of respondent Los Angeles Community College District (College District).

Statement of the Case

On June 15, 1979, Gurfinkel filed a petition for writ of mandate in superior court seeking classification as a resident for purposes of the payment of tuition at Los Angeles City College (LACC). The petition was denied on September 12, 1979, after which judgment was entered on October 4, 1979.

We believe the judgment of the trial court is proper for reasons hereinafter discussed.

Facts

On June 19, 1978, Gurfinkel entered the United States from France with a fiancee visa and married Michael Gurfinkel, a California resident, on July 16, 1978. She applied for admission to LACC on January 2, 1979, registering as a full time student on January 19, 1979, at which time she was classified as a nonresident pursuant to Education Code sections 68018, 68040, subdivision (b) and 68050. [FN1]

> FN1 Education Code section 68040, subdivision (b) provides: "Each student shall be classified as: ... (b) a district resident, nondistrict resident or nonresident at a California community college."
>
> Education Code section 68018 provides: "A 'nonresident' is a student who does not have residence in the state for more than one year immediately preceding the residence determination date."
>
> Education Code section 68050 provides: "A student classified as a nonresident shall be required, except as otherwise provided in this part, to pay, in addition to other fees required by the institution, nonresident tuition."

Contentions

Gurfinkel contends that the trial court erred in denying her petition as the durational residency requirement for tuition purposes set forth in Education Code sections 68018, 68040, 68050, 68071, 76140, 89705, and California Administrative Code, title 5,

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

section 54001, constitutes (1) an unconstitutional burden on the fundamental right to a college and community college education under *Serrano v. Priest* (1971) 5 Cal.3d 584 ***5** [96 Cal.Rptr. 601, 487 P.2d 1241], which case tacitly overruled the contrary holding in *Kirk v. Regents of University of California* (1969) 273 Cal.App.2d 430 [78 Cal.Rptr. 260]; (2) an unconstitutional restriction on the fundamental right to travel; and (3) an irrebutable presumption of nonresidency which serves to deny her access to higher education.

Discussion

(1)Gurfinkel's position herein is contingent upon the unfounded premise that the fundamental right to education articulated in *Serrano v. Priest, supra.*, 5 Cal.3d 584 (hereinafter *Serrano I*) [FN2] encompassed a fundamental right to college and/or community college education, thereby tacitly overruling *Kirk v. Regents of University of California, supra.*, 273 Cal.App.2d 430, which found no such fundamental interest.

> FN2 *Serrano I* was upheld on the basis of the California Constitution in *Serrano v. Priest* (1976) 18 Cal.3d 728 [135 Cal.Rptr. 345, 557 P.2d 929] (hereinafter *Serrano II*) after the United States Supreme Court's ruling in *San Antonio School District v. Rodriguez* (1973) 411 U.S. 1 [36 L.Ed.2d 16, 93 S.Ct. 1278], that education was not a fundamental interest under the federal Constitution.

In *Serrano I*, the court held that the California school financing system invidiously discriminated against the poor as it made "the quality of a child's education a function of the wealth of his parents and neighbors." (*Serrano I*, at p. 589.) In so doing the court declared:

"We are convinced that the distinctive and priceless function of education in our society warrants, indeed compels, our treating it as a 'fundamental interest.'

"First, education is essential in maintaining what several commentators have termed 'free enterprise democracy'-that is, preserving an individual's opportunity to compete successfully in the economic marketplace, despite a disadvantaged background. Accordingly, the public schools of this state are the bright hope for entry of the poor and oppressed into the mainstream of American society.

"Second, education is universally relevant. '... Every person ... benefits from education ....' (Fn. omitted.) [Citation.]

"Third, *public education continues over a lengthy period of life-between 10 and 13 years*. Few other government services have such sustained, intensive contact with the recipient. ***6**

"Fourth, education is unmatched in the extent to which it molds the personality of the youth of society. ... [P]ublic education actively attempts to shape a child's personal development in a manner chosen not by the child or his parents but by the state. [Citation.] '[T]he influence of the school is not confined to how well it can teach the disadvantaged child; it also has a significant role to play in shaping the student's emotional and psychological make-up.' [Citation.]

"Finally, education is so important that the state has made it *compulsory*-not only in the requirement of attendance but also by assignment to a particular district and school. ..." (Fns. omitted, italics added.) (*Id.*, at pp. 608-610.)

In addressing "compulsory" public education continuing over a "10 [to] 13" year period, the court in *Serrano I* clearly was contemplating education ranging from kindergarten through grade 12. Neither college nor community college education is compulsory. While high school ends at grade 12, community colleges are "designed to fit the needs of students of the 13th and 14th grades and may include courses of instruction designed to prepare for admission to the upper division of higher institutions of learning ...." (Ed. Code, § 78201; see Ed. Code, §§ 72244, 72247 and 72248.)

In *Kirk v. Regents of University of California, supra.*, 273 Cal.App.2d 430, 440, the court, under facts strikingly similar to those in the case before us, fully recognized "the value of higher education," but refused to declare it a fundamental interest. [FN3] *Kirk* is on all fours with the case before us and therefore controls as to each of Gurfinkel's remaining contentions herein. ***7**

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

FN3 In arguing for the extension of the fundamental interest in education articulated in *Serrano I* to higher education, Gurfinkel merely asserts that a high school education does not adequately prepare a young person to take a rightful place in society and compete in the job market, without relying on any evidence introduced to that effect before the trial court. Further, Gurfinkel presented no cognizable evidence indicating that individuals with community college educations are better able to compete in the work force. The ascertainment of such data could well be the subject of a legislative fact finding hearing.

Gurfinkel's reliance upon *Glick v. Unemployment Ins. Appeals Bd.* (1979) 23 Cal.3d 493 [153 Cal.Rptr. 1, 591 P.2d 24], in her argument in this regard is misplaced. There the court did not address the issue of a fundamental right to higher education, but rather held that the active pursuit of higher education, in that instance a legal education, provided "good cause" under the Unemployment Insurance Code for refusing to "accept employment which would conflict with the requirements of a full-time law student." (*Id.*, at pp. 500-501.)

As the court in *Serrano I* and *Serrano II* did not address itself to *Kirk* or the issue of a fundamental interest in higher education, we do not find that *Kirk* has been overruled sub silentio.

(2)Gurfinkel alternatively asserts that the durational residency requirement constitutes an unconstitutional restriction on her fundamental right to travel. However, although dealing with a United States citizen coming to California from Ohio, again *Kirk v. Regents of University of California, supra.*, 273 Cal.App.2d 430, resolved this precise issue to the contrary.

In the landmark case of *Shapiro v. Thompson* (1969) 394 U.S. 618 [22 L.Ed.2d 600, 89 S.Ct. 1322], which case the court in *Kirk* discusses, the United States Supreme Court struck down a durational residency requirement for receipt of welfare benefits as an unconstitutional burden on the right to interstate travel. However, in so doing the court specifically did not rule upon "the validity of waiting-period *or* residence requirements determining ... eligibility for tuition-free education .... Such requirements may promote compelling state interests on the one hand, or, on the other, may not be penalties upon the exercise of the constitutional right of interstate travel." (*Id.*, at p. 638, fn. 21 [22 L.Ed.2d at p. 617.)

In concluding that California's durational residency requirement did not infringe upon the right to interstate travel as provided for in the United States Constitution, the court in *Kirk v. Regents of University of California, supra.*, 273 Cal.App.2d 430, 440, noted:

"While we fully recognize the value of higher education, we cannot equate its attainment with food, clothing and shelter. *Shapiro* involved the immediate and pressing need for preservation of life and health of persons unable to live without public assistance, and their dependent children. Thus, the residence requirements in *Shapiro* could cause great suffering and even loss of life. The durational residence requirement for attendance at publicly financed institutions of higher learning do not involve similar risks. Nor was petitioner (unlike the families in *Shapiro*) precluded from the benefit of obtaining higher education. Charging higher tuition fees to nonresident students cannot be equated with granting of basic subsistence to one class of needy residents while denying it to an equally needy class of residents." (Fn. omitted.) ***8**

The court then continued:

"As we have concluded that the durational residence requirement here in issue does not infringe on petitioner's fundamental right to travel, it should be judged by ordinary equal protection standards. The applicable criteria are familiar and well established. (3)A legislative measure will be found to deny equal protection only if 'it is without any reasonable basis and therefore is purely arbitrary.' [Citation.] It is not enough that the measure results incidentally 'in some inequality,' or that it is not drawn 'with mathematical nicety;' the statutory classification must instead cause 'different treatments be not so disparate, relative to the difference in classification, as to be wholly arbitrary.' [Citation.]

"Thus, any classification by a state that is not palpably arbitrary and is reasonably based on a substantial difference or distinction is not a violation of the equal protection clause so long as the classification

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

is rationally related to a legitimate state objective or purpose. In this instance, then, we must determine whether the classification of students as residents or nonresidents for the purpose of paying tuition is reasonable and whether that classification is rationally related to a legitimate objective of the State of California." (Fn. omitted.) (*Id.*, at p. 441.)

As the purpose of the durational residency requirement advanced by the regents in *Kirk* is analogous to that set forth by the College District in the case before us, the *Kirk* court's rationale as to the relationship of this objective to the requirement itself is apposite. The court in *Kirk* reasoned:

"The Regents and the Trustees justify the higher tuition fees paid by persons like petitioner who are classified as nonresidents, primarily on the basis that resident students (or their parents) pay taxes to the State of California which, in turn, supports and maintains the university. The higher tuition charged nonresident students tends to distribute more evenly the cost of operating and supporting the University of California between residents and nonresidents attending the university. Although there is no way for this court to determine the degree to which the higher tuition charge equalizes the educational cost of residents and nonresidents, it appears to be a reasonable attempt to achieve a partial cost equalization by collecting lower tuition fees from those persons who, directly or indirectly, have recently made some contribution to the economy of the state through having been employed, having paid taxes, ***9** or having spent money in the state for the brief period of one year prior to their attendance at a publicly financed institution of higher education.

"Thus, as we read *Shapiro v. Thompson*, while the payment of taxes, fiscal integrity and budgetary planning are expressly rejected either as 'traditional equal protection tests' or as 'compelling state interests' that justify the imposition of benefits essential to life and health, they may well be reasonably related to legitimate objectives of the State of California for the purpose of imposing residence conditions on attendance at a university or state college.

"This state has a valid interest in providing tuition-free education to those who have demonstrated by a year's residence a bona fide intention of remaining here and who, by reason of that education, will be prepared to make a greater contribution to the state's economy and future. Accordingly, we hold that the regulation classifying students as residents or nonresidents for tuition purposes is not arbitrary or unreasonable and bears a rational limitation to California's objective and purpose of financing, operating and maintaining its many publicly financed educational institutions of higher learning [citations].

"Residents and nonresidents can be treated differently where there are valid reasons for doing so [citation], and the privileges and immunities clause does not guarantee to petitioner the right to attend the university for the same fee as that charged to persons who have met the one-year residence requirement [citation]." (Fn. omitted.) (*Id.*, at pp. 443-445.)

While we recognize that *Kirk* is 12 years old, its reasoning is as timely now as it was when it was written. Indeed, its timeliness becomes even more apparent in the wake of the financial constraints imposed by Proposition 13 and the resulting diminution of public funds for use in higher education. (See *California Teachers Assn. v. Board of Education* (1980) 109 Cal.App.3d 738 [167 Cal.Rptr. 429], wherein the court refused to create a constitutional right to free district-operated summer school after the summer school program had been substantially limited following the passage of Proposition 13. See also *Jarvis v. Cory* (1980) 28 Cal.3d 562, 573 [170 Cal.Rptr. 11, 620 P.2d 598]; *Sonoma County Organization of Public Employees v. County of Sonoma* (1979) 23 Cal.3d 296, 302, 310 [152 Cal.Rptr. 903, 591 P.2d 1]; ***10***Board of Education v. Superior Court* (1979) 93 Cal.App.3d 578, 580 [155 Cal.Rptr. 839].)

The Legislature has designated what fees may be charged by community colleges in this state. (See, e.g., Educ. Code, §§ 68050, 72289, 72245, 72246, 72247, 72248, 72250, 72251.) In the absence of compelling reasons to the contrary, and since we find no such reasons have been advanced by Gurfinkel herein, we decline to interfere with the legislative procedure set down in this regard.

(4)Gurfinkel's final contention that the durational residency requirement constitutes an irrebutable presumption of nonresidency thus denying her access to higher education is also answered by *Kirk, supra.*, 273 Cal.App.2d 430.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

"[T]he durational residence requirement is not set up in terms of an absolute classification. A student from another state, like petitioner, is classified as a nonresident because [she] is presumed to be in California primarily for educational purposes. If appropriate facts and circumstances arise subsequent to a student's classification as a nonresident, there is nothing in the regulation that would prevent petitioner's reclassification as a resident. She is merely required to present sufficient evidence to overcome the presumption of nonresidence. There is here ... no arbitrary permanent classification of nonresidency which prohibits her from subsequently proving that she does, in fact, qualify for resident tuition. Furthermore, just as petitioner did not automatically acquire resident student status by her marriage, a person who qualifies as a resident student does not lose such status by virtue of marriage to a nonresident who lives in California. We conclude that the durational residence requirement ... was reasonable." (*Id.*, at p. 443.)

Gurfinkel's contentions are more appropriately subject matter for consideration by the Legislature.

The judgment is affirmed.

Cobey, J., and Potter, J., concurred.

Appellant's petition for a hearing by the Supreme Court was denied August 13, 1981. Newman, J., was of the opinion that the petition should be granted. ***11**

Cal.App.2.Dist.
Gurfinkel v. Los Angeles Community College Dist.
121 Cal.App.3d 1, 175 Cal.Rptr. 201

END OF DOCUMENT

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

Supreme Court of the United States
Leonard HELLER, Secretary, Kentucky Cabinet for Human Resources, Petitioner
v.
Samuel DOE, By his Mother and Next Friend, Mary DOE, et al.

No. 92-351.
Argued March 22, 1993.
Decided June 24, 1993.

Class of involuntarily committed mentally retarded individuals brought suit challenging constitutionality of Kentucky's involuntary commitment procedures. The United States District Court for the Western District of Kentucky, 668 F.Supp. 597, enjoined implementation of procedures. The Court of Appeals, 848 F.2d 1386, affirmed in part, reversed in part and remanded. On remand, the District Court, 770 F.Supp. 354, ordered state to amend its procedures. On appeal following remand, the Court of Appeals, for the Sixth Circuit, 965 F.2d 109, affirmed in part, and reversed in part. Kentucky official petitioned for certiorari. The United States Supreme Court, Justice Kennedy, held that: (1) claim that statutes should be reviewed under heightened scrutiny standard was not properly presented for review; (2) statutory scheme requiring higher standard of proof for involuntary commitment of mentally ill, as opposed to mentally retarded, persons had rational basis such that it did not violate equal protection; (3) rational basis also justified Kentucky's provision of party status for relatives and legal guardians in involuntary commitment proceedings involving the mentally retarded, but not the mentally ill; and (4) granting party status to legal guardians and close relatives of mentally retarded persons facing involuntary commitment did not violate due process.

Reversed.

Justice O'Connor filed opinion concurring in judgment in part and dissenting in part.

Justice Blackmun filed dissenting opinion.

Justice Souter filed dissenting opinion, in which Justice Blackmun and Justice Stevens joined and in which Justice O'Connor joined in part.

West Headnotes

[1] Federal Courts 170B 612.1

170B Federal Courts
170BVIII Courts of Appeals
170BVIII(D) Presentation and Reservation in Lower Court of Grounds of Review
170BVIII(D)1 Issues and Questions in Lower Court
170Bk612 Nature or Subject-Matter of Issues or Questions
170Bk612.1 k. In General. Most Cited Cases
(Formerly 170Bk612)

Claim of involuntarily committed mentally retarded persons that Kentucky's commitment statutes should be reviewed under heightened scrutiny was not properly presented where it was not raised below and lower courts ruled only on issue of rational basis review.

[2] Constitutional Law 92 1020

92 Constitutional Law
92VI Enforcement of Constitutional Provisions
92VI(C) Determination of Constitutional Questions
92VI(C)3 Presumptions and Construction as to Constitutionality
92k1006 Particular Issues and Applications
92k1020 k. Classification or Discrimination in General. Most Cited Cases
(Formerly 92k48(6))

Classifications that neither involve fundamental rights nor proceed along suspect lines are accorded strong presumption of validity if there is rational relationship between disparity of treatment and some legitimate governmental purpose. U.S.C.A. Const.Amend. 5.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

[3] Constitutional Law 92 1033

92 Constitutional Law
92VI Enforcement of Constitutional Provisions
92VI(C) Determination of Constitutional Questions
92VI(C)4 Burden of Proof
92k1032 Particular Issues and Applications
92k1033 k. In General. Most Cited Cases
(Formerly 92k48(6))

State has no obligation to produce evidence to sustain rationality of statutory classification; courts are compelled under rational basis review to accept legislature's generalizations even when there is imperfect fit between means and ends. U.S.C.A. Const.Amend. 5.

[4] Constitutional Law 92 3143

92 Constitutional Law
92XXVI Equal Protection
92XXVI(B) Particular Classes
92XXVI(B)3 Disability or Disease, Physical or Mental
92k3141 Civil and Personal Rights in General
92k3143 k. Commitment, Confinement, or Placement in General. Most Cited Cases
(Formerly 92k242.1(5))

Mental Health 257A 32

257A Mental Health
257AII Care and Support of Mentally Disordered Persons
257AII(A) Custody and Cure
257Ak32 k. Constitutional and Statutory Provisions. Most Cited Cases

Rational basis existed for Kentucky's statutory imposition of a higher burden of proof upon proceedings for involuntary commitment of mentally ill persons than mentally retarded persons; imposition of standard of proof of beyond reasonable doubt upon commitment of former, and only clear and convincing evidence upon commitment of latter, was justified by relative ease of diagnosis of mental retardation, such that assigning higher burden of proof to mental illness equalized risk of erroneous determination; higher standard for mentally ill persons was also justified on ground that, in general, their treatment was much more intrusive than that received by mentally retarded persons. U.S.C.A. Const.Amend. 14; KRS 202A.076(2), 202B.160(2).

[5] Constitutional Law 92 3143

92 Constitutional Law
92XXVI Equal Protection
92XXVI(B) Particular Classes
92XXVI(B)3 Disability or Disease, Physical or Mental
92k3141 Civil and Personal Rights in General
92k3143 k. Commitment, Confinement, or Placement in General. Most Cited Cases
(Formerly 92k242.1(5))

Mental Health 257A 32

257A Mental Health
257AII Care and Support of Mentally Disordered Persons
257AII(A) Custody and Cure
257Ak32 k. Constitutional and Statutory Provisions. Most Cited Cases

Rational basis exists for Kentucky statutory scheme allowing close relatives and guardians to participate as parties in proceedings to commit mentally retarded but not mentally ill; unlike mental retardation, mental illness may arise only after majority, when afflicted person's immediate family members have ceased to provide care and support, and proper course of treatment may not depend upon observations made in household setting; whether Kentucky could have chosen less-restrictive means than party status for achieving participation and insights of close relatives and guardians of mentally retarded was irrelevant under rational-basis review. U.S.C.A. Const.Amend. 5; KRS 202B.160(3).

[6] Constitutional Law 92 3143

92 Constitutional Law
92XXVI Equal Protection

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

92XXVI(B) Particular Classes
92XXVI(B)3 Disability or Disease, Physical or Mental
92k3141 Civil and Personal Rights in General
92k3143 k. Commitment, Confinement, or Placement in General. Most Cited Cases
(Formerly 92k242.1(5))

Mental Health 257A 32

257A Mental Health
257AII Care and Support of Mentally Disordered Persons
257AII(A) Custody and Cure
257Ak32 k. Constitutional and Statutory Provisions. Most Cited Cases

Kentucky involuntary commitment scheme allowing guardians and immediate family members to participate as parties in commitment proceedings does not violate due process rights of mentally retarded persons; as long as accuracy of adjudication is unaffected, due process did not prevent state from allowing intervention, even if in some instances such parties might have interests adverse to those of subject of proceedings; policy could be deemed to increase proceeding's accuracy and to implement state's interest in providing family members with voice in proceedings. U.S.C.A. Const.Amend. 14; KRS 202B.160(3).

****2638** *Syllabus* [FN*]

FN* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

***312** Kentucky permits the involuntary commitment of mentally retarded or mentally ill individuals who present a threat of danger to themselves, family, or others, who can reasonably benefit from the available treatment, and for whom the least restrictive alternative is placement in the relevant facility. However, the statutory procedures for the commitment of the two groups differ in the two respects at issue here. First, the applicable burden of proof in mental retardation commitment proceedings is clear and convincing evidence while the standard in mental illness proceedings is beyond a reasonable doubt. Second, guardians and immediate family members of the subject of a mental retardation proceeding may participate as if parties to those proceedings, with all attendant rights. In this action, respondents, a class of involuntarily committed mentally retarded persons, claimed that the distinctions are irrational and therefore violate the Fourteenth Amendment's Equal Protection Clause, and that granting close family members and guardians the status of parties violates the Due Process Clause. The District Court granted them summary judgment, and the Court of Appeals affirmed.

Held:

1. Respondents' claim that the statutes should be reviewed under a heightened scrutiny standard is not properly presented, since it was not raised below and the lower courts ruled only on the ground of rational-basis review. P. 2642.

2. The distinctions between the two proceedings are consistent with the Equal Protection Clause. Pp. 2642-2648.

(a) Classifications neither involving fundamental rights nor proceeding along suspect lines do not run afoul of the Equal Protection Clause if there is a rational relationship between the disparity of treatment and a legitimate****2639** governmental purpose. A legislature need not articulate its rationale, and a State need not produce evidence to sustain the classification's rationality. Moreover, courts are compelled to accept a legislature's generalization even when there is an imperfect fit between means and ends. Pp. 2642-2643.

***313** b) Kentucky has proffered more than adequate justifications for its burden of proof scheme. Mental retardation, which is a developmental disability usually well documented throughout childhood, is easier to diagnose than is mental illness, which may have a sudden onset in adulthood. Thus, it could have assigned a higher burden of proof to mental illness to equalize the risk of erroneous determination that the subject of a commitment proceeding has the condition in question. Ease of diagnosis could also result in a more accurate dangerousness determination for the mentally retarded, who have a relatively static condi-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

tion and a well-documented record of previous behavior. In contrast, since manifestations of mental illness may be sudden, past behavior may not be an adequate predictor of future actions. A higher standard for the mentally ill is also justified on the ground that, in general, their treatment is much more intrusive than that received by the mentally retarded. Pp. 2643-2647.

(c) There is also a rational basis for Kentucky to allow immediate family members and guardians to participate as parties in proceedings to commit the mentally retarded but not the mentally ill. Kentucky could rationally conclude that close relatives and guardians may have intimate knowledge of the subject's abilities and experiences which provides valuable insights that should be considered during the involuntary commitment process. By contrast, mental illness may arise only after minority, when the afflicted person's immediate family members have ceased to provide care and support, and the proper course of treatment may depend on matters not related to observations made in a household setting. In addition, adults previously of sound mental health who are diagnosed as mentally ill may have a need for privacy that justifies confining a commitment proceeding to the smallest group possible. Whether Kentucky could have chosen a less-restrictive means than party status for achieving its legislative end is irrelevant in rational-basis review. Pp. 2647-2648.

3. Allowing close relatives and legal guardians to participate as parties does not violate due process. Consideration of the factors set out in *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18-the private interest that will be affected, the risk of an erroneous deprivation of such interest, and the government's interest-compels this conclusion. Rather than increasing the risk of an erroneous deprivation, allowing close relatives and guardians to participate as parties actually increases a proceeding's accuracy by putting valuable information before the court. It also implements the State's interest in providing family members a voice in such proceedings. And even if they favor commitment, their participation does not undermine the interest of the individual facing commitment. The only individual interest that is protected by the ***314** Due Process Clause is in an accurate decision, not a favorable one. Pp. 2648-2650.

965 F.2d 109 (CA6 1992), reversed.

KENNEDY, J., delivered the opinion of the Court, in which REHNQUIST, C.J., and WHITE, SCALIA, and THOMAS, JJ., joined. O'CONNOR, J., filed an opinion concurring in the judgment in part and dissenting in part, *post*, p. ----. BLACKMUN, J., filed a dissenting opinion, *post*, p. ----. SOUTER, J., filed a dissenting opinion, in which BLACKMUN and STEVENS, JJ., joined, and in Part II of which O'CONNOR, J., joined, *post*, p. ----.

William K. Moore, Midway, KY, for petitioner.

Kelly Miller, Louisville, KY, for respondents.

****2640** Justice KENNEDY delivered the opinion of the Court.

In the Commonwealth of Kentucky, involuntary civil commitments of those alleged to be mentally retarded and of those alleged to be mentally ill are governed by separate statutory procedures. Two differences between these commitment proceedings are at issue in this case. First, at ***315** a final commitment hearing, the applicable burden of proof for involuntary commitment based on mental retardation is clear and convincing evidence, Ky.Rev.Stat.Ann. § 202B.160(2) (Michie 1991), while the standard for involuntary commitment based on mental illness is beyond a reasonable doubt, § 202A.076(2). Second, in commitment proceedings for mental retardation, unlike for mental illness, "[g]uardians and immediate family members" of the subject of the proceedings "may participate ... as if a party to the proceedings," with all attendant rights, including the right to present evidence and to appeal. § 202B.160(3). Respondents are a class of mentally retarded persons committed involuntarily to Kentucky institutions. They argue that these distinctions are irrational and violate the Equal Protection Clause of the Fourteenth Amendment. They claim also that granting close family members and guardians the status of parties violates the Due Process Clause. We reject these contentions and hold the Kentucky statutes constitutional.

I

This case has a long and complicated history. It began in 1982 when respondents filed suit against petitioner, the Kentucky Secretary of the Cabinet for Human Resources, claiming that Kentucky's failure to provide certain procedural protections before institutionalizing people on the basis of mental retardation violated the Constitution. Kentucky has amended its civil commitment statutes several times since 1982,

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

with each new statute being attacked in court by respondents. As the previous incarnations of this lawsuit have little effect on the issues currently before this Court, we limit our discussion to the current round of the litigation. See *Doe v. Cowherd*, 770 F.Supp. 354, 355-356 (WD Ky.1991) (recounting the procedural history).

At issue here are elements of Kentucky's statutory procedures, enacted in 1990, for the involuntary commitment of the mentally retarded. In many respects the procedures ***316** governing commitment of the mentally retarded and the mentally ill are parallel. The statutes recognize a large class of persons who can petition for an individual's involuntary commitment, whether on grounds of mental retardation or mental illness. Ky.Rev.Stat.Ann. § 202B.100(3) (Michie 1991) (mental retardation); § 202A.051 (mental illness). Upon filing of the petition, the trial court must appoint counsel to represent the individual in question, unless he retains private counsel. § 202B.210 (mental retardation); § 202A.121 (mental illness). The trial court also must examine the person who filed the petition and, if there is probable cause to believe that the individual who is the subject of the petition should be involuntarily committed, the court must order his examination by two qualified professionals. §§ 202B.100(5), (6)(c) (mental retardation); §§ 202A.051(5), (6)(c) (mental illness). The subject of the proceeding has the right to retain a professional of his own choosing, who may "witness and participate in any examination" of him. § 202B.140 (mental retardation); § 202A.066 (mental illness). In cases of commitment for mental retardation, a professional retained by the subject's "parent or guardian" also must be permitted to witness and participate in any examination. § 202B.140.

If both qualified professionals certify that the individual meets the criteria for involuntary commitment, the trial court must conduct a preliminary hearing. § 202B.130 (mental retardation); § 202A.061 (mental illness). At the hearing, the court must receive as evidence the reports of these two ****2641** professionals and any other professional retained under the statute. § 202B.160(1) (mental retardation); § 202A.076(1) (mental illness). The individual whose commitment is sought may testify and may call and cross-examine witnesses. § 202B.160(1) (mental retardation); § 202A.076(1) (mental illness). In cases of mental retardation, at both the preliminary hearing and, if there is one, the final hearing, ***317** Kentucky law provides particular rights to guardians and immediate family members:

"Guardians and immediate family members of the respondent shall be allowed to attend all hearings, conferences or similar proceedings; may be represented by private counsel, if desired; may participate in the hearings or conferences as if a party to the proceedings; may cross-examine witnesses if desired; and shall have standing to appeal any adverse decision." § 202B.160(3)

See also § 202B.230. If the trial court determines that there is probable cause to believe that the subject should be involuntarily committed, it proceeds to a final hearing. § 202B.100(8) (mental retardation); § 202A.051(9) (mental illness).

At the final hearing, the State, through the county attorney for the county in which the person subject to the proceeding lives, prosecutes the petition, § 202B.019 (mental retardation); § 202A.016 (mental illness); Tr. of Oral Arg. 33-35, and counsel for the person defends against institutionalization, *id.*, at 31, 34, 54. At this hearing, "[t]he manner of proceeding and the rules of evidence shall be the same as those in any criminal proceeding." § 202B.160(2) (mental retardation); § 202A.076(2) (mental illness). As in the preliminary hearing, the subject of the proceedings may testify and call and cross-examine witnesses. § 202B.160(2) (mental retardation); § 202A.076(2) (mental illness). In proceedings for commitment based on mental retardation, the standard of proof is clear and convincing evidence, § 202B.160(2); for mental illness, the standard is proof beyond a reasonable doubt, § 202A.076(2). For commitment of the mentally retarded, four propositions must be proved by clear and convincing evidence: "(1) The person is a mentally retarded person; (2) The person presents a danger or a threat of danger to self, family, or others; (3) The least restrictive alternative mode of treatment presently available requires placement in [a ***318** residential treatment center]; and (4) Treatment that can reasonably benefit the person is available in [a residential treatment center]." § 202B.040. The criteria for commitment of the mentally ill are in substance identical, requiring proof beyond a reasonable doubt that an individual "is a mentally ill person: (1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness; (2) Who can

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

reasonably benefit from treatment; and (3) For whom hospitalization is the least restrictive alternative mode of treatment presently available." § 202A.026. Appeals from involuntary commitment proceedings are taken in the same manner as other appeals from the trial court. § 202B.230 (mental retardation); § 202A.141 (mental illness).

After enactment of the 1990 modifications, respondents moved for summary judgment in their pending lawsuit against petitioner. They argued, among other things, that the differences in treatment between the mentally retarded and the mentally ill-the different standards of proof and the right of immediate family members and guardians to participate as parties in commitment proceedings for the mentally retarded but not the mentally ill-violated the Equal Protection Clause's prohibition of distinctions that lack a rational basis, and that participation by family members and guardians violated the Due Process Clause. The District Court for the Western District of Kentucky accepted these arguments and granted summary judgment to respondents on these and other grounds not at issue here, 770 F.Supp. 354 (1991), and the Court of Appeals for the Sixth Circuit affirmed, *Doe v. Cowherd*, 965 F.2d 109 (1992). We granted Kentucky's ****2642** petition for certiorari, 506 U.S. 939, 113 S.Ct. 373, 121 L.Ed.2d 285 (1992), and now reverse.

II

[1] Respondents contend that, in evaluating the constitutionality of the distinctions drawn by Kentucky's statutes, we should apply not rational-basis review, but some form of ***319** heightened scrutiny. Brief for Respondents 23-32. This claim is not properly presented. Respondents argued before the District Court and the Court of Appeals only that Kentucky's statutory scheme was subject to rational-basis review, and the courts below ruled on that ground. Indeed, respondents have conceded that they pressed their heightened scrutiny argument for the first time in their merits brief in this Court. *Id.*, at 23 ("[R]espondents did not argue this particular issue below ..."). Even if respondents were correct that heightened scrutiny applies, it would be inappropriate for us to apply that standard here. Both parties have been litigating this case for years on the theory of rational-basis review, which, as noted below, see *infra*, at 2643, does not require the State to place any evidence in the record, let alone the extensive evidentiary showing that would be required for these statutes to survive heightened scrutiny. It would be imprudent and unfair to inject a new standard at this stage in the litigation. See *Tennessee v. Dunlap*, 426 U.S. 312, 316, n. 3, 96 S.Ct. 2099, 2101, n. 3, 48 L.Ed.2d 660 (1976); *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 215, 96 S.Ct. 1375, 1391, 47 L.Ed.2d 668 (1976). We therefore decide this case as it has been presented to the courts whose judgments are being reviewed.

III

[2] We many times have said, and but weeks ago repeated, that rational-basis review in equal protection analysis "is not a license for courts to judge the wisdom, fairness, or logic of legislative choices." *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 313, 113 S.Ct. 2096, 2100-2101, 124 L.Ed.2d 211 (1993). See also, *e.g.*, *Dandridge v. Williams*, 397 U.S. 471, 486, 90 S.Ct. 1153, 1162, 25 L.Ed.2d 491 (1970). Nor does it authorize "the judiciary [to] sit as a superlegislature to judge the wisdom or desirability of legislative policy determinations made in areas that neither affect fundamental rights nor proceed along suspect lines." *New Orleans v. Dukes*, 427 U.S. 297, 303, 96 S.Ct. 2513, 2517, 49 L.Ed.2d 511 (1976) *(per curiam).* For these reasons, a classification neither involving fundamental rights nor proceeding along suspect lines is accorded a strong presumption of validity. ***320** See, *e.g.*, *Beach Communications, supra*, 508 U.S., at 314-315, 113 S.Ct., at 2096; *Kadrmas v. Dickinson Public Schools*, 487 U.S. 450, 462, 108 S.Ct. 2481, 2489, 101 L.Ed.2d 399 (1988); *Hodel v. Indiana*, 452 U.S. 314, 331-332, 101 S.Ct. 2376, 2386-2387, 69 L.Ed.2d 40 (1981); *Massachusetts Bd. of Retirement v. Murgia*, 427 U.S. 307, 314, 96 S.Ct. 2562, 2567, 49 L.Ed.2d 520 (1976) *(per curiam).* Such a classification cannot run afoul of the Equal Protection Clause if there is a rational relationship between the disparity of treatment and some legitimate governmental purpose. See, *e.g.*, *Nordlinger v. Hahn*, 505 U.S. 1, 11, 112 S.Ct. 2326, 2331-2332, 120 L.Ed.2d 1 (1992); *Dukes, supra*, 427 U.S., at 303, 96 S.Ct., at 2516. Further, a legislature that creates these categories need not "actually articulate at any time the purpose or rationale supporting its classification." *Nordlinger, supra*, 505 U.S., at 15, 112 S.Ct., at 2334. See also, *e.g.*, *United States Railroad Retirement Bd. v. Fritz*, 449 U.S. 166, 179, 101 S.Ct. 453, 461, 66 L.Ed.2d 368 (1980); *Allied Stores of Ohio, Inc. v. Bowers*, 358 U.S. 522, 528, 79 S.Ct. 437, 441, 3 L.Ed.2d 480 (1959). Instead, a classification "must be upheld against equal protection challenge if there is any reasonably conceivable state

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

of facts that could provide a rational basis for the classification." *Beach Communications, supra,* 508 U.S., at 313, 113 S.Ct., at 2101. See also, *e.g., Nordlinger, supra,* 505 U.S., at 11, 112 S.Ct., at 2334; ****2643***Sullivan v. Stroop,* 496 U.S. 478, 485, 110 S.Ct. 2499, 2504, 110 L.Ed.2d 438 (1990); *Fritz, supra,* 449 U.S., at 174-179, 101 S.Ct., at 459-461; *Vance v. Bradley,* 440 U.S. 93, 111, 99 S.Ct. 939, 949, 59 L.Ed.2d 171 (1979); *Dandridge v. Williams, supra,* 397 U.S., at 484-485, 90 S.Ct., at 1161-1162.

[3] A State, moreover, has no obligation to produce evidence to sustain the rationality of a statutory classification. "[A] legislative choice is not subject to courtroom factfinding and may be based on rational speculation unsupported by evidence or empirical data." *Beach Communications, supra,* 508 U.S., at 315, 113 S.Ct. at 2098. See also, *e.g., Vance v. Bradley, supra,* 440 U.S., at 111, 99 S.Ct., at 949; *Hughes v. Alexandria Scrap Corp.,* 426 U.S. 794, 812, 96 S.Ct. 2488, 2499, 49 L.Ed.2d 220 (1976); *Locomotive Firemen v. Chicago, R.I. & P.R. Co.,* 393 U.S. 129, 139, 89 S.Ct. 323, 328, 21 L.Ed.2d 289 (1968). A statute is presumed constitutional, see *supra,* at 2642, and "[t]he burden is on the one attacking the legislative arrangement to negative every conceivable basis which might support it," *Lehnhausen v. Lake Shore Auto Parts Co.,* 410 U.S. 356, 364, 93 S.Ct. 1001, 1006, 35 L.Ed.2d 351 (1973) (internal quotation marks omitted), whether or not the basis has a foundation in the ***321** record. Finally, courts are compelled under rational-basis review to accept a legislature's generalizations even when there is an imperfect fit between means and ends. A classification does not fail rational-basis review because it " 'is not made with mathematical nicety or because in practice it results in some inequality.' " *Dandridge v. Williams, supra,* 397 U.S., at 485, 90 S.Ct., at 1161, quoting *Lindsley v. Natural Carbonic Gas Co.,* 220 U.S. 61, 78, 31 S.Ct. 337, 340, 55 L.Ed. 369 (1911). "The problems of government are practical ones and may justify, if they do not require, rough accommodations-illogical, it may be, and unscientific." *Metropolis Theatre Co. v. Chicago,* 228 U.S. 61, 69-70, 33 S.Ct. 441, 443, 57 L.Ed. 730 (1913). See also, *e.g., Burlington Northern R. Co. v. Ford,* 504 U.S. 648, 651, 112 S.Ct. 2184, 2187, 119 L.Ed.2d 432 (1992); *Vance v. Bradley, supra,* 440 U.S., at 108, and n. 26, 99 S.Ct., at 948 and n. 26; *New Orleans v. Dukes, supra,* 427 U.S., at 303, 96 S.Ct., at 2516; *Schweiker v. Wilson,* 450 U.S. 221, 234, 101 S.Ct. 1074, 1082, 67 L.Ed.2d 186 (1981). We have applied rational-basis review in previous cases involving the mentally retarded and the mentally ill. See *Cleburne v. Cleburne Living Center, Inc.,* 473 U.S. 432, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985); *Schweiker v. Wilson, supra.* In neither case did we purport to apply a different standard of rational-basis review from that just described.

True, even the standard of rationality as we so often have defined it must find some footing in the realities of the subject addressed by the legislation. That requirement is satisfied here. Kentucky has proffered more than adequate justifications for the differences in treatment between the mentally retarded and the mentally ill.

A

[4] Kentucky argues that a lower standard of proof in commitments for mental retardation follows from the fact that mental retardation is easier to diagnose than is mental illness. That general proposition should cause little surprise, for mental retardation is a developmental disability that becomes apparent before adulthood. See American Psychiatric Assn., Diagnostic and Statistical Manual of Mental Disorders***322** 29 (3d rev. ed. 1987) (hereinafter Manual of Mental Disorders); American Assn. on Mental Retardation, Mental Retardation: Definition, Classification, and Systems of Support 5, 16-18 (9th ed. 1992) (hereinafter Mental Retardation); S. Brakel, J. Parry, & B. Weiner, The Mentally Disabled and the Law 16-17, 37 (3d ed. 1985) (hereinafter Mentally Disabled); Ky.Rev.Stat.Ann. § 202B.010(9) (Michie 1991). By the time the person reaches 18 years of age the documentation and other evidence of the condition have been accumulated****2644** for years. Mental illness, on the other hand, may be sudden and may not occur, or at least manifest itself, until adulthood. See, *e.g.,* Manual of Mental Disorders 190 (onset of schizophrenia may occur any time during adulthood); *id.,* at 220, 229 (onset of depression usually is during adulthood). Furthermore, as we recognized in an earlier case, diagnosis of mental illness is difficult. See *Addington v. Texas,* 441 U.S. 418, 430, 99 S.Ct. 1804, 1811, 60 L.Ed.2d 323 (1979). See also Mentally Disabled 18. Kentucky's basic premise that mental retardation is easier to diagnose than is mental illness has a sufficient basis in fact. See, *e.g., id.,* at 16; Ellis & Luckasson, Mentally Retarded Criminal Defendants, 53 Geo.Wash.L.Rev. 414, 438-439 (1985).

This difference between the two conditions justi-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

fies Kentucky's decision to assign a lower standard of proof in commitment proceedings involving the mentally retarded. In assigning the burden of proof, Kentucky was determining the "risk of error" faced by the subject of the proceedings. *Addington v. Texas, supra,* at 423, 99 S.Ct., at 1807. If diagnosis is more difficult in cases of mental illness than in instances of mental retardation, a higher burden of proof for the former tends to equalize the risks of an erroneous determination that the subject of a commitment proceeding has the condition in question.[FN1] See G. Keppel, Design and Analysis 65-68 (1973). ***323** From the diagnostic standpoint alone, Kentucky's differential burdens of proof (as well as the other statutory distinction at issue, see *infra,* at 2647-2648) are rational.

> FN1. Justice SOUTER suggests that this description of the function of burdens of proof is inconsistent with *Addington v. Texas,* 441 U.S. 418, 99 S.Ct. 1804, 60 L.Ed.2d 323 (1979). See *post,* at 2652-2654 (dissenting opinion). His reasoning, however, would impose the due process conception of burdens of proof on a State's policy decision as to which standard is most appropriate in the circumstances. The Due Process Clause sets the minimum standard of proof required in particular contexts, based on consideration both of the respective interests of the State and individual and of the risk of erroneous decisions. *Addington, supra,* at 425, 99 S.Ct., at 1809. A State is free to adopt any burden of proof that meets or exceeds the constitutional minimum required by due process, and a State may select a standard of proof based on any rational policy of its choice. It may seek, as Justice SOUTER would require, to balance the respective interests of the affected parties. See *post,* at 2652-2653. But it may also calibrate its standard of proof in an effort to establish the risk of error at a certain level.

There is, moreover, a "reasonably conceivable state of facts," *Beach Communications,* 508 U.S., at 313, 113 S.Ct., at 2098, from which Kentucky could conclude that the second prerequisite to commitment-that "[t]he person presents a danger or a threat of danger to self, family, or others," Ky.Rev.Stat.Ann. § 202B.040 (Michie 1991)-is established more easily, as a general rule, in the case of the mentally retarded. Previous instances of violent behavior are an important indicator of future violent tendencies. See, *e.g.,* J. Monahan, The Clinical Prediction of Violent Behavior 71-72 (1981) (hereinafter Monahan); Kozol, Boucher, & Garofalo, The Diagnosis and Treatment of Dangerousness, 18 Crime & Delinquency 371, 384 (1972). Mental retardation is a permanent, relatively static condition, see Mentally Disabled 37, so a determination of dangerousness may be made with some accuracy based on previous behavior. We deal here with adults only, so almost by definition in the case of the retarded there is an 18-year record upon which to rely.

This is not so with the mentally ill. Manifestations of mental illness may be sudden, and past behavior may not be an adequate predictor of future actions. Prediction of future behavior is complicated as well by the difficulties inherent***324** in diagnosis of mental illness. Developments in the Law-Civil Commitment of the Mentally Ill, 87 Harv.L.Rev. 1190, 1242-1243 (1974). It is thus no surprise that many psychiatric predictions of future violent behavior by the mentally ill are inaccurate. See, *e.g.,* Steadman, Employing Psychiatric Predictions of Dangerous Behavior: Policy vs. Fact, in Dangerous Behavior: ****2645** A Problem in Law and Mental Health 123, 125-128 (C. Frederick ed. 1978); Monahan 47-49. For these reasons, it would have been plausible for Kentucky to conclude that the dangerousness determination was more accurate as to the mentally retarded than the mentally ill.

A statutory classification fails rational-basis review only when it " 'rests on grounds wholly irrelevant to the achievement of the State's objective.' " *Holt Civic Club v. Tuscaloosa,* 439 U.S. 60, 71, 99 S.Ct. 383, 390, 58 L.Ed.2d 292 (1978), quoting *McGowan v. Maryland,* 366 U.S. 420, 425, 81 S.Ct. 1101, 1105, 6 L.Ed.2d 393 (1961). See also, *e.g.,* *McDonald v. Board of Election Comm'rs of Chicago,* 394 U.S. 802, 809, 89 S.Ct. 1404, 1408, 22 L.Ed.2d 739 (1969); *Kotch v. Board of River Port Pilot Comm'rs for Port of New Orleans,* 330 U.S. 552, 556, 67 S.Ct. 910, 912, 91 L.Ed. 1093 (1947). Because ease of diagnosis is relevant to two of the four inquiries, it is not "wholly irrelevant" to the achievement of Kentucky's objective, and thus the statutory difference in the applicable burden of proof survives rational-basis review. In any event, it is plausible for Kentucky to have found that, for purposes of determining the acceptable risk of error, diagnosis and dange-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

rousness are the most critical factors in the commitment decision, so the appropriate burden of proof should be tied to them.

There is a further, more far-reaching rationale justifying the different burdens of proof: The prevailing methods of treatment for the mentally retarded, as a general rule, are much less invasive than are those given the mentally ill. The mentally ill are subjected to medical and psychiatric treatment which may involve intrusive inquiries into the patient's innermost thoughts, see Meissner & Nicholi, The Psychotherapies:***325** Individual, Family, and Group, in The Harvard Guide to Modern Psychiatry 357-385 (A. Nicholi ed. 1978) (hereinafter Harvard Guide), and use of psychotropic drugs, see Baldessarini, Chemotherapy, in Harvard Guide 387-431; Berger, Medical Treatment of Mental Illness, 200 Science 974 (1978); Mentally Disabled 327-330; Brief for American Psychological Association as *Amicus Curiae* in *Washington v. Harper*, O.T. 1988, No. 88-599, pp. 10-11. By contrast, the mentally retarded in general are not subjected to these medical treatments. Rather, " 'because mental retardation is ... a learning disability and training impairment rather than an illness,' " *Youngberg v. Romeo*, 457 U.S. 307, 309, n. 1, 102 S.Ct. 2452, 2454, n. 1, 73 L.Ed.2d 28 (1982), quoting Brief for American Psychiatric Association as *Amicus Curiae* in *Youngberg v. Romeo*, O.T. 1981, No. 80-1429, p. 4, n. 1, the mentally retarded are provided "habilitation," which consists of education and training aimed at improving self-care and self-sufficiency skills. See *Youngberg, supra*, at 309, n. 1, 102 S.Ct. at 2454, n. 1; M. Rosen, G. Clark, & M. Kivitz, Habilitation of the Handicapped 47-59 (1977); Mentally Disabled 332.

It is true that the loss of liberty following commitment for mental illness and mental retardation may be similar in many respects; but the different treatment to which a committed individual is subjected provides a rational basis for Kentucky to decide that a greater burden of proof is needed before a person may be committed for mental illness. The procedures required before the government acts often depend on the nature and extent of the burden or deprivation to be imposed. See *Addington v. Texas*, 441 U.S., at 423-424, 99 S.Ct., at 1807-1808. For example, because confinement in prison is punitive and hence more onerous than confinement in a mental hospital, *id.*, at 428, 99 S.Ct., at 1810, the Due Process Clause subjects the former to proof beyond a reasonable doubt, *In re Winship*, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970), whereas it requires in the latter case only clear and convincing evidence, *Addington v. Texas, supra*. It may also be true that some persons committed for mental retardation are subjected to more intrusive treatments while ****2646 *326** confined. See *post*, at 2654-2656 (SOUTER, J., dissenting). Nonetheless, it would have been plausible for the Kentucky Legislature to believe that most mentally retarded individuals who are committed receive treatment that is different from, and less invasive than, that to which the mentally ill are subjected. "States are not required to convince the courts of the correctness of their legislative judgments." *Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 464, 101 S.Ct. 715, 724, 66 L.Ed.2d 659 (1981). Thus, since " 'the question is at least debatable,' " *Western & Southern Life Ins. Co. v. State Bd. of Equalization of Cal.*, 451 U.S. 648, 674, 101 S.Ct. 2070, 2086, 68 L.Ed.2d 514 (1981), quoting *United States v. Carolene Products Co.*, 304 U.S. 144, 154, 58 S.Ct. 778, 784, 82 L.Ed. 1234 (1938), rational-basis review permits a legislature to use just this sort of generalization.

These distinctions may explain, too, the differences in treatment between the mentally retarded and the mentally ill that have long existed in Anglo-American law. At English common law there was a "marked distinction" in the treatment accorded "idiots" (the mentally retarded) and "lunatics" (the mentally ill). 1 F. Pollock & F. Maitland, The History of English Law 481 (2d ed. 1909) (hereinafter Pollack and Maitland). As Blackstone explained, a retarded person became a ward of the King, who had a duty to preserve the individual's estate and provide him with "necessaries," but the King could profit from the wardship. In contrast, the King was required to "provide for the custody and sustentation of [the mentally ill], and preserve their lands and the profits of them," but the King was prohibited from profiting thereby. 1 W. Blackstone, Commentaries *302-*304. See Pollack and Maitland 481; S. Herr, Rights and Advocacy for Retarded People 9-10 (1983).

Ancient lineage of a legal concept does not give it immunity from attack for lacking a rational basis. That the law has long treated the classes as distinct, however, suggests that there is a commonsense distinction between the mentally***327** retarded and the mentally ill. The differentiation continues to the present day. A

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

large majority of States have separate involuntary commitment laws for the two groups,[FN2] ***328** and many States as well ****2647** have separate agencies for addressing their needs.[FN3]

FN2. Ala.Code § 22-52-50 *et seq.* (1990) (mental retardation); § 22-52-1 *et seq.* (Supp.1992) (mental illness); Alaska Stat.Ann. § 47.30.700 *et seq.* (1990) (mental illness); Ariz.Rev.Stat.Ann. § 36-533 *et seq.* (1986 and Supp.1992) (mental illness); Ark.Code Ann. § 20-48-404 (1991) (mental retardation); § 20-47-207 (mental illness); Calif.Welf. & Inst.Code Ann. § 6500 *et seq.* (West 1984 and Supp.1993) (mental retardation); § 5200 *et seq.* (mental illness); Colo.Rev.Stat. § 27-10-105 *et seq.* (1989 and Supp.1992) (mental illness); Conn.Gen.Stat. § 17a-274 *et seq.* (1993) (mental retardation); § 17a-495 *et seq.* (mental illness); Del.Code Ann., Tit. 16, § 5522 (1983) (mental retardation); § 5001 *et seq.* (1983 and Supp.1992) (mental illness); D.C.Code Ann. §§ 6-1924, 6-1941 *et seq.* (1989) (mentally retarded); § 21-541 *et seq.* (mental illness); Fla.Stat. § 393.11 *et seq.* (Supp.1992) (mental retardation); §§ 394.463, 394.467 (1986 and Supp.1992) (mental illness); Ga.Code Ann. § 37-4-40 *et seq.* (Supp.1992) (mental retardation); § 37-3-40 *et seq.* (1982 and Supp.1992) (mental illness); Haw.Rev.Stat. § 334-60.2 *et seq.* (1985 and Supp.1992) (mental illness); Idaho Code § 66-406 (1989) (mental retardation); § 66-329 (Supp.1992) (mental illness); Ill.Rev.Stat., ch. 91 1/2 , ¶ 4-500 *et seq.* (1991) (mental retardation); ¶ 3-700 *et seq.* (mental illness); Ind.Code § 12-26-7-1 *et seq.* (Burns 1992) (mental illness); Iowa Code § 222.16 *et seq.* (1987) (mental retardation); § 229.6 *et seq.* (mental illness); Kan.Stat.Ann. § 59-2912 *et seq.* (1983 and Supp.1990) (mental illness); Ky.Rev.Stat.Ann. §§ 202B.040, 202B.100 *et seq.* (Michie 1991) (mental retardation); §§ 202A.026, 202A.051 *et seq.* (mental illness); La.Rev.Stat.Ann. § 28:404 (West 1989) (mental retardation); § 28:54 *et seq.* (West 1989 and Supp.1993) (mental illness); Me.Rev.Stat.Ann., Tit. 34-B, § 5474 *et seq.* (1988) (mental retardation); § 3864 (mental illness); Md. Health Code Ann. § 7-502 *et seq.* (1990) (mental retardation); § 10-613 *et seq.* (mental illness); Mass.Gen.Laws ch. 123, § 5 *et seq.* (1989) (mental illness); Mich.Comp.Laws § 330.1515 *et seq.* (1981) (mental retardation); § 330.1434 *et seq.* (mental illness); Mo.Rev.Stat. § 632.300 *et seq.* (1988) (mental illness); Mont.Code Ann. § 53-20-121 *et seq.* (1991) (mental retardation); § 53-21-121 *et seq.* (mental illness); Neb.Rev.Stat. § 83-1020 *et seq.* (1987 and Supp.1992) (mental illness); Nev.Rev.Stat. § 435.123 *et seq.* (1991) (mental retardation); § 433A.200 *et seq.* (mental illness); N.H.Rev.Stat.Ann. § 171-A:10(II) (1990) (mental retardation); § 135-C:34 *et seq.* (mental illness); N.J.Stat.Ann. § 30:4-27.10 (West Supp.1993) (mental illness); N.M.Stat.Ann. § 43-1-13 (1989) (mental retardation); § 43-1-10 *et seq.* (mental illness); N.Y. Mental Hyg. Law § 15.27 *et seq.* (McKinney 1988) (mental retardation); § 9.27 *et seq.* (mental illness); N.D.Cent.Code § 25-03.1-07 *et seq.* (1989) (mental illness); Ohio Rev.Code Ann. § 5123.71 *et seq.* (1989 and Supp.1992) (mental retardation); § 5122.11 *et seq.* (mental illness); Okla.Stat., Tit. 43A, § 5-401 (Supp.1993) (mental illness); Ore.Rev.Stat. § 427.215 *et seq.* (1991) (mental retardation); § 426.070 *et seq.* (mental illness); Pa.Stat.Ann., Tit. 50, § 4406 (Purdon 1969 and Supp.1992) (mental retardation); § 7301 *et seq.* (mental illness); R.I.Gen.Laws § 40.1-22-9 *et seq.* (1990) (mental retardation); § 40.1-5-8 (mental illness); S.C.Code Ann. § 44-20-450 (Supp.1992) (mental retardation); § 44-17-510 *et seq.* (1985) (mental illness); S.D. Codified Laws § 27B-7-1 *et seq.* (1992) (mental retardation); § 27A-10-1 *et seq.* (mental illness); Tenn.Code Ann. § 33-6-103 *et seq.* (Supp.1992) (mental illness); Tex. Health & Safety Code Ann. § 593.041 *et seq.* (1992) (mental retardation); § 574.001 *et seq.* (mental illness); Utah Code Ann. § 62A-5-312 (Supp.1992) (mental retardation); § 62A-12-234 (mental illness); Vt.Stat.Ann., Tit. 18, § 8822 *et seq.* (1987) (mental retardation); § 7612 *et seq.* (mental illness); Va.Code Ann. § 37.1-67.1 *et seq.* (1984 and Supp.1992) (mental illness); Wyo.Stat. § 25-5-119 (1990 and Supp.1992) (mental retardation); § 25-10-110 (mental illness).

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

But see Minn.Stat. § 253B.07 *et seq.* (1992) (mental retardation and mental illness); Miss.Code Ann. § 41-21-61 *et seq.* (Supp.1992) (mental retardation and mental illness); N.C.Gen.Stat. § 122C-261 *et seq.* (1989 and Supp.1992) (mental retardation and mental illness); Wash.Rev.Code § 71.05.150 *et seq.* (1992 and Supp.1993) (mental retardation and mental illness); W.Va.Code § 27-5-2 *et seq.* (1992) (mental retardation and mental illness); Wis.Stat. § 51.20 (1989-1990) (mental retardation and mental illness).

FN3. See Brief for New Jersey et al. as *Amici Curiae* 7, 1a.

Kentucky's burden of proof scheme, then, can be explained by differences in the ease of diagnosis and the accuracy of the prediction of future dangerousness and by the nature of the treatment received after commitment. Each of these rationales, standing on its own, would suffice to establish a rational basis for the distinction in question.

B

[5] There is a rational basis also for the other distinction challenged by respondents: that Kentucky allows close relatives ***329** and guardians to participate as parties in proceedings to commit the mentally retarded but not the mentally ill. As we have noted, see *supra*, at 2643, by definition, mental retardation has its onset during a person's developmental period. Mental retardation, furthermore, results in "deficits or impairments in adaptive functioning," that is to say, "the person's effectiveness in areas such as social skills, communication, and daily living skills, and how well the person meets the standards of personal independence and social responsibility expected of his or her age by his or her cultural group." Manual of Mental Disorders 28-29. See also Mental Retardation 5-6, 15-16, 38-41. Based on these facts, Kentucky may have concluded that close relatives and guardians, both of whom likely have intimate knowledge of a mentally retarded person's abilities and experiences, have valuable insights that should be considered during the involuntary commitment process.

Mental illness, by contrast, may arise or manifest itself with suddenness only after minority, see *supra*, at 2644, when the afflicted person's immediate family members have no knowledge of the medical condition and have long ceased to provide care and support. Further, determining the proper course of treatment may be far less dependent upon observations made in a household setting. Indeed, we have noted the severe difficulties inherent in psychiatric diagnosis conducted by experts in the field. *Addington v. Texas*, 441 U.S., at 430, 99 S.Ct., at 1811. See also Mentally Disabled 18. In addition, adults previously of sound mental health who are diagnosed as mentally ill may have a need for privacy that justifies the State in confining a commitment proceeding to the smallest group compatible with due ****2648** process. Based on these facts, Kentucky may have concluded that participation as parties by relatives and guardians of the mentally ill would not in most cases have been of sufficient help to the trier of fact to justify the additional burden and complications of granting party status. To be sure, Kentucky could have provided relatives***330** and guardians of the mentally retarded some participation in commitment proceedings by methods short of providing them status as parties. That, however, is irrelevant in rational-basis review. We do not require Kentucky to have chosen the least restrictive means of achieving its legislative end. *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1, 51, 93 S.Ct. 1278, 1306, 36 L.Ed.2d 16 (1973). As long as Kentucky "rationally advances a reasonable and identifiable governmental objective, we must disregard" the existence of alternative methods of furthering the objective "that we, as individuals, perhaps would have preferred." *Schweiker v. Wilson*, 450 U.S., at 235, 101 S.Ct., at 1083.

IV

[6] We turn now to respondents' claim that one aspect of the involuntary commitment procedures violates procedural due process. We note at the outset that respondents challenge as violative of due process only those provisions of Kentucky's comprehensive involuntary commitment procedures that allow participation in the proceedings by guardians and immediate family members. See Ky.Rev.Stat.Ann. §§ 202B.140, 202B.160(3), 202B.230 (Michie 1991). Respondents claim that by allowing the participation of persons whose interests may be adverse to those of the individual facing possible involuntary commitment, the statute "skews the balance" against the retarded individual and therefore imposes a burden on him. Brief for Respondents 32-36. Both courts below apparently accepted this argument, almost without explanation. See 965 F.2d, at 113; 770 F.Supp., at 358.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

In our view, the claim is without merit.

We evaluate the sufficiency of this procedural rule under *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). There we held that determining the dictates of due process requires consideration of three factors:

"First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation***331** of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.*, at 335, 96 S.Ct., at 903.

We think that application of the *Mathews v. Eldridge* factors compels the conclusion that participation as parties by close relatives and legal guardians is not a deprivation of due process. Even if parents, close family members, or legal guardians can be said in certain instances to have interests "adverse to [those of] the person facing commitment," 965 F.2d, at 113, we simply do not understand how their participation as formal parties in the commitment proceedings increases "the risk of an erroneous deprivation," 424 U.S., at 335, 96 S.Ct., at 903, of respondents' liberty interest. Rather, for the reasons explained above, *supra*, at 16, these parties often will have valuable information that, if placed before the court, will increase the accuracy of the commitment decision. Kentucky law, moreover, does not allow intervention by persons who lack a personal stake in the outcome of the adjudication. Guardians have a legal obligation to further the interests of their wards, and parents and other close relatives of a mentally retarded person, after living with and caring for the individual for 18 years or more, have an interest in his welfare that the State may acknowledge. See *Parham v. J.R.*, 442 U.S. 584, 602-603, 99 S.Ct. 2493, 2504-2505, 61 L.Ed.2d 101 (1979). For example, parents who for 18 ****2649** years or longer have cared for a retarded child can face changed circumstances resulting from their own advancing age, when the physical, emotional, and financial costs of caring for the adult child may become too burdensome for the child's best interests to be served by care in their home. There is no support whatever in our cases or our legal tradition for the "statist notion," *id.*, at 603, 99 S.Ct., at 2504, that the State's expertise and concern in these matters is so superior to that of parents and other close family members that the State must ***332** slam the courthouse door against those interested enough to intervene. Finally, "the state has a legitimate interest under its *parens patriae* powers in providing care to its citizens who are unable ... to care for themselves," as well as "authority under its police power to protect the community" from any dangerous mentally retarded persons. *Addington*, 441 U.S., at 426, 99 S.Ct., at 1809.

To be sure, if the additional parties involved in the proceedings favor commitment, their participation may increase the chances that the result of the proceeding will be a decision to commit. That fact, however, is beside the point. "The Due Process Clause does not ... require a State to adopt one procedure over another on the basis that it may produce results more favorable to" the party challenging the existing procedures. *Medina v. California*, 505 U.S. 437, 451, 112 S.Ct. 2572, 2580, 120 L.Ed.2d 353 (1992).

"The function of legal process, as that concept is embodied in the Constitution, and in the realm of factfinding, is to minimize the risk of erroneous decisions. Because of the broad spectrum of concerns to which the term must apply, flexibility is necessary to gear the process to the particular need; the quantum and quality of the process due in a particular situation depend upon the need to serve the purpose of minimizing the risk of error." *Greenholtz v. Inmates of Neb. Penal and Correctional Complex*, 442 U.S. 1, 13, 99 S.Ct. 2100, 2106, 60 L.Ed.2d 668 (1979).

See also *Fuentes v. Shevin*, 407 U.S. 67, 97, 92 S.Ct. 1983, 2002, 32 L.Ed.2d 556 (1972) (due process functions to "prevent unfair and mistaken deprivations"). At least to the extent protected by the Due Process Clause, the interest of a person subject to governmental action is in the accurate determination of the matters before the court, not in a result more favorable to him. So long as the accuracy of the adjudication is unaffected, therefore, the Due Process Clause does not prevent a State from allowing the intervention of immediate family members and legal guardians,***333** even if in some instances these parties will have interests adverse to those of the subject of the proceedings. Neither respondents nor their *amici* have suggested that accuracy would suffer from the intervention allowed by Kentucky law, and as noted

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

above we think quite the opposite is true.

Because allowing guardians and immediate family members to participate as parties in commitment proceedings increases the accuracy of those proceedings and implements the State's interest in providing family members a voice in the proceedings, without undermining those interests of the individual protected by the Due Process Clause, these Kentucky statutes do not run afoul of due process. "We deal here with issues of unusual delicacy, in an area where professional judgments regarding desirable procedures are constantly and rapidly changing. In such a context, restraint is appropriate on the part of courts called upon to adjudicate whether a particular procedural scheme is adequate under the Constitution." *Smith v. Organization of Foster Families for Equality & Reform*, 431 U.S. 816, 855-856, 97 S.Ct. 2094, 2115, 53 L.Ed.2d 14 (1977).

V

In sum, there are plausible rationales for each of the statutory distinctions challenged by respondents in this case. It could be that ****2650** "[t]he assumptions underlying these rationales [are] erroneous, but the very fact that they are 'arguable' is sufficient, on rational-basis review, to 'immunize' the [legislative] choice from constitutional challenge." *Beach Communications*, 508 U.S., at 320, 113 S.Ct., at 2104, quoting *Vance v. Bradley*, 440 U.S., at 112, 99 S.Ct., at 950. [FN4]

FN4. Under a previous version of Kentucky's laws relating to the commitment of the mentally retarded, application by the parents or guardian of a mentally retarded person for placement in a mental retardation treatment center was treated as a voluntary commitment to which the procedural requirements of involuntary commitments were inapplicable.

See Ky.Rev.Stat.Ann. § 202B.040 (Michie 1982 and Supp.1986). In a previous decision, the Court of Appeals held that persons committed upon application of parents or guardians must be considered to have been admitted involuntarily. *Doe v. Austin*, 848 F.2d 1386, 1391-1392 (CA6 1988). We denied Kentucky's petition for certiorari from this decision, 488 U.S. 967, 109 S.Ct. 495, 102 L.Ed.2d 531 (1988), and Kentucky subsequently amended its statutes to remove this provision. In its brief, however, Kentucky again attacks this prior holding of the Court of Appeals. See Brief for Petitioner 20-28. Even were this issue not mooted by the repeal of the provision at issue, see, *e.g.*, *Department of Treasury v. Galioto*, 477 U.S. 556, 559-560, 106 S.Ct. 2683, 2685-2686, 91 L.Ed.2d 459 (1986); *Kremens v. Bartley*, 431 U.S. 119, 128-129, 97 S.Ct. 1709, 1714-1715, 52 L.Ed.2d 184 (1977), it is not "fairly included" within the questions on which we granted certiorari, this Court's Rule 14.1(a). See Pet. for Cert. i.

***334** The judgment of the Court of Appeals for the Sixth Circuit is

Reversed.

Justice O'CONNOR, concurring in the judgment in part and dissenting in part.

I agree with Justice SOUTER that Kentucky's differential standard of proof for committing the mentally ill and the mentally retarded is irrational and therefore join Part II of his opinion. I conclude, however, that there is a rational basis for permitting close relatives and guardians to participate as parties in proceedings to commit the mentally retarded but not the mentally ill. As the Court points out, there are sufficiently plausible and legitimate reasons for the legislative determination in this area. I also agree with the Court that allowing guardians and immediate family members to participate as parties in commitment proceedings does not violate procedural due process. Like my colleagues, I would not reach the question whether heightened equal protection scrutiny should be applied to the Kentucky scheme.

Justice BLACKMUN, dissenting.

I join Justice SOUTER's dissenting opinion, for I agree with him that this statute is not even rational. I write separately***335** only to note my continuing adherence to the view that laws that discriminate against individuals with mental retardation, *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 455, 105 S.Ct. 3249, 3262, 87 L.Ed.2d 313 (1985) (opinion of Marshall, J., joined by Brennan and BLACKMUN, JJ.), or infringe upon fundamental rights, *Foucha v. Louisiana*, 504 U.S. 84-86, 112 S.Ct. 1780,

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

1788-1789, 118 L.Ed.2d 437 (1992) (plurality opinion of WHITE, J., joined by BLACKMUN, STEVENS, and SOUTER, JJ.), are subject to heightened review.

Justice SOUTER, with whom Justice BLACKMUN and Justice STEVENS join, and with whom Justice O'CONNOR joins as to Part II, dissenting.

Because I conclude that Kentucky's provision of different procedures for the institutionalization of the mentally retarded and the mentally ill is not supported by any rational justification, I respectfully dissent.

I

To begin with, the Court declines to address Doe's argument that we should employ strict or heightened scrutiny in assessing the disparity of treatment challenged here.[FN1] ***336** While I may disagree with the Court's ****2651** basis for its conclusion that this argument is not "properly presented," *ante*, at 2642, I too would decline to address the contention that strict or heightened scrutiny applies. I conclude that the distinctions wrought by the Kentucky scheme cannot survive even that rational-basis scrutiny, requiring a rational relationship ***337** between the disparity of treatment and some legitimate governmental purpose, which we have previously applied to a classification on the basis of mental disability, see *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 446-447, 105 S.Ct. 3249, 3257-3258, 87 L.Ed.2d 313 (1985), and therefore I need not reach the question of whether scrutiny more searching than *Cleburne* 's should be applied. [FN2] *Cleburne* was the most recent instance in which we addressed a classification on the basis of mental disability, as we did by enquiring into record support for ****2652** the State's proffered justifications, and examining the distinction in treatment in light of the purposes put forward to support it. See *id.*, at 450, 105 S.Ct., at 3259. While the Court cites *Cleburne* once, and does not purport to overrule it, neither does the Court apply it, and at the end of the day *Cleburne* 's status is left uncertain. I would follow *Cleburne* here.

> FN1. Doe relies, first, on the nature of the right at stake, citing our decision last Term in *Foucha v. Louisiana*, 504 U.S. 71, 112 S.Ct. 1780, 118 L.Ed.2d 437 (1992). There we were faced with an equal protection challenge to a Louisiana statute authorizing continued commitment of currently sane insanity acquittees under standards that were not applied to criminal convicts who had completed their prison terms or were about to do so. The insanity acquittee was kept incarcerated in a mental institution unless he could prove he was not dangerous, see La.Code Crim.Proc.Ann., Art. 657 (West Supp.1993), whereas "Louisiana law," as Justice WHITE wrote, did "not provide for similar confinement for other classes of persons who have committed criminal acts and who cannot later prove they would not be dangerous. Criminals who have completed their prison terms, or are about to do so, are an obvious and large category of such persons.... However, state law does not allow for th[e] continuing confinement [of criminals who may be unable to prove they would not be dangerous] based merely on dangerousness.... Freedom from physical restraint being a fundamental right, the State must have a particularly convincing reason, which it has not put forward, for such discrimination against insanity acquittees who are no longer mentally ill." *Foucha*, 504 U.S., at 85-86, 112 S.Ct. at 1788 (plurality opinion of WHITE, J., joined by BLACKMUN, STEVENS, and SOUTER, JJ.); see also *id.*, at 88, 112 S.Ct. at 1790 (O'CONNOR, J., concurring in part and concurring in judgment) ("Although I think it unnecessary to reach equal protection issues on the facts before us, the permissibility of holding an acquittee who is not mentally ill longer than a person convicted of the same crimes could be imprisoned is open to serious question"). Because of the " 'massive curtailment of liberty' " undoubtedly involved in involuntary civil commitment and institutionalization, see *Vitek v. Jones*, 445 U.S. 480, 491, 100 S.Ct. 1254, 1262, 63 L.Ed.2d 552 (1980) (quoting *Humphrey v. Cady*, 405 U.S. 504, 509, 92 S.Ct. 1048, 1052, 31 L.Ed.2d 394 (1972)), Doe argues that heightened scrutiny applies under *Foucha* when those alleged to be mentally retarded are denied the protection afforded another "obvious and large category" of potential civil committees, those said to be mentally ill.
>
> Doe also argues that the discrimination here has a second aspect that justifies application of strict or heightened scrutiny, in its classification on the basis of mental retardation. Although he recognizes that

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

this Court held in 1985 that retarded individuals are not a quasi-suspect class, see *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432, 442-447, 105 S.Ct. 3249, 3255-3258, 87 L.Ed.2d 313 (1985), he argues that the subsequently enacted Americans With Disabilities Act of 1990 (ADA) amounts to an exercise of Congress's power under § 5 of the Fourteenth Amendment to secure the guarantees of the Equal Protection Clause to the disabled. See *Katzenbach v. Morgan*, 384 U.S. 641, 651, 86 S.Ct. 1717, 1723, 16 L.Ed.2d 828 (1966). The ADA includes findings that people with disabilities (among whom are included those with mental impairments that Doe argues include mental retardation, see 42 U.S.C. § 12102(2)(A) (1988 ed., Supp.III)) "are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society...." § 12101(a)(7). Doe argues that this and other findings, together with expressions of purpose contained in the ADA, amount to a clear indication from Congress "that all individuals with disabilities, including individuals with mental retardation should be treated as a suspect class." Brief for Respondent 29-30.

FN2. This approach complies with "two of the cardinal rules governing the federal courts: one, never to anticipate a question of constitutional law in advance of the necessity of deciding it; the other never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied," *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 501, 105 S.Ct. 2794, 2801, 86 L.Ed.2d 394 (1985) (citations, internal quotation marks, and brackets omitted), and is consistent with our past practice. See, *e.g.*, *Hooper v. Bernalillo County Assessor*, 472 U.S. 612, 618, 105 S.Ct. 2862, 2866, 86 L.Ed.2d 487 (1985) (declining to decide whether to apply heightened scrutiny where classification failed rational-basis test); cf. *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718, 724, n. 9, 102 S.Ct. 3331, 3336, n. 9, 73 L.Ed.2d 1090 (1982) (declining to decide whether to apply strict scrutiny where classification could not survive heightened scrutiny).

II

Obviously there are differences between mental retardation and mental illness. They are distinct conditions, they have different manifestations, they require different forms of care or treatment, and the course of each differs. It is without doubt permissible for the State to treat those who are mentally retarded differently in some respects from those who are mentally ill. The question here, however, is whether some difference between the two conditions rationally***338** can justify the particular disparate treatment accorded under this Kentucky statute.

The first distinction wrought by the statute is the imposition of a lesser standard of proof for involuntary institutionalization where the alleged basis of a need for confinement is mental retardation rather than mental illness. As the Court observes, four specific propositions must be proven before a person may be involuntarily institutionalized on the basis of mental retardation: "that: (1) [t]he person is a mentally retarded person; (2) [t]he person presents a danger or a threat of danger to self, family, or others; (3) [t]he least restrictive alternative mode of treatment presently available requires placement in [a state-run institution]; and (4) [t]reatment that can reasonably benefit the person is available in [a state-run institution]." Ky.Rev.Stat.Ann. § 202B.040 (Michie 1991). At issue in this case is only the application of this provision to adults who have not been shown to be mentally retarded, but who are simply alleged to be. The subject of such a proceeding retains as full an interest in liberty as anyone else. The State of Kentucky has deemed this liberty interest so precious that, before one may be institutionalized on the basis of mental illness, the statutory prerequisites must be shown "beyond a reasonable doubt." § 202A.076(2). FN3 However, when the allegation against the individual is one of mental retardation, he is deprived of the protection of that high burden of proof. The first question here, then, is whether, in light of the State's decision to provide that high burden of proof in involuntary commitment ***339** proceedings where illness is alleged, there is something about mental retardation that can rationally justify provision of less protection.

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

FN3. As the Court notes, the statutory prerequisites are substantially identical for commitment on the basis of illness and retardation. Commitment on the ground of mental illness requires proof beyond a reasonable doubt that an individual "is a mentally ill person: (1) [w]ho presents a danger or threat of danger to self, family or others as a result of the mental illness; (2) [w]ho can reasonably benefit from treatment; and (3) [f]or whom hospitalization is the least restrictive alternative mode of treatment presently available." Ky.Rev.Stat.Ann. § 202A.026 (Michie 1991).

In upholding this disparate treatment, the Court relies first on the State's assertion that mental retardation is easier to diagnose than mental illness. It concludes that the discrimination in burdens of proof is rational because the lessened " 'risk of error' " resulting from the higher burden of proof, see *ante*, at 2644 (quoting *Addington v. Texas*, 441 U.S. 418, 423, 99 S.Ct. 1804, 1807, 60 L.Ed.2d 323 (1979)), can be understood to offset a greater "ris[k] of an erroneous determination that the subject of a commitment proceeding has the condition in question" when the allegation is one of mental illness rather than mental retardation, *ante*, at 2643-2644. The Court reaches essentially the same conclusion with respect to the second prerequisite, that the individual present a danger or threat of danger to himself or others. See *ante*, at 2644-2645 (a determination of dangerousness ****2653** may be made with "more accura[cy]" with respect to the mentally retarded than the mentally ill).

In concluding, however, that the demands of minimal rationality are satisfied if burdens of proof rise simply with difficulties of proof, the Court misunderstands the principal object in setting burdens. It is no coincidence that difficult issues in civil cases are not subject to proof beyond a reasonable doubt and that even the most garden variety elements in criminal cases are not to be satisfied by a preponderance of evidence. The reason for this is that burdens of proof are assigned and risks of error are allocated not to reflect the mere difficulty of avoiding error, but the importance of avoiding it as judged after a thorough consideration of those respective interests of the parties that will be affected by the allocation. See *Addington*, 441 U.S., at 425, 99 S.Ct., at 1809.

In a civil commitment proceeding, on the State's side of the balance, are the interests of protecting society from those posing dangers and protecting the ill or helpless individual from his own incapacities. *Id.*, at 426, 99 S.Ct., at 1809. On the other ***340** side, it is clear that "[i]n cases involving individual rights, whether criminal or civil, '[t]he standard of proof [at a minimum] reflects the value society places on individual liberty,' " *id.*, at 425, 99 S.Ct., at 1809 (brackets in original and citation omitted), which encompasses both freedom from restraint and freedom from the stigma that restraint and its justifications impose on an institutionalized person, *id.*, at 425-426, 99 S.Ct., at 1808-1810.

The question whether a lower burden of proof is rationally justified, then, turns not only on whether ease of diagnosis and proof of dangerousness differ as between cases of illness and retardation, but also on whether there are differences in the respective interests of the public and the subjects of the commitment proceedings, such that the two groups subject to commitment can rationally be treated differently by imposing a lower standard of proof for commitment of the retarded.[FN4] The answer is clearly that they can not. While difficulty of proof, and of interpretation of evidence, could legitimately counsel against setting the standard so high that the State may be unable to satisfy it (thereby effectively thwarting efforts to satisfy legitimate interests in protection, care, and treatment), see *id.*, at 429, 99 S.Ct., at 1811, that would at most justify a lower standard in the allegedly more difficult cases of illness, not in the easier cases of retardation. We do not lower burdens of proof merely because it is easy to prove the proposition at issue, nor do we raise them merely because it is difficult. [FN5] Nor do any other reasonably conceivable facts ***341** cut in favor of the distinction in treatment drawn by the Kentucky statute. Both the ill and the retarded may be dangerous, each may require care, and the State's interest is seemingly of equal strength in each category of cases. No one has or would argue that the value of liberty varies somehow depending on whether one is alleged to be ill or retarded, and a mentally retarded person has as much to lose by civil commitment to an institution as a ****2654** mentally ill counterpart, including loss of liberty to "choos[e] his own friends and companions, selec[t] daily activities, decid[e] what to eat, and retai[n] a level of personal privacy," among other things. Brief for American Association on

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

Mental Retardation (AAMR) et al. as *Amici Curiae* 12 (AAMR Br.). We do not presume that a curtailment of the liberty of those who are disabled is, because of their disability, less severe than the same loss to those who are ill. Even if the individuals subject to involuntary commitment proceedings previously had been shown to be mentally retarded, they would thus still retain their "strong," legally cognizable interest in their liberty. Cf. *Foucha*, 504 U.S., at 88, 112 S.Ct., at 1790 (O'CONNOR, J., concurring in part and concurring in judgment). Even assuming, then, that the assertion of different degrees of difficulty of proof both of mental illness and mental retardation and of the dangerousness inherent in each condition is true (an assertion for which there is no support in the record), it lends not a shred of rational support to the decision to discriminate against the retarded in allocating the risk of erroneous curtailment of liberty.

FN4. In addition to the two prerequisites mentioned in the text, the State must also prove that commitment would be beneficial and the least restrictive alternative method of treatment. The Court does not contend that there is any rational justification for imposition of a lowered burden of proof with respect to these prerequisites for institutionalization in those cases where the allegation is one of retardation and not illness. See *ante,* at 2645.

FN5. And indeed, to the extent *Addington v. Texas*, 441 U.S. 418, 99 S.Ct. 1804, 60 L.Ed.2d 323 (1979), does discuss the difficulty of diagnosing mental illness, see *id.*, at 429-430, 99 S.Ct., at 1811-1812, it supports use only of a *lesser* standard of proof because of the practical problems created by a supposed "serious question as to whether a state could ever prove beyond a reasonable doubt that an individual is both mentally ill and likely to be dangerous," *id.*, at 429, 99 S.Ct., at 1811. Of course, in this case Kentucky has determined that the liberty of those alleged to be mentally ill is sufficiently precious that the State should assume the risk inherent in use of that higher standard.

The Court also rests its conclusion on the view that "it would have been plausible for the Kentucky Legislature to believe that most mentally retarded individuals who are ***342** committed receive treatment that is ... less invasive tha[n] that to which the mentally ill are subjected." *Ante,* at 2646. Nothing cited by the Court, however, demonstrates that such a belief would have been plausible for the Kentucky Legislature, nor does the Court's discussion render it plausible now. Cf. *United States Railroad Retirement Bd. v. Fritz*, 449 U.S. 166, 179, 101 S.Ct. 453, 461, 66 L.Ed.2d 368 (1980) (under rational-basis scrutiny disparate treatment must be justified by "plausible reasons"). One example of the invasiveness to which the Court refers is the use of (and the results of the administration of) psychotropic drugs. I take no exception to the proposition that they are extensively used in treating mental illness. See *ante,* at 2645-2646 (citing authorities for the proposition that drugs are used in treating mental illness). Nor do I except to the proposition that the appropriate and perhaps characteristic response to mental retardation, but not to mental illness, is that kind of training in the necessities of self-sufficiency known as "habilitation." See *ante,* at 2645 (citing authorities describing such training).

Neither of these propositions tells us, however, that the same invasive mind-altering medication prescribed for mental illness is not also used in responding to mental retardation. And in fact, any apparent plausibility in the Court's suggestion that "the mentally retarded in general are not subjected to th[is] medical treatmen[t]," *ibid.,* dissipates the moment we examine readily available material on the subject, including studies of institutional practices affecting the retarded comparable to those studies concerning the treatment of mental illness cited by the Court. One recent examination of institutions for the mentally retarded in Kentucky's neighboring State of Missouri, for example, found that 76% of the institutionalized retarded receive some type of psychoactive drug and that fully 54% receive psychotropic drugs. See Intagliata & Rinck, Psychoactive Drug Use in Public and Community Residential Facilities for Mentally Retarded Persons, 21 Psychopharmacology Bull. 268, 272-273***343** (1985). Another study, this one national in scope, found that 38% of the residents of institutions for the mentally retarded receive psychotropic drugs. See Hill, Balow, & Bruininks, A National Study of Prescribed Drugs in Institutions and Community Residential Facilities for Mentally Retarded People, 21 Psychopharmacology Bull. 279, 283 (1985). "Surveys conducted within institutions [for the mentally retarded] have generally shown prevalences in the range of 30% to 50% of residents re-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

ceiving psychotropic drugs at any given time." Aman & Singh, Pharmacological Intervention, in Handbook of Mental Retardation 347, 348 (J. Matson & ****2655** J. Mulick eds., 2d ed. 1991) (hereinafter Handbook of Mental Retardation).

Psychotropic drugs, according to the available material, are not only used to treat the institutionalized retarded, but are often misused. Indeed, the findings of fact by a United States District Court in North Carolina, another State nearby Kentucky, show that in three hospitals, 73% of persons committed as mentally retarded were receiving antipsychotic drugs. Less than half of these individuals had been diagnosed as mentally ill as well as mentally retarded following their commitment on the latter ground. See *Thomas S. v. Flaherty*, 699 F.Supp. 1178, 1187 (WDNC 1988), aff'd, 902 F.2d 250 (CA4), cert. denied, 498 U.S. 951-952, 111 S.Ct. 373, 112 L.Ed.2d 335 (1990). The District Court found that the institutionalized retarded plaintiffs "have been seriously endangered and injured by the inappropriate use of antipsychotic drugs." *Flaherty, supra*, at 1186. See also *Halderman v. Pennhurst State School Hospital*, 446 F.Supp. 1295, 1307-1308 (EDPa.1977), aff'd, 612 F.2d 84 (CA3 1979), rev'd on other grounds, 451 U.S. 1, 101 S.Ct. 1531, 67 L.Ed.2d 694 (1981) (discussing evidence that 51% of the residents of a state institution for the mentally retarded received psychotropic drugs though less than one-third of those who received the drugs were monitored to determine the effectiveness of the treatment); Bates, Smeltzer, & Arnoczky, Appropriate and Inappropriate Use of Psychotherapeutic ***344** Medications for Institutionalized Mentally Retarded Persons, 90 Am.J. Mental Deficiency 363 (1986) (finding that between 39% and 54% of medications prescribed to mentally retarded persons are inappropriate for the conditions diagnosed).

These facts are consistent with a law review study of drugs employed in treating retardation, which observed that the reduction in the need for institutional staff resulting from the use of sedating drugs has promoted drug use in responding to retardation despite "frightening adverse effects [including the suppression of] learning and intellectual development." Plotkin & Gill, Invisible Manacles: Drugging Mentally Retarded People, 31 Stan.L.Rev. 637, 638 (1979). There being nothing in the record to suggest that Kentucky's institutions are free from these practices, and no reason whatever to assume so, there simply is no plausible basis for the Court's assumption that the institutional response to mental retardation is in the main less intrusive in this way than treatment of mental illness.

The Court also suggests that medical treatment for the mentally retarded is less invasive than in the case of the mentally ill because the mentally ill are subjected to psychiatric treatment that may involve intrusive enquiries into the patient's innermost thoughts. See *ante*, at 2645. Again, I do not disagree that the mentally ill are often subject to intrusive psychiatric therapy. But the mentally retarded too are subject to intrusive therapy, as the available material on the medical treatment of the mentally retarded demonstrates. The mentally retarded are often subjected to behavior modification therapy to correct, among other things, anxiety disorders, phobias, hyperactivity, and antisocial behavior, therapy that may include aversive conditioning as well as forced exposure to objects that trigger severe anxiety reactions. See McNally, Anxiety and Phobias, in Handbook of Mental Retardation 413-423; Mulick, Hammer, & Dura, Assessment and Management of Antisocial and Hyperactive Behavior, in ***345** Handbook of Mental Retardation 397-412; Gardner, Use of Behavior Therapy with the Mentally Retarded, in Psychiatric Approaches to Mental Retardation 250-275 (F. Menolascino ed. 1970). Like drug therapy, psychiatric therapy for the mentally retarded can be, and has been misused. In one recent case, a Federal District Court found that "aversive procedures [including seclusion and physical restraints were] being inappropriately used with no evidence for their effectiveness and no relationship between the choice of the procedure and the analysis of the cause of the problem[,]****2656** ... plac[ing] clients at extreme risk for maltreatment." *Lelsz v. Kavanagh*, 673 F.Supp. 828, 850 (NDTex.) (internal quotation marks and citation omitted), rev'd on unrelated grounds, 824 F.2d 372 (CA5 1987). Invasive behavior therapy for the mentally retarded, finally, is often employed together with drug therapy. See McNally, *supra*, at 413-423; Mulick, Hammer, & Dura, *supra*, at 397-412.

The same sorts of published authorities on which the Court relies, in sum, refute the contention that "[t]he prevailing methods of treatment for the mentally retarded, as a general rule, are much less invasive than are those given the mentally ill." *Ante*, at 2645.[FN6] The available literature indicates that psychotropic

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

drugs and invasive therapy are routinely administered to the retarded as well as the mentally ***346** ill, and there are no apparent differences of therapeutic regimes that would plausibly explain less rigorous commitment standards for those alleged to be mentally retarded than for those alleged to be mentally ill.[FN7]

FN6. I also see little point in the Court's excursion into the historical difference in treatment between so-called "idiots," and so-called "lunatics." See *ante*, at 2646. Surely the Court does not intend to suggest that the irrational and scientifically unsupported beliefs of pre-19th-century England can support any distinction in treatment between the mentally ill and the mentally retarded today. At that time, "lunatics" were "[s]een as demonically possessed or the products of parental sin [and] were often punished or left to perish." See S. Herr, Rights and Advocacy for Retarded People 9 (1983). The primary purpose of an adjudication of "idiocy" appears to have been to "depriv[e] [an individual] of [his] property and its profits." *Id.*, at 10. Those without wealth "were dealt with like other destitute or vagrant persons through workhouses and houses of correction." *Id.*, at 11.

FN7. Petitioner also argues that mental retardation is different from most cases of mental illness in being a permanent condition that may require a lifetime of care. See Brief for Petitioner 31. But petitioner completely fails to explain how the permanence of the condition or the likely need of lifetime care can rationally justify a regime in which those alleged to require institutionalization based on mental retardation face a greater risk of erroneous curtailment of liberty than those who are alleged to require it based on mental illness. The distinction proffered by the State (accepting it to be factually accurate and not based merely on stereotype) cuts quite the other way. The possibility that a condition once thought to justify commitment will last a lifetime suggests that a person committed to an institution on the basis of mental retardation is less likely to regain his liberty than one institutionalized on some other basis. If this could rationally justify any disparity in commitment standards, it could only be in requiring stricter protection in mental retardation cases than in those based on mental illness, not the other way around.

III

With respect to the involvement of family members and guardians in the commitment proceeding, the Court holds it to be justified by the fact that mental retardation "has its onset during a person's developmental period," while mental illness "may arise or manifest itself with suddenness only after minority." *Ante*, at 2647-2648. The Court suggests that a mentally ill person's parents may have "ceased to provide care and support" for him well before the onset of illness, whereas parents are more likely to have retained connection with a retarded son or daughter, whose "proper course of treatment" may depend on matters related to "observations made in a household setting." *Ante*, at 2647.

These suggested distinctions, if true, would apparently not apply to guardians, whose legal obligations to protect the persons and estates of their wards would seem to require as much connection to the one class of people as to the other. ***347** In any event, although these differences might justify a scheme in which immediate relatives and guardians were automatically called as witnesses in cases seeking institutionalization on the basis of mental retardation,[FN8] they are completely unrelated to those aspects of the statute to which Doe objects: permitting these immediate relatives and guardians to be involved "as ****2657** parties" so as to give them, among other things, the right to appeal as "adverse" a decision not to institutionalize the individual who is subject to the proceedings. Where the third party supports commitment, someone who is alleged to be retarded is faced not only with a second advocate for institutionalization, but with a second prosecutor with the capacity to call and cross-examine witnesses, to obtain expert testimony and to raise an appeal that might not otherwise be taken, whereas a person said to require commitment on the basis of mental illness is not. This is no mere theoretical difference, and my suggestion that relatives or guardians may support curtailment of liberty finds support in the record in this case. It indicates that of the 431 commitments to Kentucky's state-run institutions for the mentally retarded during a period between 1982 and the middle of 1985, all but

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

one were achieved through the application or consent of family members or guardians. See Record, State's Answers to Plaintiff's First Set of Interrogatories 2, 17.

> FN8. Of course both guardians and relatives can already act as witnesses in each kind of proceeding subject only to the limitations of relevance and interest.

The Court simply points to no characteristic of mental retardation that could rationally justify imposing this burden of a second prosecutor on those alleged to be mentally retarded where the State has decided not to impose it upon those alleged to be mentally ill. Even if we assumed a generally more regular connection between the relatives and guardians of those alleged to be retarded than those said to ***348** be mentally ill, it would not explain why the former should be subject to a second prosecutor when the latter are not.

The same may be said about the Court's second suggested justification, that the mentally ill may have a need for privacy not shown by the retarded. Even assuming the ill need some additional privacy, and that participation of others in the commitment proceeding should therefore be limited "to the smallest group compatible with due process," *ante*, at 2647-2648, why should the retarded be subject to a second prosecutor? The Court provides no answer.[FN9]

> FN9. I also note that the Court provides no support for its speculation that an adult who develops mental illness will have a greater need or desire for privacy in an involuntary commitment proceeding than an adult who is mentally retarded.

Without plausible justification, Kentucky is being allowed to draw a distinction that is difficult to see as resting on anything other than the stereotypical assumption that the retarded are "perpetual children," an assumption that has historically been taken to justify the disrespect and "grotesque mistreatment" to which the retarded have been subjected. See *Cleburne*, 473 U.S., at 454, 105 S.Ct., at 3261 (STEVENS, J., concurring) (internal quotation marks and citation omitted). As we said in *Cleburne*, the mentally retarded are not "all cut from the same pattern: ... they range from those whose disability is not immediately evident to those who must be constantly cared for." *Id.*, at 442, 105 S.Ct., at 3255. In recent times, at least when imposing the responsibilities of citizenship, our jurisprudence has seemed to reject the analogy between mentally retarded adults and nondisabled children. See, *e.g.*, *Penry v. Lynaugh*, 492 U.S. 302, 338, 109 S.Ct. 2934, 2957, 106 L.Ed.2d 256 (1989) (controlling opinion of O'CONNOR, J.) (not "all mentally retarded people ...-by virtue of their mental retardation alone, and apart from any individualized consideration of their personal responsibility-inevitably lack the cognitive, volitional, and moral capacity to act with the degree of culpability associated with the death penalty"); see also *id.*, at 340, 109 S.Ct., at 2958 ("reliance on mental ***349** age to measure the capabilities of a retarded person for purposes of the Eighth Amendment could have a disempowering effect if applied in other areas of the law"). But cf. *ante*, at 2648 (citing *Parham v. J.R.*, 442 U.S. 584, 99 S.Ct. 2493, 61 L.Ed.2d 101 (1979), a case about parents' rights over their minor children). When the State of Kentucky sets up its respective schemes for institutionalization on the basis of mental illness and mental ****2658** retardation, it too is obliged to reject that analogy, and to rest any difference in standards for involuntary commitment as between the ill and the retarded on some plausible reason.

IV

In the absence of any rational justification for the disparate treatment here either with respect to the burdens of proof or the participation of third parties in institutionalization proceedings, I would affirm the judgment of the Court of Appeals. Because of my conclusion, that the statute violates equal protection, I do not reach the question of its validity under the Due Process Clause.

U.S.Ky.,1993.
Heller v. Doe by Doe
509 U.S. 312, 113 S.Ct. 2637, 125 L.Ed.2d 257, 61 USLW 4728, 4 NDLR P 23

END OF DOCUMENT

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

HIn re JOHNNY B. DAPPER on Habeas Corpus.
Crim. No. 12720.

Supreme Court of California
May 28, 1969.

HEADNOTES

(1) Criminal Law § 1038.7(7)--Writ of Coram Nobis--Review.
The granting or denying of a petition for writ of error *coram nobis* is an appealable order, governed by the same procedural rules that apply to appeals from a judgment of conviction.
See **Cal.Jur.2d,** Coram Nobis, § 26; **Am.Jur.2d,** Coram Nobis and Allied Statutory Remedies, § 29.
(2) Habeas Corpus § 8.1--Grounds--Relief Not Warranted.
A habeas corpus petitioner, convicted of five counts of a municipal code violation, could not attack a stipulation by the prosecutor and court-appointed defense counsel that three previously dismissed counts be reinstated, included in an appealable order granting his petition for writ of error *coram nobis,* which also set aside his guilty plea and sentence on the other two counts after which he was found guilty by a jury on all five counts, where the reinstatement of the dismissed charges might have been an integral part of the order granting the writ, where petitioner did not appeal from the order, move to set it aside, or to vacate the writ, but attacked only the portion of the order which, based on the stipulation, directed reinstatement of the dismissed charges, and where petitioner never urged that the order be set aside in its entirety but took advantage of it by withdrawing his guilty pleas and proceeding to trial on the merits of all of the charges.

(3) Criminal Law § 107(11)--Rights of Accused--Aid of Counsel--Competence of Counsel.
In a five-count prosecution for violation of a municipal code in which defendant pleaded guilty to and was sentenced on two counts and the other counts were thereupon dismissed "in furtherance of justice," the decision of court-appointed defense counsel to enter into a stipulation that the dismissed counts be reinstated, made part of an order granting defendant's petition for writ of *coram nobis* under which he withdrew his guilty pleas and proceeded to trial on the merits of all the charges, even if beyond his attorney's authority, did not show that he was incompetent, where the record did not show that counsel was unaware of the facts or the law applicable to the *coram nobis* proceeding, and, so far as appeared from the record, the determination to enter into the stipulation might have been the wisest course to follow to secure the vacation of defendant's convictions.

(4) Criminal Law § 12--Prohibition by Law--Repeal of StatutesMunicipal Corporations § 228--Ordinances--Effect of Repeal.
The outright repeal of a criminal statute without a saving clause bars prosecution for violations of the statute committed before the repeal; and the rule applies equally to local ordinances.
See **Cal.Jur.2d,** Criminal Law, § 102; **Am.Jur.,** Statutes (1st ed § 568).
(5) Municipal Corporations § 229--Ordinances--Effect of Repeal.
Prosecutions under repealed city ordinances, part of a municipal code, for violations committed before the repeal, were not saved by a savings clause of the municipal code which referred to ordinances repealed by the code and not to ordinances comprising the code which were subsequently repealed.
See **Cal.Jur.2d,** Municipal Corporations, § 409; **Am.Jur.,** Municipal Corporations (1st ed § 201).
(6) Criminal Law § 12--Prohibition by Law--Repeal of Statutes.
The rule which bars prosecution under a repealed law for offenses occurring before repeal does not apply where there is an outright appeal and a substantial reenactment; and in such case it is presumed that the legislative body did not intend that there should be a remission of crimes not reduced to final judgment.

(7) Statutes § 95(3)--Repeal--Simultaneous Re-enactment.
When a statute, although new in form, reenacts an older statute without substantial change, even though it repeals the older statute, the new statute is but a continuation of the old, and there is no break in the continuous operation of the old statute, and no abatement of any of the legal consequences of acts done under the old statute; the rule especially applies to the consolidation, revision, or codification of statutes.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

(8) Municipal Corporations § 229--Ordinances--Effect of Repeal.
A prosecution for violation of a municipal code section could be validly maintained against defendant for violations committed before its repeal, where the section had been substantially reenacted and could be considered to be continuous in operation from the date the section was originally adopted.

(9) Municipal Corporations § 229--Ordinances--Effect of Repeal.
No prosecution for violation of municipal code sections could be validly maintained against defendant for violations committed before their repeal, where the sections had not been substantially reenacted, and no savings clause was applicable.

(10) Municipal Corporations § 229--Ordinances--Effect of Repeal.
Prosecution of a defendant for violation of a municipal code section, repealed before the prosecution had been reduced to final judgment, was barred by the "outright repeal of a criminal statute," where defendant was charged, inter alia, with the accumulation of "broken wood" specifically punishable under the repealed section, but where the list of items, accumulation of which was prohibited in the new section, omitted the significant item-"broken wood," and where there was no applicable savings clause.

(11) Municipal Corporations § 229--Ordinances--Effect of Repeal.
A repealed municipal code section was not substantially reenacted by a new section so as to permit prosecution of a defendant for violations committed before its repeal, where the purpose of the new section, requiring that accumulations of weeds be not permitted to remain in any court, yard, vacant lot or open space and that weeds be cut down only when property was endangered, was to prevent fires, whereas the repealed section contained no mention of cut-down weeds, but did prohibit certain types of growing weeds, no longer an offense under the new section unless they endanger property, and where there was no applicable savings clause.

SUMMARY

PROCEEDING in habeas corpus to have vacated convictions for violations of a repealed municipal code. Writ granted.

COUNSEL

Johnny B. Dapper, in pro. per., for Petitioner.

Edward T. Butler, City Attorney, Kenneth H. Lounsbery and J. David Franklin, Deputy City Attorneys, for Respondent.

PETERS, J.

Johnny B. Dapper petitions for a writ of habeas corpus.

In August 1966, he was charged with five counts of violating the San Diego Municipal Code: Count 1 [§ 55.30.10], permitting combustible material and debris to accumulate; count 2 [§ 55.36], allowing rubbish to remain without a permit; count 3 [§ 55.30.7(c)], storing lumber without a permit; count 4 [§ 44.0350], accumulating debris so as to afford a shelter for rats; and count 5 [§ 55.35], allowing dangerous weeds.

Dapper pleaded guilty to and was sentenced on counts 1 and 5. The other counts were dismissed "in furtherance of justice." Upon Dapper's petition, the court granted a petition for a writ of error *coram nobis,* including in its order a stipulation by the district attorney and Dapper's court-appointed counsel that the dismissed counts be reinstated.

A jury trial was held, and Dapper was found guilty on all ***187** five counts. On count 1, he was sentenced to pay a fine of $500 and serve 180 days in jail; execution of judgment was stayed, and he was placed on probation for three years. On count 5, he was sentenced to 180 days in jail; except for three days, execution of sentence was stayed, and he was placed on probation for three years. The sentences were to run consecutively. As a condition of probation, he was required "to clean up his property."

Dapper contends that he could not be validly prosecuted under counts 2, 3, and 4, because section 1387 of the Penal Code bars the refiling of misdemeanor complaints which have been dismissed. [FN1] He argues that the stipulation to the reinstatement of the dismissed counts is invalid, because it was made over his objection, and shows incompetence of counsel. However, even assuming that Dapper objected to the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

stipulation at the time it was made and that because of his objection it was improper for counsel to enter into the stipulation, Dapper may not in this proceeding attack the stipulation, and the stipulation does not show incompetence of counsel.

> FN1 Section 1387 of the Penal Code states: "An order for the dismissal of the action, made as provided in this chapter, is a bar to any other prosecution for the same offense if it is a misdemeanor, but not if it is a felony."

(1) The granting or denying of a petition for writ of error *coram nobis* is an appealable order, governed by the same procedural rules that apply to appeals from a judgment of conviction. (*People v. Griggs*, 67 Cal.2d 314, 316 [61 Cal.Rptr. 641, 431 P.2d 225]; *In re Horowitz*, 33 Cal.2d 534, 537 [203 P.2d 513].) (2) The reinstatement of the dismissed charges may have been an integral part of the order granting the writ, and had Dapper attacked the order on the basis of the part reinstating the charges, the entire order may have been held inseverable. (Cf. *Hamasaki v. Flotho*, 39 Cal.2d 602, 608-610 [248 P.2d 910]; *People v. Dominguez*, 256 Cal.App.2d 623, 629 [64 Cal.Rptr. 290]; *People v. Williams*, 247 Cal.App.2d 394, 409-410 [55 Cal.Rptr. 550]; *People* ex rel. *Dept. of Public Works v. Mascotti*, 206 Cal.App.2d 772, 778-779 [23 Cal.Rptr. 846, 24 Cal.Rptr. 679]; *People v. Mason*, 184 Cal.App.2d 182, 187 [7 Cal.Rptr. 525].) He did not appeal the order granting the writ or move to set aside the order and vacate the writ. He has attacked only the portion of the order which, based on the stipulation, directed reinstatement of the dismissed charges. He has never urged that the order should be set aside in its entirety. Instead, he has taken advantage of ***188** the order by withdrawing his guilty pleas and proceeding to trial on the merits of all of the charges. We are satisfied that in the circumstances of this case he may not be permitted at this time to attack the order granting the writ after he has taken advantage of those portions which are favorable to him.

(3) The decision of the attorney to enter into the stipulation, even if beyond his authority, does not show that he was incompetent. The record does not show that counsel was unaware of the facts or the law applicable to the *coram nobis* proceeding, and, so far as appears from the record, the determination to enter into the stipulation may have been the wisest course to follow to secure the vacation of defendant's convictions. (Cf. *In re Hawley*, 67 Cal.2d 824, 828-829 [63 Cal.Rptr. 831, 433 P.2d 919].)

Dapper further contends that the municipal court had no jurisdiction to prosecute him under San Diego Municipal Code sections 55.30.10, 55.36, 55.30.7(c), and 55.35 because, although the provisions were in effect when the violations were allegedly committed, "on or about" June 30, 1966, the sections were repealed June 20, 1967, before the prosecution of Dapper had been reduced to final judgment in October 1967. This contention does not apply to count 4, accumulating debris so as to afford a shelter for rats, because that section has not been repealed.

(4) The law is well-established that "the outright repeal of a criminal statute without a saving clause bars prosecution for violations of the statute committed before the repeal." (*Sekt v. Justice's Court*, 26 Cal.2d 297, 304 [159 P.2d 17, 167 A.L.R. 833].) The rule applies equally to local ordinances. (*Spears v. County of Modoc*, 101 Cal. 303, 304, 307 [35 P. 869].)

(5) Respondent contends that the San Diego Municipal Code contains such a saving clause. The clause on which respondent relies reads: "Neither the adoption of this Code nor the repeal *hereby* of any Ordinance of this City shall in any manner effect [*sic*] the prosecution for violation of Ordinances, *which violations were committed prior to the effective date hereof, ...*" (San Diego Mun. Code, § 11.04; italics added.) It is patently clear that the savings clause refers to ordinances repealed *by* the code, and not to ordinances comprising the code which are subsequently repealed. It is equally clear that the "violations" referred to, prosecution for which is preserved, are violations occurring before the adoption of the code and not violations like those involved here which ***189** occurred after adoption. In brief, prosecution under the repealed ordinances in this case is not saved by section 11.04 of the San Diego Municipal Code. [FN2]

> FN2 In contrast, the savings clause in section 9608 of the Government Code, would preserve the prosecution of offenses in circumstances such as those in the instant case: "The termination or suspension (by whatsoever means effected) of any law creating a criminal offense does not constitute a bar to the indictment or information and punishment of an act already committed in violation

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> of the law so terminated or suspended, unless the intention to bar such indictment or information and punishment is expressly declared by an applicable provision of law."

Respondent next contends that, even absent a valid savings clause, Dapper can be prosecuted under the repealed municipal code sections because San Diego Municipal Code Ordinance 9651 (new series), which repealed the challenged sections, simultaneously enacted the Uniform Fire Code, which, respondent asserts, contains substantially the same provisions as those in the repealed sections.

(6) It is established that the rule which bars prosecution under a repealed law for offenses occurring before repeal does not apply "where there is an outright repeal and a substantial reenactment," because it will be presumed that the legislative body "did not intend that there should be a remission of crimes not reduced to final judgment." (*Sekt v. Justice's Court, supra,* 26 Cal.2d 297, 306.) (7) "When a statute, although new in form, re-enacts an older statute without substantial change, even though it repeals the older statute, the new statute is but a continuation of the old. There is no break in the continuous operation of the old statute, and no abatement of any of the legal consequences of acts done under the old statute. Especially does this rule apply to the consolidation, revision, or codification of statutes, because, obviously, in such event the intent of the Legislature is to secure clarification, a new arrangement of clauses, and to delete superseded provisions, and not to affect the continuous operation of the law." (*Sobey v. Molony,* 40 Cal.App.2d 381, 385 [104 P.2d 868]; see also, *Pacific Mail S.S. Co. v. Joliffe* (1864) 69 U.S. (2 Wall.) 450, 458 [17 L.Ed. 805]; *Cort v. Steen,* 36 Cal.2d 437, 440 [224 P.2d 723]; *Perkins Mfg. Co. v. Clinton Constr. Co.,* 211 Cal. 228, 236 [295 P. 1, 75 A.L.R. 439]; *Carter v. Stevens,* 208 Cal. 649, 651 [284 P. 217]; *San Joaquin etc. Irr. Co. v. Stevinson,* 164 Cal. 221, 234 [128 P. 924]; *Wayne v. Bureau of Private Investigators & Adjusters,* 201 Cal.App.2d 427, 438-439 [20 Cal.Rptr. 194]; *Orange County Water Dist. v. Farnsworth,* 138 Cal.App.2d 518, 524-525 [292 P.2d 927]; ***190***People v. Atkinson,* 115 Cal.App.2d 425, 426-427 [252 P.2d 67]; *Jones v. City of South San Francisco,* 96 Cal.App.2d 427, 432-433 [216 P.2d 25].)

Preliminarily, we note that the entire San Diego Municipal Code-both the repealed sections and the portions of the Uniform Fire Code which replaced the repealed sections-are subject to section 11.12 of that code, captioned "Violations-A Misdemeanor," which states: "It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code." The punishment provided by the section for either violating a provision or failing to comply with any mandatory requirement is a fine of not more than $500 or imprisonment in jail for not more than six months, or both.

Section 11.12 makes clear that an act is subject to punishment whether the language be, for example, "It is unlawful to. ..." or, "No person shall. ..." Since section 11.12 was neither amended nor repealed, it is clear that the punishment is the same for violation of either the repealed or the new sections.

(8, 9) A comparison of the repealed sections and the new sections based on, or incorporated by reference to, the Uniform Fire Code, convinces us that, as respondent contends, section 55.36 (count 2) has been substantially reenacted and may be considered to be continuous in operation from the date the section was originally adopted; but contrary to respondent's contention, section 55.30.10 (count 1), section 55.30.7(c) (count 3) and section 55.35 (count 5) have not been substantially reenacted, and therefore no prosecution may be validly maintained against Dapper for violation of those sections.

1. Section 55.30.7(c) stated: "It shall be unlawful ... To keep ... lumber ... without ... a permit from the Fire Marshal." Respondent cites us to no comparable provision contained in the provisions of the Uniform Fire Code, as adopted by San Diego Ordinance 9651 (new series).

(10) 2. With respect to former section 55.30.10 respondent urges that its provisions have been substantially reenacted by sections 27.05a and 1.44 of the Uniform Fire Code (UFC), incorporated by reference into the San Diego Municipal Code. Although the list of items, "accumulation" of which is prohibited in both the repealed and the new sections, contains many of the same items, one significant item-"broken ***191** wood"-has been omitted from the prohibited list of items in the new section. [FN3]

FN3 Repealed section 55.30.10 stated: "Any

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> accumulation of combustible or inflammable material, boxes, broken wood, trash, waste paper, rags, or other debris of any kind ... is ... prohibited, ..."
>
> Section 27.05a of the Uniform Fire Code (incorporated by reference in § 55.1 of Ord. 9651 (new series) of the San Diego Mun. Code) prohibits: "Accumulations of waste paper, hay, grass, straw, weeds, litter or combustible or flammable waste [which includes, under UFC, § 1.44: 'magazines, books, trimmings from lawns, trees, flower gardens, pasteboard boxes, rags, paper, straw, sawdust, packing material, shavings, boxes ... rubbish and refuse ....']."

The information against Dapper charging him in count 1 with the violation of section 55.30.10, specified, inter alia, the accumulation of "broken wood."

Thus, both the section as written and as charged involves an offense, accumulating "broken wood," that is no longer punishable. We must hold that the rule of *Sekt v. Justice's Court, supra,* 26 Cal.2d 297, 304, applies, and the prosecution of Dapper is barred by the "outright repeal of a criminal statute."

(11) 3. Respondent contends that section 55.35 has been substantially reenacted by section 27.05a, discussed above. Section 55.35 made it unlawful to allow any "vacant land, yard or premises" to "be overrun or overgrown with noxious or dangerous weeds." Section 27.05a states that "Accumulations of ... weeds ... shall not be permitted to remain ... in any court, yard, vacant lot or open space," and that "All weeds ... when same endangers property ... shall be cut down and removed. ..."

Although section 27.05a requires that "weeds" be cut down only when property is endangered, repealed section 55.35 required that "noxious" weeds be cut down, whether or not the weeds are dangerous. The phrase "noxious weeds" has a meaning distinct and different from "weeds ... [which] endanger property." In California, " 'Noxious weed' means any species of plant which is, or is liable to be, detrimental or destructive and difficult to control or eradicate." (Agr. Code, § 52256.) "Primary noxious weeds" consist of 13 specified species (Agr. Code, § 52257), while "secondary noxious weeds" refers to all other species of noxious weeds (Agr. Code, § 52258).

The purpose of the provisions of section 27.05a (contained in the UFC) is to prevent fires. Thus, any "accumulations" ***192** of weeds-that is, cut-down or loose weeds-and other loose items are prohibited, while growing weeds are prohibited only when they endanger property. In contrast, section 55.35 contained no mention of cut-down weeds, but did prohibit certain types of growing weeds.

In sum, neither the prohibitions nor the purpose of section 55.35 are reenacted by section 27.05a. Dapper was charged with allowing his property to be overrun with "noxious or dangerous weeds." It is no longer an offense to allow property to be overrun with "noxious" weeds. The conviction for violating section 55.35 (count 5) must also be reversed.

Finally, respondent contends that repealed section 55.36 was substantially reenacted by section 27.36 of the Uniform Fire Code, included as section 55.27.36 of the San Diego Municipal Code. We agree. The sections are virtually identical. [FN4]

> FN4 Section 55.36 stated: "It shall be unlawful for any person to dump or throw rubbish of any kind upon any lot or tract of land ... except by the written permission of the City Council; and it shall be unlawful ... to place or allow to be placed, or allow to remain on any premises ... such rubbish without the written permission of the City Council."
>
> Section 27.36 of the Uniform Fire Code states: "No person shall dump or throw rubbish of any kind upon any lot or tract of land ... except by the written permission of the City Council; and no occupant or owner of any premises shall place or allow to be placed, or allow to remain on said premises such rubbish without the written permission of the City Council."

In summary, Dapper was convicted of five counts of violating the San Diego Municipal Code. The convictions on count 1 (violation of § 55.30.10), count 3 (§ 55.30.7(c)) and count 5 (§ 55.35) are invalid, because the sections have been repealed and have not been substantially reenacted by any provisions of ordinance

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

9651 (new series) of the San Diego Municipal Code. The conviction on count 2 (violation of § 55.36) is valid, because the repealed section was substantially reenacted by provisions of ordinance 9651 of the San Diego Municipal Code. The conviction on count 4 (violation of § 44.0350) is valid; that section has not been repealed.

Dapper's further contentions that he was denied a fair trial, was inadequately represented by counsel, was convicted based on false testimony, and was subject to cruel and unusual punishment, are without merit.

Because of our disposition of this matter, we need not reach Dapper's final contention that the sentences imposed on ***193** counts 1 and 5 are cumulative punishment for the same offense, in violation of section 654 of the Penal Code. [FN5]

> FN5 Dapper has not been sentenced on either of the valid convictions (counts 2 and 4). It would be premature for this court to decide whether separate sentences for these counts would violate section 654. We must assume that any sentence imposed by the trial court will be consistent with the requirements of section 654.

The writ is granted. The Appellate Department of the Superior Court of San Diego County is directed to recall the remittitur in case number Crim. 12056 to vacate the convictions and judgments on count 1 and count 5, to vacate the conviction on count 3, and to remand the case to the municipal court to enter judgment on count 2 and count 4 in accordance with the views expressed herein.

Traynor, C. J., Tobriner, J., Mosk, J., Burke, J., and Sullivan, J., concurred.
McCOMB, J.

I concur in that part of the opinion that upholds the convictions on counts 2 and 4. I dissent from that part of the opinion that directs the court to vacate the convictions and judgments on counts 1 and 5 and to vacate the conviction on count 3.

Petitioner's application for a rehearing was denied June 25, 1969. ***194**

Cal.
In re Dapper
71 Cal.2d 184, 454 P.2d 905, 77 Cal.Rptr. 897

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Supreme Court of the United States
Sally M. REED, Appellant,
v.
Cecil R. REED, Administrator, etc.

No. 70-4.
Argued Oct. 19, 1971.
Decided Nov. 22, 1971.

Proceedings on separate petitions by mother and father of decedent for administration of decedent's estate. The Idaho Supreme Court, 93 Idaho 511, 465 P.2d 635, reversed order of the District Court of the Fourth Judicial District and reinstated original order of the probate court which named the father administrator of the estate. The mother appealed. The Supreme Court, Mr. Chief Justice Burger, held that Idaho statute which provides that as between persons equally qualified to administer estates males must be preferred to females, is based solely on a discrimination prohibited by and is violative of the equal protection clause of the Fourteenth Amendment.

Reversed and remanded.

For opinion after remand see 493 P.2d 701.

West Headnotes

[1] Constitutional Law 92 3384

92 Constitutional Law
92XXVI Equal Protection
92XXVI(B) Particular Classes
92XXVI(B)11 Sex or Gender
92k3384 k. Property in general. Most Cited Cases
(Formerly 92k224(2), 92k224)

Executors and Administrators 162 17(1)

162 Executors and Administrators
162II Appointment, Qualification, and Tenure
162k17 Right to Appointment as Administrator
162k17(1) k. In general. Most Cited Cases

Idaho statute which provides that as between persons equally qualified to administer estates males must be preferred to females, is based solely on a discrimination prohibited by and is violative of the equal protection clause of the Fourteenth Amendment. I.C. §§ 15-312, 15-314; U.S.C.A.Const. Amend. 14; Const.Idaho art. 1, § 1.

[2] Evidence 157 43(1)

157 Evidence
157I Judicial Notice
157k43 Judicial Proceedings and Records
157k43(1) k. In general. Most Cited Cases

Court would take judicial notice that in the United States, presumably due to greater longevity of women, large proportion of estates, both intestate and testate, are administered by surviving widows. I.C. §§ 15-312, 15-314.

[3] Constitutional Law 92 3039

92 Constitutional Law
92XXVI Equal Protection
92XXVI(A) In General
92XXVI(A)5 Scope of Doctrine in General
92k3038 Discrimination and Classification
92k3039 k. In general. Most Cited Cases
(Formerly 92k3053, 92k211)

Constitutional Law 92 3057

92 Constitutional Law
92XXVI Equal Protection
92XXVI(A) In General
92XXVI(A)6 Levels of Scrutiny
92k3052 Rational Basis Standard; Reasonableness
92k3057 k. Statutes and other written regulations and rules. Most Cited Cases
(Formerly 92k213.1(2))

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

The equal protection clause of the Fourteenth Amendment does not deny to states the power to treat different classes of persons in different ways; the clause does, however, deny to states the power to legislate that different treatment be accorded to persons placed by statute into different classes on basis of criteria wholly unrelated to the objective of that statute. U.S.C.A.Const. Amend. 14.

[4] Constitutional Law 92 3057

92 Constitutional Law
92XXVI Equal Protection
92XXVI(A) In General
92XXVI(A)6 Levels of Scrutiny
92k3052 Rational Basis Standard; Reasonableness
92k3057 k. Statutes and other written regulations and rules. Most Cited Cases
(Formerly 92k213.1(2), 92k211)

In order not to violate the equal protection clause, statutory classification must be reasonable, not arbitrary, and must rest on some ground of difference having fair and substantial relation to the object of legislation, so that all persons similarly circumstanced shall be treated alike. U.S.C.A.Const. Amend. 14.

[5] Constitutional Law 92 3384

92 Constitutional Law
92XXVI Equal Protection
92XXVI(B) Particular Classes
92XXVI(B)11 Sex or Gender
92k3384 k. Property in general. Most Cited Cases
(Formerly 92k224(2), 92k224)

To give mandatory preference to members of either sex over members of the other, merely to accomplish the elimination of hearings on the merits on application for appointment to administer an estate, violates the equal protection clause of the Fourteenth Amendment; the choice may not lawfully be mandated solely on basis of sex. I.C. §§ 15-312, 15-314; U.S.C.A.Const. Amend. 14; Const.Idaho art. 1, § 1.

****251** Syllabus [FN*]

FN* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Lumber Co., 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

***71** A mandatory provision of the Idaho probate code that gives preference to men over women when persons of the same entitlement class apply for appointment as administrator of a decedent's estate is based solely on a discrimination prohibited by and therefore violative of the Equal Protection Clause of the Fourteenth Amendment.

93 Idaho 511, 465 P.2d 635, reversed and remanded.
Allen R. Derr, Boise, Idaho, for appellant.

****252** Charles S. Stout, Boise, Idaho, for appellee.

Mr. Chief Justice BURGER delivered the opinion for a unanimous Court.

Richard Lynn Reed, a minor, died intestate in Ada County, Idaho, on March 29, 1967. His adoptive parents, who had separated sometime prior to his death, are the parties to this appeal. Approximately seven months after Richard's death, his mother, appellant Sally Reed, filed a petition in the Probate Court of Ada County, ***72** seeking appointment as administratrix of her son's estate. [FN1] Prior to the date set for a hearing on the mother's petition, appellee Cecil Reed, the father of the decedent, filed a competing petition seeking to have himself appointed administrator of the son's estate. The probate court held a joint hearing on the two petitions and thereafter ordered that letters of administration be issued to appellee Cecil Reed upon his taking the oath and filing the bond required by law. The court treated §§ 15-312 and 15-314 of the Idaho Code as the controlling statutes and read those sections as compelling a preference for Cecil Reed because he was a male.

FN1. In her petition, Sally Reed alleged that her son's estate, consisting of a few items of personal property and a small savings account, had an aggregate value of less than $1,000.

Section 15-312 [FN2] designates the persons who are entitled to administer the estate of one who dies in-

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

testate. In making these designations, that section lists 11 classes of persons who are so entitled and provides, in substance, ***73** that the order in which those classes are listed in the section shall be determinative of the relative rights of competing applicants for letters of administration. One of the 11 classes so enumerated is '(t)he father or mother' of the person dying intestate. Under this section then appellant and appellee, being members of the same entitlement class, would seem to have been equally entitled to administer their son's estate. Section 15-314 provides, however, that

> FN2. Section 15-312 provides as follows:
>
> 'Administration of the estate of a person dying intestate must be granted to some one or more of the persons hereinafter mentioned, and they are respectively entitled thereto in the following order:
>
> '1. The surviving husband or wife or some competent person whom he or she may request to have appointed.
>
> '2. The children.
>
> '3. The father or mother.
>
> '4. The brothers.
>
> '5. The sisters.
>
> '6. The grandchildren.
>
> '7. The next of kin entitled to share in the distribution of the estate.
>
> '8. Any of the kindred.
>
> '9. The public administrator.
>
> '10. The creditors of such person at the time of death.
>
> '11. Any person legally competent.
>
> 'If the decedent was a member of a partnership at the time of his decease, the surviving partner must in no case be appointed administrator of his estate.'
>
> '(o)f several persons claiming and equally entitled (under s 15-312) to administer, males must be preferred to females, and relatives of the whole to those of the helf blood.'

In issuing its order, the probate court implicitly recognized the equality of entitlement of the two applicants under s 15-312 and noted that neither of the applicants was under any legal disability; the court ruled, however, that appellee, being a male, was to be preferred to the female appellant 'by reason of Section 15-314 of the Idaho Code.' In stating this conclusion, the probate judge gave no indication that he had attempted to determine the relative capabilities of the competing applicants to perform the functions incident to the administration of an estate. It seems clear the probate judge considered himself bound by statute to give preference to the male candidate over the female, each being otherwise 'equally entitled.'

Sally Reed appealed from the probate court order, and her appeal was treated by the District Court of the Fourth Judicial District of Idaho as a constitutional attack on s 15-314. In dealing with the attack, that court held that the challenged ****253** section violated the Equal Protection Clause of the Fourteenth Amendment [FN3] and was, therefore,***74** void; the matter was ordered 'returned to the Probate Court for its determination of which of the two parties' was better qualified to administer the estate.

> FN3. The court also held that the statute violated Art. I, s 1, of the Idaho Constitution.

This order was never carried out, however, for Cecil Reed took a further appeal to the Idaho Supreme Court, which reversed the District Court and reinstated the original order naming the father administrator of the estate. In reaching this result, the Idaho Supreme Court first dealt with the governing statutory law and held that under s 15-312 'a father and mother are 'equally entitled' to letters of administration,' but the preference given to males by s 15-314 is 'mandatory' and leaves no room for the exercise of a probate court's discretion in the appointment of administrators. Having thus definitively and authoritatively interpreted the statutory provisions involved, the Idaho Supreme Court then proceeded to examine, and reject, Sally Reed's contention that s 15-314 violates the

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

Equal Protection Clause by giving a mandatory preference to males over females, without regard to their individual qualifications as potential estate administrators. 93 Idaho 511, 465 P.2d 635.

[1] Sally Reed thereupon appealed for review by this Court pursuant to 28 U.S.C. § 1257(2), and we noted probable jurisdiction. 401 U.S. 934, 91 S.Ct. 917, 28 L.Ed.2d 213. Having examined the record and considered the briefs and oral arguments of the parties, we have concluded that the arbitrary preference established in favor of males by s 15-314 of the Idaho Code cannot stand in the face of the Fourteenth Amendment's command that no State deny the equal protection of the laws to any person within its jurisdiction. [FN4]

> FN4. We note that s 15-312, set out in n. 2, supra, appears to give a superior entitlement to brothers of an intestate (class 4) than is given to sisters (class 5). The parties now before the Court are not affected by the operation of s 15-312 in this respect, however, and appellant has made no challenge to that section.
>
> We further note that on March 12, 1971, the Idaho Legislature adopted the Uniform Probate Code, effective July 1, 1972. Idaho Laws 1971, c. 111, p. 233. On that date, ss 15-312 and 15-314 of the present code will, then, be effectively repealed, and there is in the new legislation no mandatory preference for males over females as administrators of estates.

***75** [2] Idaho does not, of course, deny letters of administration to women altogether. Indeed, under s 15-312, a woman whose spouse dies intestate has a preference over a son, father, brother, or any other male relative of the decedent. Moreover, we can judicially notice that in this country, presumably due to the greater longevity of women, a large proportion of estates, both intestate and under wills of decedents, are administered by surviving widows.

Section 15-314 is restricted in its operation to those situations where competing applications for letters of administration have been filed by both male and female members of the same entitlement class established by s 15-312. In such situations, s 15-314 provides that different treatment be accorded to the applicants on the basis of their sex; it thus establishes a classification subject to scrutiny under the Equal Protection Clause.

[3][4] In applying that clause, this Court has consistently recognized that the Fourteenth Amendment does not deny to States the power to treat different classes of persons in different ways. Barbier v. Connolly, 113 U.S. 27, 5 S.Ct. 357, 28 L.Ed. 923 (1885); Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 31 S.Ct. 337, 55 L.Ed. 369 (1911); Railway Express Agency v. New York, 336 U.S. 106, 69 S.Ct. 463, 93 L.Ed. 533 (1949); McDonald v. Board of Election Commissioners, 394 U.S. 802, 89 S.Ct. 1404, 22 L.Ed.2d 739 (1969). The Equal Protection Clause of that amendment ****254** does, however, deny to States the power to legislate that different treatment be accorded to persons placed by a statute into ***76** different classes on the basis of criteria wholly unrelated to the objective of that statute. A classification 'must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.' Royster Guano Co. v. Virginia, 253 U.S. 412, 415, 40 S.Ct. 560, 561, 64 L.Ed. 989 (1920). The question presented by this case, then, is whether a difference in the sex of competing applicants for letters of administration bears a rational relationship to a state objective that is sought to be advanced by the operation of ss 15-312 and 15-314.

In upholding the latter section, the Idaho Supreme Court concluded that its objective was to eliminate one area of controversy when two or more persons, equally entitled under s 15-312, seek letters of administration and thereby present the probate court 'with the issue of which one should be named.' The court also concluded that where such persons are not of the same sex, the elimination of females from consideration 'is neither an illogical nor arbitrary method devised by the legislature to resolve an issue that would otherwise require a hearing as to the relative merits * * * of the two or more petitioning relatives * * *.' 93 Idaho, at 514, 465 P.2d, at 638.

[5] Clearly the objective of reducing the workload on probate courts by eliminating one class of contests is not without some legitimacy. The crucial question, however, is whether s 15-314 advances that objective

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

in a manner consistent with the command of the Equal Protection Clause. We hold that it does not. To give a mandatory preference to members of either sex over members of the other, merely to accomplish the elimination of hearings on the merits, is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment; and whatever may be ***77** said as to the positive values of avoiding intrafamily controversy, the choice in this context may not lawfully be mandated solely on the basis of sex.

We note finally that if s 15-314 is viewed merely as a modifying appendage to s 15-312 and as aimed at the same objective, its constitutionality is not thereby saved. The objective of s 15-312 clearly is to establish degrees of entitlement of various classes of persons in accordance with their varying degrees and kinds of relationship to the intestate. Regardless of their sex, persons within any one of the enumerated classes of that section are similarly situated with respect to that objective. By providing dissimilar treatment for men and women who are thus similarly situated, the challenged section violates the Equal Protection Clause. Royster Guano Co. v. Virginia, supra.

The judgment of the Idaho Supreme Court is reversed and the case remanded for further proceedings not inconsistent with this opinion.

Reversed and remanded.

U.S.Idaho 1971.
Reed v. Reed
404 U.S. 71, 92 S.Ct. 251, 30 L.Ed.2d 225

END OF DOCUMENT

© 2011 Thomson Reuters. No Claim to Orig. US Gov. Works.

264 Cal.App.2d 576, 70 Cal.Rptr. 654, 5 UCC Rep.Serv. 907
(Cite as: 264 Cal.App.2d 576)

NORRIS F. RIEBE, Plaintiff, Cross-defendant and Appellant
v.
BUDGET FINANCIAL CORPORATION, Defendant, Cross-complainant and Respondent.
MOODY-McCLOUD, INC. et al., Plaintiffs, Cross-defendants and Appellants,
v.
BUDGET FINANCIAL CORPORATION, Defendant, Cross-complainant and Respondent.
(Consolidated Appeals.)
Civ. No. 31391., Civ. No. 31392.

Court of Appeal, Second District, Division 3, California.
Aug. 1, 1968.

HEADNOTES

(1) Pawn and Personal Property Brokers § 6--Real Estate as Security for Loan.
Personal property brokers are restricted generally from taking liens on real estate as security for a loan by Fin. Code, § 22466.
See **Cal.Jur.2d,** Pawn and Personal Property Brokers, § 14.

(2) Pawn and Personal Property Brokers § 6--Applicability of Statutes.
The terms 'bona fide' and 'purpose of evading this division' used in Fin. Code, § 22053, providing that certain sections of the Personal Property Brokers Law, including § 22466, forbidding loans secured by liens upon real estate, are inapplicable to loans over $5,000, refer to the determination of the amount of the loan and not the character of the security given therefor. (Fin. Code, § 22054).

(3a, 3b) Pawn and Personal Property Brokers § 6--Applicability of Statutes--Pleadings.
In an action attacking a loan transaction by a personal property broker as usurious, the pleadings established as a matter of law that the restrictive provisions of the Personal Property Brokers Law made inapplicable to loans of $5,000 or more by Fin. Code, § 22053, were inapplicable to the loan attacked, where the pleadings established without dispute that the borrowers applied for and received from defendant, a personal property broker, a loan and additions thereto greatly in excess of $5,000, and did not suggest that the amount of the loan involved was determined by other than economic considerations.

(4) Pawn and Personal Property Brokers § 6--Applicability of Personal Property Brokers Law.
Under Fin. Code, § 22054, subd. (c), providing that the fact that the transaction is in the form of a sale of instruments shall not be deemed to affect the bona fides of the loan or the amount thereof, or to indicate that the provisions of Fin. Code, § 22053, are used for the purpose of evading the Personal Property Brokers Law, and that 'instruments' have the same meaning as in the Commercial Code, in actions attacking as usurious loans made by defendant personal property broker to a homebuilder, secured by assignment of notes secured in turn by deeds of trust, the Commercial Code applied to defendant's security interest in the notes (Com. Code, § 9102, subd (3)), and no inference of lack of bona fides could be made from the fact that the notes assigned to defendant as security were in turn secured by real property, nor could significance be attached to the fact that Fin. Code, § 22054, subd. (c), refers to a 'sale' of instruments rather than an assignment of instruments.

(5) Pawn and Personal Property Brokers § 7--Interest.
In actions attacking as usurious defendant personal property broker's loan to a home builder secured by personal property of nominal value and by notes secured by deeds of trust representing a portion of the purchase price of homes sold by the borrower, defendant could rely on its status as a personal property broker to exempt it from the usury law where, although part of the security consisted of the assignment to defendant of deeds of trust on houses sold by the borrower to customers, another part of the security consisted of the assignment of the purchase money notes of the purchasers of the houses which were personal property representing income of the borrowers and properly taken by defendant as security for a loan made in the course of its business as a personal property broker.

(6a, 6b) Pawn and Personal Property Brokers § 6--Loans to Which Statutes Applicable.
Cal Const., art. XX, § 22, exempts from the operation of the usury law duly licensed personal property bro-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

kers; the term 'personal property brokers' used in the Constitution refers to the class of lenders defined in the Personal Property Brokers Act of 1933 (identical with the definition found in Fin. Code, § 22009); and the language of the statutory definition in no way indicates an intention to confine its application to personal as opposed to business loans thus denoting and intending to include in the category of personal property brokers those lenders who accept as security a lien on the business income of the borrowers.

(7) Statutes § 126--Construction and Interpretation--Language of Statute-- Determination of Legislative Intent From Language Used.
There can be no intent in a statute not expressed in its words, and there can be no intent on the part of the framers of a statute which does not find expression in their words.
See **Cal.Jur.2d,** Statutes, § 136 et seq; **Am.Jur.** Statutes (1st ed § 27 et seq).
(8) Statutes § 176.5--Construction and Interpretation--Aids to Construction--Reports of Commissions.
In confirming an interpretation of the Personal Property Brokers Act of 1933, the court may properly look to the report of the interim committee appointed by the Assembly in 1933 'to investigate the problems attending the regulation of the business of commercial loans and to recommend legislation ...'
See **Cal.Jur.2d,** Statutes, § 168; **Am.Jur.,** Statutes (1st ed § 334).
(9) Words and Phrases--'Income.'
The 'income' of a person engaged in business is that which comes in or is received without reference to the outgoing expenditures.

(10) Pawn and Personal Property Brokers § 6--Collateral Includable in Loans.
Fin. Code, § 22009, designating the persons includable in the term 'personal property broker', seeks to define certain categories of collateral not usually acceptable to commercial banks, and an assignment of income as security satisfies the statutory purpose whether the income assigned is 'gross' or 'net.'

(11) Pawn and Personal Property Brokers § 6--Collateral.
Collateral notes represented 'income' to the borrowers in the broad sense in which that term is used in the Personal Property Brokers Law where the notes which were assigned as collateral to the lender represented a portion of the purchase price of houses sold by the borrower in the course of business of building and selling houses.

(12) Pawn and Personal Property Brokers § 6--Nature of Collateral.
The character of collateral notes as valid security under Fin. Code, § 22009, designating persons includable in the term 'personal property broker' is not changed by the fact that the notes are themselves secured by liens on real property.

(13) Pawn and Personal Property Brokers § 7--Interest.
The allowance of higher interest rates to personal property brokers is justified by the great costs of investigation and administration involved in operating a small loan business, and the fact that personal property is less valuable as security than real property; thus, many of the reasons for treating personal property brokers as a distinct class of lender existed with respect to the business of lending to a home builder on the security of collateral notes secured by deeds of trust representing a portion of the purchase price of homes sold by the borrower.

(14) Pawn and Personal Property Brokers § 6--Lenders Included.
The use of the term 'in whole or in part' in the definition of personal property broker indicates an intention to include therein not only lenders whose security consists entirely of liens on the kind of personal property enumerated, but also those whose loans are only partly so secured; thus the presence of deeds of trust as part of the security taken by a lender to secure loans to a home builder also secured by personal property of nominal value, did not disqualify the transaction as a personal property broker's loan.

(15) Pawn and Personal Property Brokers § 6--Actions--Judgment on Pleadings.
In actions attacking as usurious defendant personal property broker's loans to a home builder secured by personal property of nominal value and by notes secured by deeds of trust representing a portion of the purchase price of homes sold by the borrower, defendant's motions for judgment on the pleadings had the purpose and effect of general demurrers to be tested by the same rules on review, and it was proper to grant defendant's motions for judgment on the pleadings where the complaints stated no basis for relief other than the alleged invalidity of the loans as

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

personal property broker's transactions and failed to state a cause of action, the loans not being invalid as alleged.

SUMMARY

APPEALS from judgments of the Superior Court of Los Angeles County. Brodie Ahlport, Judge. Affirmed.

Actions attacking loan transactions as usurious. Judgments for defendant affirmed.

COUNSEL

Joseph R. Laird for Plaintiffs, Cross-defendants and Appellants.

David M. Turner for Defendant, Cross-complainant and Respondent.

MOSS, J.

Plaintiffs appeal from judgments on the pleadings rendered in favor of defendant and cross-complainant Budget Financial Corporation ('Budget'). In this opinion we consider whether a loan made by a personal property broker to a home builder is void as usurious because the security upon which the lender relied consists of notes secured by deeds of trust which represent a portion of the purchase price of homes sold by the borrower. The complaints allege: On August 1, 1963, Budget, a licensed personal property broker, made a loan to plaintiffs Moody-McCloud, et al., ('the borrowers') of $59,567.76 bearing interest at the rate of 12 percent per year and secured by a chattel mortgage covering furniture and furnishings having a value of less than $1,500, an assignment of promissory notes secured by second deeds of trust on real property, and an assignment of the payments due on the assigned notes. The notes represented a portion of the sales price of houses sold by the borrowers in the course of ***580** their business of building and selling houses. [FN1] The amount of the loan was equal to 50 percent of the unpaid balance of the collateral notes assigned to secure the loan. The loan agreement pursuant to which the loan was made provided that the borrowers were eligible to borrow additional sums at the same rate of interest upon the assignment to Budget of additional collateral notes having an unpaid principal amount due equal to twice the amount of the additional loan. The agreement provided that should any additional loan be made the borrowers would execute a new note in an amount equal to the unpaid balance of the then existing obligation to defendant. The borrowers agreed to maintain the loan balance at an amount equal to not more than 50 percent of the unpaid balance of the collateral notes assigned as security. The agreement provided that the borrowers should continue to collect the installments due on the collateral notes, deposit the payments received in a trust account in Budget's name, and render a monthly accounting to Budget of the amounts so collected. The borrowers agreed to cause their records pertaining to the collateral notes to reflect the assignment of the notes and second deeds of trust to Budget. Budget recorded the instruments of assignment in the office of the county recorder. On February 17, 1964, the borrowers executed and delivered a new note to Budget in the sum of $94,725.40, which represented the principal amount then due on the loan, and as additional collateral gave to Budget a chattel mortgage on household furniture and furnishings worth $4,000. Plaintiff Riebe is the assignee of the collateral notes and deeds of trust. Plaintiffs allege that in making the loan and additions thereto Budget relied solely on the security of the deeds of trust underlying the notes assigned as collateral security.

> FN1 This fact is set forth in the judgment which states that the facts recited therein were declared in open court by all counsel to be not in dispute. The recitation of facts in the judgment appears to be in the form of a stipulation offered and accepted and an order based thereon amending the pleadings. No transcript of the oral proceedings on the motion is in the record. If appellants had believed themselves to be aggrieved by the recitals in the judgment they had the opportunity to correct any alleged error in the trial court by proper motion. They did not do so and therefore we treat the recitations in the judgment as amendments to the pleadings.

Plaintiffs Moody-McCloud, et al., the borrowers, prayed for rescission, return of the interest paid and treble damages on the ground that the transaction was usurious. Plaintiff Riebe sought a declaration on the same ground that he is entitled to have the collateral notes and deeds of trust assigned to him ***581** and an

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

injunction forbidding Budget from selling the collateral notes for an amount less than the principal amount thereof.

In its cross-complaint Budget alleged that the borrowers were in default on their note, and that the principal amount then due was $54,033.30. [FN2] Budget prayed for judgment in this amount and possession of the property described in the two chattel mortgages.

> FN2 The amount due was admitted by appellants in open court and recited in the judgment. See footnote 1.

Appellants contend that the contract of loan is void on the ground that the loan violated the usury provisions contained in article XX, section 22 of the California Constitution [FN3] and the Personal Property Brokers Law, (Financial Code, division 9, §§ 22000-22653 (unless otherwise specified, all stautory references will be to the Financial Code)) [FN4] by reason of the fact that the loan was secured by personal property having ***582** only nominal value and that the only security for the loan in reality consisted of liens on real property. Appellants argue more particularly that section 22053 of the Financial Code, which exempts from certain restrictions of the Personal Property Brokers Law, bona fide loans in excess of $5,000, was used by Budget for the purpose of evading the restriction against lending on the security of real property.

> FN3 Article XX, section 22 of the California Constitution, adopted November 6, 1934, provides in part as follows: 'The rate of interest upon the loan or forbearance of any money ... shall be 7 per cent per annum but it shall be competent for the parties to any loan or forbearance of any money ... to contract in writing for a rate of interest not exceeding 10 per cent per annum. ...
>
> 'However, none of the above restrictions shall apply to any building and loan association ... or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled 'An act defining industrial loan companies ...' approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled 'An act defining credit unions ...' approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any bank ... or any nonprofit cooperative association organized under Chapter 4 of Division 6 of the Agricultural Code ... or any corporation ... engaged exclusively in the business of marketing agricultural ... products on a cooperative nonprofit basis in loaning ... money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled, 'Agricultural Credits Act of 1923,' as amended ..., nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonus, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan ... of any money. ...'

> FN4 Section 22651. 'If any amount other than or in excess of the charges permitted by this division is charged, contracted for, or received, except as the result of an accidental and bona fide error in computation, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.'
>
> Section 22652. 'Except as provided in Section 22651, if any provision of this division is violated in the making or collection of a loan, the contract of loan is void, and no person has any right to collect or receive any principal, interest, or charges in connection with the transaction.'

(1) Personal property brokers are restricted generally from taking liens upon real estate as security for a loan by section 22466. [FN5] Section 22053 provides that

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

certain sections of the Personal Property Brokers Law, including section 22466, 'do not apply to any bona fide loan of a principal amount of five thousand dollars ($5,000) or more or to a duly licensed personal property broker in connection with any such loan, if the provisions of this section are not used for the purpose of evading this division. ...'

> FN5 Section 22466. 'No licensee shall take a lien upon real estate as security for any loan made under this division, except such lien as is created by law upon the recording of an abstract of judgment.'

(2) Section 22054, enacted in 1967, [FN6] makes clear that the terms 'bona fide' and 'purpose of evading this division' ***583** used in section 22053 refer to the determination of the amount of the loan and not the character of the security given therefor. Section 22054 is consistent with a prior judicial interpretation of a provision similar to section 22053 contained in the Industrial Loan Law. (See *Peoples Finance & Thrift Co. of Beverly Hills v. Mike-Ron Corp., Inc.*, 236 Cal.App.2d 897 [46 Cal.Rptr. 497], interpreting § 18649.) (3a) The pleadings establish without dispute that the borrowers applied for and received from Budget a loan and additions thereto greatly in excess of $5,000. Appellants do not suggest and have not in their complaints or otherwise at any time in these proceedings suggested that the amount of the loan here involved was determined by other than economic considerations.

> FN6 Section 22054. 'In determining under Section 22053 whether a loan is a bona fide loan of a principal amount of five thousand dollars ($5,000) or more and whether the provisions of that section are used for the purpose of evading this division, the following principles apply:
>
> (a) If a borrower applies for a loan in a principal amount of less than five thousand dollars ($5,000), and a loan to that borrower of a principal amount of five thousand dollars ($5,000) or more is made by a licensed personal property broker, and
>
> (1) No adequate economic reason for the increase in the size of the loan exists, and
>
> (2) By prearrangement or understanding between the borrower and the licensee a substantial payment is to be made upon the loan with the effect of reducing the principal amount of the loan to less than five thousand dollars ($5,000) within a short time after the making of the loan other than by reason of a requirement that the loan be paid in substantially equal periodical installments, then
>
> the loan shall not be deemed to be a bona fide loan of the principal amount of five thousand dollars ($5,000) or more and the provisions of Section 22053 shall be deemed to be used for the purpose of evading this division unless the loan complies with the provisions of this division relating to loans of less than five thousand dollars ($5,000).
>
> (b) An individual advance of money of less than five thousand dollars ($5,000) pursuant to a revolving loan agreement or similar agreement between a borrower and a licensed personal property broker, or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount, shall be deemed to be loan of a principal amount of five thousand dollars ($5,000) or more if the total unpaid principal amount of all loans owing by the borrower to the licensed personal property broker at the time of any such advance is five thousand dollars ($5,000) or more.
>
> (c) If a loan made by a licensed personal property broker is in a principal amount of five thousand dollars ($5,000) or more, the fact that the transaction is in the form of a sale of accounts, chattel paper, contract rights, goods or instruments or a lease of goods shall not be deemed to affect the bona fides of the loan or the amount thereof or to indicate that the provisions of Section 22053 are used for the purpose of evading this division. As used herein, 'accounts,' 'chattel power,' 'contract rights,' 'goods' and 'instruments' shall have the same meaning as in the Commercial Code.
>
> *This section shall be deemed declaratory of*

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> *existing law and not amendatory thereof.'* (Italics added.)

Furthermore, section 22054, subdivision (c) provides that 'the fact that the transaction is in the form of a sale of ... instruments ... shall not be deemed to affect the bona fides of the loan or the amount thereof or to indicate that the provisions of Section 22053 are used for the purpose of evading this division. As used herein ... 'instruments' shall have the same meaning as in the Commercial Code.' (4) Division 9 of the Commercial Code does not apply to liens on real estate (Com. Code, § 9104, subd. (j)), but it does apply to a security interest in a secured obligation which in turn is secured by a lien on real estate. (Com. Code, § 9102, subd. (3). [FN7] The Commercial Code applies, therefore, to the security interest of Budget in the collateral notes. That being ***584** so, no inference of lack of bona fides can be made from the fact that the notes assigned to Budget as security were in turn secured by liens on real property. No significance can be attached to the fact that section 22054, subdivision (c) refers to a 'sale' of instruments whereas this case involves an assignment of instruments. The form of the transaction here is more like that of the customary bona fide loan than it would have been had the transaction taken the form of a sale of the collateral notes to Budget with corollary guarantees, buy-back, or similar agreements by the borrowers. (3b) Therefore, the pleadings establish as a matter of law that the restrictive provisions of the Personal Property Brokers Law made inapplicable to loans of $5,000 or more by section 22053 are inapplicable to the loan here considered.

> FN7 Thus, the offiicial comment gives the following illustration of section 9102, subdivision (3) in comment 4:
>
> 'The owner of Blackacre borrows $10,000 from his neighbor, and secures his note by a mortgage on Blackacre. This Article is not applicable to the creation of the real estate mortgage. However, when the mortgagee in turn pledges this note and mortgage to secure his own obligation to X, this Article is applicable to the security interest thus created in the note and the mortgage. Whether the transfer of the collateral for the note, i.e., the mortgagee's interest in Blackacre, requires further action (such as recording an assignment of the mortgagee's interest) is left to real estate law. ...'

(5) Appellants argue further that because the security relied upon by Budget consisted of liens on real property and because the tangible personal property given as security for the loan had only a nominal value in relation to the amount of the loan, Budget cannot rely on its status as a personal property broker to exempt it from the usury law with respect to this transaction. This argument misconceives the nature of the security taken by Budget. Although part of the security consisted of the assignment to Budget of deeds of trust on houses sold by the borrowers to their customers, another part of the security consisted of the assignment of the purchase money notes of the purchasers of the houses. These notes are personal property (Civ. Code, §§ 14, subd. 3, 658, 663; Code Civ. Proc., § 17, subd. 3) and, as we shall explain, since they represented income of the borrowers, were properly taken by Budget as security for a loan made in the course of its business as a personal property broker.

(6a) Article XX, section 22 of the California Constitution exempts from the operation of the usury law various classes of lenders including 'duly licensed ... personal property brokers.' The term 'personal property brokers' used in the Constitution refers to the class of lenders which was defined in the Personal Property Brokers Act of 1933 at the time the constitutional provision was adopted. (*Budget Finance Plan v. Gamson,* 34 Cal.2d 95, 97 [207 P.2d 825].) The definition in that act is substantially the same as that found in the original Personal Property Brokers Act of 1909 [FN8] and identical with ***585** the definition found in section 22009 which declares, ' 'Personal property broker,' includes all who are engaged in the business of lending money and taking in the name of the lender, or in any other name, in whole or in part, as security for such loan, (1) any contract or obligation involving the forfeiture of rights in or to personal property, the use and possession of which property is retained by other than the mortgagee or lender, or (2) any lien on, assignment of, or power of attorney relative to wages, salary, earnings, income, or commission.' (Parenthetical numbers added.) (7) '[T]here can be no intent in a statute not expressed in its words, and there can be no intent upon the part of the framers of such a statute which does not find expression in their words.' (*Ex parte Goodrich,* 160 Cal. 410, 416-417 [117 P. 451,

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Ann.Cas. 1913A 56].) (6b) The language of the statutory definition of personal property broker in no way indicates an intention to confine its application to personal as opposed to business loans. Therefore, it was apparently the intention of the framers and adopters of the amendment to include in the category of personal property brokers those lenders who accept as security a lien on the business income of the borrower. (8) In confirming this interpretation we may properly look to the report of the interim committee appointed by the Assembly in 1933 'to investigate the problems attending the regulation of the business of commercial loans and to recommend legislation. ...' (*Carter v. Seaboard Finance Co.*, 33 Cal.2d 564, 582 [203 P.2d 758].) In its report [FN9] the committee made clear that the Legislature has always contemplated that personal property brokers would make business as well as personal loans. [FN10] ***586**

> FN8 Section 1. 'That every person or corporation engaged in the business of loaning or advancing money or other thing and taking in whole or in part as security for such loan or advance any chattel mortgage, bill of sale or other obligation or contract involving the forfeiture of rights in or to personal property, the use or possession of which is retained by other than the mortgagee or lender, or engaged in the business of loaning or advancing money or other thing, and taking either in whole or in part as security therefore [*sic*] any lien on, assignment of or power of attorney relative to wages, salary, earnings, income or commissions, shall be held, and, for the uses and purposes of this act, is hereby declared and defined to be a personal property broker.' (Stats. 1909, p. 969.)
>
> FN9 Report of the Interim Committee of the Assembly of the State of California for the Investigation of Small Loans. 1935 Cal. Assembly Journal 1297, hereinafter cited as the Report.
>
> FN10 Thus, in the Report the committee states, 'Since 1909 it has been the legislative policy of this State to divide the lending transactions for the purpose of regulation into the three general classifications of (1) loans secured by real estate, (2) loans secured by personal property, and (3) unsecured loans. ... This report is concerned with the second class of loans, i.e., those secured by personal property. For the purpose of regulation, accuracy is increased by the classification of such loans as either consumptive or productive. A merchant borrows money with which to enlarge his stock; an industrialist borrows to build a factory; a farmer to buy seed. These are 'productive' loans; they were made to enable production and profit. ... The principal subdivision of secured loans is that which distinguishes between loans secured by real estate and loans secured by personal property. In the sense that personal property is used as security, it is distinguished from real property by being movable, destructible, difficult to record as to property rights therein, susceptible of abuse as to rights of third persons, and not subject to a period of redemption after foreclosure. These differences make personal property less valuable as security both to borrower and to lender; special regulations are required to overcome these difficulties. Borrowers on personal property are subject to temptations in respect to its treatment after a lien is created, and lenders are tempted to abuses after default. ... Obviously those personal property brokers who engage in the business of making loans in large amounts deal with borrowers whose loans, as a rule, are 'productive,' and who are economically better able to protect themselves against exploitation and unfair practice.' (pp. 1298, 1305.)

The first legislation to implement the amendment as to personal property brokers was the Brokers Act of 1939 which established graduated rates in excess of 10 percent per year for small loans but imposed no limits on interest charges for loans over $300. [FN11] (Stats. 1939, ch. 1045, p. 2892.) This implementing legislation gives a further indication that the Legislature contemplated that personal property brokers would make large business loans as well as small personal loans.

> FN11 Between 1934 and 1939 there was no limit on the rate of interest chargeable by a personal property broker. (*Wolf v. Pacific Southwest Discount Corp.*, 10 Cal.2d 183 [74 P.2d 263]; *Matulich v. Marlo Inv. Co.*, 7

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Cal.2d 374 [60 P.2d 842].)

(9) The 'income' of a person engaged in business is that which comes in or is received without reference to the outgoing expenditures. (*People* ex rel. *J. E. Farnum, et al., Bank Comrs. v. San Francisco Sav. Union,* 72 Cal. 199, 203 [13 P. 498].) (10) Although 'profit' and 'income' are sometimes used as synonymous phrases, there is no reason to attach the more restricted meaning to the definition of 'income' as used in section 22009. The statute seeks to define certain categories of collateral not usually acceptable to commercial banks. [FN12] An assignment of income as security satisfies this purpose whether the income assigned is 'gross' or 'net.' (To the same effect see 40 Ops. Cal.Atty.Gen. 152, 154. (11) The notes which were assigned as collateral to Budget represented a portion of the purchase price of houses sold by the borrowers in the course of their business of building and selling ***587** houses. The collateral notes, therefore, represented 'income' to the borrowers in the broad sense in which that term is used in the Personal Property Brokers Law. [FN13]

FN12 See Report, p. 1300, 'Suppose, however, that the borrower has no security. Is he to be barred from borrowing money? Because he has no bankable collateral, is he to be deprived of a right to borrow, thereby being forced to suffer the burden or some emergency or loss?'

FN13 Budget also contends that the security here given can also be regarded as personal property 'the use and possession of which ... is retained by other than the mortgagee or lender. ...' (§ 22009) This theory is discussed in *Accounts Receivable Financing and the California Personal Property Brokers Act,* 14 Stanford Standard L.Rev. 520. In view of our holding that the assignment of the collateral notes constituted a lien on income within the meaning of section 22009, we do not discuss or pass upon this contention.

(12) The character of the collateral notes as valid security under section 22009 is not changed by the fact that the notes were themselves secured by liens on real property. (13) The allowance of higher rates to personal property brokers is justified by the great costs of investigation and administration involved in operating a small loan business and the fact that personal property is less valuable as security than real property. (See *Carter v. Seaboard Finance Co., supra,* 33 Cal.2d 564, 587; *Eaker v. Bryant,* 24 Cal.App. 87 [140 P. 310]; *Matter of Application of Stephan,* 170 Cal. 48 [148 P. 196, Ann.Cas. 1916E 617]; Report, pp. 1303, 1305.) In accepting purchase money notes as collateral, Budget ran the risk that the borrowers might give false or inaccurate information as to the balance due on the notes at the time of the assignment to Budget, or divert collections on the notes to the borrower's own use, or fail to account properly for collections made. If the borrowers should default in their obligations to Budget, Budget could not recoup its loss by seeking recourse against the real property securing the assigned notes so long as no default occurred thereon. The investigation required to forestall these possibilities might well be more extensive and expensive than that required if Budget had been given a lien directly on real property as security for the loan. Therefore, many of the reasons for treating personal property brokers as a distinct class of lender exist with respect to the business of lending upon the security of collateral notes such as those taken by Budget.

(14) The use of the term 'in whole or in part' in the definition of personal property broker indicates an intention to include therein not only lenders whose security consists entirely of liens on the kinds of personal property enumerated therein, but also those whose loans are only partly so secured. (See *Budget Finance Plan v. Gamson, supra,* 34 Cal.2d 95, 99.) In *Budget Finance Plan v. Gamson,* the Supreme Court ***588** upheld a judgment in favor of a personal property broker who had made a loan of $20,000 and taken as security therefor a chattel mortgage on two automobiles and household furnishings have a combined value of $5,000 and a deed of trust on a parcel of real property. The borrowers argued that if personal property brokers are permitted to take real estate liens on loans over $5,000, as permitted by a 1945 amendment (now embodied in section 22053), 'the very basis upon which the classification and regulation of personal property brokers has in the past been sustained as reasonable would be removed and constitutional provisions prohibiting discriminatory legislation would be violated.' (34 Cal.2d at p. 100.) In discussing that contention the Supreme Court stated, 'However, the 1945 amendment is not to be construed as permitting those holding personal property brokers' licenses to lend solely on the security of real property liens, for so construed it might cause the classification

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

of personal property broker to lose its distinctiveness. When read in conjunction with the definition to which we have referred, [the definition now embodied in section 22009] the 1945 amendment is found to be an authorization to licensees to take real estate security in part when making loans of $5,000 or more so long as the good faith requirements of the statute are satisfied.' (*Budget Finance Plan v. Gamson, supra,* 34 Cal.2d 95, 101.) The case before us does not present the question with which the foregoing statement is concerned. There is nothing in the transaction here considered which can be construed as possibly causing the classification of Budget as a personal property broker to lose its distinctiveness. Although Budget was given liens on real property as security for its loan, it can resort to those liens only as and if the trust deed note debtors as well as the borrowers here are in default on their obligations. If the trust deed debtors are not in default, the only way that Budget can realize on the security for its loan in the event that the borrowers here are in default is to sell the collateral notes and the underlying deeds of trust, or to collect the payments on the notes as they become due. In neither of these cases will it be able to obtain payment by sale of the underlying real estate. Budget has taken the kind of risk that justifies its classification as a personal property broker. Therefore, the presence of the deeds of trust as part of the security taken by Budget does not disqualify the transaction as a personal property broker's loan.

(15) Budget's motions for judgment on the pleadings had the purpose and effect of a general demurrer and on review ***589** are to be tested by the same rules. (*Colberg, Inc. v. State of California* ex rel. *Dept. of Public Works,* 67 Cal.2d 408, 411 [62 Cal.Rptr. 401, 432 P.2d 3].) Since the complaints state no basis for relief other than the alleged invalidity of the loan as a personal property broker transaction, they fail to state a cause of action. By reason of the stipulation of the cross-defendants as to the balance due on the loan and the value of the property covered by the chattel mortgages given as security for the loan, the answers to the cross-complaint fail to state a defense thereto. Therefore, it was proper to grant Budget's motions for judgment on the pleadings.

The judgments are affirmed.

Cobey, Acting P. J., and Frampton, J. pro tem., [FN*] concurred.

FN* Retired judge of the superior court sitting under assignment by the Chairman of the Judicial Council.

Cal.App.2.Dist.
Riebe v. Budget Financial Corp.
264 Cal.App.2d 576, 70 Cal.Rptr. 654, 5 UCC Rep.Serv. 907

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Supreme Court of the United States
UNITED STATES et al., Petitioners,
v.
Nicholas J. LARIONOFF, Jr., et al.
No. 76-413.

Argued April 27, 1977.
Decided June 13, 1977.

A class action under the Tucker Act was brought by seven enlisted members of the United States Navy who alleged that their agreements to extend their enlistments, made at various times from 1968 to 1970, entitled each of them to payment of a reenlistment bonus. The United States District Court for the District of Columbia, 365 F.Supp. 140, awarded the relief prayed, and cross appeals were filed. The Court of Appeals, 175 U.S.App.D.C. 32, 533 F.2d 1167, affirmed, and certiorari was granted. The Supreme Court, Mr. Justice Brennan, held that respondents and other similarly situated, who agreed to extend their enlistments at a time when a statute provided for a Variable Re-enlistment Bonus (VRB), in addition to the Regular Re-enlistment Bonus (RRB), for members of the armed forces whose ratings were classified as a "critical military skill" were entitled to VRB's determined according to the award level in effect at the time they agreed to extend their enlistments, even though the Navy eliminated their ratings from the "critical military skill" list before they began serving their extended enlistments, and the statutes authorizing the RRB and VRB were repealed and a new Selective Re-enlistment Bonus substituted before one respondent began to serve his extended enlistment.

Affirmed.

Mr. Justice White filed a dissenting opinion in which Mr. Chief Justice Burger, Mr. Justice Blackmun, and Mr. Justice Rehnquist joined.

West Headnotes

[1] Armed Services 34 ⚿18.5

34 Armed Services
34I In General
34k17 Enlistment
34k18.5 k. Reenlistment. Most Cited Cases
(Formerly 34k23.3(1), 34k18)
Respondent enlisted members of the United States Navy and others similarly situated, who agreed to extend their enlistments at a time when a statute provided for a Variable Re-enlistment Bonus (VRB), in addition to the Regular Re-enlistment Bonus (RRB), for members of the armed forces whose ratings were classified as a "critical military skill" were entitled to VRB's determined according to the award level in effect at the time they agreed to extend their enlistments, even though the Navy eliminated their ratings from the "critical military skill" list before they began serving their extended enlistments, and the statutes authorizing the RRB and VRB were repealed and a new Selective Re-enlistment Bonus substituted before one respondent began to serve his extended enlistment. 37 U.S.C.A. §§ 308, 906.

[2] Armed Services 34 ⚿5(6)

34 Armed Services
34I In General
34k5 Persons in the Armed Services, and Militia Called Into Service of the United States
34k5(6) k. Pay and Allowances. Most Cited Cases
(Formerly 34k23)
A soldier's entitlement to pay is dependent upon statutory right.

[3] Administrative Law and Procedure 15A ⚿413

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak412 Construction
15Ak413 k. Administrative Construction. Most Cited Cases
In construing administrative regulations, the ultimate criterion is the administrative interpretation, which becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation.

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

[4] Administrative Law and Procedure 15A 386

15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(C) Rules and Regulations
15Ak385 Power to Make
15Ak386 k. Statutory Basis. Most Cited Cases
In order to be valid, regulations must be consistent with the statute under which they are promulgated.

[5] Armed Services 34 18

34 Armed Services
34I In General
34k17 Enlistment
34k18 k. In General. Most Cited Cases
(Formerly 34k23.3(1))
Implementing regulations requiring that the amount of the Variable Re-enlistment Bonus awarded an enlisted armed forces member who extended his enlistment be determined by reference to the award level in effect at the time he began to serve his extension enlistment, rather than at the time he agreed to the extension, are invalid as contrary to Congress' purpose, as manifested by the legislative history, in enacting the VRB program as an inducement to selected members of the armed forces to extend their period of service.

[6] Armed Services 34 18.5

34 Armed Services
34I In General
34k17 Enlistment
34k18.5 k. Reenlistment. Most Cited Cases
(Formerly 34k18)
Whether a member of the armed services reenlists or agrees to extend his enlistment, the Variable Re-enlistment Bonus could only be effective as a selective incentive to extension of service if, at the time he made his decision, the member could count on receiving it if he elected to remain in the service. 37 U.S.C.A. §§ 308, 906.

[7] Armed Services 34 5(6)

34 Armed Services
34I In General
34k5 Persons in the Armed Services, and Militia Called Into Service of the United States
34k5(6) k. Pay and Allowances. Most Cited Cases
(Formerly 34k23)
Congress may prospectively reduce the pay of members of the armed forces, even if that reduction deprives members of benefits they had expected to be able to earn; however, it is quite a different matter for Congress to deprive a service member of pay due for services already performed, but still owing.

[8] Armed Services 34 18.5

34 Armed Services
34I In General
34k17 Enlistment
34k18.5 k. Reenlistment. Most Cited Cases
(Formerly 34k23.3(1), 34k18)
Nothing in either the language or legislative history of the statute repealing the Regular Re-enlistment Bonus and the Variable Re-enlistment Bonus system and establishing a new bonus system showed any intention on the part of Congress to affect the rights of those service members who had extended their enlistments and became entitled to receive Variable Re-enlistment Bonuses. 37 U.S.C.A. § 308.

****2151** Syllabus [FN*]

FN* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

***864** Respondent enlisted members of the United States Navy and others similarly situated, who agreed to extend their enlistments at a time when a statute provided for a Variable Re-enlistment Bonus (VRB), in addition to the Regular Re-enlistment Bonus (RRB), for members of the Armed Forces whose ratings were classified as a "critical military skill" held entitled to VRB's determined according to the award level in effect at the time they agreed to extend their enlistments, notwithstanding that the Navy eliminated their ratings from the "critical military skill" list before they began serving their extended enlistments, and that the statutes authorizing the RRB and VRB

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

were repealed and a new Selective Re-enlistment Bonus (SRB) substituted before one of the respondents began to serve his extended enlistment. Pp. 2154-2161.

(a) Implementing regulations requiring that the amount of the VRB to be awarded to an enlisted member who extended his enlistment be determined by reference to ****2152** the award level in effect at the time he began to serve his extended enlistment, rather than at the time he agreed to the extension, are invalid as being contrary to Congress' purpose, as manifested by the legislative history, in enacting the VRB program as an inducement to selected service members to extend their period of service. Whether a service member re-enlists or agrees to extend his enlistment, the VRB could only be effective as a selective incentive to extension of service if at the time he made his decision the service member could count on receiving it if he elected to remain in the service. Pp. 2154-2159.

(b) There is nothing in either the language or legislative history of the statute repealing the RRB and VRB system and establishing a new bonus system to show any intention on the part of Congress to affect the rights of those service members who had extended their enlistments and became entitled to receive VRB's. Pp. 2159-2161.

175 U.S.App.D.C. 32, 533 F.2d 1167, affirmed.

***865** Keith A. Jones, Washington, D.C., for the petitioners.

Stephen Daniel Keeffe, Washington, D.C., for the respondents.

Mr. Justice BRENNAN delivered the opinion of the Court.

Seven enlisted members of the United States Navy brought this class action in the District Court for the District of Columbia under the Tucker Act, 28 U.S.C. s 1346(a)(2), alleging that their agreements to extend their enlistments, made at various times from 1968 to 1970, entitled each of them to payment of a re-enlistment bonus. The District Court ordered that the bonuses be paid, 365 F.Supp. 140 (1973), and the Court of Appeals for the District of Columbia Circuit affirmed. 175 U.S.App.D.C. 32, 533 F.2d 1167 (1976). We granted certiorari, 429 U.S. 997, 97 S.Ct. 522, 50 L.Ed.2d 607 (1976). We affirm.

I

From early in our history, Congress has provided by statute for payment of a re-enlistment bonus to members of the Armed Services who re-enlisted upon expiration of their term of service, or who agreed to extend their period of service before its expiration.[FN1] Prior to the enactment of Pub.L. No. 89-132, 79 Stat. 547 (1965), this bonus was determined for an enlistee's first re-enlistment or extension of enlistment by multiplying his monthly pay at the time of expiration of the initial period ***866** of service by the number of years specified in the re-enlistment agreement. See former 37 U.S.C. ss 308(a), (b).

> FN1. The Court of Appeals opinion traces the history of this policy from 1795 to the present. 175 U.S.App.D.C., at 37-38, and n. 16, 533 F.2d, at 1172-1173, and n. 16.

The perceived defect of this system was that "it failed to vary the monetary incentive for reenlistment according to the needs of the armed services for personnel with particular skills." 175 U.S.App.D.C., at 38, 533 F.2d, at 1173. Consequently, Congress enacted former 37 U.S.C. s 308(g), which authorized the services to provide, in addition to the Regular Re-enlistment Bonus (RRB) just described, a Variable Re-enlistment Bonus (VRB) to members of the Armed Services whose particular skills were in short supply. The VRB was to be a multiple, no greater than four, of the RRB.[FN2]

> FN2. Former 37 U.S.C. s 308(g), 79 Stat. 547, provided as follows:
>
> "(g) Under regulations to be prescribed by the Secretary of Defense, or the Secretary of the Treasury with respect to the Coast Guard when it is not operating as a service in the Navy, a member who is designated as having a critical military skill and who is entitled to a bonus computed under subsection (a) of this section upon his first reenlistment may be paid an additional amount not more than four times the amount of that bonus. The additional amount shall be paid in equal yearly installments in each year of the reenlistment period. However, in meritorious cases the additional amount may be paid in fewer in-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

stallments if the Secretary concerned determines it to be in the best interest of the members. An amount paid under this subsection does not count against the limitation prescribed by subsection (c) of this section on the total amount that may be paid under this section."

Under the Department of Defense regulations implementing the VRB program, multiples of one to four times the RRB were assigned depending on the relative urgency of the services' need for particular skills, as measured by personnel shortages and the cost of training replacement personnel. Department of Defense Directive 1304.14, PP IV.D.1.a, b (Sept. 3, 1970); Department of Defense Instruction 1304.15, PP IV.D, V.A.1, 2 (Sept. 3, 1970).

Under 37 U.S.C. s 906, "(a) member of the (Armed Forces) who extends his enlistment . . . is entitled to the same pay and allowances as though he had reenlisted."

**2153 This program was in effect when respondent Nicholas J. Larionoff enlisted in the Navy for four years on June 23, *867 1969.[FN3] Shortly after his enlistment, Larionoff chose to participate in a Navy training program, completion of which would qualify him for the service rating "Communications Technician Maintenance" (CTM). At that time, as Larionoff was aware,[FN4] the CTM rating was classified by Navy regulations as a "critical military skill," whose holders were eligible upon re-enlistment or extension of enlistment for payment of a a VRB in the amount of four times the RRB, the highest allowable rate. Before entering the training program, which entailed a six-year service obligation, Larionoff entered a written agreement to extend his enlistment "in consideration of the pay, allowances, and benefits which will accrue to me during the continuance of my service." Larionoff successfully completed the program and was advanced to the CTM rating, expecting to receive a VRB upon entering the period of his extended enlistment on June 23, 1973.[FN5]

FN3. Except as noted below with specific reference to respondent Johnnie S. Johnson, the facts relating to Larionoff are typical of those concerning the other named respondents.

FN4. Larionoff was informed of the existence of the VRB program, and its applicability to the CTM program, by a Navy "classifier" who interviewed him to determine what field within the service he should enter. Several of the other named respondents were also told of the existence of the VRB program, and in some instances the amount of the VRB they could expect to receive was calculated for them by Navy personnel, without any indication that the amount might be reduced. 175 U.S.App.D.C., at 35, 36, and nn. 6, 11, 533 F.2d, at 1170, 1171, and nn. 6, 11. These facts, contained in affidavits filed by respondents, are undisputed; while an affidavit introduced by the Government states that "it is not the policy of the Department of the Navy to promise specific eligibility for Variable Reenlistment Bonus, nor is any official authorized to make such a promise in counselling with a prospective enlistee," there is no dispute that in particular cases individual service members might, inadvertently or otherwise, be left with the impression that a VRB had been promised.

FN5. Under former 37 U.S.C. s 308(g), the VRB was paid "in equal yearly installments in each year of the reenlistment period."

*868 On March 24, 1972, however, the Navy announced that effective July 1, 1972, the CTM rating would no longer be considered a "critical military skill" eligible for a VRB. When Larionoff, through his congressional representatives, inquired into his continued eligibility for a VRB, he was informed that since the CTM rating was no longer listed, he would not receive the expected bonus. Accordingly, in March 1973, respondents filed this lawsuit, and in September of that year the District Court certified a class and granted summary judgment for respondents, ordering payment of the disputed VRB's.

[1] (1) While the Government's appeal of this order was pending in the Court of Appeals, Congress repealed the statutes authorizing both the RRB and the VRB, and substituted a new Selective Re-enlistment Bonus (SRB), effective June 1, 1974. Armed Forces Enlisted Personnel Bonus Revision Act of 1974, 88

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

Stat. 119, 37 U.S.C. s 308 (1970 ed., Supp. V). The Government concedes that this action had no effect on six of the named respondents; like Larionoff, they were scheduled to begin serving their extended enlistments prior to the effective date of the Act, and therefore should have received their VRB's, if at all, while the program was still in effect.[FN6] Respondent**2154 Johnnie S. Johnson, however, first enlisted in the Navy in August 1970, and did not begin serving his extended enlistment until August 1974. The Court of Appeals was thus confronted with two questions: (1) whether Larionoff and those in his position were entitled to receive VRB's despite the Navy's elimination of their rating from the eligible list in the period after their agreement to extend their enlistments but before they began serving those extensions; and (2) whether Johnson and others in his situation were entitled to receive VRB's despite the repeal of the VRB program in the same *869 period. The Court of Appeals held that both were entitled to receive VRB's.

FN6. But see n. 23, infra.

II

A

[2] (2) Both the Government and respondents recognize that "(a) soldier's entitlement to pay is dependent upon statutory right," Bell v. United States, 366 U.S. 393, 401, 81 S.Ct. 1230, 1235, 6 L.Ed.2d 365 (1961), and that accordingly the rights of the affected service members must be determined by reference to the statutes and regulations governing the VRB, rather than to ordinary contract principles.[FN7] In this case, the relevant statute, former 37 U.S.C. s 308(g), provided:

FN7. Indeed, this is implicitly recognized in the contracts executed by the named respondents, which state that they agree to extend their enlistments "in consideration of the pay, allowances, and benefits which will accrue to me during the continuance of my service," rather than stating any fixed compensation.

"Under regulations to be prescribed by the Secretary of Defense, . . . a member who is designated as having a critical military skill and who is entitled to (an RRB) upon his first reenlistment may be paid an additional amount not more than four times the amount of (the RRB)."

The regulations governing individual eligibility were set forth in Department of Defense Instruction 1304.15, P V.B.1 (Sept. 3, 1970).[FN8]

FN8. This regulation provided:

"B. Individual Eligibility for Receipt of Awards

"1. Variable Reenlistment Bonus. An enlisted member is eligible to receive a Variable Reenlistment Bonus if he meets all the following conditions:

"a. Is qualified and serving on active duty in a military specialty designated under provisions of paragraph V.A.2. above for award of the Variable Reenlistment Bonus. Members paid a Variable Reenlistment Bonus shall continue to serve in the military specialty which qualified them for the bonus unless the Secretary of a Military Department determines that a waiver of this restriction is necessary in the interest of the Military Service concerned.

"b. Has completed at least 21 months of continuous active service other than active duty for training immediately prior to discharge, release from active duty, or extension of enlistment.

"c. Is serving in pay grade E-3 or higher.

"d. Reenlists in a regular component of the Military Service concerned within three (3) months (or within a lesser period if so prescribed by the Secretary of the Military Department concerned) after the date of his discharge or release from compulsory or voluntary active duty (other than for training), or extends his enlistment, so that the reenlistment or enlistment as extended provides a total period of continuous active service of not less than sixty-nine (69) months.

"(1) The reenlistment or extension of enlistment must be a first reenlistment or ex-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

tension for which a reenlistment bonus is payable.

"(2) No reenlistment or extension accomplished for any purpose other than continued active service in the designated military specialty shall qualify a member for receipt of the Variable Reenlistment Bonus.

"(3) Continued active service in a designated military specialty shall include normal skill progression as defined in the respective Military Service classification manuals.

"e. Has not more than eight years of total active service at the time of reenlistment or extension of enlistment.

"f. Attains eligibility prior to the effective date of termination of awards in any military specialty designated for termination of the award. Member must attain eligibility prior to the effective date of a reduction of award level to be eligible for the higher award level. Eligibility attained through any modification of an existing service obligation, including any early discharge granted pursuant to 10 U.S.C. 1171, must have been attained prior to the date the authority approving the modification was notified of the prospective termination or reduction of award in the military specialty.

"g. Meets such additional eligibility criteria as may be prescribed by the Secretary of the Military Department concerned."

Instruction 1304.15 has been canceled by Department of Defense Instruction 1304.22 (June 1975).

***870 **2155** The Government contends that these eligibility criteria are to be applied as of the time the enlisted member completes service of his original enlistment and enters into the extended ***871** enlistment. This is a reasonable construction, since the statute requires that the VRB not be paid until that time. See n. 5, supra. At that time, it is argued, respondents did not satisfy two related criteria prescribed by P V.B.1, although it is conceded they met the others. First, they were not then "serving . . . in a military specialty designated" as a critical military skill, P V.B.1.a, since the CTM rating was by that time no longer so designate; second, they had not "(a)ttain(ed) eligibility prior to the effective date of termination of awards" for the CTM rating. P V.B.1.f.

The Government also relies upon the regulations governing the amount of the award to be received. Under Department of Defense Directive 1304.14, P IV.F (Sept. 3, 1970):

"When a military skill is designated for reduction or termination of award an effective date for reduction or termination of awards shall be established and announced to the field at least 90 days in advance. All awards on or after that effective date in military skills designated for reduction of award level will be at the level effective that date and no new awards will be made on or after the effective date in military skills designated for termination of awards." [FN9] (Emphasis added.)

FN9. Directive 1304.14 has been canceled by Department of Defense Directive 1304.21 (June 1975).

Similarly, Department of Defense Instruction 1304.15, supra, P VI.A, stated:

"Members serving in a military specialty designated for reduction or termination of award under the provisions of subsection IV.F. of (Directive 1304.14, supra) will receive the award level effective on the date of their reenlistment or extension of enlistment, except at provided in paragraph V.B.l.f. above." [FN10]

FN10. The reference is apparently to the last sentence of P V.B.l.f, supra, n. 8, which provided: "Eligibility attained through any modification of an existing service obligation . . . must have been attained prior to the date the authority approving the modification was notified of the prospective termination or reduction of award . . . ." The Court of Appeals interpreted this provision as intended to prevent service members from qualifying for a soon-to-be-reduced benefit level by agreeing to extend their enlistments in the interval between the announcement of the reduction in award level and the effective date of the

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

change, and hence an implicit recognition that in the absence of such a provision service members in that position would be entitled to the higher benefit level. 175 U.S.App.D.C., at 41-42, 533 F.2d, at 1176-1177. The Government argues, however, that the purpose of P V.B.l.f was to reach the much smaller group of service members who would be in a position both to agree to extend their enlistment and to begin serving the extension within the relevant period. Tr. of Oral Arg. 15-16.

***872** The Government argues that these regulations, read together, establish that respondents were entitled to receive only the VRB in effect for their service rating at the time the period of their original enlistment ended, and the extended enlistment began.

[3] (3) These regulations, as the Court of Appeals pointed out and the Government freely concedes, contain a number of ambiguities. See 175 U.S.App.D.C., at 40-42, 533 F.2d, at 1175-1177. We need not tarry, however, over the various ambiguous terms and complex interrelations of the regulations. In construing administrative regulations, "the ultimate criterion is the administrative interpretation, which becomes of controlling weight unless it is plainly erroneous or inconsistent with the regulation." Bowles v. Seminole Rock Co., 325 U.S. 410, 414, 65 S.Ct. 1215, 1217, 89 L.Ed. 1700 (1945). See also INS v. Stanisic, 395 U.S. 62, 89 S.Ct. 1519, 23 L.Ed.2d 101 (1969). The Government represents, and respondents do not seriously dispute, that throughout the period in which the VRB program was in effect, the Navy interpreted the Department of Defense regulations ****2156** as entitling an enlisted member who extends his enlistment to the VRB level, if any, in effect at the time he began to serve the extended enlistment.[FN11] Since this interpretation***873** is not plainly inconsistent with the wording of the regulations, we accept the Government's reading of those regulations as correct.

FN11. This has apparently been the practice regardless of whether that level was higher or lower than that in effect when the service member agreed to extend his enlistment. Id., at 45.

B

[4][5] (4, 5) This, however, does not end our inquiry. For regulations, in order to be valid must be consistent with the statute under which they are promulgated.[FN12] We are persuaded that insofar as they required that the amount of the VRB to be awarded to a service member who extended his enlistment was to be determined by reference to the award level in effect at the time he began to serve the extension, rather than at the time he agreed to it, the relevant regulations were contrary to the manifest purposes of Congress in enacting the VRB program, and hence invalid.[FN13]

FN12. "The power of an administrative officer or board to administer a federal statute and to prescribe rules and regulations to that end is . . . (only) the power to adopt regulations to carry into effect the will of Congress as expressed by the statute. A regulation which does not do this, but operates to create a rule out of harmony with the statute, is a mere nullity." Manhattan General Equip. Co. v. Commissioner, 297 U.S. 129, 134, 56 S.Ct. 397, 400, 80 L.Ed. 528 (1936). See, e.g., Ernst & Ernst v. Hochfelder, 425 U.S. 185, 213-214, 96 S.Ct. 1375, 1391, 47 L.Ed.2d 668 (1976); Dixon v. United States, 381 U.S. 68, 74, 85 S.Ct. 1301, 1305, 14 L.Ed.2d 223 (1965).

FN13. This argument was clearly raised in the briefs in the Court of Appeals, Brief for Plaintiffs-Appellees (Cross-Appellants) 13, Larionoff v. United States, Nos. 74-1211 and 74-1212, and in this Court, Brief for Respondents 15-18. We therefore do not regard the somewhat inconclusive colloquy at oral argument, see Tr. of Oral Arg. 29-33, as abandoning it.

The legislative history of the VRB statute makes those congressional purposes crystal clear. As noted above, the re-enlistment bonus scheme in effect before 1965, which relied entirely on the RRB, was criticized for providing the same re-enlistment incentive to all members of the Armed Services, regardless of the need for their skills. The Defense Department desired greater flexibility in calibrating re-enlistment incentives to its manpower needs. The additional expenditures***874** for the VRB were expected to save money in the long run, since payment of the higher re-enlistment bonus would enable the Armed Forces

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

to retain highly skilled individuals whose training had required a considerable investment.[FN14] Members of Congress in the floor debates clearly recognized the wisdom of offering such incentives.[FN15]

FN14. H.R.Rep.No.549, 89th Cong., 1st Sess., 47 (1965); S.Rep.No.544, 89th Cong., 1st Sess., 14 (1965); U.S.Code Cong. & Admin.News 1965, p. 2745.

FN15. See, e. g., remarks of Rep. Morton, 111 Cong.Rec. 17206 (1965); remarks of Rep. Bennett, ibid.; remarks of Rep. Dole, id., at 17209; remarks of Sen. Russell, id., at 20034.

The VRB was thus intended to induce selected service members to extend their period of service beyond their original enlistment. Of course, the general pay raise for the military included in the same Act was also intended to have a similar effect, by making a military career generally more attractive.[FN16] But the VRB was expected to be a very specific sort of incentive, not only because it was aimed at a selected group of particularly desirable service members, but also because it offered an incentive "at just the time that it will be most effective, when an individual decides whether or not to reenlist." Remarks of Rep. Nedzi, 111 Cong.Rec. 17201 (1965). The then Secretary of Defense, Robert S. McNamara, made the same point to the House Armed Services Committee, in contrasting the VRB to "proficiency pay," which provides increased pay to service members with critical skills:

FN16. See, e. g., H.R.Rep.No.549, supra, at 5-6; S.Rep.No.544, supra, at 1-4.

**2157 "We believe a more efficient way to provide additional reenlistment incentives to selected first termers in especially high demand is by using a variable reenlistment bonus. Monetary rewards are thereby concentrated at the first reenlistment decision point, obtaining the greatest return per dollar spent on the retention of personnel. " Hearings on Military Pay Bills before the House Committee*875 on Armed Services, 89th Cong., 1st Sess., 2545 (June 7, 1965) (House Hearings). (Emphasis added.)

The then Assistant Secretary of Defense, Norman S. Paul, also distinguished the VRB from ordinary pay, stating that with the VRB the military hoped "to cure a separate specific problem by specific means, rather than overall pay." Hearings on Military Pay Increase before the Senate Committee on Armed Services, 89th Cong., 1st Sess., 41 (July 29, 1965). (Senate Hearings). The timing of the VRB was crucial to this intention:

"At the end of his first term of reenlistment (sic) he is trying to make up his mind whether to stay in the military. And we think that the added bonus may push him over the line into staying with us, which is what we want to see happening." Id., at 40.[FN17]

FN17. The argument that the VRB would be particularly effective as an inducement to re-enlist because it would be provided at the "decision point" is a constant theme through the hearings, the committee reports, and the floor debates. See House Hearings 2545-2584 (statements of Secy. McNamara), 2671 (colloquy of Rep. Stratton and Gen. Greene); Senate Hearings 19 (statement of Secy. McNamara), 26, 40, 44 (statements of Asst. Secy. Paul); H.R.Rep.No.549, supra, at 47; S.Rep.No.544, supra, at 14; 111 Cong.Rec. 17201 (1965) (remarks of Rep. Nedzi).

[6] (6) It is true that in discussing the VRB, Congress focused on the service member who reaches the end of his enlistment, and is faced with the decision "whether or not to reenlist." (Emphasis added.) Remarks of Rep. Nedzi, supra. But, as Congress has recognized in providing that "(a) member of the (Armed Forces) who extends his enlistment . . . is entitled to the same pay and allowances as though he had reenlisted," 37 U.S.C. s 906, precisely the same reasoning applies to the decision to extend enlistment as to the decision to re-enlist. In either case, the VRB could only be effective as a selective incentive to extension of service if at the time he made his *876 decision the service member could count on receiving it if he elected to remain in the service.

This is very apparent when the VRB program is examined from the perspective of an individual who is at the point of deciding whether or not to extend an enlistment due to expire at some future date. At the time he makes this decision, he is aware that his rating or expected rating is classified as a critical military skill eligible for a VRB at a particular level. Under the plan as envisioned by Congress, and as applied by the Navy

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

in the case of re-enlistments, the incentive operates "at just the time it will be most effective," because the service member knows that if he remains in the service, he will receive a VRB at the prescribed level. But under the contested regulations, the service member has no such reassurance. Whether or not his rating is eligible for a VRB now, it may not be at the future date on which his first enlistment expires.[FN18] His "incentive" to extend his enlistment is the purely hypothetical possibility that he might receive a VRB if there is a personnel shortage in his skill on that date. On the other hand, if he nevertheless extends his enlistment, and if the VRB level for his rating is increased in the interval before his **2158 original term expires, he will receive a higher award than that which sufficed to induce his decision to remain in the service from the standpoint of Congress' purposes, a totally gratuitous award. [FN19]

FN18. Indeed, as the Court of Appeals pointed out, 175 U.S.App.D.C., at 43-44, n. 32, 533 F.2d, at 1178-1179, n. 32, because the regulations governing the VRB program required the various services to undertake an annual review of the military specialties in which personnel shortages existed for the purpose of adjusting VRB award levels, Department of Defense Directive 1304.14, P IV.F.1, the service member, by his very decision to extend his enlistment, would contribute to the likelihood that by the time his initial enlistment expired, his skill would no longer be in short supply and the VRB he had expected would therefore have been reduced or eliminated.

FN19. The effects of the challenged regulations would, of course, be less than clear to the service member deciding whether or not to extend his enlistment, and, given the complexity and ambiguity of the regulations, and the resulting possibility that they could be misconstrued by Navy recruiters as well as by the enlistees themselves, it would not be surprising if many service members, like some of the respondents here, see n. 4, supra, came to believe that by extending their enlistments they had acquired a vested right to a VRB. To the extent that such beliefs had been fostered, upholding the regulations would perpetrate a considerable injustice.

*877 The clear intention of Congress to enact a program that "concentrates monetary incestives at the first re-enlistment decision point where the greatest returns per retention dollar can be expected," Senate Hearings 26 (statement of Asst. Secy. Paul), could only be effectuated if the enlisted member at the decision point had some certainty about the incentive being offered. Instead, the challenged regulations provided for a virtual lottery. [FN20] We therefore hold that insofar as the Defense Department regulations required that the amount of the VRB to be paid to a service member who was otherwise eligible to receive one be determined by the award level as of the time he began to serve his extended enlistment, they are in clear conflict with the congressional intention in enacting the VRB program, and hence invalid. Because Congress intended to provide at the re-enlistment decision point a promise of a reasonably certain and specific bonus for extending service in the Armed Forces, Larionoff and the members of his class are entitled, as the Court of Appeals held, to payment of VRB's determined according to the award levels in effect at the time they agreed to extend their enlistments.

FN20. Of course, the enlisted service member agreeing to extend his enlistment could not have been entirely certain of the amount of his future VRB. First, the VRB was calculated according to a formula based on the amount of the RRB, which in turn depended on the re-enlistee's basic pay upon entering the re-enlistment period. At the time he agreed to extend his enlistment, the service member could not have been sure what that amount would be; Congress could alter military pay scales, or the member might be promoted or demoted, and hence his pay might change, in the interval. Second, the VRB, by both statute and regulation, was not actually paid until the service member began serving his extended enlistment, and even then was ordinarily paid in yearly installments. If for some reason the enlistee did not complete service of his extension, remaining installments were not paid, and overpayments were recouped. Department of Defense Directive 1304.14, P IV.G. Finally, receipt of any VRB at all depended on the service member's completing the require-

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

ments for eligibility before expiration of the original enlistment. See Department of Defense Instruction 1304.15, P V.B.1, n. 8. Thus, the VRB as applied to service members extending their enlistments, as opposed to those re-enlisting, was always somewhat contingent. But there is a significant difference between this sort of contingency, which was inherent in the nature of the program and in any event involved marginal effects on the amount of the award or the occurrence of rather speculative events, and the sort of uncertainty the contested regulations inject into the program, which rendered the primary determinant of the VRB entirely unpredictable at the time the decision to extend enlistment was made.

***878** III

This brings us to the further question of respondent Johnson's entitlement to a VRB. At the time he agreed to extend his enlistment, the VRB program was in effect and his CTM rating was classified as a critical military skill. Before he began serving the extended enlistment period, however, Congress repealed the RRB and VRB system, and substituted the new SRB. 88 Stat. 119, 37 U.S.C. s 308 (1970 ed., Supp. V). The Government contends that since the VRB had been abolished before Johnson became eligible to receive one, he is not entitled to receive a bonus. The Court of Appeals rejected this argument.[FN21]

FN21. The decision of the Court of Appeals on this point is in conflict with the decisions in Collins v. Rumsfeld, 542 F.2d 1109 (CA9 1976), cert. pending sub nom. Saylors v. United States, No. 76-677; and Carini v. United States, 528 F.2d 738 (CA4 1975), cert. pending, No. 75-1695.

****2159** What we have said above as to Larionoff goes far toward answering this question. The intention of Congress in enacting the VRB was specifically to promise to those who ***879** extended their enlistments that a VRB award would be paid to them at the expiration of their original enlistment in return for their commitment to lengthen their period of service.[FN22] When Johnson made that commitment, by entering an agreement to extend his enlistment, he, like Larionoff, became entitled to receive at some future date a VRB at the award level then in effect (provided that he met the other eligibility criteria). Thus, unless Congress intended, in repealing the VRB program in 1974, to divest Johnson of the rights he had already earned, and constitutionally could do so, the prospective repeal of the program could not affect his right to receive a VRB, even though the date on which the bonus was to be paid had not yet arrived.

FN22. As noted, n. 20, supra, the precise amount of the award remained somewhat uncertain, and the award was contingent on the enlisted member's meeting certain eligibility conditions.

[7] (7) Of course, if Congress had such an intent, serious constitutional questions would be presented. No one disputes that Congress may prospectively reduce the pay of members of the Armed Forces, even if that reduction deprived members of benefits they had expected to be able to earn. Cf. Bell v. United States, 366 U.S. 393, 81 S.Ct. 1230, 6 L.Ed.2d 365 (1961); United States v. Dickerson, 310 U.S. 554, 60 S.Ct. 1034, 84 L.Ed. 1356 (1940). It is quite a different matter, however, for Congress to deprive a service member of pay due for services already performed, but still owing. In that case, the congressional action would appear in a different constitutional light. Cf. Lynch v. United States, 292 U.S. 571, 54 S.Ct. 840, 78 L.Ed. 1434 (1934); Perry v. United States, 294 U.S. 330, 55 S.Ct. 432, 79 L.Ed. 912 (1935). In view of these problems, we would not lightly conclude, in the absence of a clear expression of congressional intent, that in amending 37 U.S.C. s 308 and establishing a new bonus system, Congress intended to affect the rights of those service members who had extended their enlistments and become entitled to receive VRB's.

[8] (8) Nothing in the language of the 1974 Act or its legislative history expresses such an intention. The Act makes no reference***880** whatever to service members who have become entitled to payment of a VRB by extending their enlistments. There is no prohibition of further payments of VRB's to those already entitled to them; [FN23] the Act simply replaces the old s 308 with a new one that authorizes SRB's rather than RRB's and VRB's. Nor does the legislative history express any intention to effect such a prohibition. No paramount power of the Congress or important national interest justifying interference with contractual

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

entitlements is invoked.

> FN23. The Government's concession that the 1974 Act does not affect respondents other than Johnson implicitly admits that the Act permits such payments. Three other named respondents entered their two-year extension periods after June 1, 1973. Since the VRB was paid in yearly installments, n. 5, supra, these three would presumably still have installments due on their VRB after the Act became effective on June 1, 1974.

The Courts of Appeals that have upheld the Government's position have relied on two indications of a congressional intent to affect the rights of Johnson and his class. First, the 1974 Act expressly preserves the right of all service members on active duty as of the effective date of the Act to receive upon re-enlistment the RRB's they would have been entitled to before passage of the Act. Pub.L.No.93-277, s 3, 88 ***881** Stat. 121.[FN24] The failure to include a similar saving***2160** clause as to VRB's, it is argued, indicates that Congress intended to abolish them entirely. But the saving clause for RRB's does not merely preserve them for those who had already extended their enlistments, but assures RRB's upon re-enlistment to any service member then on active duty. The failure to enact a similar provision as to VRB's indicates only that Congress did not intend that VRB's be paid to those service members who re-enlisted after the effective date of the Act, and has no bearing on those who had already extended their enlistments and become entitled to VRB's.

> FN24. This section provides:
>
> "Notwithstanding section 308 of title 37, United States Code, as amended by this Act, a member of a uniformed service on active duty on the effective date of this Act, who would have been eligible, at the end of his current or subsequent enlistment, for the reenlistment bonus prescribed in section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act, shall continue to be eligible for the reenlistment bonus under that section as it existed on the day before the effective date of this Act. If a member is also eligible for the reenlistment bonus prescribed in that section as amended by this Act, he may elect to receive either one of those reenlistment bonuses. However, a member's eligibility under section 308(a) or (d) of that title, as it existed on the day before the effective date of this Act, terminates when he has received a total of $2,000 in reenlistment bonus payments, received under either section 308(a) or (d) of that title as it existed on the day before the effective date of this Act, or under section 308 of that title, as amended by this Act, or from a combination of both."

Second, reference is made to a portion of the Conference Report on the Act, indicating a congressional "understanding" that service members, like Johnson, who had already entered two-year extensions of enlistment could become eligible for an SRB by canceling the extension and replacing it with a four-year extension. H.R.Conf.Rep.No.93-985, pp. 4-5 (1974).[FN25] This, it is argued, indicates that Congress had ***882** considered the possible unfairness that eliminating the VRB could work on members such as Johnson, and felt that it had made sufficient provision for them by making them eligible, upon a further extension of their commitment, for an SRB. But the Report does not refer to the possible unfairness of eliminating the VRB payable to those service members with whom it deals; rather, it refers to the Navy's concern that language in the legislative history might cast doubt on a commitment the Navy had made "to a man with a four-year enlistment and a two-year extension that he can cancel the two-year extension and reenlist for four years and receive a reenlistment bonus for the four-year reenlistment." Id., at 4. The Report removes any doubts about the validity of that commitment. The only relevance of the Report to the problem before us is that it demonstrates that Congress was responsive to the "concern that the language of the bill might be interpreted to require it to abrogate an understanding" between the Armed Forces and enlistees, ibid., making it less rather than more likely that Congress intended the 1974 Act to abrogate Johnson's entitlement to a VRB by implication.

> FN25. The relevant portion of the Conference Report referred to in the text states:
>
> "Clarification of interpretation of bill language

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

> "The House committee in reporting the bill indicated its intention that bonuses not be authorized for personnel for existing obligated service. There was brought to the attention of the conferees a problem that would exist, particularly in the Navy nuclear-power field, under the House interpretation of the language of the bill. In cases where commitment has been made to a man with a four-year enlistment and a two-year extension he can cancel the two-year extension and reenlist for four years and receive a reenlistment bonus for the four-year reenlistment. The Navy expressed great concern that the language of the bill might be interpreted to require it to abrogate an understanding it had with enlistees and would operate in such a way as to cause serious retention problems in its most critical career field. The conferees, therefore, want it understood that while it normally does not expect bonuses to be paid for services for which there was an existing obligation, it is consistent with the conferees' understanding that full entitlement to SRB will be authorized for personnel who have already agreed to an extension period prior to the enactment of the legislation if they subsequently cancel this extension prior to its becoming operative and reenlist for a period of at least two years beyond the period of the canceled extension. Nothing in the bill should operate to deny the Chief of Naval Operations the authority to extend SRB entitlement to nuclear-power operators, if they subsequently can cancel any outstanding extension period prior to its becoming operative and reenlist for a period of at least two years beyond the period of the canceled extension."

Affirmed.

****2161** Mr. Justice WHITE, with whom the Chief Justice, Mr. Justice BLACKMUN, and Mr. Justice REHNQUIST join, dissenting.

Like the Court, I accept the Government's interpretation of the relevant Navy Department regulations, but I do not agree ***883** with the majority's view that because Congress intended by the VRB legislation irrevocably to promise a re-enlistment bonus to those who agreed in advance to re-enlist the regulations are invalid. As I see it, the legislation was not part of the re-enlistment agreement, which was executed in consideration of the pay, allowances, and benefits that would accrue during a continuance of the re-enlistee's service. Those who executed re-enlistment agreements had no vested right in any particular level of pay, in any particular allowance or benefit, or in any particular total package of pay, allowances, or benefits. In this respect, I am in essential agreement with Judge Haynsworth's opinion for the Court of Appeals for the Fourth Circuit in Carini v. United States, 528 F.2d 738 (1975), which concluded that cancellation of the VRB prior to the beginning of a re-enlistment period was not forbidden by law. I respectfully dissent.

U.S.D.C., 1977.
U. S. v. Larionoff
431 U.S. 864, 97 S.Ct. 2150, 53 L.Ed.2d 48

END OF DOCUMENT

© 2010 Thomson Reuters. No Claim to Orig. US Gov. Works.

fund and special reserve fund of the high school district or unified district at the end of the last year in which the district maintained a junior college shall be divided between such district and the junior college district in the following manner:

(a) The balance remaining in the general fund shall be divided in the same ratio that the expenditures from that fund for junior college purposes for the last year in which the junior college was maintained bear to the other expenditures of the district during that year. The amount so allocable to the junior college district shall be transferred to, and deposited in, the general fund of that district.

(b) The balance remaining in the special reserve fund deposited there by the district governing board to be used for junior college purposes, shall be transferred to the junior college district and deposited in the special reserve fund of that district.

CHAPTER 49

An act to add Division 16 5 (commencing at Section 22500) to the Education Code, relating to higher education, and making an appropriation.

In effect July 7, 1960

[Approved by Governor April 27, 1960. Filed with Secretary of State April 27, 1960.]

The people of the State of California do enact as follows:

SECTION 1. Division 16.5 is added to the Education Code, to read:

DIVISION 16.5. HIGHER EDUCATION

CHAPTER 1. GENERAL PROVISIONS

"Public higher education"

22500. Public higher education consists of (1) all public junior colleges heretofore and hereafter established pursuant to law, (2) all state colleges heretofore and hereafter established pursuant to law, and (3) each campus, branch and function of the University of California heretofore and hereafter established by the Regents of the University of California.

Legislative policy

22501. It is hereby declared to be the policy of the Legislature not to authorize or to acquire sites for new institutions of public higher education unless such sites are recommended by the Co-ordinating Council for Higher Education and not to authorize existing or new institutions of public education, other than those described in subdivisions (2) and (3) of Section 22500, to offer instruction beyond the 14th grade level.

Nothing in this section shall be construed to require any further recommendations as a prerequisite to legislative action with respect to state colleges intended to be in operation by

1965 or University of California campuses intended to be under construction by 1962, as set forth in the recommendations contained in the Master Plan for Higher Education printed at page 42, paragraphs 4 and 6, Senate Journal (Regular Session) for February 1, 1960.

22502. Each segment of public higher education shall strive for excellence in its sphere, as assigned in this division.

Nautical school unaffected

22503. This division shall not affect the existence or status of the state nautical school.

Provisions supersede conflicting laws

22504. The provisions of this division shall supersede the provisions of any other law which conflict with the provisions of this division.

CHAPTER 2. UNIVERSITY OF CALIFORNIA

University of California Primary research agency

22550. The Legislature hereby finds and declares that the University of California is the primary state-supported academic agency for research.

Curriculum

22551. The university may provide instruction in the liberal arts and sciences and in the professions, including the teaching profession. The university has exclusive jurisdiction in public higher education over instruction in the profession of law, and over graduate instruction in the professions of medicine, dentistry, veterinary medicine and architecture.

Doctoral degrees

22552. The university has the sole authority in public higher education to award the doctoral degree in all fields of learning, except that it may agree with the state colleges to award joint doctoral degrees in selected fields.

Library and research facilities

22553. The university may make reasonable provision for the use of its library and research facilities by qualified members of the faculties of other institutions of public higher education in this State.

CHAPTER 3. THE STATE COLLEGE SYSTEM

State College System Administration

22600. The State College System shall be administered by a board designated as the Trustees of the State College System of California, which is hereby created.

Board Members, terms, etc

22601. The board shall be composed of the following four ex officio members: the Governor, the Lieutenant Governor, the Superintendent of Public Instruction, and the person named by the trustees to serve as the chief executive officer of the system; and 16 appointive members appointed by the Governor, except that the members, as of the effective date of this section, of the State Board of Education shall serve ex officio as and among the first appointive trustees. The terms of the appointive members shall be four years, except that the first appointive trustees, including the members of the State Board of Education, shall classify the terms of their offices by lot so that four of the first appointive terms shall expire on the first day of March of each calendar year, commencing in 1961 and ending in 1964.

The Speaker of the Assembly shall have the status of a legislative interim committee on the subject of the State College System and shall meet with the board and participate in its work to the extent that such participation is not incompatible with his position as a Member of the Legislature.

Terms of appointive trustees

22601.5. Notwithstanding Section 22601, commencing on March 1, 1961, the terms of the appointive trustees shall be eight years, except that the 16 appointive trustees serving on February 28, 1961, shall have new terms of office which they shall classify by lot so that two of the terms of such appointive members shall expire on the first day of March of each calendar year commencing in 1962 and ending in 1969.

Effect: S C A No 1, 1960 1st Ex Sess.

This section shall become operative only if Senate Constitutional Amendment No. 1 of the 1960 First Extraordinary Session of the Legislature is approved by the electors.

Expiration of terms, vacancies

22602. The expiration of a trustee's term of office as a member of the State Board of Education or any earlier vacancy in that office shall create a vacancy in his trusteeship, unless the term ascribed thereto by lot has already expired. In case of any vacancy on the board of trustees, the Governor shall appoint a successor for the balance of the term as to which such vacancy exists.

Advisory capacity members· Regents, trustees

22603 If the trustees and the Regents of the University of California both consent, the chief executive officer of the State College System shall sit with the Regents of the University of California in an advisory capacity and the President of the University of California shall sit with the trustees in an advisory capacity.

Trustees' succession to powers, duties, etc

22604. The Trustees of the State College System shall succeed to the powers, duties and functions with respect to the management, administration and control of the state colleges heretofore vested in the State Board of Education or in the Director of Education, including all powers, duties, obligations, and functions specified in Article 2 (commencing at Section 24501) of Chapter 11 of Division 18 of this code, and all obligations assumed by the State Board of Education pursuant to that article prior to July 1, 1961.

On and after July 1, 1961, the Trustees of the State College System shall have full power and responsibility in the construction and development of any state college campus, and any buildings or other facilities or improvements connected with the State College System. Such powers shall be exercised by the Trustees of the State College System notwithstanding the provisions of Chapter 2 (commencing at Section 14100) and Chapter 3 (commencing at Section 14250) of Part 5 of Division 3 of Title 2 of the Government Code, except that the powers shall be carried out pursuant to the procedures prescribed by these laws.

Operative date

The provisions of this chapter relating to the transfer of the powers, duties, and functions with respect to the management, administration and control of the state colleges shall become operative on July 1, 1961.

State College System nonpolitical, nonsectarian, etc

22605. The State College System shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its trustees and in the administration of its affairs, and no person shall be debarred admission to any department of the state colleges on account of sex.

Primary function of state colleges Programs

22606. The primary function of the state colleges is the provision of instruction for undergraduate students and graduate students, through the master's degree, in the liberal arts and sciences, in applied fields and in the professions, including the teaching profession. Presently established two-year programs in agriculture are authorized, but other two-year programs shall be authorized only when mutually agreed upon by the Trustees of the State College System and the State Board of Education. The doctoral degree may be awarded jointly with the University of California, as provided in Section 22552. Faculty research is authorized to the extent that it is consistent with the primary function of the state colleges and the facilities provided for that function.

Transfer of state employees to State College System: Classifications, benefits, salaries, etc

22607. All state employees employed on June 30, 1961, in carrying out functions transferred to the Trustees of the State College System of California by this chapter, except persons employed by the Director of Education in the Division of State Colleges and Teacher Education of the Department of Education, are transferred to the State College System.

Nonacademic employees so transferred shall retain their respective positions in the state service, together with the personnel benefits accumulated by them at the time of transfer, and shall retain such rights as may attach under the law to the positions which they held at the time of transfer. All nonacademic positions filled by the trustees on and after July 1, 1961, shall be by appointment made in accordance with Chapter 9 (commencing at Section 24201) of Division 18 of this code, and persons so appointed shall be subject to the provisions of Chapter 9.

The trustees shall provide, or co-operate in providing, academic and administrative employees transferred by this section with personnel rights and benefits at least equal to those accumulated by them as employees of the state colleges, except that any administrative employee may be reassigned to an academic or other position commensurate with his qualifications at the salary fixed for that position and shall have a right to appeal from such reassignment, but only as to whether the position to which he is reassigned is commensurate with his qualifications. All academic and administrative positions filled by the trustees on and after July 1, 1961, shall be filled by appointment made solely at the discretion of the trustees. The trustees shall establish and adjust the salaries and classifications of all academic and administrative positions and neither Section 18004 of the Government Code nor any other provision of law requiring approval by a state officer or agency for such salaries or classifications shall be applicable thereto. The trustees, however, shall make no adjustments

which require expenditures in excess of existing appropriations available for the payment of salaries. The provisions of Chapter 9 (commencing at Section 24201) of Division 18 of this code relating to appeals from dismissal, demotion or suspension shall be applicable to academic employees.

Persons excluded from transfer

Persons excluded from the transfer made by this section shall retain all the rights and privileges conferred upon civil service employees by law. Personnel of state agencies employed in state college work other than those transferred by this section and who are employed by the trustees prior to July 1, 1962, shall likewise be provided with personnel rights and benefits at least equal to those accumulated by them as employees of such state agencies.

CHAPTER 4. JUNIOR COLLEGES

Public junior colleges

22650 The public junior colleges shall continue to be a part of the public school system of this State. The State Board of Education shall prescribe minimum standards for the formation and operation of public junior colleges and exercise general supervision over public junior colleges.

Categories of instruction

22651 Public junior colleges shall offer instruction through but not beyond the 14th grade level, which instruction may include, but shall not be limited to, programs in one or more of the following categories (1) standard collegiate courses for transfer to higher institutions; (2) vocational and technical fields leading to employment; and (3) general or liberal arts courses Studies in these fields may lead to the associate in arts or associate in science degree.

CHAPTER 5. CO-ORDINATING COUNCIL FOR HIGHER EDUCATION

Co-ordinating Council for Higher Education

22700 There is hereby created an advisory body, the Co-ordinating Council for Higher Education, to be composed of three representatives each of the University of California, the State College System, the public junior colleges, the private colleges and universities in the State, and the general public. The university shall be represented by three representatives appointed by the regents. The State College System shall be represented by its chief executive officer and two trustees appointed by the trustees Public junior colleges shall be represented by a member of the State Board of Education or its chief executive officer as the board may from time to time determine, and a member of a local public junior college governing board and a public junior college administrator. The junior college governing board member shall be selected by the State Board of Education from a list or lists of five names submitted for its consideration by any association or associations of statewide coverage which represent junior college governing boards. The public junior college administrator shall be selected

by the State Board of Education from a list of five names submitted for its consideration by the California Junior College Association. The private colleges and universities shall be represented by three persons, each of whom shall be affiliated with a private institution of higher education as a governing board member or as a staff member in an academic or administrative capacity and shall be appointed by the Governor after consultation with an association or associations of such private institutions. The general public shall be represented by three members appointed by the Governor. Appointments and removals made pursuant to this section shall be at the sole discretion of the appointing authority specified herein.

Duty to appoint director, etc Removal

22701. The council shall appoint and may remove a director in the manner hereinafter specified. He shall appoint persons to such staff positions as the council may authorize

Rulemaking power Limitations

22702. The council shall prescribe rules for the transaction of its own affairs, subject, however, to the following requirements and limitations: (1) the votes of all representatives shall be recorded; (2) effective action shall require the affirmative vote of eight members and (3) the affirmative votes of 10 members shall be necessary to the appointment or removal of the director.

Functions

22703. The co-ordinating council shall have the following functions, advisory to the governing boards of the institutions of public higher education and to appropriate state officials; (1) review of the annual budget and capital outlay requests of the university and the State College System, and presentation of comments on the general level of support sought; (2) advice as to the application of the provisions of this division delineating the different functions of public higher education and counsel as to the programs appropriate to each segment thereof, and in connection therewith shall submit to the Governor and to the Legislature within five days of the beginning of each general session a report which contains recommendations as to necessary or desirable changes, if any, in the functions and programs of the several segments of public higher education; and (3) development of plans for the orderly growth of public higher education and the making of recommendations on the need for and location of new facilities and programs.

Other powers

22704. The council shall have power to require the institutions of public higher education to submit data on costs, selection and retention of students, enrollments, plant capacities and other matters pertinent to effective planning and coordination, and shall furnish information concerning such matters to the Governor and to the Legislature as requested by them.

Title

22705. This division shall be known and may be cited as the Donahoe Higher Education Act

Appropriation

SEC. 2. There is hereby appropriated from the General Fund for the support of the state system of higher education

identification numbers, and original cost of all items of equipment acquired by it whose current market value exceeds two hundred dollars ($200) per item, the date of acquisition, the location of use, and the time and mode of disposal.

72206. The governing board of a community college district having more than one college may appoint an advisory committee of not more than five members from each college to advise the governing board concerning the needs of that college. The members of such advisory committees shall serve at the pleasure of the governing board.

72207. The governing board of a community college district may secure copyrights, in the name of the district, to all copyrightable works developed by the district, and royalties or revenue from said copyrights are to be for the benefit of the district securing said copyrights.

72208. The governing board of a community college district shall adopt and cause to be printed and made available to each certificated employee of the district reasonable rules and regulations providing for the evaluation of the performance of certificated employees in their assigned duties.

72209. No governing board of a community college district shall require any minor student to be transported for any purpose or for any reason without the written permission of the parent or guardian.

This section shall not apply to the transportation of a student in an emergency arising from illness or injury to the student.

72210. No community college student shall, because of his race, creed, or color, be assigned to or be required to attend a particular community college.

Article 2. Powers and Duties

72230. Every community college district shall be under the control of a board of trustees.

72231. The governing board of each community college district shall prescribe and enforce rules not inconsistent with law or with the rules prescribed by the board of governors, for its own government.

72231.5. The district governing board shall:

(a) Establish policies for, and approve, current and long-range educational plans and programs and promote orderly growth and development of the community colleges within the district.

(b) Establish policies for, and approve, academic master plans and long-range master plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval.

72233. On and after January 1, 1976, the governing board of any community college district, may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not

in conflict with the purposes for which school districts are established.

72234. The governing board of any community college district shall maintain schools and classes as provided by law.

72236. The governing board of any community college district shall visit each school in its district at least once each term, and examine carefully into the management, needs, and conditions of the schools. In any district which employs district superintendents of schools, it shall either visit the schools or provide that they shall be visited by the district superintendent of schools or his assistants.

72237. The governing board of a community college district may provide by appropriate rules and regulations that grades, transcripts, diplomas, and registration privileges, or any combination thereof, shall be withheld from any student or former student properly charged with the possession of library books or other library materials when such books or materials are not returned to the library when due.

Grades, transcripts, diplomas, and registration privileges shall be released from the prescribed restrictions when the student either:

(a) Returns the overdue library books or other library materials; or

(b) Pays the charge for the replacement of the library books or other library materials, if such books or materials were lost.

72239. The governing board of a community college district may rent or purchase academic caps and gowns for faculty use at ceremonies.

72240. The governing board of a community college district may employ as a community college instructor of an academic subject matter area or areas a person who does not hold a credential issued by the Board of Governors of the California Community Colleges authorizing such service if the person has been granted a master's degree or a doctor's degree in the academic subject matter area for which he is employed to teach. No such person shall teach classes in grades below grades 13 and 14 in any community college. No such person shall be employed for an aggregate period which is greater than three school years unless he fulfills the requirement of Section 87215.

No person shall be employed pursuant to this section until he has complied with the prerequisites to issuance of a certification document prescribed by Sections 87214, 87216, 87219, and 87220, and no person shall be so employed who has been determined to come within any of the provisions of Section 44345 or Section 44346. The board of governors shall make necessary provision for enforcing compliance with the preceding sentence.

The governing board of each community college district shall, in the manner and form prescribed by the board of governors, promptly after the close of each school year file with the board of governors a report identifying each person employed pursuant to this section during the preceding school year and certifying that all

CHAPTER 302.

An act appropriating money to pay the claim of the county of San Bernardino for additional reimbursement, as determined by investigation of the state tax commission.

[Approved May 14, 1917. In effect July 27, 1917.]

The people of the State of California do enact as follows:

Appropriation: claim of county of San Bernardino.

SECTION 1. The sum of one hundred thirty-four thousand sixteen dollars and ninety-three cents is hereby appropriated out of any money in the state treasury not otherwise appropriated, to pay the claim of the county of San Bernardino for additional reimbursement, as determined by investigation of the state tax commission.

CHAPTER 303.

An act appropriating money to pay the claims of various contractors against the State of California in connection with the construction of the Fresno normal school.

[Approved May 14, 1917. In effect July 27, 1917.]

The people of the State of California do enact as follows:

Appropriation: claims of contractors, Fresno Normal School.

SECTION 1. The sum of fifty-five thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated, to pay the claims of various contractors against the State of California in connection with the construction of the Fresno normal school.

CHAPTER 304.

An act to amend section one thousand seven hundred twenty of the Political Code, and to add a new section to the Political Code, to be numbered one thousand seven hundred fifty b, relating to the organization and maintenance of junior college courses of study.

[Approved May 14, 1917. In effect July 27, 1917.]

The people of the State of California do enact as follows:

SECTION 1. Section one thousand seven hundred twenty of the Political Code is hereby amended to read as follows:

Designation of secondary schools.

1720. The secondary schools of the state shall be designated as high schools, technical schools, and junior colleges. High

schools may be established and high school districts formed and organized in accordance with the provisions of this article. Whenever any high school district is so formed and organized the governing body thereof shall establish and maintain one or more high schools, technical schools, or junior colleges therein.

SEC. 2. A new section, to be numbered one thousand seven hundred fifty *b* is hereby added to the Political Code, to read as follows:

Junior college courses.

1750*b*. The high school board of any high school district having an assessed valuation of three million dollars or more, may prescribe junior college courses of study, including not more than two years of work, and admit thereto the graduates of such high school, the graduates of other high schools and such other candidates for admission who are at least twenty-one years of age, and are recommended for admission by the principal of the high school maintaining such junior college courses. Junior college courses of study may include such studies as are required for the junior certificate at the University of California, and such other courses of training in the mechanical and industrial arts, household economy, agriculture, civic education and commerce as the high school board may deem it advisable to establish.

Regulations.

The high school board shall adopt regulations governing the organization of such courses of study and shall prescribe

Requirements for graduation.

requirements for graduation from such courses; *provided*, that the minimum requirement for graduation from junior college courses of study shall be at least sixty credit-hours of work. A credit-hour is hereby defined as approximately three hours of recitation, study and laboratory work per week carried through one half-year.

Courses of study.

Courses of study organized under the provisions of this section may be offered in any or all day and evening high schools of the district, or in a separate junior college, as the high school board may determine.

Attendance included in average daily attendance of district.

The attendance of students enrolled in junior college courses of study shall be kept according to regulations prescribed by the state board of education, and the average daily attendance of such students shall be included in the annual report of the average daily attendance of the high school district required in section one thousand seven hundred forty-three of the Political Code. The superintendent of schools of each county, in making the annual estimate of county high school fund required, shall include in the basis of such estimate the average daily attendance of all students enrolled in junior college courses during the preceding school year. In apportioning the county high school fund, the superintendent of schools of the county shall count the average daily attendance of all students enrolled in junior college courses as a part of the average daily attendance of each high school district in which such students are enrolled.

The state controller, in making the annual estimate of the amount necessary for the support of high schools, as required in section one thousand seven hundred sixty of the Political Code, shall include in the basis of his estimate, the average daily attendance of all students enrolled in junior college courses, and the superintendent of public instruction, in apportioning the state high school fund, shall count the average daily attendance of students enrolled in junior college courses as a part of the average daily attendance of each high school district in which such students are enrolled. Included in estimate for apportioning fund.

All courses of study prescribed in accordance with this section shall be subject to approval by the state board of education, and no state high school funds shall be apportioned to any high school district on account of the attendance of students enrolled in junior college courses, unless such courses have been approved by the state board of education. Approval of courses by state board of education.

CHAPTER 305.

An act making an appropriation to pay the claim of Petaluma and Santa Rosa Railway Company, a corporation, against the State of California.

[Approved May 14, 1917. In effect July 27, 1917.]

The people of the State of California do enact as follows:

SECTION 1. The sum of four hundred ninety and twenty one-hundredths dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated to pay the balance due on a judgment against the State of California in favor of Petaluma and Santa Rosa Railway Company. Appropriation: claim of P. & S. R. Ry. Co.

SEC. 2. The state controller is hereby authorized to draw his warrant for the sum herein made payable and the state treasurer is directed to pay the same.

CHAPTER 306.

An act to appropriate money for the improvement, support and maintenance of the California Redwood Park.

[Approved May 14, 1917. In effect July 27, 1917.]

The people of the State of California do enact as follows:

SECTION 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of thirty thousand dollars for the improvement, support Appropriation: improvement, etc.

CHAPTER 69.

An act to add a new section to an act entitled "An act to establish a Political Code," approved March 12, 1872, to be numbered section 1681, relating to post graduate courses of study in high schools.

[Approved March 1, 1907.]

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. A new section is hereby added to the Political Code to be numbered section sixteen hundred and eighty-one and to read as follows:

Post-graduate course for high schools.

1681. The board of trustees of any city, district, union, joint union or county high school may prescribe post graduate courses of study for the graduates of such high school, or other high schools, which courses of study shall approximate the studies prescribed in the first two years of university courses. The board of trustees of any city, district, union, joint union, or county high school wherein the post graduate courses of study are taught may charge tuition for pupils living without the boundaries of the district wherein such courses are taught.

SEC. 2. This act shall take effect and be in force from and after its passage.

CHAPTER 70.

An act to repeal Chapters III, IV, V, and VI of Title IV of the Political Code, as said chapters existed on the 17th day of March, 1905, relating to the state militia.

[Approved March 1, 1907.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Portion of militia law repealed.

SECTION 1. Chapters III, IV, V, and VI of Title IV of the Political Code, as the said chapters existed on the 17th day of March, 1905, are hereby repealed; *provided, however,* that this act shall not be deemed to repeal any part of Title IV of said code, as approved March 18, 1905.

polygamous societies, a secondary wife, usually of inferior legal and social status. [Middle English, from Old French, from Latin *concubīna,* "one to sleep with" : *com-,* together + *cubāre,* to lie down (see **keu-**[2] in Appendix*).]

con·cu·pis·cence (kŏn-kyōō′pə-səns) *n.* **1.** Sexual desire; lust; sensuality. **2.** Any abnormally strong desire. [Latin *concupīscēns,* present participle of *concupīscere,* inceptive of *concupere,* to have a strong desire for : *com-* (intensive) + *cupere,* to desire (see **kwēp-** in Appendix*).] —**con·cu′pis·cent** *adj.*

con·cur (kən-kûr′) *intr.v.* **-curred, -curring, -curs. 1.** To have the same opinion; agree. **2.** To act together; cooperate. **3.** To occur at the same time; coincide. **4.** *Rare.* To come together; converge. —See Synonyms at **assent.** [Middle English *concurren,* from Latin *concurrere,* to run together : *com-,* together + *currere,* to run (see **kers-**[2] in Appendix*).]

Usage: *Concur in* is generally used to express approval or joint action: *concur in a plan. Concur to* (with infinitive) also is used for joint action: *concurred to avert trouble. Concur with* expresses agreement: *concur with him* (or *with his view*).

con·cur·rence (kən-kûr′əns) *n.* Also **con·cur·ren·cy** (-ən-sē) *pl.* **-cies. 1.** Agreement in opinion; accordance. **2.** Cooperation or combination, as of agents, causes, circumstances, or events. **3.** Simultaneous occurrence; coincidence. **4.** *Rare.* Competition. **5.** *Law.* A power or claim jointly held.

con·cur·rent (kən-kûr′ənt) *adj.* **1.** Happening at the same time or place. **2.** Operating in conjunction. **3.** Meeting at or tending to meet at the same point. **4.** In accordance; agreeing; harmonious. —See Synonyms at **contemporary.** —*n.* **1.** One that concurs. **2.** *Rare.* A competitor or rival. [Middle English, from Old French, from Latin *concurrēns,* present participle of *concurrere,* to run together, CONCUR.] —**con·cur′rent·ly** *adv.*

concurrent resolution. A resolution adopted by both houses of a bicameral legislature, that does not have the force of law and does not require the signature of the chief executive. Compare **joint resolution.**

con·cuss (kən-kŭs′) *tr.v.* **-cussed, -cussing, -cusses. 1.** To injure (the brain) by concussion. **2.** *Rare.* To shake or agitate; disturb severely. [Late Latin *concutere* (past participle *concussus*), to shake violently : Latin *com-* (intensive) + *-cutere,* from *quatere,* to shake, dash (see **kwēt-** in Appendix*).]

con·cus·sion (kən-kŭsh′ən) *n.* **1.** A violent jarring; a shock. **2.** An injury of a soft structure, especially of the brain, resulting from a violent blow. —**con·cus′sive** (-kŭs′ĭv) *adj.*

cond. **1.** condition. **2.** conductor.

Con·dé (kôN-dā′), **Prince de.** Title of Louis II de Bourbon, Duc d'Enghien. Called "the Great Condé." 1621–1686. French general.

con·demn (kən-dĕm′) *tr.v.* **-demned, -demning, -demns. 1.** To express disapproval of; censure; criticize. **2.** To pronounce judgment against; to sentence; to doom. **3.** To demonstrate the guilt of; to convict. **4.** To judge or declare to be unfit for use or consumption, usually by official order: *condemn an old building.* **5.** *Law.* To declare legally appropriated for public use under the right of eminent domain. —See Synonyms at **criticize.** [Middle English *condem(p)nen,* from Old French *condem(p)ner,* from Latin *condemnāre* : *com-* (intensive) + *damnāre,* to damage, condemn, from *damnum,* damage, fine (see **dap-** in Appendix*).] —**con·dem′na·ble** (-dĕm′nə-bəl) *adj.* —**con·demn′er** *n.*

con·dem·na·tion (kŏn′dĕm-nā′shən) *n.* **1.** The act of condemning. **2.** The state of being condemned. **3.** Severe reproof; strong censure. **4.** A reason or occasion for condemning. —**con·dem′na·to′ry** (-nə-tôr′ē, -tōr′ē) *adj.*

con·den·sa·ble (kən-dĕn′sə-bəl) *adj.* Also **con·den·si·ble.** Capable of being condensed. —**con·den′sa·bil′i·ty** *n.*

con·den·sate (kən-dĕn′sāt′) *adj. Rare.* Condensed. —*n.* A product of condensation. [Latin *condēnsātus,* past participle of *condēnsāre,* CONDENSE.]

con·den·sa·tion (kŏn′dən-sā′shən) *n.* **1.** The act of condensing. **2.** The state of being condensed. **3.** A product of condensing. **4.** *Physics.* **a.** The physical process by which a liquid is removed from a vapor or vapor mixture. **b.** The liquid so removed; a condensate. **5.** *Chemistry.* A chemical reaction in which water or another simple substance is released by the combination of two or more molecules. **6.** *Psychoanalysis.* The process by which a single idea or word is invested with the emotional content of a group of ideas.

con·dense (kən-dĕns′) *v.* **-densed, -densing, -denses.** —*tr.* **1.** To reduce the volume of; compress. **2.** To abridge (a literary work, for example). **3. a.** To form a condensate from (a vapor, for example). **b.** To subject (a vapor, for example) to condensation. —*intr.* **1.** To become more compact. **2.** To undergo condensation. —See Synonyms at **contract.** [Middle English *condensen,* from Old French *condenser,* from Latin *condēnsāre* : *com-* (intensive) + *dēnsāre,* to make dense, from *dēnsus,* dense (see **dens-**[2] in Appendix*).]

condensed milk. Cow's milk with sugar added, and reduced by evaporation to a thick consistency. Compare **evaporated milk.**

con·dens·er (kən-dĕn′sər) *n.* **1.** One that condenses. **2.** *Physics.* An apparatus used to condense vapor. **3.** *Electricity.* A **capacitor** *(see).* **4.** A mirror, lens, or combination of lenses used to gather light and direct it upon an object or projection lens.

con·de·scend (kŏn′dĭ-sĕnd′) *intr.v.* **-scended, -scending, -scends. 1.** To come down voluntarily to the level of inferiors with whom one is dealing; deign. **2.** To deal with people in a patronizing manner. **3.** *Obsolete.* To yield or assent. [Middle English *condescenden,* from Old French *condescendre,* from Medieval Latin *condēscendere,* to stoop to : Latin *com-* (intensive) + *dēscendere,* to descend : *dē-,* down + *scandere,* to climb (see **skand-** in Appendix*).] —**con′de·scend′er** *n.*

con·de·scen·dence (kŏn′dĭ-sĕn′dəns) *n.* **1.** *Scottish Law.* A list of facts presented by the plaintiff. **2.** Condescension.

con·de·scend·ing (kŏn′dĭ-sĕn′dĭng) *adj.* **1.** Stooping to the level of one's inferiors. **2.** Acting with an air of superiority. —**con′de·scend′ing·ly** *adv.*

con·de·scen·sion (kŏn′dĭ-sĕn′shən) *n.* **1. a.** The act of condescending. **b.** An instance of this. **2.** Patronizing behavior or manner.

con·dign (kən-dīn′) *adj.* **1.** Deserved; adequate; merited. Said of punishment or censure. **2.** *Obsolete.* Worthy; deserving. [Middle English *condigne,* from Old French, from Latin *condignus,* wholly worthy : *com-* (intensive) + *dignus,* worthy (see **dek-**[1] in Appendix*).] —**con·dign′ly** *adv.*

con·di·ment (kŏn′də-mənt) *n.* A seasoning for food, such as mustard or various spices. [Middle English, from Old French, from Latin *condīmentum,* from *condīre,* to season, to preserve by pickling, perhaps variant of *condere,* to bring together, store up. See **dhē-**[1] in Appendix.*] —**con′di·men′tal** *adj.*

con·di·tion (kən-dĭsh′ən) *n. Abbr.* **cond. 1.** The particular mode or state of being of a person or thing. **2. a.** State of health. **b.** State of readiness or physical fitness: *getting in condition for the tournament.* **3.** *Informal.* A disease or ailment: *a heart condition.* See Usage note below. **4.** Rank or social position: *a person of high condition.* **5.** Something indispensable to the appearance or occurrence of something else; a prerequisite. **6.** Something that restricts or modifies something else; a qualification. **7.** *Usually plural.* The existing circumstances: *poor driving conditions.* **8.** *Grammar.* The dependent clause of a conditional sentence. **9.** *Logic.* A proposition upon which another proposition depends; the antecedent of a conditional proposition. **10.** *Law.* **a.** A provision making the effect of a legal instrument contingent upon the occurrence of some uncertain future event. **b.** The event itself. **11.** An unsatisfactory grade given a student and serving notice that he can make up deficiencies by doing further work. **12.** *Obsolete.* Way; disposition. —See Synonyms at **state.** —*tr.v.* **conditioned, -tioning, -tions. 1.** To make conditional. **2.** To render fit. **3.** To accustom (a person) to; adapt. **4.** To give the grade of condition to (a student). **5.** *Psychology.* To cause to respond in a specific manner to a specific stimulus. [Middle English *condicioun,* from Old French *condicion,* from Latin *conditiō, condiciō,* agreement, stipulation, probably (irregularly) from *condīcere,* to talk together, agree : *com-,* together + *dīcere,* to talk (see **deik-** in Appendix*).]

Usage: *Condition* (noun), in the sense of disease or ailment *(a liver condition, a nervous condition),* is not a scientific term, and is sometimes objected to as a euphemism. But it is acceptable to 74 per cent of the Usage Panel in all but scientific writing.

con·di·tion·al (kən-dĭsh′ən-əl) *adj.* **1.** Imposing, depending on, or containing a condition or conditions. **2.** Not certain; tentative. **3.** *Grammar.* Stating or implying a condition. —*n. Grammar.* A mood, tense, clause, or word expressing a condition. —**con·di′tion·al′i·ty** *n.* —**con·di′tion·al·ly** *adv.*

con·di·tioned (kən-dĭsh′ənd) *adj.* **1.** Subject to or dependent upon conditions or stipulations. **2. a.** Physically fit; in good physical condition. **b.** Prepared for a specific action or process. **3.** *Psychology.* Exhibiting or trained to exhibit a conditioned response.

conditioned response. *Psychology.* A new or modified response elicited by a stimulus after conditioning. Also called "conditioned reflex."

conditioned stimulus. *Psychology.* A stimulus rendered capable of eliciting a response like that of a specific **unconditioned stimulus** *(see)* by conditioning.

con·di·tion·er (kən-dĭsh′ən-ər) *n.* **1.** One that conditions: *an air conditioner.* **2.** A worker who conditions a product during manufacture. **3.** An additive or application that improves the quality or usability of a substance: *a soil conditioner.* **4.** A trainer of athletes.

con·di·tion·ing (kən-dĭsh′ən-ĭng) *n. Psychology.* The process of, or the complex of organismic processes resulting from, presenting an initially inadequate stimulus with an unconditioned stimulus until the former is capable of eliciting a response like that elicited by the latter.

con·dole (kən-dōl′) *v.* **-doled, -doling, -doles.** —*intr.* To mourn or express sympathy with one in pain, grief, or misfortune. Used with *with.* —*tr. Rare.* To address words of sympathy to. [Late Latin *condolēre,* to feel another's pain : Latin *com-,* together + *dolēre,* to feel pain, grieve (see **del-**[3] in Appendix*).] —**con·do′la·to′ry** (-dō′lə-tôr′ē, -tōr′ē) *adj.* —**con·dol′er** *n.*

con·do·lence (kən-dō′ləns) *n.* Also **con·dole·ment** (-dōl′mənt) (for sense 1). **1.** An expression of sympathy with a person in pain, grief, or misfortune. **2.** *Plural.* A formal declaration of such sympathy. —See Synonyms at **pity.** —**con·do′lent** *adj.*

con do·lo·re (kōn dō-lō′rā). *Music.* With sadness; sorrowfully. Used as a direction. [Italian, "with sorrow."]

con·dom (kŏn′dəm) *n.* Also **cun·dum** (kŭn′dəm). A sheath, usually made of thin rubber, designed to cover the penis during sexual intercourse for antivenereal or contraceptive purposes. [Said to have been invented by Dr. *Condom* or *Conton,* 18th-century English physician.]

con·do·min·i·um (kŏn′də-mĭn′ē-əm) *n.* **1. a.** Joint sovereignty; especially, joint rule of a territory by two or more states. **b.** The territory so governed. **2. a.** An apartment building in which the apartments are owned individually. **b.** An apartment in such a building. [New Latin : CON- + DOMINIUM.]

Con·don (kŏn′dən), **Edward Uhler.** Born 1902. American physicist; aided in development of atomic bomb.

con·do·na·tion (kŏn′dō-nā′shən) *n.* **1.** The condoning or over-

stamen
Stamens of a lily

stamp
Revenue stamp used under the Stamp Act

rogators or postpone action. —*v.* **stalled, stalling, stalls.** —*tr.* **1.** To put or lodge (an animal) in a stall. **2.** To maintain (an animal) in a stall for fattening. **3.** To check the motion or progress of; bring to a standstill. **4.** To employ delaying tactics against. Often used with *off*: *stall off creditors.* See Usage note below. **5.** Accidentally to cause (an engine) to stop running. **6.** To cause (an airplane) to go into a stall. —*intr.* **1.** To live or be lodged in a stall. **2.** To stick fast in mud or snow. **3.** To come to a standstill. **4.** To employ delaying tactics. See Usage note below. **5.** To stop running from mechanical failure. Said of an engine. **6.** *Aviation.* To lose forward speed causing a stall. [Middle English *stall(l)*, Old English *steall*, standing place, stable. See **stel-**[1] in Appendix.*]

Usage: *Stall*, in sense 4 of both the transitive and intransitive verb, is common in informal contexts but not necessarily limited to them. The following, as examples in writing, are acceptable to a majority of the Usage Panel: *Realizing that help was on the way, he tried to stall* (accepted by 75 per cent). *She sought to stall off her creditors* (accepted by 62 per cent).

stall-feed (stôl′fēd′) *tr.v.* **-fed** (-fĕd′), **-feeding, -feeds.** To lodge and feed (an animal) in a stall for the purpose of fattening.

stal·lion (stăl′yən) *n.* An adult male horse that has not been castrated. [Middle English *stalo(u)n*, from Old French *estalon*, from Frankish *stallo* (unattested), from *stal* (unattested), standing-place, stable. See **stel-**[1] in Appendix.*]

stal·wart (stôl′wərt) *adj.* **1.** Having physical strength; sturdy; robust. **2.** Resolute; uncompromising. —See Synonyms at **strong.** —*n.* **1.** One who is physically and morally strong. **2.** One who actively supports an organization or cause. [Middle English (Scottish dialect) variant of *stalworth, stalwurth*, Old English *stælwierthe*, serviceable, probably contraction of *statholwierthe*, "worthy in the foundation," firm : *stathol*, foundation (see **stā-** in Appendix*) + *wierthe, weorth*, worth (see **wer-**[3] in Appendix*).] —**stal′wart·ly** *adv.* —**stal′wart·ness** *n.*

Stam·bul (stăm-bo͞ol′). Also **Stam·boul. 1.** The old section of Istanbul, south of the Golden Horn. **2.** See **Istanbul.**

sta·men (stā′mən) *n., pl.* **-mens** or *rare* **stamina** (stăm′ə-nə). The pollen-producing reproductive organ of a flower, usually consisting of a filament and an anther. [Latin *stāmen*, thread of the warp, stamen. See **stā-** in Appendix.*]

Stam·ford (stăm′fərd). A city of Connecticut, in the southwest on Long Island Sound. Population, 108,000.

stam·i·na (stăm′ə-nə) *n.* **1.** The physical or moral strength required to resist or withstand disease, fatigue, or hardship; endurance. **2.** *Rare.* Plural of **stamen.** [Latin, plural *stāmen*, thread of the warp, thread of human life. See **stamen.**]

stam·i·nal (stăm′ə-nəl) *adj.* **1.** Pertaining to, showing, or producing stamina. **2.** Pertaining to a stamen or stamens.

stam·i·nate (stăm′ə-nĭt, -nāt′) *adj. Botany.* **1.** Having a stamen or stamens. **2.** Bearing stamens but lacking pistils: *staminate flowers.*

stam·i·node (stăm′ə-nōd′) *n.* Also **stam·i·no·di·um** (stăm′ə-nō′dē-əm) *pl.* **-dia** (-dē-ə). *Botany.* A sterile functionless stamen. [New Latin *staminodium*, from Latin *stāmen*, STAMEN.]

stam·mel (stăm′əl) *n. Obsolete.* **1.** A coarse, red woolen cloth formerly used for undergarments. **2.** The red color of this cloth. —*adj. Obsolete.* Dull-red. [Probably variant of *stamin*, Middle English *stamyn*, from Latin *stāminea*, feminine of *stāmineus*, made of threads, from *stāmen*, thread of the warp. See **stā-** in Appendix.*]

stam·mer (stăm′ər) *v.* **-mered, -mering, -mers.** —*intr.* To intrude involuntary pauses and sometimes syllabic repetitions into one's speaking; falter; stumble. —*tr.* To utter or say with a stammer. —*n.* An instance or habit of stammering. [Middle English *stameren*, Old English *stamerian*. See **stam-** in Appendix.*] —**stam′mer·er** *n.* —**stam′mer·ing·ly** *adv.*

Synonyms: *stammer, stutter.* These verbs apply to hesitant, stumbling, or repetitive speech. *Stammer* generally refers to involuntary pauses or breaks in speech. *Stutter* usually refers to spasmodic repetition or exaggeration of sounds or syllables, especially initial consonants.

stamp (stămp) *v.* **stamped, stamping, stamps.** —*tr.* **1.** To bring down (the foot) forcibly. **2.** To bring the foot down upon (an object or surface) forcibly. **3.** To bring into a specified condition by or as if by thrusting downward forcibly with the foot. **4.** To form or cut out by application of a mold, form, or die. **5.** To imprint or impress with a mark, design, or seal. **6.** To impress forcibly or permanently. **7.** To affix an adhesive stamp to. **8.** To identify, characterize, or reveal. —*intr.* **1.** To thrust the foot forcibly downward. **2.** To walk with forcible, heavy steps. —See Usage note at **stomp.** —*n.* **1.** The act of stamping. **2. a.** An implement or device used to impress, cut out, or shape something to which it is applied. **b.** The impression or shape thus formed. **3.** A mark, design, or seal, the impression of which indicates ownership, approval, completion, or the like. **4. a.** A small piece of gummed paper sold by a government for attachment to an article that is to be mailed; postage stamp. **b.** Any similar piece of gummed paper issued for a specific purpose: *trading stamp.* **5.** Any identifying or characterizing mark or impression. **6.** Characteristic nature or quality; class; kind. [Middle English *stampen*, Old English *stampian* (unattested), to pound, stamp. See **stebh-** in Appendix.*]

Stamp Act. An act passed (1765) by the British Parliament requiring that revenue stamps be affixed to all official documents and printed matter in the American colonies.

stam·pede (stăm′pēd′) *n.* **1.** A sudden headlong rush of startled animals, especially cattle or horses. **2.** A sudden headlong rush of a crowd of people. **3.** Any precipitous mass movement. —*v.* **stampeded, -peding, -pedes.** —*intr.* To participate in a stampede. —*tr.* To cause to stampede. [Mexican Spanish *estampida*, from Spanish, uproar, crash, "a stamping or pounding," from *estampar*, to pound, stamp, from Germanic. See **stebh-** in Appendix.*] —**stam′ped′er** *n.*

stamping ground. One's customary environment or favorite gathering place.

stamp mill. 1. A machine that crushes ore. **2.** A building in which ore is crushed.

stance (stăns) *n.* **1.** The attitude or position of a standing person or animal; especially, the position assumed by an athlete or sportsman in action. **2.** One's emotional or intellectual attitude or position. [Old French *estance*, position, place, from Italian *stanza*, from Vulgar Latin *stantia* (unattested), a standing, from Latin *stāre*. See **stā-** in Appendix.*]

stanch (stänch, stănch) *tr.v.* **stanched, stanching, stanches.** Also **staunch. 1.** To stop or check the flow of (a bodily fluid, especially blood). **2.** To check the flow of blood from (a wound). —*adj.* Variant of **staunch.** See Usage note at **staunch.** [Middle English *staunchen*, to stop from flowing, from Old French *estanch(i)er*, from Vulgar Latin *stanticāre* (unattested), from Latin *stāns*, present participle of *stāre*, to stand. See **stā-** in Appendix.*] —**stanch′er** *n.*

stan·chion (stăn′chən, -shən) *n.* **1.** An upright pole, post, or support. **2.** One of the vertical posts used to secure cattle in a stall. —*tr.v.* **stanchioned, -chioning, -chions. 1.** To build stanchions for; equip with stanchions. **2.** To confine (cattle) in stanchions. [Middle English *stanchon*, from Norman French, from Old French *estanchon*, from *estanc(h)e*, a stay, prop, from *ester*, to stand, prop, from Latin *stāre*. See **stā-** in Appendix.*]

stand (stănd) *v.* **stood** (sto͝od), **standing, stands.** —*intr.* **1. a.** To take or maintain an upright position on the feet. **b.** To be placed in or maintain an erect position upon a base, support, or bottom. **c.** To grow in a vertical direction. **2.** To assume a standing position in a manner specified: *stand straight.* **3.** *Hunting.* To point or range. **4.** To measure or equal a specified height when in a standing position: *stand five feet tall.* **5. a.** To remain stable, valid, intact, or unchanged. **b.** To be or remain sure of or committed to. Used with *on: to stand on an argument.* **6.** To have a specified position, expectation, or opportunity: *stand to gain.* **7.** To be situated or placed. **8.** To be in a specified class or degree; to rank. **9.** To remain in a stationary position. **10. a.** To remain without flowing or being disturbed. **b.** To stagnate. **11.** To assume or maintain an attitude, conviction, or course. **12.** *Chiefly British.* To be a candidate for public office. **13.** To take or hold a particular course or direction; to steer: *a ship standing to windward.* —*tr.* **1.** To cause to stand; place upright. **2.** To encounter; meet; engage in: *stand battle.* **3. a.** To resist; withstand: *stand siege.* **b.** To tolerate; endure; bear. **4.** To be subjected to; undergo: *stand trial.* **5.** *Informal.* To pick up the check for; treat: *stand someone to a drink.* —See Synonyms at **bear.** —**stand a chance.** To have any hopes or likelihood of gaining or accomplishing. —**stand down.** *Law.* To leave the witness stand, as after giving testimony. —**stand for.** To represent; symbolize. —**stand in for.** To take someone's place; substitute for. —**stand on. 1.** To depend upon; rest on. **2.** To insist upon or demand, as observance of formalities or one's due rights. **3.** To maintain the same tack or course in navigation. —**stand one's ground.** To hold out against attack. —**stand on one's own (two) feet** (or **legs**). To be independent and responsible for one's own affairs. —**stand over. 1.** To keep close surveillance on; watch closely. **2.** To hold over or be held over; postpone. —**stand pat. 1.** In poker, to keep one's original hand without drawing new cards. **2.** To remain unchanged. **3.** To oppose all change. —**stand to reason.** To be consistent with reason. —**stand up for.** To side with; defend. —**stand up to.** To face up to. —**stand up with.** To act as best man or bridesmaid for. —*n.* **1.** The act of standing. **2.** A halt. **3.** A ceasing of work or activity; standstill. **4.** A stop on a performance tour: *one-night stands in summer stock.* **5.** The place where a person stands. **6.** A booth, stall, or counter for the display of goods for sale. **7.** A parking space reserved for taxis. **8.** A desperate or decisive halt for defense or resistance, as in a battle. **9.** A position or opinion one is prepared to defend: *take a stand.* **10.** *Usually plural.* The bleachers at a playing field or stadium. **11.** A **witness stand** *(see).* **12.** A small rack, prop, or table for holding various articles: *music stand.* **13.** A group or growth of tall plants or trees: *a stand of pine.* [Stand, stood (past tense); Middle English *standen, sto(o)d*, Old English *standan, stōd* (past singular). See **stā-** in Appendix.*] —**stand′er** *n.*

stan·dard (stăn′dərd) *n. Abbr.* **std. 1.** A flag, banner, or ensign, specifically: **a.** The ensign of a chief of state, nation, or city. **b.** A long, tapering flag bearing heraldic devices distinctive of a person or corporation. **c.** The colors of a mounted or motorized military unit. **2. a.** An acknowledged measure of comparison for quantitative or qualitative value; criterion; norm. **b.** An object that under specified conditions defines, represents, or records the magnitude of a **unit** *(see).* See **measurement. 3.** The set proportion by weight of gold or silver to alloy metal prescribed for use in coinage. **4.** The commodity or commodities used to back a monetary system. See **gold standard, silver standard, bimetallism. 5. a.** A degree or level of requirement, excellence, or attainment. **b.** A requirement of moral conduct. Often used in the plural to indicate moral character; *maintain standards in the face of temptation.* **6.** *British.* A grade level in elementary schools. **7.** A pedestal, stand, or base. **8.** *Botany.* **a.** The large upper petal of the flower of a pea or related plant. Also called "banner." **b.** One of the narrow,

distributed in identifiable geographic areas and has identifiable phonetic, structural, and other differences from the standard form of the language; dialectal. —**re′gion·al·ly** *adv.*

ré·gis·seur (rā′zhē-sœr′) *n., pl.* **-seurs** (-sœr′). *French.* The director of a ballet.

reg·is·ter (rĕj′ĭ-stər) *n. Abbr.* **reg.** **1.** A formal or official recording of items, names, or actions. **2.** A book for such entries. **3.** An entry in a register. **4.** A device that automatically registers a quantity or number. **5.** An adjustable, grill-like device through which heated or cooled air is released into a room. **6.** *Music.* **a.** The range of an instrument or voice. **b.** A part of such a range that has similar quality. **c.** A group of matched organ pipes; a stop. —*v.* **registered, -tering, -ters.** —*tr.* **1.** To enter in a register; record officially; enroll. **2.** To indicate, as on an instrument or scale. **3.** To show (emotion). **4.** To cause (mail) to be officially recorded by payment of a fee. —*intr.* **1.** To place or cause placement of one's name in a register. **2.** To have one's name officially placed on a list of eligible voters. **3.** To create an impression. [Middle English *registre,* from Old French, from Medieval Latin *registrum, regest(r)um,* from Late Latin *regesta,* list, neuter plural past participle of Latin *regerere,* bring back : *re-,* back + *gerere,* bring, to carry (see **gerere** in Appendix*).] —**reg′is·ter·er** *n.* —**reg′is·tra·ble** (-ĭ-strə-bəl) *adj.*

reg·is·tered (rĕj′ĭ-stərd) *adj. Abbr.* **reg., regd.** **1.** Having the owner's name listed in a register: *registered bonds.* **2.** Having the pedigree recorded in a breed association studbook: *a registered poodle.* **3.** Officially qualified or authenticated.

registered mail. Mail that is recorded by the post office when sent and is insured by payment of a fee against loss or damage.

registered nurse. *Abbr.* **R.N.** A graduate trained nurse who has passed a state registration examination.

reg·is·trant (rĕj′ĭ-strənt) *n.* One who registers or is registered.

reg·is·trar (rĕj′ĭ-strär′, rĕj′ĭ-strär′) *n. Abbr.* **reg., regr.** **1.** An officer in a college or university who keeps records on the enrollment and academic standing of students. **2.** An officer of a corporation responsible for maintaining records of ownership of its securities.

reg·is·tra·tion (rĕj′ĭ-strā′shən) *n.* **1.** A registering, as of voters or students. **2.** The number of persons registered; enrollment. **3.** An entry in a register. **4. a.** A combination of organ stops selected to be used in playing a piece. **b.** The technique of selecting and adjusting organ stops.

reg·is·try (rĕj′ĭ-strē) *n., pl.* **-tries.** *Abbr.* **reg.** **1.** Registration. **2.** A ship's registered nationality; flag. **3.** A place where registers are kept.

re·gius professor (rē′jəs, -jē-əs). One holding a professorship established by royal bounty at any of certain older British universities. [Latin *rēgius,* royal, from *rēx* (stem *rēg-*), king (see **reg-**[1] in Appendix*) + PROFESSOR.]

reg·let (rĕg′lĭt) *n.* **1.** *Architecture.* A narrow, flat molding. **2.** *Printing.* A flat piece of wood used to separate lines of type. [French *réglet,* from Old French *reglet,* from *regle,* rule, straightedge, from Latin *rēgula,* rule. See **reg-**[1] in Appendix.*]

reg·nal (rĕg′nəl) *adj.* Designating a specified year of a king's reign calculated from the date of his accession. [Medieval Latin *regnālis,* from Latin *rēgnum,* REIGN.]

reg·nant (rĕg′nənt) *adj.* **1.** Reigning; ruling. **2.** Predominant. **3.** Widespread; prevalent. [Latin *regnāns,* present participle of *regnāre,* to reign, from *rēgnum,* REIGN.]

reg·o·lith (rĕg′ə-lĭth′) *n.* The layer of loose rock material resting on bedrock that constitutes the surface of most land. [Greek *rhēgos,* blanket (see **reg-**[3] in Appendix*) + -LITH.]

re·gorge (rē-gôrj′) *tr.v.* **-gorged, -gorging, -gorges.** To disgorge. [French *regorger,* from Old French : *re-,* back + *gorger,* to gorge, from *gorge,* throat, GORGE.]

regr. registrar.

re·grate (rē-grāt′) *tr.v.* **-grated, -grating, -grates.** **1.** To purchase (goods, especially foodstuffs) in order to resell at a profit at or near the same marketplace. **2.** To retail or sell again (goods so purchased). [Middle English *regraten,* from Old French *regrater,* from *regratier* : perhaps *re-,* against + *grater,* to scratch, from Germanic (see **grat-** in Appendix*).]

re·gress (rĭ-grĕs′) *intr.v.* **-gressed, -gressing, -gresses.** To go back; return to a previous condition or state. —*n.* (rē′grĕs′). **1.** Return or withdrawal. **2.** The act of reasoning from an effect to a cause. [Latin *regressus,* past participle of *regredī,* to go back : *re-,* back + *gradī,* to step, go (see **ghredh-** in Appendix*).]

re·gres·sion (rĭ-grĕsh′ən) *n.* **1.** Reversion; retrogression. **2.** Relapse to a less perfect or developed state. **3.** *Psychoanalysis.* Reversion to a more primitive or less mature behavior pattern. **4.** *Statistics.* The tendency for the expected value of one of two jointly correlated random variables to approach more closely the mean value of its set than the other. **5.** *Astronomy.* Retrogradation.

re·gres·sive (rĭ-grĕs′ĭv) *adj.* **1.** Tending to return or revert. **2.** Characterized by regression or a tendency to regress. **3.** Having the rate lessen as the amount taxed increases. —**re·gres′sive·ly** *adv.* —**re·gres′sive·ness** *n.*

re·gret (rĭ-grĕt′) *tr.v.* **-gretted, -gretting, -grets.** **1.** To feel sorry, disappointed, or distressed about. **2.** To feel sorrow or grief over; mourn. —*n.* **1.** A sense of loss and longing for someone gone. **2.** Distress over a desire unfulfilled or an action performed or not performed. **3.** An expression of grief or disappointment. **4.** *Plural.* A courteous declining to accept an invitation. [Middle English *regretten,* from Old French *regreter,* to lament : perhaps *re-* (intensifier), again + Old Norse *grata,* to moan, sob (see **gher-**[3] in Appendix*).]

Synonyms; *regret, sorrow, grief, anguish, woe, heartache.* These nouns relate to mental distress. *Regret* has the broadest range of meanings, from mere disappointment in not being able to do something to painful sense of loss, bitterness, or longing for something lost or done or left undone. *Sorrow* connotes sadness caused by misfortune or the loss of a loved one and also implies contrition for something one regrets having done. *Grief* is deep, acute personal sorrow arising as from irreplaceable loss. *Anguish* implies an agonizing grief so painful as to be excruciating. *Woe* is intense, prolonged unhappiness or misery. *Heartache* implies longing for something out of reach.

re·gret·ful (rĭ-grĕt′fəl) *adj.* Full of regret or sorrow. —**re·gret′ful·ly** *adv.* —**re·gret′ful·ness** *n.*

re·gret·ta·ble (rĭ-grĕt′ə-bəl) *adj.* Eliciting or deserving regret. See Synonyms at **pathetic.** —**re·gret′ta·bly** *adv.*

regt. regiment.

Regt. regent.

reg·u·lar (rĕg′yə-lər) *adj. Abbr.* **reg.** **1.** Customary, usual, or normal. **2.** Orderly or symmetrical. **3.** Conforming to set procedure, principle, or discipline. **4.** Methodical; well-ordered. **5.** Occurring at fixed intervals; periodic. **6.** Constant; not varying. **7.** Formally correct; proper. **8.** Having the required qualifications for an occupation. **9.** Perfect; complete; thorough: *a regular villain.* **10.** *Informal.* Good; nice: *a regular guy.* **11.** *Botany.* Having symmetrically arranged parts of similar size and shape: *regular flowers.* **12.** *Grammar.* Belonging to a standard mode of inflection or conjugation. **13.** Belonging to a religious order and bound by its rules: *the regular clergy.* Compare **secular. 14.** *Geometry.* **a.** Having equal sides and equal angles. Said of polygons. **b.** Having faces that are congruent regular polygons and congruent polyhedral angles. Said of polyhedra. **15.** Belonging to or constituting the permanent army of a nation. **16. a.** Of or pertaining to policies, candidates, or platforms authorized by a party leadership. **b.** Designating a person loyal to such leadership. —See Synonyms at **normal.** —*n. Abbr.* **reg.** **1.** A clergyman or other member of a religious order. **2.** A soldier belonging to a regular army. **3.** A person loyal to the authorized candidates, policies, and the like, of a political party. **4.** *Informal.* A habitual customer. [Middle English *reguler,* under religious rule, from Old French, from Latin *rēgulāris,* containing rules, from *rēgula,* rule, ruler. See **reg-**[1] in Appendix.*] —**reg′u·lar′i·ty** (rĕg′yə-lăr′ə-tē) *n.* —**reg′u·lar·ly** *adv.*

Regular Army. *Abbr.* **RA, R.A.** The permanent part of the Army of the United States.

reg·u·lar·ize (rĕg′yə-lə-rīz′) *tr.v.* **-ized, -izing, -izes.** To make regular or cause to conform. —**reg′u·lar·i·za′tion** *n.*

regular year. In the Jewish calendar: **a.** An ordinary year of 354 days. **b.** A leap year of 384 days.

reg·u·late (rĕg′yə-lāt′) *tr.v.* **-lated, -lating, -lates.** **1.** To control or direct according to a rule. **2.** To adjust in conformity to a specification or requirement. **3.** To adjust (a mechanism) for accurate and proper functioning. [Late Latin *rēgulāre,* from Latin *rēgula,* a rule. See **reg-**[1] in Appendix.*] —**reg′u·la′tive, reg′u·la·to′ry** (-lə-tôr′ē, -tōr′ē) *adj.*

reg·u·la·tion (rĕg′yə-lā′shən) *n. Abbr.* **reg.** **1.** The act of regulating. **2.** A principle, rule, or law designed to control or govern behavior. **3.** A governmental order having the force of law. —*adj. Abbr.* **reg.** Prescribed in accordance with a rule: *a regulation uniform.*

reg·u·la·tor (rĕg′yə-lā′tər) *n. Abbr.* **reg.** **1.** One that regulates. **2. a.** The mechanism in a watch by which its speed is governed. **b.** An accurate clock used as a standard for timing other clocks. **3. a.** A device to maintain uniform speed in a machine; governor. **b.** A device to control the flow of gases, liquids, or electric current.

reg·u·lus (rĕg′yə-ləs) *n., pl.* **-li** (-lī′) or **-luses.** *Metallurgy.* **1.** The relatively pure metallic part of a charge that sinks to the bottom of a furnace or crucible. **2.** A relatively impure product of various ores in smelting, **matte** *(see).* [Medieval Latin *rēgulus,* from Latin, a petty king (this metallic antimony combines readily with gold, the king of metals), diminutive of *rēx,* king. See **reg-**[1] in Appendix.*]. —**reg′u·line** (rĕg′yə-lĭn, -līn′) *adj.*

Reg·u·lus (rĕg′yə-ləs) *n.* A bright double star in the constellation Leo. Also designated "Alpha Leonis."

re·gur·gi·tate (rē-gûr′jə-tāt′) *v.* **-tated, -tating, -tates.** —*intr.* To rush or surge back; regorge. —*tr.* To cause to pour back; especially, to cast up (partially digested food); to vomit. [Medieval Latin *regurgitāre* : *re-,* back + Late Latin *gurgitāre,* to engulf, flood, from Latin *gurges,* a whirlpool (see **gwer-**[2] in Appendix*).] —**re·gur′gi·ta′tion** *n.*

re·ha·bil·i·tate (rē′hə-bĭl′ə-tāt′) *tr.v.* **-tated, -tating, -tates.** **1.** To restore (a handicapped or delinquent person) to useful life through education and therapy. **2.** To reinstate the good name of. **3.** To restore the former rank, privileges, or rights of. [Medieval Latin *rehabilitāre* : Late Latin *re-,* again + *habilitāre,* HABILITATE.] —**re′ha·bil′i·ta′tion** *n.* —**re′ha·bil′i·ta′tive** *adj.*

re·hash (rē-hăsh′) *tr.v.* **-hashed, -hashing, -hashes.** To repeat, rework, or rewrite (old material). —*n.* (rē′hăsh′). A repeated or redundant account. [RE- + HASH (to chop over).]

re·hear (rē-hĭr′) *tr.v.* **-heard** (-hûrd′), **-hearing, -hears.** To hear again. **2.** *Law.* To give a second consideration to.

re·hear·ing (rē-hĭr′ĭng) *n. Law.* A second or new consideration of a case, plea, or suit in the same court.

re·hears·al (rĭ-hûr′səl) *n.* **1.** The act or process of practicing in preparation for a performance, especially for a public performance. **2.** A verbal repetition or recital.

re·hearse (rĭ-hûrs′) *v.* **-hearsed, -hearsing, -hearses.** —*tr.* To practice (all or part of a program) in preparation for a public

upright petals of an iris. **9.** *Horticulture.* A shrub or small tree that through grafting or training has a single stem of limited height with a crown of leaves and flowers at its apex. —See Synonyms at **ideal.** —*adj.* **1. a.** Serving as a standard of measurement or value. **b.** Commonly used and accepted as an authority: *a standard atlas.* **c.** Of average but acceptable quality. **d.** Of normal or prescribed size or quantity. **e.** Designating the U.S. Government grade of meat higher than *commercial* and lower than *good.* **2.** *Linguistics.* Conforming to established educated usage in speech or writing. —See Synonyms at **normal.** [Middle English, from Old French *estandard,* flag marking a place for rallying, probably from Frankish *standhard* (unattested), "standing firmly" : *standan* (unattested), to stand (see **stā-** in Appendix*) + *hard* (unattested), hard, firm (see **kar-**[1] in Appendix*).]

stan·dard-bear·er (stăn′dərd-bâr′ər) *n.* **1.** One who bears the colors of a military unit. **2.** One who is in the vanguard of a political or religious movement.

stan·dard-bred (stăn′dərd-brĕd′) *n.* One of an American breed of horses developed for harness racing.

standard candle. *Optics.* A **candela** *(see).*

standard deviation. *Symbol* σ, s *Statistics.* **1.** The square root of the **variance** *(see).* **2.** A statistic used as a measure of dispersion in a distribution, the square root of the arithmetic average of the squares of the deviations from the mean. In this sense, also called "root mean square deviation."

standard gauge. **1.** A railroad track having a width of 56½ inches. **2.** A railroad or railroad car built to the above specification. —**stan′dard-gauge′** *adj.*

stan·dard·ize (stăn′dər-dīz′) *tr.v.* **-ized, -izing, -izes.** To make, cause, or adapt to fit a standard. —**stan′dard·i·za′tion** *n.*

standard time. The time in any of 24 time zones, usually the mean solar time at the central meridian of each zone. In the continental United States, there are four standard time zones: Eastern (E.S.T., E.T.), using the 75th meridian; Central (C.S.T., C.T.), using the 90th meridian; Mountain (M.S.T., M.T.), using the 105th meridian; and Pacific (P.S.T., P.T.), using the 120th meridian.

stand by. **1.** To be available and ready for action if needed. **2.** To aid; support. **3.** To keep or maintain (one's word, policy, or promise). **4.** To wait for the resumption of transmission.

stand·by (stănd′bī′) *n., pl.* **-bys.** **1.** One that can always be depended upon. **2.** A favorite or frequent choice. **3.** One kept in readiness to serve as a substitute.

stand·ee (stăn-dē′) *n.* One using standing room.

stand in. To act as a stand-in.

stand-in (stănd′ĭn′) *n.* **1.** One who substitutes for an actor during lights and camera adjustments. **2.** A substitute.

stand·ing (stăn′dĭng) *n.* **1.** The act or position of one that stands. **2.** Standing room. **3. a.** Status with respect to credit, rank, or reputation. **b.** High reputation; esteem. **4.** Length of time; duration. —*adj.* **1.** Remaining upright; erect. **2.** Made or performed from an upright position: *standing jumps.* **3.** Permanent and unchanging. **4.** Not movable; stationary. **5.** Not flowing or circulating; stagnant.

standing army. A permanent army of paid soldiers.

standing room. Space in which to stand, as in a public place where all seats are filled.

standing wave. A wave in which the amplitude of the resultant of a transmitted and a reflected wave is stationary in time and in which some of the energy of the transmitted wave is absorbed by the reflecting boundary.

stand off. **1.** To maintain a distance from; avoid: *"standing the canoe off the rocks and speeding it into the channel"* (James Michener). **2.** To fail in or deny compliance or agreement. **3.** To put off; evade. **4.** To take or maintain a course away from the shore.

stand-off (stănd′ôf′, -ŏf′) *n.* **1.** A tie, as in a contest; a draw. **2.** An effect that neutralizes or counterbalances.

stand-off·ish (stănd-ôf′ĭsh, -ŏf′ĭsh) *adj.* Unsociable; aloof.

stand oil. A drying oil, such as linseed, tung, or soya, heated with minimum oxidation until thickened and used in oil enamel paints.

stand out. **1.** To protrude; stick out. **2.** To be conspicuous. **3.** To refuse compliance; maintain opposition: *stand out against a verdict.* **4.** To take or maintain a course away from shore.

stand-out (stănd′out′) *n.* One that is outstanding or excellent.

stand·pipe (stănd′pīp′) *n.* A large vertical pipe into which water is pumped in order to produce a desired pressure.

stand·point (stănd′point′) *n.* A position from which things are considered or judged; point of view. [Translation of German *Standpunkt.*]

St. An·drews (sānt′ ăn′drōōz). A town in eastern Fife, Scotland, the site of the Royal and Ancient Golf Club and of St. Andrews University. Population, 10,000.

St. An·drew's cross (sānt′ ăn′drōōz). **1.** A cross shaped like the letter X. **2.** A shrubby New World plant, *Ascyrum hypericoides,* having four-petaled yellow flowers.

stand·still (stănd′stĭl′) *n.* A halt: *came to a standstill.*

stand up. **1.** To assume a standing position; rise. **2.** To prove valid, satisfactory, or durable. **3.** *Informal.* To fail to keep an appointment with (someone).

stand·up, stand-up (stănd′ŭp′) *adj.* **1.** Erect; upright. **2.** Taken standing: *a stand-up supper.* **3.** Designating a fist fight confined largely to heavy blows with little maneuvering. **4.** Designating a theatrical performance, especially of a comedian performed without costume, stage properties, or assisting performers.

Stan·ford-Bi·net scale (stăn′fərd-bĭ-nā′). A revision of the **Binet-Simon scale** *(see)* used in one form or another since 1916. Also called "Stanford-Binet test," "Stanford Revision of the Binet scale." [Prepared at *Stanford* University, California.]

stang. *Obsolete.* Past tense of **sting.**

stan·hope (stăn′hōp′) *n.* A light open carriage with one seat and two or four wheels. [First built for the Reverend Fitzroy *Stanhope* (1787–1864), English clergyman.]

Stan·is·lav·sky (stăn′ə-slăv′skē, -slä′skē; *Russian* stə-nĭ-slä′skĭ), **Konstantin.** Original name, Konstantin Sergeyevich Alekseyev. 1863–1938. Russian actor and director.

stank. Past tense of **stink.**

Stan·ley (stăn′lē). The administrative center of the British Antarctic Territory, situated in the Falkland Islands.

Stan·ley (stăn′lē), Sir **Henry Morton.** Original name, John Rowlands. 1841–1904. Welsh-born journalist and explorer; founded Congo Free State (1879) for Belgium.

Stan·ley, Mount (stăn′lē). The highest elevation (16,795 feet) in the Ruwenzori, central Africa.

Stan·ley (stăn′lē), **Wendell Meredith.** 1904–1971. American biochemist; worked on enzymes.

Stan·ley Falls (stăn′lē). A series of cataracts on the Lualaba River, in south-central Africa, below which the river becomes the Congo.

Stan·ley Pool (stăn′lē). A broadening of the Congo River forming a 320-square-mile lake between the Republic of Congo and Zaire.

Stan·ley·ville. The former name for **Kisangani.**

stan·na·ry (stăn′ə-rē) *n., pl.* **-ries.** Also **Stan·na·ry.** One of the tin-producing districts of England. Usually used in the plural. [Medieval Latin *stannāria,* neuter plural of Late Latin *stannum,* tin. See **stannic.**]

stan·nic (stăn′ĭk) *adj.* Of, pertaining to, or containing tin, especially with valence 4. [Probably from French *stannique,* from Late Latin *stannum,* tin, from Latin *stannum*†, an alloy of silver and lead.]

stannic chloride. A colorless caustic liquid, $Na_2SnCl_6 \cdot H_2O$, made from tin treated with chlorine and used in the manufacture of textiles, sensitized papers, and perfumes.

stan·nite (stăn′īt′) *n.* A gray to black mineral, chiefly Cu_2FeSnS, having a metallic luster. Also called "tin pyrites." [German *Stannit* : Late Latin *stannum,* tin (see **stannic**) + -ITE.]

stan·nous (stăn′əs) *adj.* Of or pertaining to tin, especially with valence 2. [From Late Latin *stannum,* tin. See **stannic.**]

Stan·o·voi Range (stăn′ə-voi′). A mountain range of the Soviet Union, extending about 450 miles in southeastern Siberia. Highest elevation, 8,143 feet.

St. An·tho·ny's fire. *Pathology.* **Erysipelas** *(see).*

Stan·ton (stăn′tən), **Edwin McMasters.** 1814–1869. American public official and jurist; Secretary of War (1862–68).

Stan·ton (stăn′tən), **Elizabeth Cady.** 1815–1902. American feminist and social reformer.

stan·za (stăn′zə) *n.* *Abbr.* **st.** One of the divisions of a poem, composed of two or more lines usually characterized by a common pattern of meter, rhyme, and number of lines. [Italian, "a stopping or standing," from Vulgar Latin *stantia* (unattested), from Latin *stāns,* present participle of *stāre,* to stand. See **stā-** in Appendix.*] —**stan·za′ic** (-zā′ĭk) *adj.*

sta·pes (stā′pēz′) *n., pl.* **stapes** or **stapedes** (stə-pē′dēz′). A small bone of the inner ear, shaped somewhat like a stirrup. Also called "stirrup bone." [New Latin, from Medieval Latin *stapēs,* perhaps variant of *staffa, stapha, stapeda,* stirrup : Latin *stāre,* to stand (see **stā-** in Appendix*) + *pēs* (stem *ped-*), foot (see **ped-**[1] in Appendix*).] —**sta·pe′di·al** (stə-pē′dē-əl) *adj.*

staphylo-. Indicates: **1.** *Anatomy.* The uvula; for example, **staphylorrhaphy.** **2.** *Microbiology.* Resembling a bunch of grapes; clustered; for example, **staphylococcus.** [New Latin, from Greek *staphulē,* bunch of grapes, grapevine, uvula. See **stebh-** in Appendix.*]

staph·y·lo·coc·cus (stăf′ə-lō-kŏk′əs) *n., pl.* **-cocci** (-kŏk′sī′). Any of various Gram-positive, spherical parasitic bacteria of the genus *Staphylococcus,* occurring in grapelike clusters and causing boils, septicemia, and other infections. Also called "staph." [New Latin : STAPHYLO- + -COCCUS.] —**staph′y·lo·coc′cal** (-kŏk′əl), **staph′y·lo·coc′cic** (-kŏk′sĭk) *adj.*

staph·y·lo·plas·ty (stăf′ə-lō-plăs′tē) *n.* Corrective surgery of the uvula and the soft palate. [STAPHYLO- + -PLASTY.] —**staph′y·lo·plas′tic** *adj.*

staph·y·lor·rha·phy (stăf′ə-lôr′ə-fē, -lŏr′ə-fē) *n.* Also **staph·y·lor·a·phy.** The correction of a cleft palate or divided uvula by plastic surgery. [STAPHYLO- + Greek *-rrhaphia,* sewing, suture, from *rhaptein,* to sew (see **wer-**[3] in Appendix*).]

sta·ple[1] (stā′pəl) *n.* **1.** A major commodity grown or produced in a region. **2.** A major item of trade in steady demand, as salt, flour, or coffee. **3.** A major part, element, or feature. **4.** Raw material. **5.** The fiber of cotton, wool, or flax, graded as to length and fineness. —*adj.* **1.** Being in constant supply and demand. **2.** Important as an article of trade, production, or consumption in a specified region. **3.** Principal; leading: *staple exports.* —*tr.v.* **stapled, -pling, -ples.** To grade (fibers) according to length and fineness. [Middle English *staple, estapel,* market town, trade center, from Old French *estaple,* from Middle Dutch *stapel,* pillar, foundation, pile, emporium. See **stebh-** in Appendix.*]

sta·ple[2] (stā′pəl) *n.* **1.** A U-shaped metal loop with pointed ends, driven into a surface to hold a bolt, hook, or hasp, or to hold wiring in place. **2.** A thin piece of wire having the shape of a square bracket, used as a fastening for papers, cloth, and similar materials. —*tr.v.* **stapled, -pling, -ples.** To fasten by means of a staple or staples. [Middle English *stapel, stapul,* Old English *stapol,* post, pillar. See **stebh-** in Appendix.*]

stanhope

terms the principle that the states have primary responsibility and authority for the administration of their water rights, thereby eliminating the doubts created by recent judicial decisions, clarifying the relationship of the federal and state governments in the field of water resources development, minimizing litigation and delay, and allowing water development by both the federal and state governments to proceed on a harmonious basis; and be it further

Resolved, That the Chief Clerk of the Assembly be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairmen of the United States Senate and House Committees on Interior and Insular Affairs, and to each Senator and Representative from California in the Congress of the United States.

CHAPTER 200

Assembly Concurrent Resolution No. 88—Relative to higher education.

[Filed with Secretary of State, June 12, 1959.]

WHEREAS, Within the next 10 years the enrollment in the institutions of higher education in the State of California will increase from 100,000 students to over 400,000 students; and

WHEREAS, It is in the interests of the students and of the taxpayers of the State to avoid unnecessary expenditures of state funds and the duplication of higher education facilities and curriculum, in a period of crisis in higher education; and

WHEREAS, In order to meet the crisis in higher education, a master plan for the orderly development of the facilities and curriculum of higher education must be prepared and carried out; and

WHEREAS, In order to marshal the forces of the State to meet the impact of tremendous growth in student population at the college and university level and to meet the obligation of the State to provide the students with the education to which they are entitled and which is necessary for the future welfare of the State and Nation, such master plan must be comprehensive and must provide not only for the expansion and development of higher education facilities and curriculum on a statewide basis, but must also provide for the integration and avoidance of unnecessary duplication of both physical facilities and curriculum, and for the establishment of standards, or the improvement of established standards, for admission and performance; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Liaison Committee of the State Board of Education and the Regents of the University of California are requested to prepare a master plan for the

development, expansion, and integration of the facilities, curriculum, and standards of higher education, in junior colleges, state colleges, the University of California, and other institutions of higher education of the State, to meet the needs of the State during the next 10 years and thereafter; and be it further

Resolved, That in preparing such master plan, the liaison committee is requested to do all things necessary to make such master plan comprehensive, including the correlation of completed studies germane to the matter, and the undertaking of any new studies and surveys; and be it further

Resolved, That the liaison committee is requested to report on the subject of this resolution to the State Board of Education and the Regents of the University of California, and the State Board of Education and the Regents of the University of California are requested to report on the subject of this resolution to the Legislature at its 1960 Regular Session within three days of the convening thereof; and be it further

Resolved, That the Clerk of the Assembly transmit a copy of this resolution to the Liaison Committee of the State Board of Education and the Regents of the University of California.

CHAPTER 201

Assembly Concurrent Resolution No. 132—Relative to amending the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State. June 12, 1959.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Rules of the Senate and Assembly for the 1959 Regular Session are amended by adding Rule 12.5 thereto, to read:

Reprinted Bills

12.5. A charge of three dollars ($3) shall be made for each enrolled copy of Senate Bill No. 2 (Statutes 1959, Chapter 2) which is distributed following the adoption of this rule. The money received by the State Printer for sales made pursuant to this rule shall be paid to the Secretary of the Senate and the Chief Clerk of the Assembly as provided in Rule 13.

DOCUMENT RESUME

ED 383 356 JC 950 266

TITLE	The Curriculum Standards Handbook for the California Community College. Volume I (1995, Revised): Legal and Procedural Requirements.
INSTITUTION	California Community Colleges, Sacramento. Office of the Chancellor.
PUB DATE	95
NOTE	112p.
AVAILABLE FROM	Internet node cerritos.edu. From the main Cerritos Gopher menu select: California Community College Chancellor's Office Information; from the next menu select: Curriculum and Instructional Resources; from the next list select: Curriculum Standards Handbook Vol 1 (1995, Revised).
PUB TYPE	Guides - Non-Classroom Use (055) -- Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC05 Plus Postage.
DESCRIPTORS	Community Colleges; Curriculum Design; *Curriculum Development; *Educational Legislation; Educational Policy; Governing Boards; Legal Responsibility; *Program Validation; *State Curriculum Guides; *State Standards; Two Year Colleges
IDENTIFIERS	*California Community Colleges

ABSTRACT

This document presents Volume I of the California Community Colleges Curriculum Standards Handbook, detailing legal and procedural requirements for college curricula. Following a prefatory description of the role of the standards in college accountability, section 1 provides state education codes related to the approval of community college curricula, describing the role of the Board of Governors, local college boards, and local curriculum committees. Section 2 details the conditions for delegating curriculum approval to colleges, including the need for faculty and staff to be knowledgeable of state standards, that local procedures assure that standards be applied, and that developed curricula meet standards. The third section specifies the five criteria used to approve courses and programs (i.e., appropriateness to mission, need, quality, feasibility, and compliance), while the fourth section provides regulations related to general education and associate degree standards in Title 5 of the state Education Code. This section also provides regulations related to credit courses applicable and not applicable to the associate degree; adult noncredit courses; community services classes; contract education; and legal provisions for special classes for the disabled, repeatable courses, and distance education. Section 5 provides information related to the approval of new degree and certificate programs, including definitions, authorization and documentation required for state approval, and the duration of approval. Appendixes include new degree application forms and instructions, a checklist for new programs and courses, California Postsecondary Education Commission Standards, a checklist for delegation of course approval, and examples of program changes requiring state approval. (KP)

BEST COPY AVAILABLE

ED 383 356

The CURRICULUM STANDARDS HANDBOOK

for the California Community Colleges

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it
☐ Minor changes have been made to improve reproduction quality
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
J. Smith
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

Curriculum and Instructional Resources Division
Chancellor's Office
California Community Colleges
1107-Ninth Street
Sacramento, CA 95814

Additional copies of this Handbook are not available directly from the Chancellor's Office.
Please see the back of this page for instructions in obtaining an electronic copy

JC 960 266

BEST COPY AVAILABLE

Obtaining Electronic Copies of this Handbook

Accessing the Handbook on the Internet:

The ***Curriculum Standards Handbook Vol. I (1995, Revised)*** is available electronically on the Internet. Your local data processing staff should be able to help you access it via the ***Cerritos Gopher Server, as follows:***

1) From the main Cerritos Gopher menu select:
   California Community College Chancellor's Office Information
2) From the next menu that appears select:
   Curriculum and Instructional Resources
3) From the next list select:
   Curriculum Standards Handbook Vol. I (1995, Revised)
4) For a brief overview of the Handbook and the other items available on this list select:
   About Curriculum and Instructional Resources

Accessing the Cerritos Gopher Server:
You can access the Cerritos gopher server at the internet node **cerritos.edu** with any gopher client, World Wide Web browser (e.g. Mosaic), or telnet session product, as follows:

Telnet:	Telnet to **gopher.cerritos.edu** and enter the *username* **GOPHER**
Gopher Clients:	Point your gopher client to **cerritos.edu**
Web Browsers:	Point your browser to url **gopher://cerritos.edu:70/1**

Questions Regarding Information in this Handbook

Questions related to this Handbook or any other matters of curriculum and instruction should be addressed *electronically* to the Chancellor's Office discussion group on curriculum on the Internet. Official answers or other actions of the Chancellor's Office are published via this discussion group to all colleges. Before forwarding a question, please check the "Frequently Asked Questions" section of this discussion group to determine if your question has already been posed.

To pose a question and receive answers to this and other questions, you must first subscribe to the discussion group as follows:

1. Send a mail message to **MAILSERV@CERRITOS.EDU**
2. In the body of the text message include the following command on a line by itself.
   SUBSCRIBE ccc-currhb-list

Then you may send your question as follows:

1. Send a mail message to **ccc-currhb-list@CERRITOS.EDU**
2. In the body of the text message include Your QUESTION and your NAME, TITLE, COLLEGE, and TELEPHONE NUMBER

BEST COPY AVAILABLE

*Suggestion Form for Changes to Handbook**

Date _____

Name of College: _____

Name of Contact: _____ **Phone #:** _____

Page/Paragraph/Section(s) of Handbook to be discussed: _____

Question or Suggestion: *(Continue on back. Attach additional pages if needed.)*

_____ _____

Signature **Title**

***NOTE:**

Completion of this form is NOT MANDATORY, but voluntary.

On-going solicitation of improvements to this Handbook or related state procedures does NOT mean that the procedures in this version are "only draft". ***All procedures specified in this Handbook are fully in effect*** until such time as a revised Handbook, explicitly changing them, is published.

Excerpts from legislative statutes and Board regulations and standing orders, indicated by being indented, right-justified, in bold and in a different font **(as exemplified here).** While suggestions related to these sections are still useful, changes to these sections can be made *only* with legislative or Board action, respectively.

BEST COPY AVAILABLE

CURRICULUM STANDARDS HANDBOOK
Table of Contents

VOLUME I
Legal And Procedural Requirements
(1995)

Preface iii

1. Requirements and Purposes of State Curriculum Approval
- 1.1 State and Local Approval Requirements 2
- 1.2 Definitions 3
- 1.3 State Curriculum Standards 3
- 1.4 Purpose of State Standards and Approval Requirements 4
- 1.5 Curriculum Standards Handbook 5
- 1.6 Local Curriculum Committees 7

2. Course Approval Authorities Delegated to Qualifying Colleges
- 2.1 Chancellor's Office Approval Authorities for Curriculum 9
- 2.2 Approval Authorities Delegated to Local Colleges 10
- 2.3 Approval Authorities Not Delegated to Local Colleges 11
- 2.4 Conditions for Delegated Approval 11
- 2.5 Restrictions on Delegated Approval Authority 13
- 2.6 Regional Colloquia 14
- 2.7 Audits of College Curricular Practices 15

3. Five Approval Criteria for Courses and Programs
- 3.1 Appropriateness to Mission 17
- 3.2 Need 18
- 3.3 Quality 18
- 3.4 Feasibility 18
- 3.5 Compliance 18

4. Title 5 and Intersegmental Standards for Courses
- 4.1 Associate Degree and General Education Courses 19
- 4.2 Credit Courses Applicable to the Associate Degree 23
- 4.3 Credit Courses Not Applicable to the Associate Degree 24
- 4.4 Adult Noncredit Courses 25
- 4.5 Community Services Classes 26

BEST COPY AVAILABLE

4. Title 5 and Intersegmental Standards for Courses (Cont.)

4.6	Contract Education Courses or Sections	26
4.7	Course Prerequisites	28
4.8	Particular Legal Provisions	31
4.8.1	DSP&S Classes	31
4.8.2	Repeatability	34
4.8.3	Distance Education	35

5. Approval of New Degree and Certificate Programs

5.1	Definition of *'Educational Program'*	39
5.2	Requirement for State Approval of New Programs	40
5.3	Authorization to Offer a New Degree or Certificate Program	41
5.4	Documentation Required for State Approval of New Educational Programs	42
5.5	Format and Timelines for Submission of Application for a New Program	43
5.6	Duration of Program Approval	44
5.7	Reporting Existing Courses and Programs (Preliminary Information)	48

6. Approval of New Noncredit Courses

1996

7. Reporting of Programs and Courses

1996

8. Review of Existing Programs and Course Offerings

1996

9. Termination of Programs

1996

BEST COPY AVAILABLE

APPENDICES TO VOLUME I (1995)

Appendix A	Applying for a New Educational Program: *Forms and Instructions*
Appendix B	CCC Chancellor's Office Review *Checklist* for New Programs and Courses
Appendix C	California Postsecondary Education Commission (CPEC) Standards
Appendix D	Delegation Checklist: *Form*
Appendix E	Changes to Programs Requiring State Approval: *Examples*

ADDENDA TO VOLUME I

Addenda addressing specific issues or summarizing answers to frequently asked questions regarding legal requirements and procedures will be published by the Chancellors Office as needed. As official extensions of Volume I of the Handbook on Legal and Procedural Requirements, these addenda should be distributed to all users of the Handbook.

VOLUME II *Good Practices* *(1995-96)*

Materials developed under the leadership of the Statewide Academic Senate, in order to assist colleges in meeting state requirements and to facilitate the exchange of curricular expertise among faculty and administrators throughout the system will be published as they become available. The first materials to be incorporated herein are scheduled for publication in 1995-96.

INDEX TO VOLUMES I AND II

The index will be regularly updated to incorporate new material and to reference related topics as they occur in both Volumes I and II.

BEST COPY AVAILABLE

The CURRICULUM STANDARDS HANDBOOK

for the California Community Colleges

VOLUME I

Legal and Procedural Requirements*

Sections 1-5

Revised

MARCH, 1995

Division of Curriculum and Instructional Resources
Chancellor's Office
California Community Colleges
1107-Ninth Street
Sacramento, CA 95814

BEST COPY AVAILABLE

Acknowledgments

During 1993-1995, the 1992 Curriculum Standards Handbook was revised by the Curriculum and Instructional Resources Division of the Chancellor's Office, with advice from an Interim Advisory Committee appointed by the Chief Instructional Officers, the Statewide Academic Senate, the Chief Student Service Officers, and the California Community College Association of Occupational Educators. All statements in the following Handbook that resulted from this extensive collaboration are the responsibility of the Chancellor's Office and do not necessarily represent the view of the individuals who assisted in drafting or reviewing drafts of the document.

Interim Advisory Committee on Curriculum Procedures (1993-94)

Co-Chairs	Title/Department	Community College	Committee
Merrilee Lewis	Vice-President of Instruction	Palomar	CIO
Jeanne Rincon-Germond	Instructor in Foreign Languages; Vice President of the Academic Senate	Fullerton	Senate
Members			
Carolyn Abrams	Counseling	Cosumnes River	Senate
Susan Bell	Associate Dean of Instruction	Mendocino	CCCAOE
Elmer Bugg	Business	Santa Monica	Senate
Annette Dambrosio	Language Arts	Solano	Senate
Mary Dolven	Director, Library Services	Diablo Valley	CIO
Carrie Douglas	Dean of Instruction	Merritt	CIO
Len Price	Appliance Repair	Los Medanos	Senate
Chuck Van Patten	Philosophy	Cosumnes River	Senate
Bob Rockwell	Vice-President of Instruction	Mt. San Jacinto	CIO
Bill Scroggins*	Chemistry	Chabot	Senate
Staff			
Rita Cepeda	Vice Chancellor of Curriculum and Institutional Resources		COCCC
Lynn Miller**	Dean of Curriculum and Instructional Resources		COCCC
Nancy Glock-Grueneich***	Specialist in Curriculum and Instruction		COCCC
Kathy Warriner	Specialist in Basic Skills Curriculum and Instruction and Distance Education		COCCC

Resource Persons		Representing
Fred Trapp	Associate Dean of Instruction	Long Beach
Rosalie Amer	Librarian	Cosumnes River

* Reorganized and drafted portions of the 1995 Handbook, particularly Section 2.
** Handbook Editor
*** Drafted final version of the 1995 Handbook, Volume I, and Appendices A, B, D & E.

In addition, *many* specific suggestions have been made by practitioners in the field based upon their experiences using earlier versions of the Handbook. While they are not specifically identified here, their contributions have been invaluable.

BEST COPY AVAILABLE

CURRICULUM STANDARDS HANDBOOK

VOLUME I
Legal and Procedural Requirements

Preface

Goals of State Curriculum Standards and Requirements

This preface explains the purposes behind the legal and procedural requirements described in Volume I, as they are summarized in law and implemented in the practice of the Chancellor's Office. An understanding of these purposes may be of help in orienting those new to curricular responsibilities in the California Community Colleges and in judging particular cases or addressing issues related to the approval, reporting, and review of courses and programs.

1. "An Integral and Effective Element in the Structure of Higher Education"

The California Legislature, upon the Governor's ratification, has charged the Board of Governors with the responsibility for providing leadership and direction in the continuing development of the California community colleges as an integral and effective element in the structure of higher education. Community colleges develop as "an integral and effective element in the structure of public higher education" insofar as they succeed in focusing scarce public resources upon instruction critical to the system. And this effort in turn necessarily depends upon the success with which *written* Outlines of Record for each course communicate to faculty and students alike, in every section of a course, the scope and rigor to be expected in this instruction.

Strong curricula make strong partnerships between segments. Outsiders can rarely know more about the value of what students are learning than can be conveyed in writing in an Outline of Record. And it is primarily through an explicit, inclusive and systematic process of drafting and redrafting program requirements and written Outlines of Record that the various stakeholders in public community colleges gain their chance to help define what they are willing to pay for and to focus resources on what they most need of the system in the way of substance and currency.

Approval at the state level of the new programs thus assures not only that tax dollars are being expended for programs that are as well designed as possible but also that

BEST COPY AVAILABLE

these programs fulfill purposes that best reflect the priorities of California's taxpayers and other constituencies.

Standards for the written documentation of curriculum and for the design and justification of new programs are thus critical to the system's ability to fulfill its curricular obligations to students, to faculty, and to California.

The Foundation for Accountability

An institution cannot be fairly judged unless the expectations against which its performance is to be judged have been clearly stated in advance. In higher education, it is the written curricula that are the core of the "contract" defining what those who support the institution have the right to expect of that institution as to the knowledge and skill graduates will have gained, and as to the amount of time and other resources that will have to be expended in achieving these outcomes.

Only when faculty and students alike have access to such written agreements, and when these agreements are clear and substantive enough to guide instruction in every section of each course, can they hold themselves accountable for achieving the agreed upon level of rigor, across sections, across faculty, and over time.

In an era of shrinking resources, growing public unrest, and challenges to rethink the mission and structure of higher education, our ability to define the standards by which we shall be judged, and to document the good work going on in our classrooms, becomes ever more essential. It is the Outlines of Record and catalog descriptions that convey the content of our courses and programs and form the benchmark against which the judgments of transfer institutions, employers, policy-makers, and students themselves are made. And it is to these documents also that the public turns in judging how much is being contributed by the California Community Colleges to the economic prosperity and social justice of the state and to the democratic and occupational competence of its citizens.

In these times, what we write about what we do in the classroom must be able to stand up to the most intense scrutiny.

A Means to Improved Effectiveness

Good curricula not only help maintain consistency in the quality of instruction, they also help raise that quality. The extended discourse regarding curriculum content and the structure of good curriculum design that results from rigorous local processes of curriculum review stimulate faculty in their efforts to conceive of better designs.

State involvement in the definition and reinforcement of system-wide standards of clarity and substance in the written curriculum also helps implement curricular solutions to the fiscal crisis. Where improved effectiveness in the design of courses results in significant cost savings, other colleges can readily realize these improvements, and the associated savings, on their own campuses if there are Outlines of Record available for those courses. But these outlines can serve that

BEST COPY AVAILABLE

purpose only if they are clear and complete enough to adequately document what made the curriculum at the originating campus so cost effective.

A Way of Implementing Educational Values

State involvement in the promotion of curriculum standards and in the approval of individual programs not only provides the explicitness and consistency necessary for accountability, it can also facilitate the communication necessary for disseminating improved practices. System-wide promotion of the core educational values can help reinforce these values on individual campuses.

These values suggest that the colleges and the Chancellor's Office carry out their curricular responsibilites with particular consideration for the following:

- **Student Access & Success.** Assuring the availability on every campus of the full range of the curriculum traditionally covered in lower division transfer and vocational programs, providing effective instruction in the full range of basic skills essential to access and student success, promoting curricula, instruction, and institutional policies known to increase the access, self-esteem, and success of economically and/or educationally disadvantaged students, in particular.

- **Social Well-Being.** Fostering the ability of people to maintain and appreciate the core disciplines, diverse cultural traditions and democratic communities and workplaces.

- **The California Economy.** Supporting the flexibility and currency of California's labor pool; anticipating its present and future human resource needs; encouraging foreign and out-of-state companies to invest and locate in California; and paying particular heed to the economic and cultural needs of the many rural communities served only by the community colleges.

- **State Priorities.** Approving only curricula that accord with the priorities and constraints of the state as expressed or implied in law, background papers, and reports of other state agencies charged with formulating policies expressive of the will of the people.

- **Cost Control.** Increasing productivity and effectiveness, minimizing local district workload relative to the benefits of instruction, and avoiding duplication of effort, delays for institutions and students, and wastes associated with student attrition or credit loss after transfer.

- **Local Responsiveness.** Supporting the continued ability of the community colleges to respond to the specific needs of their local communities and to hold themselves accountable for their success.

- **Academic Freedom.** Supporting the full exercise of independent thought and professional discretion on the part of faculty and staff wherever appropriate, particularly where to do so is essential to the encouragement of effectiveness,

BEST COPY AVAILABLE

originality, diversity of perspectives, and the independent assessment of the ends and actions of the state and other institutions.

A Basis for Equal Partnership Among Segments

In addition to its more general oversight of curriculum, the Board is also mandated to promote the articulation of its curricula with the other segments.

With strong written curricula, widespread understanding of curriculum standards, and procedures that give community college faculty primacy in applying these standards, faculty working across the segments can come to trust each other's work more fully. They become more willing to rely upon the products of local review processes. In such an atmosphere, it becomes easier not only to articulate courses but to work as equal partners and to avoid overly prescriptive and time-consuming procedures that impede student transfer and dampen curricular innovation.

2. "Maintain and continue to the maximum degree permissible, local authority and control..."

The Board of Governors is also mandated by the California Legislature, upon the Governor's ratification to assure the overall quality and mission-appropriateness of the curriculum of the colleges. This Handbook makes clear that this must be done in a way that enhances the direct responsibility of those colleges for their curricula. Accordingly, all curriculum actions and procedures of the Chancellor's Office are governed by the following principles:

- **Advance Notice/Fair warning.** Every effort will be made to assure that (i) colleges understand in advance the criteria, processes, and policies in use, and that (ii) any changes in policy or broadly applicable precedents established by particular actions are made available to all of the colleges that could be affected, following appropriate consultation.

- **Consistency and Soundness.** Decisions regarding local curricula made in one set of circumstances by the Chancellor's Office will be made again whenever similar circumstances arise, and will be based upon explicitly stated, internally consistent, and educationally sound concepts and principles that are fully explained to the colleges affected.

- **Equitable Handling of Differences.** Differences between colleges that have no detrimental educational or fiscal impact will be respected in Chancellor's Office actions.

- **Feasibility.** Timelines set for colleges or for Chancellor's Office actions which affect colleges will be established to fit into the calendar and normal routines of the college, wherever possible, and to otherwise minimize the impact on the resources of the local colleges and districts of the required approval, reporting, and review procedures.

BEST COPY AVAILABLE

- **Elimination of Impediments to Local Effectiveness.** Insofar as possible, Chancellor's Office procedures on curriculum and instruction will be designed to facilitate the work of the local campus, to support overall effectiveness and sound innovation, and to create no unnecessary impediments to good practice or sound innovation.

To help assure that the above goals are met, users of this Handbook are encouraged to forward suggestions using the form that follows the cover page.

BEST COPY AVAILABLE

Curriculum Standards Handbook, Volume I

Section 1
Requirements and Purposes of State Curriculum Approvals

IMPORTANT: Please note that excerpts from legislative statutes and Board regulations and standing orders are indented, right-justified, in bold and in a different font (as exemplified here).

Section 70901(b)(10) of the California Education Code requires the Board of Governors to approve all new programs and those new courses that are not part of approved programs, an authority delegated to the State Chancellor's Office. Standing Order #402 of the Board of Governors requires the Chancellor's Office to publish the criteria and procedures for carrying out these approvals in a Handbook. Section 70902(b)(2) also mandates individual colleges to uphold state standards for courses and programs, based upon curriculum policies each district is mandated to establish. These responsibilities are carried out through a curriculum committee constituted as required by T.5§55002a. Sections 55001 and 55006 of Title 5 specify college curriculum reporting obligations that will be addressed in Section 7 of this Handbook, currently anticipated for publication in 1995-96.

As explained in Section 2.2, for colleges that demonstrate on a continuing basis the adequacy of their local curriculum procedures for upholding the standards laid out in this Handbook, the Chancellor's Office delegates the authority to approve courses not part of approved programs (i.e. stand-alone courses) through their district's own procedures without separate Chancellor's Office approval. The Chancellor's Office periodically renews that delegation. The authority of the Board of Governors to approve new programs <u>has not</u> been delegated to the colleges but continues to be an obligation carried out by the Chancellor's Office.

BEST COPY AVAILABLE

1.1 State and Local Approval Requirements

Each of the other segments of public higher education in California, the University of California, and the California State University system, as well as the California Community Colleges, must seek the approval of their central system offices for the establishment of new educational programs. All three segments must also seek concurrence in the approval of new programs and the coordination of such approvals from the California Postsecondary Education Commission. Similar requirements exist in forty-eight other states as well.

Ed.C. §70901(b) Board of Governors [State]

"...[T]he board of governors shall provide general supervision over community college districts, and shall...

(1) Establish minimum standards as required by law, including, but not limited to...
(D) [m]inimum standards for credit and noncredit classes...

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

Ed.C. §70902(b)(2) Governing Board [District]

The governing board of each community college district shall...[e]stablish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

CCR T.5 §51021 Curriculum

Each community college shall establish such programs of education and courses as will permit the realization of the objectives and functions of the community college. All courses shall be approved by the Chancellor in the manner provided in Chapter 1 (commencing with Section 55000) of Division 6 of this part.

BEST COPY AVAILABLE

CCR T.5 §51022 Instructional Program

(a) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor, and carry out its policies for the establishment, modification, or discontinuance of courses or programs. Such policies shall incorporate statutory responsibilities regarding vocational or occupational training program review as specified in Section 78016 of the Education Code.

(b) The governing board of each community college district shall, no later than July 1, 1984, develop, file with the Chancellor and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four-year colleges and high schools.

CCR T.5 §55100 Course Approval

(a) Except as provided in subsection (b) and Section 55160 [exempting community service classes], each course to be offered by a community college shall be approved by the Chancellor before the course is offered by the colleges. The course shall be submitted to the Chancellor on forms provided by the Chancellor's Office.

(b) If an educational program has been approved by the Chancellor, the governing board of a district shall establish policies for, and may approve individual courses which are offered as part of an approved program. Such courses need not be approved by the Chancellor, but shall be reported in the manner provided in subsection(c).

(c) For each course approved by a district, whether or not Chancellor's Office approval is required, the district shall designate the appropriate classification of the course or activity in accordance with Section 55001 [defining categories of instruction to be reported].

1.2 Definitions

CCR T.5 §55000 Definitions.

(a) "Course" means an organized pattern of instruction on a specified subject offered by a community college.

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

(c) "Class" means a community services offering.

1.3 State Curriculum Standards

Ed.C. §70901(b)(1)(D)

...[T]he board of governors shall provide general supervision over community college districts, and shall...(1) Establish minimum standards as required by law...(D)...for credit and noncredit classes.

BEST COPY AVAILABLE

State standards to be used in the approval and the review of curricula include standards expressed or implied in statute and regulation, the published expectations of other segments of public higher education, and standards of good practice. Standards of good practice are those routinely assumed in the development, review, and approval of new and existing curricula, system wide, intersegmentally, and by the various accrediting bodies.

Many of these standards have been explicated in the Handbooks of local faculty and curriculum committees, documents of the Academic Senate for the California Community Colleges, and in the resource materials and textbooks used for faculty development and graduate instruction in curriculum design and instructional methods.

State standards also incorporate the expectations of employers as these are stated in various federal and statewide policies, the work of state and local industry advisory committees, and the standards for various licenses and certificates.

These standards are explained and referenced in this Handbook, and/or during the review and approval of new programs or courses at the state level. These standards form the basis for the technical assistance to colleges regarding curriculum development and approval that is provided by both the Chancellor's Office and the Academic Senate. They constitute the framework within which colleges are accorded delegation of approval of stand-alone credit courses and demonstrate their ability to maintain such delegation.

1.4 Purpose of State Standards and Approval Requirements

This Handbook primarily contains information regarding state requirements that govern local curriculum processes. In addition, some information is included that explains the Chancellor's Office intent in establishing standards and procedures for these requirements. This latter material does *not* constitute or create legal requirements for local colleges. In order to emphasize this point and to lessen the possibility of misunderstanding, a discussion of the purpose of state standards and approval requirements has been included as the Preface to this Handbook.

BEST COPY AVAILABLE

1.5 Curriculum Standards Handbook

In order that colleges be provided with the information needed to fulfill their curriculum obligations, the Board of Governors directs in Standing Order #402 that:

> **(a) The Chancellor shall prepare, distribute, and maintain a detailed Handbook for use by the local educational agencies. The Handbook shall contain *course approval criteria, implementation plans for administrative regulations*, and *procedures for securing course and program approvals.* (Italics added for emphasis).**
>
> **(b) The Chancellor shall monitor and review courses and programs which were approved under the provisions of Section 70901 of the Education Code for compliance with applicable statutes and regulations on a periodic basis.**

In October 1992, the first edition of the *Curriculum Standards Handbook* was published. It replaced most of two previous Chancellor's Office publications, the 1985 *"Program and Course Approval and Reporting Procedures Handbook"* and the 1987 *"Course Standards Handbook."* In March 1995 this second edition of the Curriculum Standards Handbook was made available to the colleges system-wide, both electronically and in binder format.

To more clearly delineate requirements from suggestions regarding good practice, the current Handbook will be divided into two volumes, "Volume I: Legal and Procedural Requirements" published in 1995, and "Volume II: Good Practices" projected for publication in 1996.

1.5.1 Scope and Purpose of Present Sections of *Volume I*

Sections 1-5 of this ***1995 Curriculum Standards Handbook, Volume I: Legal and Procedural Requirements,*** explain the basis for Chancellor's Office approval and the reasons for the documentation required. They define the standards that colleges are to meet in obtaining approval of local curricula and in maintaining delegated authority to approve courses that are not part of approved programs. A summary of these expectations is included in two places: Appendix B, the checklist used by the Chancellor's Office for the approval of new programs; and Appendix D, the checklist colleges use to indicate their fulfillment of the three conditions for the delegation of approval.

BEST COPY AVAILABLE

This version of the Handbook also includes the administrative regulations on curriculum committees, prerequisites, distance education, and other matters related to curriculum.

1.5.2 Additional Sections to Volume I Projected for 1995-96.

Sections 6-9, to be published during 1995, as shown in the Table of Contents, will carry out the requirements of Standing Order #402 regarding noncredit courses, curriculum reporting requirements, curriculum review, and program termination requirements.

Once complete, ***Volume I of the Curriculum Standards Handbook,*** dealing with *Legal and Procedural Requirements*, will incorporate and guide the implementation of all California laws bearing upon the quality of curriculum in the community colleges.

1.5.3 Scope, Purpose and Development of Volume II

During 1996, Volume II on *Good Practices* will be prepared jointly with the Academic Senate and Chief Instructional Officers. It will incorporate the experiences of colleges in defining and maintaining excellence in the development and renewal of local curriculum.

1.5.4 Intended Audience for the *Curriculum Standards Handbook*

All college personnel with curriculum responsibilities should have direct access to this Handbook. The first condition for retaining delegation of the authority to approve new credit courses locally, as explained in 2.4.1 below, requires ***"Knowledge on the part of faculty and staff charged with curriculum review...of the information in this Handbook and related materials on curriculum design and instructional methods."***

In addition, faculty and others involved in developing new courses or programs, in updating existing curriculum, or in evaluating existing programs, should be familiar with this material.

BEST COPY AVAILABLE

Ordinarily, those who should have read the most current version of this Handbook, therefore, and who should either have copies or have access to copies, include:

- Curriculum Committee Members
- Academic Senate Representatives
- Division & Department Heads
- Chief Instructional Officers
- Instructional Administrators
- Vocational Deans
- Student Service Administrators with DSP&S or Basic Skills responsibilities
- Articulation Officers
- Librarians and Learning Resources Managers
- Faculty who are developing or updating courses or programs
- Any others who recommend the approval or continuance of courses or programs

1.6 Local Curriculum Committees

1.6.1 Structure and Membership

CCR T.5 §55002(a)(1)

> **The college and/or district curriculum committee recommending the course shall be established by the mutual agreement of the college and/or district administration and the academic senate. The committee shall either be a committee of the academic senate or a committee which includes faculty and is otherwise comprised in a way that is mutually agreeable to the college and/or district administration and the academic senate.**

1.6.2 Scope of Responsibilities

Curriculum committees established under CCR T.5 §55002 are responsible for:

- Determining that courses meet the standards for quality in CCR T.5 §55002 *(See 4.2)*

BEST COPY AVAILABLE

- Defining critical thinking and college level as called for in CCR T.5 §55002 *(See 4.2)*

- Scrutinizing prerequisites as required in CCR T.5 §55201(d) *(See 4.7)*

- Determining that credit courses approved under CCR T.5 §55805.5a fulfill the intersegmental expectations for either (i) submission of general education courses to the Intersegmental General Education Transfer Core (IGETC) and/or (ii) the general education standards of the California State University (CSU) as stated in CSU Executive Order 595; or the transfer standards for electives and major requirements to campuses of CSU, and the University of California, and/or other postsecondary colleges and universities *(See 4)*

- Determining that credit courses approved under §55805.5b meet the standards of the occupation for which they prepare students *(See 4.1)*

- Determining that special classes offered pursuant to CCR T.5 §56028 meet the guidelines therein *(See 4.8.1)*

- Reviewing distance education courses for conformity to state regulations and guidelines *(See 4.8.3)*

1.6.3 Additional Responsibilities

Under the collegial consultation provisions of AB1725 *(i.e., CCR T.5 §51023)* many colleges assign a variety of other responsibilities to their curriculum committees including the determination of associate degree requirements, the general education status of courses, the recommendation of courses for transfer and articulation, and the review of existing courses and programs.

BEST COPY AVAILABLE

Section 2
Course Approval Authorities Delegated to Qualifying Colleges

IMPORTANT: Please note that excerpts from legislative statutes and Board regulations and standing orders are indented, right-justified, in bold and in a different font (as exemplified here).

The Board of Governors delegates its oversight responsibility for the community college curriculum and instruction to the Chancellor's Office. The Chancellor's Office, in turn, delegates specified parts of its authority to local districts on a conditional basis. The precise scope of these local authorizations, the conditions of their delegation, and the procedures for maintaining them are described in this section.

2.1 Chancellor's Office Approval Authorities for Curriculum

The California Education Code requires the Board of Governors to:

(1) Establish minimum standards as required by law...[for] credit and noncredit classes...
(8) Facilitate articulation with other segments of higher education with secondary education...
(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors. [Ed.C. §70901(b)]

It permits the Board of Governors to:

(c) ...[A]dopt rules and regulations necessary and proper to execute the functions specified in this section...[Ed.C. §70901(c)]

And it also permits the Board of Governors to delegate these oversight functions:

Ed.C. §70901(d)

> **Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.**

The Board of Governors has delegated the following powers to the Chancellor's Office:

1. District Comprehensive Plans: Ed.C. §70901(b)(9); Title 5 §51008

BEST COPY AVAILABLE

2. Approval of New Programs: Ed.C. §70901(b)(10); Title 5 §55130 *(See 1.5.)*

3. New Degree and Non-degree Credit Courses Not Part of Approved Programs: Ed.C. §70901(b)(1)(B) and (10); CCR T.5 §55100(a), *(See 1.4.)*

4. New Noncredit Courses: Ed.C. §70901(b)(10); CCR T.5 §55002(c) and §55150 *(To be addressed in Section 6, anticipated for publication in 1995-96.)*

5. Repeatability for Specified Courses: CCR T.5 §58161(c) *(See 4.8.)*

2.2 Approval Authorities Delegated to Local Colleges

In turn, in order to support local commitment to curriculum quality and the professional autonomy of faculty, the Chancellor's Office delegates to colleges that meet specified conditions, the following authority to act without separate Chancellor's Office approval:

- Approve new *credit* courses not part of approved programs. Under this authority, new and existing courses may be assigned a TOP code without regard to whether the college has approval for that TOP code.

- Determine that a given course meets the conditions of repeatability in accordance with provisions of CCR T.5 §58161(c).

- Enter into conjoint programs between specified colleges within a district that allow one college in the district to offer introductory and intermediate courses to be counted toward a degree or certificate approved by the Chancellor's Office for a different college.

In addition, colleges continue to have the authority to:

- Approve graduation requirements that apply to all students seeking the associate degree, including general education requirements as outlined in T.555806.

BEST COPY AVAILABLE

- Recommend patterns of courses to students for transfer or to meet other student goals and publish them in the catalog as recommendations for the convenience of students and counselors.

- Modify existing programs as needed to increase effectiveness or maintain currency in relation to the original program goals and objectives. *(See 5.)*

2.3 Approval Authorities *Not* Delegated to Local Colleges

The establishment of *new programs* is **not** delegated to the colleges. Chancellor's Office approval, i.e., inclusion in the Chancellor's Office Inventory of Approved Programs, is still required before a college can take any of the following actions:

- Offer either new degree programs or certificate programs requiring 18 or more semester units in specified courses.

- Advertise such programs in catalogs, class schedules, promotional materials, etc.

The approval of new *noncredit courses* is also **not** delegated to the colleges.

2.4 Conditions for Delegated Approval

Colleges must demonstrate, by their documented actions and practices, that all credit courses locally approved under this delegation of state powers meet the relevant state standards. Documentation that the conditions for delegation are being met must be maintained by a college. A Delegation Checklist detailing the documentation requirements is in Appendix D. This checklist is to be submitted to the Chancellor annually according to a schedule that will be published during 1995.

BEST COPY AVAILABLE

2.4.1 Knowledge

The first condition is that faculty and staff charged with curriculum review, will know state standards and requirements for curriculum review and approval, including in particular the information in this Handbook and addenda, as well as general standards of good practice in curriculum and instructional design.

2.4.2 Procedures

The second condition is that the procedures employed both by the curriculum committee and in other phases of the local curriculum development and approval process assure that standards can be responsibly applied. Relevant indicators that this condition is met include:

a) Reviewers follow a process that is systematic and well-publicized and that includes both those with disciplinary expertise in the subject matter at issue and those outside the discipline who are affected by the course.

b) Handbooks, checklists, and model outlines, or other aids, used in the review process, correctly address this Handbook's standards.

c) Faculty are accorded the scope of responsibilities mandated in law.

d) Reviewers are provided information on the particular courses or programs that is substantive, complete, specific and timely enough to enable them to apply these standards independently and appropriately.

2.4.3 Curriculum

The third condition is that continuing delegation requires that colleges be able to assure that they produce approvable Course Outlines of Record that are in compliance with the standards specified in Sections 3 and 5 of Volume I of this Handbook; and would typically be acceptable as meeting the requirements of transfer receiving institutions.

BEST COPY AVAILABLE

2.5 Restrictions on Delegated Approval Authority

The authorization described in Section 2.2 must be periodically renewed by the Chancellor's Office based upon the college's continuing fulfillment of the three conditions of delegation. Renewal may be based upon documentation specified in the Delegation Checklist and submitted upon request and/or by periodic reviews of the actual practices of colleges to determine whether these conditions are being fulfilled. Details for obtaining such renewal will be published as part of Section 7 on curriculum reporting. Except as specified below, existing delegation continues in force until such procedures have been published.

At the discretion of the Chancellor's Office--and in consultation with affected districts--the delegation of any or all of the above powers may be retracted, for individual colleges, or for the system as a whole, notwithstanding the fact that the conditions specified herein have been and are currently being fulfilled by the affected colleges.

Where policy or other issues arise with particular types of courses, the Chancellor's Office may assist the system in addressing these issues by designating these types of courses as requiring a higher level of scrutiny for some duration of time, pursuant to Ed.C. §78200.5. Such designation may be made as part of the annual report on Curriculum Quality to the Board of Governors, or as otherwise needed.

In such a case, one or more of the following actions, or some similar actions will be taken, after due consultation with those affected:

- Development, with the assistance of knowledgeable faculty, of the resource materials and sample Outlines of Record for the curriculum area at issue.

- Development of advisories or addenda to the Curriculum Standards Handbook, Chancellor's Office Procedures, and/or Board policies specific to the area, as appropriate.

BEST COPY AVAILABLE

- Submission by all colleges, or by those involved in the colloquia in any given year, of all or a sample of the Outlines of Record for such courses to be reviewed by the Chancellor's Office, usually with the assistance of discipline faculty.

- Exemption from the delegation of stand-alone credit course approval of courses in that curriculum area and submission of all new stand-alone courses in that area to the Chancellors Office for approval until the matter is resolved.

In the last case, definitions of the kinds of courses on the list, explanations of their inclusion, and forms and procedures for seeking state approval for that type of course will be made available to colleges by the beginning of the next semester following the announcement of the restriction. Restrictions upon particular courses in that area would not go into effect until the second semester following the announcement.

2.6 Regional Colloquia

To assist colleges in maintaining delegation of approval authority, Regional colloquia will be convened on a three year cycle, beginning with the first 1995-96 term. At that time, colleges will have the opportunity to share their supporting documentation, including such items as local Handbooks and training materials and sample course Outlines of Record, where appropriate. As currently envisioned, a college will have opportunity to participate in a colloquia for one day's duration once in every three years.

Each year the colloquia will be planned in consultation with the approximately thirty colleges that will be participating in that year, to cover:

- Updates on changes to law and state procedures

- Sharing of procedures and conceptions of good practice

- Sharing and discussion of Outlines of Record that are exemplary, typical, or problematic

BEST COPY AVAILABLE

- Issues of regional or systemwide concern

- Suggestions for improving systemwide procedures, revisions to the Handbook, etc.

Primary leadership for the colloquium process will be provided by the Academic Senate, coordinated by a standing Advisory Committee to the Chancellor's Office on Curriculum and Instruction, working with the colleges that will be participating in the colloquia in that year. Colloquia participants may suggest other assistance that can be provided to help colleges maintain intersegmental acceptance of their courses, fulfill the three conditions of delegation, and otherwise meet the curriculum standards in this Handbook.

2.7 Audits of College Curricular Practices

Contracted district audits and audits conducted by the state Department of Finance may employ audit tests of district compliance with the curricular statutes and regulations cited in this Handbook. Colleges who have delegated authority to locally approve their own courses will not be asked to provide evidence of state approval of their stand-alone courses but may be subject to audit tests of their fulfillment of the conditions of delegation based upon the documentation they maintain regarding that fulfillment.

When evidence occurs that a college is not meeting the conditions for continuing delegation, the Chancellor's Office will provide assistance to help rectify this situation so that the college might continue to receive delegated authority. However, if the conditions for delegation continue unmet, the Chancellor's Office will withdraw the delegation until such time as the college is once again able to demonstrate that it is meeting these conditions.

BEST COPY AVAILABLE

Section 3
Five Approval Criteria for Courses and Programs

IMPORTANT: Please note that excerpts from legislative statutes and Board regulations and standing orders are indented, right-justified, in bold and in a different font (as exemplified here).

This section specifies the five criteria used by the Chancellor's Office to approve courses and programs. Courses or programs whose documentation does not demonstrate that all of these criteria are met cannot be approved by this office. Likewise, any state disapproval must be justified in terms of the failure to meet one or more of these criteria. Colleges that have delegated credit course approval authority are similarly obligated by the third condition of that delegation to disapprove new courses, and not recommend for state approval new program proposals, whose course Outlines of Record and other documentation fail to demonstrate that all five of the criteria listed below are met.

These five criteria are derived from statute, regulation, intersegmental agreements, guidelines provided by transfer institutions and industry, and the experience of those involved in the intersegmental and occupational review of courses, as well as the standards of good practice established in the field of curriculum design. By defining and explaining these criteria in this Handbook, and in consistently abiding by them in its actions, the Chancellor's Office fulfills the requirement that it publish a Handbook that *"...shall contain course approval criteria."* This section and the two sections following, together with Appendices A and B, fulfill its further obligation to publish the *"...procedures for securing course and program approvals."*

3.1 Appropriateness to Mission

The stated goals and objectives of the proposed program, or the objectives defined in the course Outline of Record, are consistent with the mission of the community colleges as formulated in Title 5§§ 55130(b)(5), and 55180 and with the mission and comprehensive or master plan of the college. Curriculae fall within the mission when designed to be taught to lower division students for credit towards the degree, and/or for purposes of transfer, occupational preparation, or career supplementation or upgrade, rather than for avocational use. Courses that develop the ability of students to succeed in college level courses and adult noncredit instruction also fall within the mission.

BEST COPY AVAILABLE

For courses to be mission appropriate, they must also *not* be designed primarily to provide group activities or services, (e.g. physical activity, counseling, or assessment) but rather to provide systematic instruction in a body of content or skills whose mastery forms the basis of the student grade. Avocational, community service, and contract courses do not qualify for state funding, but do fall within the mission if they are self-supporting.

3.2 Need

There is a demonstrable need for a course or program that meets the stated goals and objectives, at this time, and in the region the college proposes to serve with the program.

3.3 Quality

Courses and programs are integrated, with courses designed to effectively meet their objectives and the goals and objectives of the programs for which they are required. Outlines of Record for each course meet the standards outlined in Section 4.

3.4 Feasibility

The college has the resources to maintain the course or program in which the course is required at the level of quality described in course Outlines of Record and the new program application. Local approval procedures for new curriculum incorporate a detailing of costs sufficient to determine that this criterion can be fulfilled by the college.

In the case of programs, the college's affirmation of its ability to offer the program is based at least partly upon an analysis of cost estimates and includes a commitment to offer the required courses at least once every two years, unless the goals and rationale for the particular program justify a longer time frame as being in the best interests of students.

3.5 Compliance

The course or program complies with all other laws applicable to it, including federal regulations, licensing requirements, and the particular legal requirements for courses explained in 4.8 of this Handbook.

BEST COPY AVAILABLE

Section 4
Title Five and Intersegemental Standards for Courses

IMPORTANT: Please note that excerpts from legislative statutes and Board regulations and standing orders are indented, right-justified, in bold and in a different font (as exemplified here).

It is the responsibility of the college and its curriculum committee to assure that the standards summarized in Division 6 of Title 5 of the California Code of Regulations, i.e., the regulations that govern curriculum procedure in the California Community Colleges, are fulfilled for all new and existing courses. It is also their obligation to assure that all courses that are offered for transfer meet the particular standards of the institutions for which they are to be counted as transfer, especially those put forward for inclusion in systemwide agreements, such as IGETC (i.e. the Intersegmental General Education Transfer Core.)

Where Outlines of Record for new or existing courses are submitted to the Chancellor's Office as part of an application for a new program approval, it becomes the direct responsibility of the Chancellor's Office to uphold these standards. New program applications whose course Outlines of Record do not meet these standards will therefore be disapproved. A detailed checklist of what the Chancellor's Office looks for in reviewing Outlines of Record in connection with new program approval is included in this Handbook as Appendix B.

The Chancellor's Office may review a college's Outlines of Record as part of the process of continuing delegation. As explained in Section 2.5, above, Outlines of Record for courses in particular areas of the curriculum that have been identified by the Board of Governors as problematic may also be requested from colleges. In all such cases, the regulations excerpted below and the criteria laid out in the previous section will govern the actions of the Chancellor's Office.

4.1 Associate Degree and General Education Courses

Courses approved through the local curriculum review process as suitable for the fulfillment of associate degree and general education requirements must reflect an understanding by those reviewing the courses of both the expectations of the Board of Governors and those of 4-year colleges and universities. The standards

BEST COPY AVAILABLE

for the Community College associate degree and general education courses are covered in this section.

The Outlines of Record for courses that are to count towards the associate degree must *integrate subject-specific critical thinking and problem solving skills into every component of the course,* wherever appropriate.

It is expected that this process will yield a coherent course in which the expectations laid out in the objectives are carried into the content, student assignments, and standards for student evaluations.

Intersegmental standards as these have been formulated by the segments themselves, together with guidance jointly developed by the Academic Senate for the California Community Colleges regarding how best to meet these standards, can be found in the "Curriculum Orientation Package II: Transfer General Education", available through your Academic Senate President. Among other resource materials it contains the standards for the "Intersegmental General Education Transfer Core" (IGETC) and "California State University Executive Order 595".

As in these documents make clear, courses that are to count towards general education and/or for transfer must present the core concepts that define each discipline systematically, not incidentally, and must hold students accountable for mastering these concepts and methods at the level appropriate to the course. This fact does not mean that only theoretical courses can count towards transfer. It is educationally desirable, and often occupationally essential, to use "real world" or "hands-on" applications, and/or studio practice, etc. to focus student interest, illustrate concepts, and to test both theoretical and practical understanding of the core concepts. In order for such courses to count for general education however, the concepts and theories that make up the core of the discipline must still be the main focus of instruction

While these expectations underlie the standards set by the other segments for the acceptability of courses as fulfilling any of their general education requirements in transfer, these same requirements are implicit in the stated expectations of the Board of Governors regarding general education courses and associate degree

BEST COPY AVAILABLE

courses for the California Community Colleges themselves. These requirements are laid out in Title 5 of the California Code of Regulations, as follow:

CCR.T5 §55805. Philosophy and Criteria for Associate Degree and General Education

(a) The governing board of a community college district shall adopt a policy which states its specific philosophy on General Education. In developing this policy governing boards shall consider the following policy of the Board of Governors:

The awarding of an Associate Degree is intended to represent more than an accumulation of units. It is to symbolize a successful attempt on the part of the college to lead students through patterns of learning experiences designed to develop certain capabilities and insights.

Among these are the ability to think and to communicate clearly and effectively both orally and in writing; to use mathematics; to understand the modes of inquiry of the major disciplines; be aware of other cultures and times; to achieve insights gained through experience in thinking about ethical problems; and to develop the capacity for self-understanding. In addition to these accomplishments, the student shall possess sufficient depth in some field of knowledge to contribute to lifetime interest.

Central to an Associate Degree, General Education is designed to introduce students to the variety of means through which people comprehend the modern world. It reflects the conviction of colleges that those who receive their degrees must possess in common certain basic principles, concepts and methodologies both unique to and shared by the various disciplines. College educated persons must be able to use this knowledge when evaluating and appreciating the physical environment, the culture and the society in which they live. Most importantly, General Education should lead to better self-understanding.

In establishing or modifying a general education program, ways shall be sought to create coherence and integration among the separate requirements. It is also desirable that general education programs involve students actively in examining values inherent in proposed solutions to major social problems.

(b) The governing board of a community college district shall also establish criteria to determine which courses may be used in implementing its philosophy on the associate degree and general education.

(c) The governing board of a community college district shall, on a regular basis, review the policy and criteria established pursuant to subsections (a) and (b) of this section.

CCR.T5 §55805.5 Types of Courses Appropriate to the Associate Degree

The criteria established by the governing board of a community college district to implement its philosophy on the associate degree shall permit only courses that conform to the standards specified in Section 55002 (a) and that fall into the following categories to be offered for associate degree credit:

(a) All lower division courses accepted toward the baccalaureate degree by the California State University or University of California or designed to be offered for transfer.

(b) Courses that apply to the major in non-baccalaureate occupational fields.

BEST COPY AVAILABLE

(c) English courses not more than one level below the first transfer level composition course, typically known as English 1A. Each student may count only one such course as credit toward the associate degree.

(d) All mathematical courses above and including Elementary Algebra.

(e) Credit courses in English and mathematics taught in or on behalf of other departments and which, as determined by the local governing board, require entrance skills at a level equivalent to those necessary for the courses specified in sections (c) and (d) above.

CCR.T5 §55806 Minimum Requirements for the Associate Degree...

The governing board of a community college district shall confer the degree of Associate in Arts or Associate in Science upon a student who has demonstrated competence in reading, in written expression, and in mathematics, and who has satisfactorily completed at least 60 semester units or 90 quarter units of college work. This course work requirement must be fulfilled in a curriculum accepted toward the degree by a college within the district (as shown in its catalog.) It must include at least 18 semester or 27 quarter units in General Education and at least 18 semester or 27 quarter units in major as prescribed in this section. Of the required units, at least 12 semester or 18 quarter units must be completed in residence at the college granting the degree. Exceptions to residence requirements for the Associate Degree may be made by the governing board when it determines that an injustice or undue hardship would be placed on the student.

(a) Major Requirements. At least 18 semester or 27 quarter units of study taken in a single discipline or related disciplines, as listed in the Community Colleges "Taxonomy of Programs" shall be required.

(b) General Education Requirements.

(1) Students receiving an Associate Degree shall complete a minimum of 18 semester or 27 quarter units of general education, including a minimum of three semester or four quarter units in each of the areas (A), (B) and (C) and the same minimum in each pair of (D). The remainder of the units requirement is also to be selected from among these four divisions or learning or as determined by local option:

(A) Natural Sciences.
Courses in the natural science are those which examine the physical universe, its life forms, and its natural phenomena. To satisfy the General Education Requirement in natural sciences, a course shall be designed to help the student develop an appreciation and understanding of the scientific method, and encourage an understanding of the relationships between science and other human activities. This category would include introductory or integrative courses in astronomy, biology, chemistry, general physical science, geology, meteorology, oceanography, physical geography, physical anthropology, physics and other scientific disciplines.

(B) Social and Behavioral Sciences.
Courses in the social and behavioral sciences are those which focus on people as members of society. To satisfy the general education requirement in social and behavioral sciences, a course shall be designed to develop an awareness of the methods of inquiry used by the social and behavioral sciences. It shall be designed to stimulate critical thinking about the ways people act and have acted in response to their societies and should promote appreciation of how societies and social subgroups operate. This category would include introductory or integrative survey courses in cultural anthropology, cultural geography, economics, history, political science, psychology, sociology and related disciplines.

BEST COPY AVAILABLE

(C) Humanities.
Courses in the humanities are those which study the cultural activities and artistic expressions of human beings. To satisfy the general education requirement in the humanities, a course shall be designed to help the student develop an awareness of the ways in which people through the ages and in different cultures have responded to themselves and the world around them in artistic and cultural creation and help the student develop aesthetic understanding and an ability to make value judgments. Such courses could include introductory or integrative courses in the arts, foreign language, literature, philosophy, and religion.

(D) Language and Rationality.
Courses in language that cover the principles and applications of language toward logical thought, clear and precise expression and critical evaluation of communication in whatever symbol system the student uses.

1. English Composition.
Courses fulfilling the written composition requirement shall be designed to include both expository and argumentative writing.

2. Communication and Analytical Thinking.
Courses fulfilling the communication and analytical thinking requirement include oral communication, mathematics, logic, statistics, computer languages and programming, and related disciplines.

(2) While courses might satisfy more than one general education requirement, it may not be counted more than once for these purposes. A course may be used to satisfy both a general education requirement and a major requirement. Whether it may be counted again for a different degree requirement is a matter for each college to determine. Students may use the same course to meet a general education requirement for the Associate Degree and to partially satisfy a general education requirement at the California State University, if such a course is eligible under the provisions of section 40405 of this title.

(3) Ethnic Studies will be offered in at least one of the required areas...

4.2 Credit Courses Applicable to the Associate Degree

CCR T.5 §55002(a) Associate Degree Credit Course

An associate degree credit course is a course which has been designated as appropriate to the associate degree in accordance with the requirements of Section 55805.5 and which has been recommended by the college and/or district curriculum committee and approved by the district governing board as a collegiate course meeting the needs of the students eligible for admission.

CCR T.5 §55002(a)(2) Standards for Approval [of Degree Credit Courses]

The college and/or district curriculum committee shall recommend approval of the course for associate degree credit if it meets the following standards:

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in subject matter and the ability to demonstrate that proficiency,

BEST COPY AVAILABLE

Comparison of Different Credit Modes

Degree Credit	Nondegree Credit	Noncredit	Community Service
55805.5 Content and objectives of course fall into one of categories a-e of this Section of Title 5.		84711(a)(1-9) Education Code. Content and objectives of noncredit courses must fall in one of nine categories.	55002(d)(2) Designed for physical, mental, moral, economic, or civic development.
55002(a) Recommended by curriculum committee. Approved by local Board.	55002(b) Recommended by curriculum committee. Approved by local Board. Needed by eligible students.	55002(c) Recommended by curriculum. Approved by Board. Needed by enrollees.	55002(d)(1) Approved by local Board.
55002(a)(2) Standards for Approval. (A) Grading Policy. Student performance is evaluated by essay unless problem solving or skill demonstration is deemed more appropriate by curriculum committee. A formal grade is assigned. (B) Units. Carnegie Units: 3 hours work per semester or quarter week per unit including lectures, labs, and homework. (C) Intensity. Scope and intensity of work require independent study outside class. (D) Entrance Requirements. Where deemed appropriate by curriculum committee.	55002(b)(1) Types of Courses. Precollegiate basic skills, other courses designed to enable students to succeed in degree credit courses, precollegiate occupational preparation courses, other occupational courses as defined. 55002(b)(2) Standards for Approval. (A) Grading Policy. Provides for measurement of student performance in terms of stated objectives. A formal grade is assigned. (B) Units. Carnegie Units: 3 hours work per semester or quarter week per unit including lectures, labs and homework.	55002(c)(1) Standards of Approval. Treatment of subject matter, use of resource materials, attendance, and achievement standards approved by curriculum committee as appropriate for enrolled students.	55002(d)(3) Provides subject matter content, resource materials, and teaching methods which the local Board deems appropriate for the enrollees.

BEST COPY AVAILABLE

Comparison of Different Credit Modes *(Continued)*

Degree Credit	Nondegree Credit	Noncredit	Community Service
55002(a)(2) Standards for Approval. *(Continued)* (E) Basic Skills Requirement. Courses for which communication or computation skills are necessary for success shall require eligibility for enrollment in degree credit courses in English or math consistent with Section 58106. (F-G) Difficulty/Level. Requires critical thinking, ability to apply "college level" concepts, vocabulary, and learning skills as determined by curriculum committee.	55002(b)(2) Standards for Approval. *(Continued)* (C) Intensity. Subject matter is treated with scope and intensity which prepares students to work independently outside of class time and includes reading and writing assignments and homework. (D) Entrance Requirements. Where deemed appropriate by curriculum committee.		
55002(a)(3) Course Outline of Record. Scope, units, objectives, content, types/examples of: reading and writing assignments, homework, methods of teaching and evaluating.	55002(b)(3) Course Outline of Record. Scope, units, objectives, content, types/examples of: reading and writing assignments, homework, methods of teaching and evaluating.	55002(c)(2) Course Outline of Record. Scope, objectives, content, methods of instruction and methods for determining whether stated objectives have been met.	55002(d)(4) Is conducted in accordance with a predetermined strategy or plan.
55002(a)(4) Conduct of Course. All Sections taught by a qualified instructor in accord with above outline.	55002(b)(4) Conduct of Course. All sections taught by a qualified instructor in accord with above outline.	55002(c)(3) Conduct of Course. All sections taught by a qualified instructor in accord with above outline.	55002(d)(5) Open to all community members.
55002(a)(5) Limits repeated enrollment.	55002(b)(5) Limits repeated enrollment.		

BEST COPY AVAILABLE

at least in part, by means of essays, or in courses where the curriculum committee deems them to be appropriate, by problem solving exercises or skills demonstrations by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board, between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course also requires a minimum of three hours of work per week, including class time for each unit of credit, prorated for short-term, laboratory and activity courses.

(C) Intensity. The course treats subject matter with a scope and intensity that require students to study independently outside of class time.

(D) Prerequisites and Corequisites. When the college and/or district curriculum committee, determines, based on a review of the course Outline of Record, that a student would be highly unlikely to receive a satisfactory grade unless the student has knowledge or skills not taught in the course, then the course shall require prereqnisites or corequisites that are established, reviewed, and applied in accordance with the requirements of Article 2.5 (commencing with section 55200) of this Subchapter.

(E) Basic Skills Requirements. If success in the course is dependent upon communication or computational skills, then the course shall require, consistent with the provisions of Article 2.5 (commencing with section 55200) of this Subchapter, as prerequisites or corequisites eligibility for enrollment in associate degree credit courses in English and/or mathematics, respectively.

(F) Difficulty. The conrse work calls for critical thinking and the understanding and application of concepts determined by the curriculum committee to be at college level.

(G) Level. The course requires learning skills and a vocabulary that the curriculum committee deems appropriate for a college course.

4.3 Credit Courses Not Applicable to the Associate Degree

CCR T.5 §55002(b) Non-degree Credit Course.

A credit course designated by the governing board as not applicable to the associate degree is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under Subdivision (a)(1) of this section) and is approved by the district governing board and falls within one of the categories described in Subdivision (1) of this subsection.

(1) Types of Courses. Non-degree applicable credit courses are:

(A) Precollegiate basic skills courses as defined in section 55502(d) of this division

(B) Courses designed to enable students to succeed in college-level work (including, but not limited to, college orientation and guidance conrses, and discipline-specific preparatory courses such as biology, history, or electronics) that integrate basic skills instruction throughout and assign grades partly upon the demonstrated mastery of those skills.

(C) Precollegiate occupational preparation courses designed to provide foundation skills for students preparing for entry into college-level occupational courses or programs

BEST COPY AVAILABLE

(D) Essential occupational instruction for which meeting the standards of section 55002(a) is neither necessary nor required.

(2) Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course on the basis of the standards which follow. In order to be eligible for state apportionment, such courses must be approved (as courses not part of programs) by the Chancellor's Office as provided in section 55100 of this Division.

(A) Grading Policy. The course provides for measurement of student performance in terms of the stated course objectives and culminates in a formal, permanently recorded grade based upon uniform standards in accordance with section 55758 of this Division. The grade is based on demonstrated proficiency in the subject matter and the ability to demonstrate that proficiency, at least in part, by means of written expression that may include essays, or, in courses where the curriculum committee deems them to be appropriate, by problem solving exercises or skills demonstrated by students.

(B) Units. The course grants units of credit based upon a relationship specified by the governing board between the number of units assigned to the course and the number of lecture and/or laboratory hours or performance criteria specified in the course outline. The course requires a minimum of three hours of student work per week, per unit, including class time and/or demonstrated competency, for each unit of credit, prorated for short-term laboratory, and activity courses.

(C) Intensity. The course provides instruction in critical thinking and generally treats subject matter with a scope and intensity that prepare students to study independently outside of class time and includes reading and writing assignments and homework. In particular, the assignments will be sufficiently rigorous that students completing each such course successfully will have acquired the skills necessary to successfully complete college-level work upon completion of the required sequence of such courses.

(D) Prerequisites and corequisites. When the college and/or district curriculum committee deems appropriate, the course may require prerequisites or corequisites for the course that are established, reviewed, and applied in accordance with Article 2.5 (commencing with section 55200) of this Subchapter.

4.4 Adult Noncredit Courses

CCR T.5 §55002(c) Noncredit Course.

A noncredit course is a course which, at a minimum, is recommended by the college and/or district curriculum committee (the committee described and established under subdivision (a)(1) of this section) and approved by the district governing board as a course meeting the needs of enrolled students.

Standards for Approval. The college and/or district curriculum committee shall recommend approval of the course if the course treats subject matter and uses resource materials, teaching methods, and standards of attendance and achievement that the committee deems appropriate for the enrolled students. In order to be eligible for state apportionment, such courses are limited to the categories of instruction listed in Education Code section 84711, and must be approved by the Chancellor's Office as noted in Title V, section 55150.

BEST COPY AVAILABLE

Ed §84711 *(Operative until July 1, 1995)*

(a) For purposes of this chapter, the following noncredit courses and classes shall be eligible for funding:

(1) Parenting, including parent cooperative preschools, classes in child growth and development and parent-child relationships, and classes in parenting.

(2) Elementary and secondary basic skills and other courses and classes such as remedial academic courses or classes in reading, mathematics, and language arts.

(3) English as a second language.

(4) Citizenship for immigrants.

(5) Educa. on programs for substantially handicapped persons.

(6) Short-term vocational programs with high employment potential.

(7) Education programs for older adults.

(9) Health and safety education.

(b) No state apportionment shall be made for any course or class which is not set forth in subdivision (a) and for which no credit is given.

4.5 Community Services Classes

CCR T.5 §55002(d) Community Service Class

A community services class is a class which meets the following minimum requirements:

(1) Is approved by the local district governing board.

(2) Is designed for the physical, mental, mor.l, economic, or civic development of persons enrolled therein.

(3) Provides subject matter content, resource materials, and teaching methods which the district governing board deems appropriate for the enrolled students.

(4) Is conducted in accordance with a predetermined strategy or plan.

(5) Is open to all members of the community.

(6) May not be claimed for apportionment purposes.

4.6 Contract Education Courses or Sections

Ed.C. §78020-78022

For purposes of this article:

BEST COPY AVAILABLE

(a) "Contract education" means those situations in which a community college district contracts with a public or private entity for the purposes of providing instruction or services or both by the community college.

(b) "Credit" refers to any class offered for community college credit, regardless of whether the class generates state apportionment.

(c) "Noncredit" refers to courses that meet the criteria for apportionment pursuant to section 84711.

(d) "Not-for-credit" refers to classes, including community services classes that are offered without credit and which are not eligible for apportionments pursuant to section 84711.

Establishment of programs; recovery costs; calculating average daily attendance
The governing board of any community college district may establish, or with one or more community college districts may establish, contract education programs within or outside the state by agreement with any public or private agency, corporation, association, or any other person or body, to provide specific educational programs or training to meet the specific needs of these bodies.

The contracting community college district or districts shall recover, from all revenue sources, including, but not limited to public and private sources, or any combination thereof, an amount equal to, but not less than, the actual costs, including administrative costs, incurred in providing these programs or training.

The attendance of students in these contract education programs shall not be included for purposes of calculating the average daily attendance for apportionment to these districts, unless all statutory and regulatory conditions for generating average daily attendance are met.

Ed.C. §78022 Faculty

(a) Faculty in all credit and noncredit contract education classes shall be selected and hired according to procedures existing in a community college district for the selection of instructors for credit classes.

(b) Faculty teaching credit and noncredit contract education classes shall be compensated in the same manner as comparable faculty in the regular, noncontract education program. This subdivision shall not apply to faculty teaching in contract education programs conducted outside the United States for the United States armed forces, unless the faculty member is covered by a collective bargaining agreement.

(c) Faculty teaching credit or noncredit contract education classes shall be evaluated according to the procedures used for the evaluation of faculty in the regular, noncontract education program.

(e) Faculty teaching not-for-credit contract educational programs shall be evaluated according to procedures specified in the contract between the community college district and the public or private entity to establish the program.

(f) This section shall not be construed to restrict the appearance of guest lecturers in any programs or classes operated by a community college district.

BEST COPY AVAILABLE

4.7 Course Prerequisites

The standards laid out above in CCR T.5 §55002(a) seek to assure college level rigor in all courses that count toward the degree, by requiring both: (a) that the Outlines of Record define rigorous expectations, including the setting of appropriate prerequisites, and (b) that each section of the course actually be taught to that level of rigor.

In order to ensure that each section of a course *can* be taught at the level of rigor intended in the approved Outline of Record, insofar as that is dependent upon the preparation of those enrolling in the course--while at the same time protecting the open enrollment rights of students--the following regulations have been established in Title 5. These regulations provide a fair and equitable process whereby students may be restricted from enrolling in a course unless they possess the preparation presupposed in the design of the course.

4.7.1 Definitions

CCR T.5 §55200

For the purposes of this Division, the following definitions apply:

(a) "Prerequisite" means a condition of enrollment that a student is required to meet in order to demonstrate current readiness for enrollment in a course or educational program.

(b) "Corequisite" means a condition of enrollment consisting of a course that a student is required to simultaneously take in order to enroll in another course.

(c) "Advisory on recommended preparation" means a condition of enrollment that a student is advised, but not required, to meet before or in conjunction with enrollment in a course or educational program....

4.7.2 Policies for Prerequisites, Corequisites, and Advisories on Recommended Preparation

CCR T.5 §55201

(a) The governing board of a community college district may establish prerequisites, corequisites, and advisories on recommended preparation, but must do so in accordance with the provisions of this Article 2.5 §55200-55202. Nothing in this subchapter shall be construed to require a district to establish prerequisites, corequisites or advisories on recommended preparation; provided however, that a prerequisite or corequisite shall be required if the course is to be offered for associate degree credit and the curriculum committee finds that the prerequisite or corequisite is necessary pursuant to Section 55002(a)(2)(D) or 55002(a)(2)(E).

BEST COPY AVAILABLE

(b) A governing board choosing to establish prerequisites, corequisites or advisories on recommended preparation shall, in accordance with the provision of Sections 53200-53204 of this Division, adopt policies for the following:

(1) The process for establishing prerequisites, corequisites, and advisories on recommended preparation. Such policies shall provide that in order to establish a prerequisite or corequisite, the prerequisite or corequisite must be determined to be necessary and appropriate for achieving the purpose for which is it being established. District policies shall also specify the level of scrutiny that shall be required in order to establish different types of prerequisites, corequisites, and advisories on recommended preparation. At a minimum, prerequisites, corequisites, and advisories on recommended preparation shall be based on content review, with additional methods of scrutiny being applied depending on the type of prerequisite or corequisite being established. The policy shall provide that the types of prerequisites described in Subsection (e) may be established only on the basis of data collected using sound research practices. Determinations about prerequisites or corequisites shall be made on a course-by-course or program-by program basis.

(2) Procedures to assure that courses for which prerequisites or corequisites are established will be taught in accordance with the course outline, particularly those aspects of the course outline that are the basis for justifying the establishment of the prerequisite or corequisite.

(3) The process, including levels of scrutiny, for reviewing prerequisites and corequisites to assure that they remain necessary and appropriate. These processes shall provide that at least once each six years all prerequisites and corequisites established by the district shall be reviewed. These processes shall also provide for the periodic review of advisories on recommended preparation.

(4) The bases and process for an individual student to challenge the application of a prerequisite or corequisite.

(c) Prerequisites or corequisites may be established only for any of the following purposes;

(1) the prerequisite or corequisite is expressly required or expressly authorized by statute or regulation; or

(2) the prerequisite will assure, consistent with Section 55002(a)(2)(D), that a student has the skills, concepts, and/or information that is presupposed in terms of the course or program for which it is being established, such that a student who has not met the prerequisite is highly unlikely to receive a satisfactory grade in the course (or at least one course within the program) for which the prerequisite is being established; or

(3) the corequisite course will assure, consistent with Section 55002(a)(2)(D), that a student acquires the necessary skills, concepts, and/or information, such that a student who has not enrolled in the corequisite is highly unlikely to receive a satisfactory grade in the course or program for which the corequisite is being established; or

(4) the prerequisite or corequisite is necessary to protect the health and safety of a student or the health and safety of others.

BEST COPY AVAILABLE

(d) Except as provided in this Subsection, no prerequisite or corequisite may be established or renewed pursuant to Subsection (b)(3) unless it is determined to be necessary and appropriate to achieve the purpose for which it has been established. A prerequisite or corequisite need not be so scrutinized until it is reviewed pursuant to Subsection (b)(3) if:

(1) it was established prior to July 6, 1990, and is part of a sequence of degree-applicable courses within a given discipline; or

(2) it was established between July 6, 1990, and the effective date of this regulation, in accordance with regulations in effect during this period of time; or

(3) it is required by statute or regulation; or

(4) it is part of a closely-related lecture-laboratory course pairing within a discipline; or

(5) it is required by four-year institutions.

(e) A course in communication or computation skills may be established as a prerequisite or corequisite for any course other than another course in communication or computation skills only if, in addition to conducting a content review, the district gathers data according to sound research practices and shows that a student is highly unlikely to succeed in the course unless the student has met the proposed prerequisite or corequisite. If the curriculum committee initially determines, pursuant to Section 50002(a)(2)(E), that a new course needs to have a communication or computation skill prerequisite or corequisite, then despite Subsection (d) of this Section, the prerequisite or corequisite may be established for a single period of not more than two years while the research is being conducted and the final determination is being made, provided that all other requirements for establishing the prerequisite or coreqnisite have been met.

(f) Any prerequisite or corequisite may be challenged by a student on one or more of the grounds listed below. The student shall bear the initial burden of showing that grounds exist for the challenge. Challenges shall be resolved in a timely manner and, if the challenge if upheld, the student shall be permitted to enroll in the course or program in question. Grounds for challenge are:

(1) The prerequisite or corequisite has not been established in accordance with the district's process for establishing prerequisites or corequisites;

(2) The prerequisite or corequisite is in violation of this Article;

(3) The prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;

(4) The student has the knowledge or ability to succeed in the course or program despite not meeting the prerequisite or corequisite;

(5) The student will be subject to undue delay in attaining the goal of his or her educational plan because the prerequisite or corequisite course has not been made reasonably available; and

(6) Such other grounds for challenge as may be established by the district governing board.

BEST COPY AVAILABLE

(g) In the case of a challenge under Subsection (f)(3) of this Section, the district shall, upon completion of the challenge procedure established pursuant to this Section, advise the student that he or she may file a formal complaint of unlawful discrimination pursuant to Subchapter 5 (commencing with Section 59300) of Chapter 10 of this Division. Completion of the challenge procedure shall be deemed to satisfy the requirement of Section 59328(b) that the district and the student attempt informal resolution of the complaint.

(h) District policies adopted pursuant to this section shall be submitted to the Chancellor as part of the district's matriculation plan pursuant to Section 55510 of Subchapter 6 of Chapter 6 of this Division.

4.8 Particular Legal Provisions

Several kinds of courses have legal requirements over and above those explained above, that relate either to their functions or their subject matter. These requirements are explained in this section.

4.8.1 Special Classes for the Disabled (DSP&S Courses or Sections)

Beginning January 1, 1995, the local authority to approve new *credit* courses designed specifically for disabled students will be the same as for all other credit courses. That is, new DSP&S credit courses *not* part of approved programs, are covered under the delegated approval authority for stand-alone courses. New *noncredit* DSP&S courses, like all other noncredit courses, continue to require the approval of the state Chancellor's Office.

Classes specially designed for disabled students may be a section of an existing course, taught in accordance with the Outline of Record for that course, but supplemented to define the specific conditions that obtain in that particular section in order accommodate stated disabilities.

Special classes may also refer, however, to distinct courses with their own Outlines of Record designed either to meet educational objectives unique to a population with specific disabilities or to supplement the standard objectives in an otherwise similar course, with objectives unique to that population.

In either case, special classes--like all courses and sections of courses--must be primarily instructional in nature and must have objectives that fall within the instructional mission of the California Community Colleges. Such courses cannot be

BEST COPY AVAILABLE

designed primarily to provide group activities or services, (e.g. physical activity, counseling, or assessment) but must provide systematic rather than incidental instruction in a body of content or skills whose mastery forms the basis of the student grade.

Courses designed to meet the needs of students with specific functional limitations **"...shall be open to enrollment of students who do not have disabilities..." CCR T.5 §56028.** The course description published in the college catalog may note that it has been designed for students with specific disabilities, but it may *not* restrict enrollment to such students, nor require students to register for classes through the DSP&S program or counselor, nor otherwise violate the open-enrollment provisions of state law for the California Community Colleges.

Special classes are part of an approved program when they are designed to provide alternative ways to fulfill the course requirements for an approved degree or certificate program. Such alternatives include the restructuring of the content, modification of the pace of instruction, use of instructional methods and/or equipment adapted to the students' specific needs. Assignments and examination methods may also be used that allow disabled students to demonstrate their mastery of course and program objectives by alternative means.

As part of an approved program, such new courses do *not* require separate Chancellor's Office approval, although they will need to be submitted to the Chancellor's Office with the new program application.

Sections of courses in the regular curriculum especially adapted to enable students to meet the regular course objectives in alternative ways, also do not require separate Chancellor's Office approval.

In the case of new DSP&S courses, in demonstrating that they have met the three conditions necessary to maintain delegation authority with respect to stand-alone courses, college training and curriculum approval processes must assure that in the case of new DSP&S courses:

> **...Curriculum committees responsible for reviewing and/or recommending special class offerings shall have or obtain the expertise appropriate for determining whether the requirements of this section are satisfied [CCR §56028]**

BEST COPY AVAILABLE

In addition, the Course Outlines of Record for DSP&S courses must demonstrate that those who implement the curriculum review processes on the local campus are fully cognizant of DSP&S regulations, able to apply all Title 5 and other state standards to such courses with the expected rigor, and able to clearly distinguish instructional objectives that fall within the mission of the community colleges from activity and service objectives that do not.

In summary, DSP&S course Outlines of Record must:

- Specify what disability or disabilities the course is designed to address
- Clarify what objectives the course is to fulfill as they relate to these disabilities
- Show why a special course is needed to meet this need, rather than its being met through accommodation in a regular course
- Specify how it will be determined that the objectives have been achieved
- Explain what disability-specific instructional methods, materials, equipment, etc. will be used and why.

CCR T.5 §56028. Special Class Instruction

Special classes are instructional activities offered consistent with the provisions of Section 56000 and designed to address the educational limitations of students with disabilities who are admitted to the institution pursuant to Education Code Sections 76000 et seq. and who would be unable to substantially benefit from regular class college classes even with appropriate support services or accommodations. Such classes generate revenue based on the number of full-time equivalent students (FTES) enrolled in the classes.

Such classes shall be open to enrollment of students who do not have disabilities. However, to qualify as a special class, a majority of those enrolled in the class must be students with disabilities. Special classes offered for credit or noncredit shall meet the applicable requirement for degree credit, non-degree credit, or noncredit set forth in Sections 55002 and 55805.5 of this part. In addition, special classes shall:

(a) Be designed to enable disabled students to compensate for educational limitations and/or acquire the skills necessary to complete their educational objectives;

BEST COPY AVAILABLE

(b) Employ instructors who meet minimum qualifications set forth in Section 53414 of this division.

(c) Utilize instructional methods, or materials specifically designed to address the educational limitations of students with disabilities. Curriculum committees responsible for reviewing and/or recommending special class offerings shall have or obtain the expertise appropriate for determining whether the requirements of this section are satisfied.

(d) Utilize student/instructor ratios determined to be appropriate by the district given the educational limitations of the students with disabilities enrolled in each class. Class size should not be so large as to impede measurable progress or to endanger the well-being and safety of students or staff.

CCR T.5 §56029 Special Class Course Repeatability

Repetition of special classes is subject to the provisions of Sections 55761-63 and 52161 of this division. However, districts are authorized to permit additional repetitions of special classes to provide an accommodation to a student's educational limitations pursuant to state and federal nondiscrimination law. Districts shall develop policies and procedures providing for repetition under the following circumstances:

(a) When continuing success of the student in other general and/or special classes is dependent on additional repetitions of a specific class;

(b) When additional repetitions of a specific class are essential to completing a student's preparation for enrollment into other regular or special classes; or

(c) When the student has a student educational contract which involves a goal other than completion of the special class in question and repetition of the course will further the achievement of that goal.

4.8.2 Repeatable Courses

Courses that develop similar skills but (a) at increasingly sophisticated levels of practice, and/or (b) that are applied to different content *(such as a drama course in which students master increasingly demanding roles in different plays)* may be offered as repeatable courses, if approved for that purpose by the Chancellor's Office, or if the college has delegated course approval authority.
Each such repetition of a course must be designed to create a discernibly higher level of achievement such that the academic progress is clearly defined and the grading standards increase substantially with each repetition.

A given student may take the repeatable course for credit, and for state apportionment, for up to the number of times the college has specified, but for no more than a total of four times altogether.

BEST COPY AVAILABLE

A college may indicate the sequence of repeatable courses with differing letters or numbers or course titles, such as 101A-D, or 101-4, or "Beginning", "Intermediate", and "Advanced". Or the college may simply permit a student to enroll up to three additional times after completion the course in question for the first time. But the college may *not* do both: it cannot both designate a series of courses of increasingly advanced work in the same subject area, and then permit repeated enrollment at each of those levels.

CCR T.5 §58161(c)

> **State apportionment for repetition of courses not expressly authorized by this section may be claimed upon approval of the Chancellor in accordance with the following procedure:**
>
> **(1) The district must identify the courses which are to be repeatable, and designate such courses in it its catalog;**
>
> **(2) The district must determine and certify that each identified course is one in which the course content differs each time it is offered, and that the student who repeats it is gaining an expanded educational experience for one of the two following reasons:**
>
> > **(A) Skills or proficiencies are enhanced by supervised repetition and practice within class periods; or**
> >
> > **(B) Active participatory experience in individual study or group assignments is the basic means by which learning objectives are obtained.**
>
> **(3) The district must develop and implement a mechanism for the proper monitoring of such repetition. The attendance of students repeating a course pursuant to this subsection when approved by the Chancellor, may be claimed for state apportionment for more than three semesters or five quarters.**

Colleges with delegated approval authority are not required to submit courses they wish to designate as repeatable to the Chancellor's Office for approval, but may approve repeatability locally on the basis of the standards laid out above. Repeatable courses are reported to the Chancellor's Office through the statewide Management Information System (MIS).

4.8.3 Distance Learning Courses or Sections

Until the limited term authorization ends in the Year 2000, all approved community college courses may be taught at a distance aided by communication technology if the following conditions are met:

BEST COPY AVAILABLE

- The course is separately approved for distance instruction by the district's certified approval procedures.
- Standards of quality that normally apply to curriculum and instruction are met.
- Special records are maintained and reports made.
- The number of students per class meets district policies.
- For transfer courses, the instructor meets *in person* with students on some regular basis, supplemented if desired by phone or letters.
- For nontransfer courses, instructor maintains regular contact with students in person or as specified in the version of the course approved for distance education.

CCR T.5 §55316 Criteria

Courses offered pursuant to this Chapter shall:

(a) Be accepted by the college toward completion of an appropriate educational sequence leading to an associate degree, and

(b) Be recognized by an institution of the University of California or the California State University upon transfer to that institution

CCR T.5 §55316.5 Additional Courses

Notwithstanding any other provision of law, after June 1, 1995, the following additional types of courses may be offered pursuant to this Chapter, consistent with guidelines developed by the Chancellor:

(a) Nontransferable courses designed to meet the requirements of Sections 55805.5, 55806, and 55002(a) or (b);

(b) Noncredit courses conducted as distance education independent study. This Section shall become inoperative on July 1, 2000, unless a later-adopted regulation deletes or extends this date.

CCR T.5 §55317 Ongoing Responsibilities of Districts

Any district conducting courses under Section 55316 or 555316.5 shall:

BEST COPY AVAILABLE

(a) Maintain records and report data through the Chancellor's Office Management Information System on the number of students and faculty participating in new courses or sections of established courses:

(b) Provide to the local governing board no later than July 1, 1995, and annually thereafter, a report on all distance education activity.

(c) Provide other information consistent with reporting guidelines which shall be developed by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors. This Section shall become inoperative on July 1, 2000, unless a later-adopted regulation deletes or extends this date.

CCR T.5 §55340 Eligibility for State Funds

In order for attendance in a course of independent study to be eligible for state apportionment pursuant to the provisions of this Chapter, the course must be reported as required by this Chapter, and meet all other requirements of statute and regulation relative to eligibility for state apportionment.

CCR T.5 §55352 Number of Students.

The number of students assigned to any one course section offered by distance education shall be determined by and be consistent with other district procedures related to faculty assignment. Procedures for determining the number of students assigned to a course section offered by distance education may include a review by the curriculum committee established pursuant to Section 55002(a)(1).

CCR T.5 §55370 Distance Education

Distance education means instruction in which the instructor and student are separated by distance and interact through the assistance of communication technology. All distance education is independent study and subject to the general requirements of Article 1 as well as the specific requirements of this Article (Article 2). Provided however, that fully interactive distance education courses, as defined in guidelines adopted by the Chancellor, shall not be considered independent study for purposes of calculating state apportionment pursuant to Section 58003.1. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the Americans with Disabilities Act (42 U.S.C. Sec. 12100 et. seq).

CCR T.5 §55372 Course Quality Standards

The same standards of course quality shall be applied to distance education as are applied to traditional classroom courses, in regard to the course quality judgments made pursuant to the requirements of Section 55002 of this Part, and in regard to any local course quality determination or review process.

CCR T.5 §55374 Course Quality Determinations

Determinations and judgments about the quality of distance education, under the course quality standards referred to in Section 55372, shall be made with the full involvement of faculty in accordance with the provision of Subchapter 2 (commencing with Section 53200) of Chapter 2 of Division 4 of this Part.

BEST COPY AVAILABLE

CCR T.5 §55376 Instructor Contact

In addition to the requirements of Section 55002 and any locally-established requirements applicable to all courses, district governing boards shall ensure that:

(a) Each section of a credit transferable course which is delivered as distance education shall include regular personal contact between instructor and students, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, or other in-person activities. Personal contact may be supplemented by telephone contact and correspondence.

(b) All other approved courses offered by distance education shall include regular contact between instructors and students consistent with guidelines issued by the Chancellor pursuant to Section 409 of the Procedures and Standing Orders of the Board of Governors.

CCR T.5 §55378 Separate Course Approval

Each proposed or existing course if delivered by distance education, shall be separately reviewed and approved, according to the district's certified course approval procedures.

See: Section 55380 Faculty Selection
Section 58003.1 & 58051 Average Daily Attendance Computation
Section 58007 Noncredit Classes
Section 58009 Application of Independent Study or Work Experience

BEST COPY AVAILABLE

Section 5
Approval of New Degree and Certificate Programs

IMPORTANT: Please note that excerpts from legislative statutes and Board regulations and standing orders are indented, right-justified, in bold and in a different font (as exemplified here).

5.1 Definition of 'Educational Program'

(b) "Educational program" is an organized sequence of courses leading to a defined objective, a degree, a certificate, a diploma, a license, or transfer to another institution of higher education. [CCR T.5 §55000]

The "organized sequence of courses" refers to courses that are *required* for a specified degree or certificate, including general education courses and courses among a set of restricted electives, i.e., a restricted list of courses that count towards the degree or certificate from which the student chooses electives. Courses not required for a certificate or for an associate degree with a specified concentration, or that do not satisfy restricted elective or general education requirements for such an award, do not count as part of educational programs under this definition.

This operational definition of program, it should be emphasized, while closer to that in statute, differs significantly from the operational definition of educational program implied by procedures in use prior to 1992. Until then, operationally, an *'educational program'* was simply the set of all courses in a given subject matter, i.e., all courses that were assigned the same TOP code, whether these courses were required or not, and with no necessity for there to be a set of stated program goals and objectives to which these courses were to contribute. Under these earlier procedures as they came to be understood on campus, *"Approved **TOP** code"* and *"approved program"* were regarded as synonymous. As of July 1, 1992, these two concepts have no longer been treated as equivalent for the purposes of state approval.

BEST COPY AVAILABLE

The program definition now in use is *not* TOP code oriented, but outcomes oriented. Under this usage, an *educational program*:

- Is published in the college catalog with a specific title
- Awards a Degree or Certificate
- Has a specific set of required courses
- Has stated goals and objectives

It is the stated goals and objectives, together with the set of required courses, that define the actual scope of the program being approved and clearly distinguish it from other programs. It is these goals that justify the approval of the program in the first place, necessitate its particular student objectives, and determine its course requirements and restricted electives. And, finally, it is these goals and objectives that are the benchmark against which program outcomes are to be judged and subsequent changes to the program design justified.

5.2 Requirement for State Approval of New Programs

> **(a) Before offering any course as a part of an educational program at a college, the governing board of a district shall obtain approval of the education program from the Chancellor in accordance with the provisions of this article. Approval shall be requested on forms provided by the Chancellor. [CCR T.5 §55130(a)]**

New programs require approval by the state Chancellor's Office *except* for new *transfer programs* that are the subject of an articulation agreement that specifies that all courses required in the new community college program will be counted by a four year college towards the fulfillment of either its own general education or the major requirements in a specified discipline.

Student service programs, such as re-entry programs, or other special programs even with course sequences specially designed to meet particular student needs, are not *'educational programs'* under the statutory definition as long as they do not lead to a particular degree, certificate, licensure, or transfer. Such programs do not require Chancellor's Office approval under CCR T.5 §55130(a), nor are courses included among such patterns or services considered "part of an approved

BEST COPY AVAILABLE

program" for purposes of authorizing the college to offer them without separate approval from the Chancellor's Office.

Likewise, the publication in the catalog of recommended patterns of courses that are not required and that yield no subject specific degree or certificate do not count as a program and hence do not require separate Chancellor's Office approval.

5.3 Authorization to Offer a New Degree or Certificate Program

(e) In multicollege districts, program approval is granted for a specific college. [CCR T.5 §55130(e)]

Colleges that receive state approval of a new program are authorized to:

- Award a degree or certificate with the designated program title
- Publish it in the catalog and otherwise promote the program and its requirements
- Require specific courses for the completion of the degree or certificate
- Offer new courses that are required for the completion of the approved degree or certificate, without seeking separate approval from the Chancellor's Office, provided the courses meet the standards of 55002(a) and 55805.5 for degree credit courses and are clearly justified by the stated program goals and objectives
- Modify objectives, requirements, or approved courses, or make any other changes in the curriculum or instruction that improve the effectiveness of the program in achieving the goals for which the program was originally approved, in general; or for particular students; or that maintain currency in the program by reflecting changes in the knowledge and methods in the field of study, in the requirements for transfer, or in the technology or occupational requirements of the occupation for which the program was originally approved

BEST COPY AVAILABLE

5.4 Documentation Required for State Approval of New Educational Programs

State approval requires the submission of an application detailing the program goals and objectives, requirements, and rationale and documenting the projected enrollments, job market data, and program cost data.

The application must also include copies of the Outlines of Record for all required courses, including an example of one general education course in each of the five areas of general education. These outlines must meet the applicable standards for courses laid out in this Handbook and summarized in Appendix B.

Forms and instructions for applying for approval of a new degree or certificate program are found in Appendix A of this volume of the *Curriculum Standards Handbook*. These instructions are based upon the provisions in Title 5 quoted immediately below. They specify what documentation fulfills these requirements and/or best facilitates prompt approval.

CCR T.5 §55130(b) The application for approval [of a new educational program] shall contain at least the following:

(1) The name of the proposed program

(2) The description of the proposed program

(3) The purposes and specific objectives of the proposed program

(4) The place of the proposed program in the district master plan

(5) An explanation of whether the program is appropriate to the objectives and conditions of higher education and community college education in California and whether it conforms to statewide master planning.

(6) The need for the proposed program ascertained with regard to at least the following factors:

(A) Other community colleges in the area currently offering the program.

(B) Other programs closely related to the proposed program offered by the college

(C) Relation of the proposed program to job market analysis

(D) Enrollment projection for the proposed program

(E) Recommendations of area vocational master plan committees when applicable.

(F) The classification of the courses in the program in accordance with Section 55001.

BEST COPY AVAILABLE

(7) The need for and present adequacy of the following resources shall be determined in relation to the proposed program:

(A) Library resources

(B) Facilities and equipment required to initiate and sustain the program. If a new facility is to be used, reference should be made to the five-year master plan.

(C) Availability of adequate or proposed financial support

(D) Availability of faculty.

CCR T.5 §55130(c) The development, establishment and evaluation of an educational program shall include representative faculty involvement.

Ed.C. §78015 District Job Market Study; area; scope

(a) The governing board of a community college district shall, prior to establishing a vocational or occupational training program, conduct a job market study of the labor market area, as those terms are defined in Section 52301.5, in which it proposes to establish the program. To the extent possible, the study shall use the State-Local Cooperative Labor Market Information Program established in Section 10533, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System supply analysis of existing vocational occupational education or training programs for adults maintained by high schools, community colleges, and private postsecondary schools in the area to ensure that the anticipated employment demand for students in the proposed programs justifies the establishment of the proposed courses of instruction.

(b) Subsequent to completing the study required by this section and prior to establishing the program, the governing board of the community college district shall determine whether or not the study justifies the proposed vocational education program.

(c) If the governing board of the community college district determines that the job market study justifies the initiation of the proposed program, it shall, by resolution, determine whether the program shall be offered through the district's own facilities or through a contract with an approved private postsecondary school pursuant to the provisions of Section 8092.

5.5 Format and Timelines for Submission of Application for a New Program

The format for submitting a new program application together with detailed instructions is provided in Appendix A. When all required documentation has been submitted to the Chancellor's Office, approval of a new program will take no more than six months, including two months for a review by the California Postsecondary Education Commission, as required by law. In the case of limited approvals, a determination can usually be made within two months.

BEST COPY AVAILABLE

To assure adequate time, a college seeking full approval of a new program must submit the application six months in advance of the date it plans to start the program. If the college would like to have a final determination prior to its catalog publication date, or in time to hire faculty, market the program, etc. it should submit the program that much earlier.

Where an application is incomplete, or the documentation submitted is inadequate to permit a judgment that the five criteria explained in Section 3, above, are fulfilled, the process usually takes longer than six months and, if the matter is not resolved, results in disapproval.

5.6 Duration of Program Approval

Authorization to offer an approved degree or certificate program endures until anyone of the following occurs:

- The program is substantially changed; i.e. it no longer meets it original goals
- It is no longer supported by the college; i.e. courses required to complete it are not offered frequently enough to ensure timely completion
- Students are no longer enrolling in the required courses
- Termination is requested by the college
- Approval is withdrawn by the Chancellor's Office

An approval is effective until the program or implementation of the program is discontinued or modified in any substantial way. From time to time the Chancellor may evaluate an educational program, after its approval, on the basis of factors listed in this section. If on the basis of such an evaluation the Chancellor determines that an educational program should no longer be offered, the Chancellor may terminate the approval and determine the effective date of termination. [CCR T.5 §55130(d)]

If a program is "discontinued or modified in any substantial way"; (i.e., if its goals are changed) then the original state approval for that program ceases to be in effect. Changes to existing programs, even where quite thoroughgoing, that improve the effectiveness of the program or that bring it current, in relationship to

BEST COPY AVAILABLE

the goals for which the program was originally approved, or that create specialties that supplement rather than supplant the core competencies for the same job market, are not considered substantial changes for the purpose of implementing this regulation.

Discontinuation is discussed in 5.6.3; *substantial modification* is discussed in 5.6.1; and *non-substantial* changes in 5.6.2.

5.6.1 New Programs deriving from Existing Programs

Programs that are "modified in [a] substantial way" cannot be continued unless they are submitted to the Chancellor's Office and approved as new programs.

A program is deemed to have been "modified in [a] substantial way" if its *goals and objectives are substantially different from those for which the program was originally approved*. Such substantial modification is deemed to have occurred not only when explicit changes are made in the formulation of the stated goals and objectives but whenever modifications to the design of a program are substantial enough to significantly change student outcomes.

When a college proposes to modify an existing program in such a way that the original program goals will no longer be met by students successfully completing the new objectives of the program, then the proposal must be treated as a proposal for a new program, even where it proposes to use many of the same resources.

That is, if students who will complete the program after the proposed modifications are implemented will no longer qualify for the original job market, or will no longer fulfill the lower division requirements of the baccalaureate major for which the program was originally intended, then the program *goals* have changed. In that case, the original approval of the existing program no longer applies, and the proposed program with its new goals and rationale, and the documentation to support these, must be submitted to the Chancellor's Office for approval as a new program.

Illustrative examples of changes that ordinarily would not require state approval of a new program and those which would are listed in Appendix E.

BEST COPY AVAILABLE

Proposed program changes that might indicate a substantial modification and thus require a new program approval include:

- The core courses *(i.e., those which all students in the program are required to complete)* are changed and the subject matter of the new courses is primarily in a discipline different from that of the core courses in the program as originally approved.

- Qualifications for faculty to teach the new core courses are in a different discipline from those required of faculty for the original core courses.

- The lower division requirements of the baccalaureate major specified in the original program application are no longer met or the courses required in the new option no longer transfer into that major at any four year college.

- Students completing the new option no longer qualify for positions in the occupation for which program approval was originally granted and for which job market statistics were offered as part of the demonstration of program need.

- A new industry council needs to be formed, or the existing one significantly revamped, to provide appropriate input.

- A different title for the certificate is required to accurately indicate student achievement, yet the occupation to which the certificate originally applied has not been similarly renamed.

The presence of one such indicator need not necessarily mean that the college must seek Chancellor's Office approval. Rather, ***the presence of such indicators necessitates a careful local evaluation as to whether new program approval from the Chancellor's Office is necessary based upon review of the documentation by which approval was originally justified. If, as a result of the program modifications, the supporting documentation no longer applies so that the fulfillment of one or more of the five criteria listed above in Section 3 is brought into question, then the modifications are "substantial" and new program approval must be sought.***

BEST COPY AVAILABLE

5.6.2 Non-Substantial Updates to Existing Programs

As explained in 5.3 above, a college may make extensive changes to a program, if required to do so to improve effectiveness or to maintain currency in the job market or transfer major for which the program originally received approval.

Where such changes necessitate different skills and knowledge on the part of graduating students, then the student objectives that the program is designed to achieve must be redefined as well. Thus the occupational or transfer goal(s) for which the program was originally approved have not changed, even though everything else has had to change in order to successfully meet these same goals under new circumstances.

In other words, where changes in the demands of the field justify the changes in the specific skills that students will acquire as the result of completing the required courses, the behavioral objectives for the program *should* be redefined. Such changes are *not* substantial for purposes of CCR T.5 §55130(d), if essentially the same transfer major, occupation, or job niche is still being served by the updated program.

Concrete examples suggesting how these general principles might apply in particular cases are further detailed in Appendix E.

5.6.3 Discontinuation

Ed.C. §78016 Review of program; termination

> **(a) Every vocational or occupational training program offered by a community college district shall be reviewed every two years by the governing board of the district to assure that each program, as demonstrated by the California Occupational Labor Market Information Program established in Section 10533 of the Unemployment Insurance Code, or if this program is not available in the labor market area, other available sources of labor market information, does all of the following:**
>
> > **(1) Meets a documented labor market demand**
> >
> > **(2) Does not represent unnecessary duplication of other manpower training programs in the area.**

BEST COPY AVAILABLE

(3) Is of demonstrated effectiveness as measured by the employment and completion success of its students.

(b) Any program that does not meet the requirements of subdivision (a) and the standards promulgated by the governing board shall be terminated within one year.

(c) The review process required by this section shall include the review and comments by the County Private Industry Council established pursuant to Division 8 (commencing with Section 15000) of the Unemployment Insurance Code, which review and comments shall occur prior to any decision by the appropriate governing body.

(d) The provisions of this section shall apply to each program commenced subsequent to July 28, 1983.

In addition to termination of a program that results from college's formal planning decisions or from external review such as that prescribed above in law, a program may also be deemed to have been effectively "discontinued" if the college no longer offers the courses to support it. Explanation of these circumstances as well as information on reinstating a discontinued program will be taken up in a later section of the Handbook on program review to be published in 1996.

5.7 Reporting Existing Courses and Programs (Preliminary Information)

A new section, Section 7, on *Reporting Existing Courses and Programs*, is planned for publication during 1995. Meanwhile, it may be helpful to note here that under the definitions explained in this Handbook, TOP codes are no longer the means of identifying individual educational programs.

Among the features anticipated in the new reporting procedures that this change in the use of TOP codes makes possible are:

- Each degree, transfer, or certificate program can be assigned its own unique identifier and locally determined title in the Chancellor's Office Inventory of Approved Degree, Certificate and Transfer Programs

- Program (TOP) codes will be used solely to group together programs that have comparable goals into designated categories that can be readily mapped onto federal codes (CIP, the Classification of Instructional Programs) and, where appropriate, state occupational codes (OES, Office of Employment Statistics)

BEST COPY AVAILABLE

- Colleges will be able to specify for which degree, transfer, or certificate program or programs a given course is a requirement, if any

- Where appropriate, college will be able to code the subject matter of a course independently of the subject matter or goals of the program(s) in which the course is required.

BEST COPY AVAILABLE

California Community College
Chancellor's Office

Application Forms and Instructions *for* New Degree and Certificate Programs

Before developing a new degree or certificate program or completing the following form, you should be familiar with the Chancellor's Office 1995 ***Curriculum Standards Handbook, Vol. I (Revised)***, referred to as "95 HB-I" or "the Handbook" throughout the following instructions. This Handbook is available from your Chief Instructional Officer. Sections 3-5 explain the following instructions as they relate to the approval of new programs:

State Laws and Regulations
Criteria for Approval
Definitions of Degree and Certificate Programs
When Approval of a New Program is Required

You should also check with the office of your college's Chief Instructional Officer regarding any other new program development information that may have been published by the Chancellor's Office subsequent to February 1995.

Once you have read the Handbook and the instructions attached, if you have any questions that your Chief Instructional Officer, Academic or Vocational Dean, or Curriculum Committee Chair cannot answer, please contact the State Chancellor's Office at the address provided for submitting the application (on the next page) or by calling (916) 322-6880.

BEST COPY AVAILABLE

Instructions for Completing *New Program Application/Report*

- The two-sided New Program Application/Report Form (95 PROG APP) to use in applying for a new educational program or reporting a new articulated transfer major is on the following page.

  If you have obtained these instructions electronically, this form will not be included here. You may obtain a copy of this form from your college's Chief Instructional Officer or Curriculum Committee Chair.

- The gray areas on the 95 PROG APP form are to be completed by the Chancellor's Office and should not be filled in by the college.

- Fill in all blanks and boxes that apply according to the instructions for each numbered item.

- Submit a total of *three* copies of the New Program Application/Report and "Program Application Checklist".

- Include *two sets of address labels* with correct name and title for each person you have listed under Item #41 as persons who need to receive copies of Chancellor's Office actions or memoranda regarding this program.

Mail all sets of documentation with cover sheets and mailing labels to the following address by the deadline you have selected:

Division of Curriculum and Instructional Resources
Chancellor's Office
California Community Colleges
1107 Ninth Street
Sacramento, CA 95814

BEST COPY AVAILABLE

California Community Colleges

NEW PROGRAM APPLICATION/REPORT

1. APPLICATION DATE _____ DATE RECEIVED _____

2. PROPOSED PROGRAM TITLE _____ PHONE NUMBER _____

COLLEGE _____ CONTACT PERSON _____

DISTRICT _____ TITLE _____

3. DATE OF PROJECTED PROGRAM START _____ 4. PROPOSED TERMINATION DATE *(Limited Approval)* _____ 5. DATE OF ARTICULATED TRANSFER AGREEMENT _____

6. DEGREE ☐ CERTIFICATE ☐ MODEL ☐ LIMITED ☐ APPRENTICESHIP ☐ ARTIC TRANSFER ☐

7. PLANNING SUMMARY

Recommended TOP Code		OES Code (L)	
Total # Sem Units=Degree		Name of Employer (L)	
Total # Sem Units=Certificate		Transfer Institution (T)	
# of Required Courses		Major at Transfer Institution (T)	
Projected Annual Enrollments		# Lower Div Units in Major (T)	
Projected *Net* Labor Demand		Est. Cost New Equipment	
Est. Cost Library Acquisitions		Type New/Remodeled Facility	
Est. Faculty Workload (FTES's)		Date of New Facilities Plan	
# New Faculty Positions		Master Plan: Year 1st Projected	

8. *Provide Documentation Except Where Blocked Out* — *Page # in Application* — *(Gray: Chancellor's Office Use Only. Do Not Complete.)* — 9. ☐ COMMENTS ON BACK

		MISSION	10.	Statement of Program Goals & Objectives			
			11.	Catalog Description			
			12.	Rationale			
		NEED	13.	Enrollment Projection Data			
			14.	Place of Program in Curriculum/Similar Programs			
			15.	Similar Programs at Other Colleges in Service Area			
			16.	Labor Market Information ("LMI" Data)			
			17.	Job Market Analysis			
			18.	Employer Survey			
			19.	Explanation of Employer Relationship			
			20.	List of Members of Advisory Committee			
			21.	Minutes of Key Meetings/Recommendations			
			22.	Recommendations of Regional Occupational Deans			
		QUALITY	23.	List of Required Courses			
			24.	Outlines of Record for All Required Courses			
			25.	Diagram of Proposed Sequence			
			26.	Program Evaluation Plan			
			27.	Transfer Articulation Agreement			
			28.	Other Transfer Documentation			
		FEASIBILITY	29.	Library Resources Plan			
			30.	Facilities and Equipment Plan			
			31.	Financial Support Plan			
			32.	Faculty Qualifications and Availability			
		COMPLIANCE	33.	Model Program Standards & Explanation			
			34.	Licensing or Accrediting Standards, Where Required			
			35.	NCR1000 Approval: Dept. of Apprenticeship Stds			

DEGREE	CERTIFICATE	MODEL	LIMITED	APPRENTICESHIP	ARTIC TRANSFER

Authorization Granted — Record

Chancellor's Office Actions *(Gray: Chancellor's Office Use Only. Do Not Complete.)*

☐ Interim ☐ Final DETERMINATION

- ☐ Approved with Commendation
- ☐ Approved
- ☐ Approved Conditionally _____ *Termination Date*
- ☐ Transfer Program Recorded
- ☐ Forwarded for CPEC Review:
- ☐ Application Incomplete
- ☐ Information Requested
- ☐ Revised Application Requested
- ☐ Disapproved
- ☐ Determination Delayed

OTHER ACTION

- ☐ Not Required
- ☐ Withdrawn
- ☐ Closed
- ☐ Terminated

CPEC ACTION

- ☐ Concurrence
- ☐ Info Needed
- ☐ Nonaction
- ☐ Nonconcurrence

STANDARD MET	?	N/A	NEEDED

Approved TOP _____ Effective Date _____

Dean, Curriculum and Instructional Resources

BEST COPY AVAILABLE

36. Library and Learning Resources *We affirm that the library and learning resources necessary to fulfill the objectives of this program, and to complete the coursework specified in this application:*

☐ Cannot be determined at this time OR

☐ Are inadequate to support program ☐ Are adequately budgeted for in the program plan.

☐ Are currently available on campus or are otherwise readily available to students OR

Date	Originating Faculty/Division/Department
Date	Chief Librarian / Learning Resources Manager

37. Vocational Programs

☐ Program fulfills the requirements of employers in the occupation specified and that all of the courses required in the program are either necessary or viewed as advantageous by prospective employers in that occupation AND

☐ Course requirements specified in this application are in accord with the licensing or professional accrediting standards of the organization specified on the front of this form OR

☐ There are no licensing or accrediting standards which apply to this occupation.

Date	Dean of Occupational Education
Date	Chair, Occupational Advisory Committee
Date	Chair, Regional Occupational Deans

38. Chair of the Curriculum Committee , Chief Instructional Officer, Senate President
We affirm that:

☐ Courses associated with the proposed program as specified in this application were recommended by the curriculum committee as meeting all of the standards of 55002 and 55805.5, as recorded in the minutes of that body, on _____ AND

☐ Program objectives and design specified in this application are in accord with applicable licensing or professional accrediting standards.

Date	Chair, Curriculum Committee
Date	Chief Instructional Officer
Date	President of the Academic Senate

39. *By my signatures I certify that:* All provisions and conditions of Article 2 of Title 5, Section 55130b have been considered. It is feasible for the college to provide the resources in faculty, library holdings, equipment, and facilities necessary to support the program as designed and to offer the courses required as often as planned in the program proposal, while the projected number of students are enrolled in the program. All factors, taken as a whole, support establishment and maintenance of the proposed educational program.

Date	President of the College

40. On_____ the Board of Trustees of _____ District approved the educational program attached to this application.

Date	Superintendent/Chancellor of the District

41. Address labels are included for: _____ _____ _____ _____ _____ _____

Form: 95 PROG APP

BEST COPY AVAILABLE

General Program Information

1. Application Date and Summary of the Process

In deciding upon an application date, you should consider the following deadlines in connection with the need to advertise the new program in the college catalog, hire faculty, promote the program, etc.

IF FINAL DECISION IS NEEDED BY:	March 1	May 15	July 15
Submit by:	September 1	November 15	January 15
Interim Notice* from Chancellor due by:	December 15	January 15	March 1
Respond by:	December 1	February 15	April 1
Response from CPEC due by:	February 15	May 1	June 15
Final Notice from Chancellor due by:	March 1	May 15	July 15

*In the Interim Notice, the Chancellor's Office may inform your college that the program has been recommended for approval and forwarded to CPEC. Or it may ask for additional information or for revisions to the application. Depending upon the seriousness of the concerns, further processing and CPEC review of your application must await your written response to the questions and any requested modifications to the original application.

If you would like, your college may request a telephone conference call to discuss the program application at any point in the process.

2. Program Title and Contact Person

Title The proposed title of the program indicated here must be the same as the program title to be published in the catalog and designated on the degree. It should accurately reflect the scope and level of the program. While departments and college catalogs are typically organized around the name of the discipline, the title of a degree in that field should reflect the level as well as the subject matter, particularly in a para-professional or pre-professional field or transfer major where merely naming the subject matter might be misleading.

In accounting, for example, the title of the degree should not suggest that the graduate is "an accountant" but rather has taken "Accounting Studies". Similarly, a pre-professional program for paralegals should not be designated "Law," even though that is the subject matter of the program, but would be better entitled, for example, "Paralegal Certificate," or "Paralegal Studies," or "Pre-Law Concentration," or "Pre-Law/Paralegal Studies". A para-professional program in biology might be entitled "Bio-Technology."

BEST COPY AVAILABLE

The title of an *occupational area* should reflect the terminology in use in the region where students expect to be hired, as indicated by the advisory council, employer surveys, etc. In addition, the title or the catalog description should reference the title of the appropriate OES code, for any occupation that has one. (See Item #7.)

Contact Person: The person designated as contact for the application should be the person most able to answer questions about the proposed program. It can be the Chief Instructional Officer, the Dean of Occupational Education, the Division or Department Chair of the originating department, or the originating faculty member who has designed the program.

Official communications regarding program applications are sent to the Chief Instructional Officer of the college, except for the final notification which is sent to the president of the college seeking the approval. Each person listed on the cover sheet will also be notified of actions. In addition, the Chancellor's Office will forward copies of correspondence and actions regarding this program to any "cc's" you designate, *providing you include two copies of address labels for each such position* in your application package. *(See Item #41.)*

3. Date of Projected Program Start

The month and year when the college plans to offer the first required course in the program, or to enroll students in an existing course on the expectation that it will count toward the degree or certificate to be approved.

4. Requested Date of Termination

Only when requesting a limited approval: Indicate the duration of approval the college is requesting by indicating the month and year when the college expects neither to advertise the program as a college offering any longer nor to enroll new students in the introductory courses on the understanding that these courses are required for completion of this particular program or that the student will be awarded this particular certificate or degree as a result. (See also Item #6, "Limited" and Item #8.)

5. Date of Articulated Transfer Agreement

Only when reporting an articulated transfer agreement: Indicate the month and year when the articulation agreement was signed *(see Item #6 and #27).* This space should also be completed if you are requesting approval for an occupational program that includes an articulated transfer agreement.

BEST COPY AVAILABLE

6. Level of Authorization Requested

The following levels of authorization are available. *Check as many as apply.* They all confer the authorities specified in 5.3 95 HB-I, but differ in duration, in the amount of supporting documentation and processing time required, and in the situations for which they are appropriate.

Degree
Approval of a new degree program authorizes the college to require courses and award a degree requiring from 60 to 64 semester units, or the equivalent quarter units, including general education courses, and to award a degree specifying concentration in that field.

Applications for approval of a new degree program require full documentation, as indicated on the far left column of the form. Where the requested documentation is unavailable or inappropriate, the college should provide an explanation.

Certificate
Approval of a new certificate program authorizes the college to require the set of courses sufficient for proficiency in a given occupation, or in some aspect of a given occupation, or that has occupational value as a supplementary skill in a number of different occupations.

The Chancellor's Office requires separate approval for any certificate that *requires* 18 or more semester units.

Model
Approval of a model program authorizes the college to duplicate a program created by a consortium or professional association that has already been approved for at least one other college (e.g. The Environmental Technology program which was designed by a consortium to be initiated on 24 campuses over a three year period.) Program designs developed by other colleges that have been "approved with commendation" may also be submitted as a Model" program by another college, provided that the applicant college has secured the permission for such use from the original college.

Model approvals usually apply only to program design and satisfy criteria #1 regarding mission, #3 regarding quality and #5 regarding compliance. Each college proposing to implement such a program on its campus must still demonstrate that criterion #3, local *need*, and #4 local *feasibility*, except where a consortium has already researched need and feasibility as it applies to each individual member and gained pre-approval for all member colleges on that basis.

BEST COPY AVAILABLE

Since a model program has been developed, approved by the Chancellor's Office, and the design and general need demonstrated and concurred in by CPEC, approval of its implementation for a particular college may be made without further review by CPEC. The approval process for a model program will thus normally takes two months less than would otherwise be required. *(See Item #33.)*

Limited
A limited approval authorizes the same actions by a college as a full approval, but for a limited duration. The termination date of the program should be published along with other program information in the catalog or any other publication promoting or explaining the program.

In making the application, the college should indicates its preferred termination date in item #4. The actual termination date will be determined by the Chancellor's Office and will be shown at the bottom of the form in the space indicated for that purpose.

The duration is the length of time necessary for one or a few particular cohorts of students, as defined in the program application, to complete the program. During that time, the college can require the specified courses of those students and publish the requirements for the degree or certificate program in the catalog, along with the termination date. (It must not, however, admit additional students into the program past that date, without express permission of the Chancellor's Office.)

The documentation required for a limited approval is less, as indicated on the checklist where certain items are blocked off and do not ordinarily need to be submitted. The turn-around time for processing an application for limited approval is kept as short as possible, depending upon the circumstances.

To apply for the limited approval, check that option and enter a date in the box to the far right ("Anticipated Date of Termination for Limited Approval")

The Chancellor's Office also reserves the right to grant a college a "limited approval" in order to give that college time to fulfill all conditions for full approval that were not met in a timely fashion . *(See "Approved Conditionally" under "Chancellor's Office Actions" on p.29.)*

BEST COPY AVAILABLE

Apprenticeship
Apprenticeship approvals are ordinarily made to colleges seeking "Montoya" funding. For colleges that already offer programs in the same occupational area, the college need only submit Items #10-14, signatures #37-40, and a copy of the NCR 1000 form signed by the Division of Apprenticeship Standards approving establishment of the proposed program (Item #35). Such programs are not sent to CPEC for review and can usually be promptly approved.

Articulation Transfer
As explained in 95 HB-I,§2.2, new transfer-only programs, i.e. programs that do not lead to a certificate and that have no occupational component do *not* need to be approved by the Chancellor's Office if, but only if, the college has an articulated transfer agreement with a four year college. To qualify, the written articulation agreement must assure that the four year college will count the courses required for completion of the new program as either: (a) meeting the lower division requirements of the specified baccalaureate major at their institution; (b) counting toward general education requirements; or (c) counting as transferable electives.

Such programs must be reported for inclusion in the Inventory of Approved Degree and Certificate Programs maintained by the Chancellor's Office, according to procedures that will be published in Section 7 of the Handbook.

BEST COPY AVAILABLE

7. Planning Summary

Summarize the information provided in the remainder of the documentation. Where the item is followed by a letter in parenthesis (T = Transfer, L = Limited), only a college seeking authorization at that level (see Item #6) need fill in that blank. Where information is not available, leave it blank.

Recommended TOP Code
This code defines the category in the Taxonomy of Programs (TOP) within which the goals and objectives of the proposed program most clearly fall.

The TOP code is the category which groups the proposed new program together with degree and certificate programs on other campuses that have similar employment goals and objectives. The code is used to aggregate system-wide data on awards, program completions, placements, job success and other outcomes, and is the basis for reporting county and statewide job market supply data. The regional occupational deans should recommend the TOP code for vocational programs that best reflect regional usage, as part of Item #22. For non-occupational programs, TOP reflects the main discipline or subject matter and is used to aggregate data on awards, program completions and transfers.

Total # Sem Units = Degree
This is the number of semester units required for completion of the degree, including all general education requirements, prerequisite requirements (where these are degree applicable courses), discipline-specific requirements, and the number of units to be fulfilled from a set of restricted electives. *(Quarter units must be converted to semester unit equivalents.)*

Total # of Units = Certificate
This is the number of semester units required for completion of a certificate, including all prerequisite requirements (where these are degree applicable courses), discipline-specific requirements, and the number of units to be fulfilled from a set of restricted electives. *(Quarter units must be converted to semester unit equivalents.)*

# of Required Courses
This is the total number of separately identified courses that students will be required to complete for the program, apart from the number of units. In the case of *degree programs*, the number of courses should include those required for general education. In the case of *restricted electives*, the number will reflect only the actual number of courses students must take.

Projected Enrollments
Fill in the number derived from Item #13.

BEST COPY AVAILABLE

Projected *Net* Labor Demand
Fill in the number derived from Items #16-18, *minus* the number of graduates in the programs within the same service area that are listed under Item #15.

Est. Cost Library [and Learning Resource] Acquisitions
Fill in the number derived from Item #29 for both library and learning resources.

Est. Faculty Workload (FTE's)
Fill in the number derived from Item #32.

 # New Faculty Positions
Do not fill in total FTE's, but the number of separately identified positions that will involve new hires or reassignments, whether part or full time. The qualifications for these positions should be documented in Item #32.

OES Code
The US Department of Labor Occupational Employment Statistics (OES) Survey, is conducted in each county in California. The OES codes have been matched with TOP codes, but are sometimes more specific. For vocational programs whose graduates should be counted as part of the "supply" for an occupation covered by an OES code, that code should be filled in here. That code should be the same one referenced for any LMI (Labor Market Information) data used to justify need for a program. *(See Item #16.)*

Name of Employer (L)
This space should be completed by colleges seeking approval for a program of *limited* duration to be provided to one industry, associated primarily with a given employer. *(See Item #6).* The name of that employer should be filled in here.

Transfer Institution (T)
This space should be completed by colleges reporting upon a program that has been articulated for transfer to a four year institution. (See Item #6.) The name of that institution should be filled in here.

Major at Transfer Institution (T)
This space should be completed by colleges reporting upon a program that has been articulated for transfer to a four year institution. The name of the major for which specified courses are to be accepted as counting toward the major, and/or as fulfilling specific major requirements, under the terms of an articulation agreement, should be filled in here. (See Item #6.)

BEST COPY AVAILABLE

 # Lower Div Units in Major (T)
This space should be completed by colleges reporting upon a program that has been articulated for transfer to a four year institution. Indicate the number of units for which specified courses, *excluding general education requirements,* are to be accepted as counting toward the major and as fulfilling specific major requirements, under the terms of the articulation agreement. (See Item #6.)

Est. Cost New Equipment Report the figure from Item #30.

Type New/Remodeled Facility Report the figure from Item #30.

Date of New Facilities Plan Report the date from Item #30.

Master Plan: Year 1st Projected
Report the year of the college master plan, if any, in which the proposed program was first mentioned.

8. ***Provide Documentation Except Where Blocked Out***

Based upon what you have checked in item #6, select one or more columns on the left hand side of the form. Column labels are at the bottom of the page.

Every empty box in the selected column(s) should be checked, indicating that either (a) the documentation is attached or (b) an explanation is provided as to why that documentation is inappropriate. Where the documentation on the checklist is inappropriate for a given situation, you are encouraged to offer alternative supporting documents and analyses sufficient to show in some other way that the proposed program meets the criterion under which that item falls.

If the documentation clearly is not applicable, put "NA" in the column and insert a brief note in the body of the application. For example, regarding #16 through 22, you may note that the program is for transfer only and has no immediate occupational goals.

Taken together, and however modified, the documentation should make the strongest case possible that the program proposed is (1) appropriate to the mission, (2) needed, (3) effectively designed, (4) feasible to offer, and in (5) compliance with program-specific laws and requirements.

In all cases, programs which are determined by the Chancellor's Office to meet these five basic criteria will be approved. Those for which documentation or explanation is insufficient to show that one or more of the five criteria have been met will, unless corrected, be disapproved. (See Appendix B, the Program Review Checklist used by the Chancellor's Office for its in-house review.)

BEST COPY AVAILABLE

The gray boxes at the bottom of the columns to the left of the form, beneath the column labels, will be checked by the Chancellor's Office to indicate the level of approval actually authorized by that office at the time of the Final Notice.

9. Checklist

This section, in gray, is used by the Chancellor's Office to identify items that adequately support approval of the application, those that need some additional information or a modification to enable approval, those that are not applicable, and those that are missing altogether. (See Item #36.)

During the technical review, which occurs immediately upon receipt of the application, the documentation submitted is checked against the level of authority requested. The two columns to the far right are checked for items that are missing.

BEST COPY AVAILABLE

DOCUMENTATION

MISSION

Are the goals and objectives of the proposed course or program, as stated in the program application, consistent with the mission of the community colleges as formulated in Title 5/§55130(b)(5),§55180? (95 HB-I, § 3. 1.)

10. Statement of Program Goals and Objectives

A statement must be submitted that defines the goal(s) of the proposed programs, i.e. the job market or baccalaureate major, and the major program objectives, i.e. the knowledge and skills that students are to acquire as the result of successfully completing the program, that will enable them to fulfill the program goal(s). It is this statement of goal(s) and objectives that serves to define the program over time. The goal statement is the basis for determining whether changes to the program objectives and/or requirements can be made by the college without new approval from the Chancellor's Office, or whether such changes constitute a new program, that must be newly approved (as explained in 95 HB-I, § 5.5.1.)

On the basis of the program goals, objectives appropriate to these goals, and a program design consistent with these objectives, the determination is made as to whether the proposed program is appropriate to the mission of the community colleges. The criterion regarding mission is fulfilled if the goal of the proposed program, as borne out in the program design, is either or *both*:

Transfer: The stated goal of the program includes (but need not be limited to) transfer. Courses required in the program are specifically designed to be transferable, not only as electives, but to fulfill the lower division requirements of a major in at least one four-year college.

General liberal arts programs also fall within the mission, even where the transferable courses required do not count directly toward any particular transfer major but where, taken together, they clearly provide a strong foundation for upper division work.

Occupation: The stated goal of the program includes (but need not be limited to) the preparation of students for one or more occupations specified in the goal. The objectives of the program list the main competencies students will have achieved that fulfill the needs and requirements of that occupation.

BEST COPY AVAILABLE

11. Catalog Description

Description of the program as it will appear in the catalog. This description should be consistent with the rest of the application, convey the program's goal and objectives, and suggest how these differ from the goals and objectives of other programs and what students may expect as an outcome.

Where job market data, transfer agreements, or other factors as documented in the application suggest some caveats of which students should be aware, *these warnings should be as clearly conveyed in the catalog description as possible.* It is recommended that for degrees and certificates in "high risk" occupations that are inherently competitive, low-salaried, and/or unlikely to hire inexperienced graduates that the catalog description should suggest the risks, e.g. those in the arts, some human services, and international business--or for transfer programs that are heavily impacted or that differ greatly in lower division requirements from one transfer receiving institution to another--e.g. biology or computer science.

12. Rationale

The rationale explains at a general conceptual level what role the proposed program, given its stated goals and objectives, would fulfill in the curriculum. It should include some history of how the program proposal came about, what is unique about it, why it is critical, why it is especially appropriate for the region and for the college, the nature of the community support for it and so forth. These explanations should be related to the overall plan for the college, other new program developments, and the specific needs of that community, mission of the college, and/or opportunities to serve. Item #12 should be used to justify program objectives or the inclusion of a given course as a requirement, etc.

This narrative provides an essential context to reviewers. It is the place for colleges to explain special considerations and to make a case for a program that justifies the use of alternative documentation where the usual documentation would be misleading or inconclusive or is simply not obtainable.

It is not necessary to repeat here information covered elsewhere, as long as it is *clearly* cross-referenced to a page numbered in proper sequence and a paragraph or section number, and, in the case of references to minutes, with the relevant section highlighted.

BEST COPY AVAILABLE

NEED

Is there a demonstrable need for a course or program that meets the stated objectives at this time and in the region the college proposes to serve with the program? *(95HB-I, § 3.2)*

The items listed below provide the documentation to support the rationale for the proposed program. Taken together this documentation should show that the number of students who are likely to enroll in the proposed program will be sufficient to support it. It should also show that there are solid grounds for expecting that the employment, advancement, and/or transfer outcomes promised by the title and catalog description for the proposed program will be realized by students who expend the resources to successfully complete its requirements, given the anticipated number of enrollees.

13. Enrollment Projection Data

These data may be based upon enrollment in current courses and/or a survey of prospective students. In the case of a survey, the survey questionnaire, itself, as well as a description of population surveyed and survey results should be included in this documentation.

A student enrollment survey should not simply establish "interest" but the degree of *commitment,* i.e. the likelihood that students will actually take the required courses and complete the entire program. It should also seek information regarding the time frame within which students would want to be able to complete the program and their plans for entering the field or transferring in the major.

If the field is one that is highly competitive or insecure, or is one that begins or remains with low salaries, the survey questionnaire should *make that fact clear* to those whose interest in pursuing the program is being surveyed.

14. Place of Program in Curriculum/Similar Programs

What related programs are there in the college? What need will this one fulfill that those programs do not? Will there be courses in common? Will this program pull students from them? Will it accommodate an overflow or provide for a different type of student? Will students wish to/be able to move between the programs? Will programs share resources?

Explain how, if at all, this program makes new or more productive uses of existing resources, and/or builds upon existing programs or services, establishes a new direction for the college, or similar points. This section should be closely related to

BEST COPY AVAILABLE

the rationale, but should be more specific with respect to other program offerings, numbers of students, equipment availability etc. If this program is related to the ending or scaling down of other programs, this is the place to provide details.

Clarify how existing faculty will be used, showing in particular that the program will not depend solely on adjunct faculty and that full time faculty will not be overextended. *(Or these matters can be explained in Item #32.)*

15. Similar Programs at Other Colleges in Service Area

Under this item, describe all similar programs in colleges within commuting distance of college. A brief description of each program, or photocopied pages from other colleges' catalogs, is sufficient. A narrative explaining similarities and differences, and why another program of this type is needed in this region at this time is most helpful to the reviewers of the program in determining that there is local need for the program.

If the proposed program would have a different emphasis from programs offered elsewhere, targets a different market, is likely to be closer to the "state of the art" in the field, or is otherwise likely to be stronger, and/or if the college's existing mission, expertise or resources are especially well suited to development in this area, this case should be made in the rationale and may be documented here in more detail.

In most instances a college proposing a new program needs to make a convincing case that the existing capacities of other colleges are already being fully used and that there is an excess enrollment demand. *The analysis should show that there is a net demand in the job market capable of absorbing the numbers of additional students that the proposed new program would be graduating into this job market.* Where these data are unavailable, irrelevant, or misleading, a compelling rationale must show that the program is needed, nonetheless.

Evidence that program developers have been in communication with existing programs and have used this information to help design the proposed program should be provided here. When two or more colleges in the same region are seeking approval for new programs of a similar sort at or near the same time, evidence of collaboration becomes especially important.

16. Labor Market Information *(LMI Data)*

The US Department of Labor Occupational Employment Statistics (OES) Survey is conducted in each county in California. It surveys medium to large employers in established industries and publishes labor market data by county. OES includes

BEST COPY AVAILABLE

some 750 occupational categories. For those categories that require up to 2 years or more of training, including lower division programs for four year baccalaureate occupations, the OES codes have been matched to California Community College TOP codes to create the Labor Market Information or LMI system.

The LMI system provides five year occupational demand data by county on established occupations, i.e. those that have OES codes and that serve medium to large employers. The system also provides occupational supply data based upon actual or projected program outcomes. The LMI system is maintained by the state Employment Development Department (EDD) and partly funded by community colleges to aid in their planning of programs and in their reporting upon outcomes.

In the Education Code, LMI data are specifically required for new program applications, where appropriate:

> **To the extent possible, the [labor market] study shall use the State-Local Cooperative Labor Market Informetion Program established in Section 10533, or if this program is not available in the labor market area, other available sources of labor market information. The study shall include a California Occupational Information System [OES] supply analysis of existing [programs]. [Ed.C./§78015]**

LMI data are available from:

State/Local Labor Market Information
Employment Development Department
Building 1100
7000 Franklin Boulevard
Sacramento, CA 95823

For proposed new vocational programs whose goals properly fall within an OES code *(as reported in Item #7)*, LMI market data for the county(ies) served by the college, for that code, should normally be reported under Item #16.

Local, industry, business, or federal statistics may also be used to document the need for a vocational program. Such statistics should be related as carefully as possible to the local situation.

17. Job Market Analysis

Section 55130(b)(6)(C) of Title 5 requires a college seeking approval of a new program to show the **"[r]elation of the proposed program to [a] job market analysis".**

This item fulfills that requirement. The job market analysis should present evidence that there is a viable job market that will *preferentially* hire those graduating with the proposed degree or certificate.

BEST COPY AVAILABLE

Questions that could be addressed in such an analysis include:

Net Job Market

- Given the number of enrollments projected for the program and necessary to support the program, are there enough openings locally to permit placement of the expected number of graduates, *taking account of the numbers of graduates available from similar programs within the same geographic region as program graduates will be seeking employment?*

- Has the job market been: declining slowly? steady? growing slowly? growing rapidly? newly emerging?

Earning Potential

- How much over minimum wage is the initial salary ?

- What is the average percentage of salary increase in 2 years? 5 years?

Program Credibility/Career Potential

- Is there sufficient evidence that employers would preferentially hire or promote graduates with this education, other things being equal?

- How likely is it that employees with only the education provided by this program, and lacking experience, will be hired at all? Or that experienced employees with only this education would be promoted?

- If advanced degrees are typically needed for career advancement, will the courses required for this program *transfer* towards completion of the requirements for those degrees?

- Will this preparation permit students to stay current in their field? Does the program teach basic principles and theory, as well as applications? Is it current? Is it of sufficient rigor to assure the capacity to continue to follow the literature and learn new techniques? Is it of sufficient generality to allow for later shifts in career? Does it use "applied academics," aiming for integration of liberal arts and occupational or pre-professional education wherever possible?

- Does this preparation provide a significant secondary expertise to primary careers? Is it designed primarily or in part to meet the needs of those already employed for upward mobility, entrepreneurship, or other career upgrade?

BEST COPY AVAILABLE

- Does it prepare students to work in an ethnically diverse workforce and an ethnically diverse, global market?

Emerging Occupations: Where job market data are not available or are not appropriate for a new occupational program in an area of emerging social need or technology, it becomes important to provide a careful analysis and explication of the specific demands of this new occupation. It is in anticipating emerging demands that colleges can play an essential leadership role, but can also most readily be misled as to the actual job requirements or prospects in a field and thus inadvertently mislead students.

A carefully designed employer survey can elicit documentation of the fact that (a) employers share the college's assumption as to where the field is going and what skills this emerging industry will require of employees and (b) will recognize the value of the proposed degree or certificate in their hiring or promotion.

Competitive Fields: Colleges are often called upon to provide training that students greatly desire, even where the job prospects are limited and the field is highly competitive. In such occupations--often in the arts and entertainment--it is talent rather than education that is the bottom line in hiring. While no community college certificate can substitute for talent, a program that is exceptionally well designed to identify, develop, and demonstrate the presence of talent can still be justified when few programs of similar quality exist in the service area.

Supplementary Occupational Skills: Many kinds of certificates are of occupational benefit to students already employed. In such circumstances, the program objectives and design including the sequencing of courses, should fit the needs of students likely to be already employed by building on their prior experience and spacing course requirements to accommodate probable student scheduling constraints

Small Businesses or Cottage Industries: Entrepreneurial opportunities and the market for cottage industries yield few statistics. Yet these are a source of employment for an increasingly large proportion of the workforce and constitute a legitimate vocational goal for a community college program, especially in rural areas. An application for approval of a program designed to meet the needs of such students should show a careful analysis of their needs and of the market within which they must compete, and relate this analysis to the design of the program.

BEST COPY AVAILABLE

18. Employer Survey

A survey of prospective employers in the geographic region within which students will be seeking employment must be included or else an acceptable explanation should be provided as to why such a survey is not included. A "prospective employer" is a company that employs people in positions requiring the skills that it is the objective of the proposed program to provide.

> The survey should address to what extent the proposed degree or certificate, with its stated objectives and proposed courses, will be valued by prospective employers. In communicating with survey respondents, the questionnaire should convey as much information as possible regarding the intended program design, with the proposed equipment, facilities, work experiences proposed, and/or faculty qualifications. The survey can then be used to determine whether, *on that basis, the employer would preferentially hire someone with such a degree or certificate over someone without it, other things being equal.*

Finally, and most importantly, the survey should determine the extent to which prospective employers expect to be hiring (or promoting) in the demand region over the next five years. Program applications will be evaluated in terms of whether the case was made that the *net* number of job openings that employers are planning to fill--annually and over the next five years-given turnover, growth, etc., *will be equal to or greater than the number of students the program will graduate per year,* after taking account of the number of graduates from similar programs in other institutions who will be entering the job market within the geographical region from which employers are being surveyed.

19. Explanation of Employer Relationship

Where a college is seeking approval for a program of *limited* duration to be provided to one industry, associated primarily with a given employer, and is working closely with that one employer in developing the program, enrolling students, and acquiring the equipment, etc., an explanation of that relationship should be provided. The name of that employer should be included in the planning summary. *(See Item #7, "Name of Employer".)*

An explanation of how the open enrollment requirements for California community college courses will be observed in this context must be included in this discussion.

20. List of Members of Advisory Committee

This item should identify whether the proposed new vocational or vocational and transfer program has an advisory committee made up of typical employers,

BEST COPY AVAILABLE

discipline faculty from transfer institutions, entrepreneurs, or others qualified to carry out the functions explained in Item #21, below.

Submitted documentation should include:

Vocational Programs: The list of advisory committee members should include their job titles as well as their affiliations and an accompanying explanation should make clear that they represent those within the industry who would hire graduates of the proposed program.

Pre-Professional and other Pre-Major Transfer Programs: For occupations that have a career ladder that requires the baccalaureate or higher, the list of advisory committee members should include faculty from a receiving transfer institution in the discipline within which the proposed program falls. If not, an explanation should be provided regarding the reasons for their omission and how else the issue of transfer and upward mobility is to be addressed.

21. Minutes of Key Meetings/Recommendations

In this item, *highlight* portions of the minutes that deal with substantive issues of program need, objectives, design, resource requirements. Suggestions noted in these minutes, questions or concerns raised, and decisions recorded should be specifically addressed in the application, either in the rationale at the beginning of the application, in a narrative following the minutes, or in the specific parts of the application where the matter is relevant.

22. Recommendations of Regional Occupational Deans

Include either a letter from the regional occupational deans or highlight that portion of minutes of a regional occupational dean's meeting in which the proposed program was voted upon. This item should include an explicit recommendation by the regional deans regarding the TOP code, to be recorded in the first space under Item #7.

BEST COPY AVAILABLE

QUALITY

Are the objectives of each required course clearly necessary to meet the stated goals and objectives of the program?

Are they sufficient? Will the successful completion of the work as laid out in the outlines of record submitted for each course required in the program, and in the required sequence, be sufficient to enable students to acquire the knowledge and skills specified in the stated program objectives and to fulfill the program goals for the occupation(s) and/or baccalaureate major specified in the application?

23. List of Required Courses

A list must be submitted of all courses required for completion of the program, as they will appear in the catalog, including general education and restricted electives, with the number of semester units.

Taken together, successful completion by students of the set of courses required for the program must be sufficient to enable them to fulfill the program goals and meet the program objectives. Courses should be required that will assure *the college level communication and analytic skills* that will generally enable the graduating student not only to do well in transfer courses, if that is their goal, but also to participate as a full team member in a company, maintain currency in rapidly changing fields, and advance in their chosen occupation over a lifetime.

In order to minimize credit loss for students who may decide upon a baccalaureate at some later time, required courses should be transferable wherever possible.

The set of requirements should reflect the thinking of the advisory council, as indicated in the minutes of that council (see below), or the college should explain its departure from those recommendations by reference to the rationale in Item #10.

The number of units, specific course requirements, design of individual courses, and the sequence of the courses should, taken together, be coherent, complete, and appropriate, given the program objectives and the resources with which the college has to work. Any *associate degree* program must also account for *general education requirements* in the overall program description and sequencing.

BEST COPY AVAILABLE

24. Outlines of Record for *All* Required Courses

All courses required in the program must be included in the package, whether existing or newly designed. For *associate degree* programs an example of at least one course for each of the general education areas specified in T.5/§55806 must be included. For *restricted electives*, the Outlines of Record must include all of the courses from among which students may select the courses they will use to fulfill that requirement.

> Note: *Outline of Record vs. Syllabus:* A course syllabus controls instruction in one section of a course, and reflects the work of one instructor. The Outline of Record controls instruction across all sections in a given course, regardless of instructor; it provides one set of standards that many different sections can and must meet.

From the objectives in the Outlines of Record for each required course, it should be evident how each required course, taken in the required sequence, furthers the overall program objectives. If this relationship is not evident for a given course, its relationship should be fully explained in the rationale, Item #10.

Each Outline of Record submitted with the new program application must meet the standards described in 95 HB 3 and 4. See Appendix B, the checklist that is used by the Chancellor's Office to evaluate program applications.

25. Diagram of Proposed Sequence

Include a flowchart, table, or diagram that will enable reviewers to visualize how the course sequences and prerequisites fit together, to determine that the sequence of courses is reasonable, on the face of it, and that they are arranged so that a full-time student could complete a *degree* program in two years or a *certificate* program within the number of semesters normally needed to complete the total number of units required for the certificate, by a full time student.

Where it is the case that the objectives of the program are best fulfilled by requiring courses in a particular sequence (or simultaneously), then *mandatory prerequisites (or co-requisites)* may be set pursuant to T5/58106. The outlines of record submitted for these courses should be written in such a way as to substantiate the need for such a required sequencing of the courses.

BEST COPY AVAILABLE

26. Program Evaluation Plan

If the college has a standard evaluation plan, please include a copy of that plan (unless it is too bulky, in which case a summary will do). Please explain *how often* the proposed program would be reviewed using that plan, and *what will be done* as a result of the information thereby gained.

If the college has no such standard practice, this section should indicate how the requirements of Ed §78016 and federal Vocational and Technical Education Act (VATEA) evaluation requirements will be met, if these apply. It should also be noted that *Title 5 §51022 sets the existence of program review procedures as a minimum condition for the receipt of state funding.*

Among the items that could be included in the evaluation plan are:

- Fiscal viability of the program
- Adequacy of facilities, equipment, and library and learning resources collection in extent, currency, accessibility and quality
- Curriculum:
  1) Courses are current with respect to new developments in the field and improved teaching methods
  2) The set of requirements is complete, appropriate, and sequenced as effectively as possible, given the objectives of the program
- Faculty & Instruction:
  1) Faculty possess the appropriate credentials or other qualifications
  2) Proportion of part-time to full-time instructors is acceptable
  3) Faculty workload is acceptable
  4) Faculty syllabi and actual instruction are in accordance with the outlines of record
  5) The most effective teaching methods are in use
  6) Faculty evaluations are regularly and properly conducted
- Outcomes
  1) Number of students enrolling in and completing the program
  2) Number of students transferring and their subsequent grade point averages and retention rates
  3) Number of students working in the field after completion of at least one A-C level course (SAM Code) in that field
  4) Satisfaction measures among employers of students who complete vocational programs in the field of employment

BEST COPY AVAILABLE

27. Transfer Articulation Agreement

Title 5 requires the governing board of each college district, as a minimum condition of the receipt of state funds, to:

> **"[F]ile with the Chancellor and carry out its policies and procedures to provide that its courses and programs are articulated with proximate four year colleges and high schools." T.5 /§51022b**

In addition, Senate Bill 121, the "Transfer Bill" requires each "discipline" to be articulated in each community college with three UC and five CSU campuses. *(See Ed.C. §66740 in 95 HB-I, § 4.7)*

The college should submit a copy of any agreement articulating the completion of lower division requirements in the major with whatever transfer institutions are listed in the planning survey.

28. Other Transfer Documentation

If a transfer articulation agreement is not available, other kinds of documentation that can be used to this end are:

- A *proposed* articulation agreement and plans for achieving it
- Photocopies of major requirements at least three public universities in California showing the similarity of lower division requirements, with explanation of any discrepancies
- A summary of standards for lower-division preparation in this discipline published or endorsed by relevant professional bodies
- A list of four-year college faculty from transfer institutions, knowledgeable in that discipline and/or representatives of the profession, who have been involved in helping to create or review the program design
- A plan for how students can gain transferability of non-articulated courses through a testing process or some other way in which the credits earned by students in the new program can be protected

The documentation should show a good-faith effort on the part of the college to assure that, as far as possible:

BEST COPY AVAILABLE

- Every course required of students will count not only in transfer, but specifically toward completion of a major after transfer
- Courses required in the lower-division program will not have to be repeated in upper division
- All major requirements usually fulfilled at the lower-division level can be fulfilled at the community college

The documentation submitted should address not only the needs of students who plan to transfer, but also those in occupations who may subsequently need a baccalaureate. *Even in occupational programs, all courses that can be made transferable without compromising their occupational usefulness should be so.* Such courses include not only those required in various pre-major transfer programs in the Liberal Arts and Pre- or Para-professional programs, but also courses in programs in trade and industry may have a potential for transfer into upper division majors in industrial engineering, architecture, etc. at some colleges.

BEST COPY AVAILABLE

FEASIBILITY

Can the college commit the resources necessary to support the program at the level of quality presupposed in the program design, for the proposed numbers of students, and offer it with sufficient frequency to meet the program objectives and enrollment projections?

Title 5/§55130(b)7 requires the Chancellor's Office to determine that a college proposing a new program has the resources to offer that program with respect to Items #29-32. The documentation included in the application should be sufficient to enable the Chancellor's Office to determine that the college has committed to the program (Item #43) on the basis of a sound estimate of the resource implications associated with these items.

29. Library and Learning Resources Plan

The application should include a specific statement of what the program needs will be with respect to the library and other learning resources, with a summary of the extent and currency of the holdings in this area, including print, non-print, and electronic resources. This statement of needs should be accompanied by a specific plan as to how additional resources will be accessed or acquired, including a budget. This plan should be jointly developed by learning resources staff and the instructional division originating the program proposal, as indicated by the joint signatures required in Item #36.

30. Facilities and Equipment

Specific needs for facilities and equipment should be detailed here with an indication of what is already available, what is part of the master plan, what is currently in some stage of acquisition, and what would have to be acquired after the program was begun.

31. Financial Support Plan

The sources of support for the above needs should be indicated, e.g. increased college enrollment under cap, the phasing out of another program, the donation by industry or the sharing by them of facilities, equipment, books, library collections, endowed chairs, etc.

If the new program has been developed with Fund for Instructional Improvement (FII) moneys or other special funds, such as those for employer-based training or

BEST COPY AVAILABLE

federal grants, these sources and any requirements that may have been set in relation to initiating the new program should be explained.

32. Faculty Qualifications & Availability

Resumes of the faculty who will be directing and teaching in the new program should be maintained locally in the program file, clearly indicating that the program will be adequately staffed and managed by those whose qualifications indicate adequate understanding of current knowledge and practice in the field appropriate to the program. If new faculty will be needed, or if new training will be provided to faculty who are undertaking expanded or different responsibilities, an explanation should be provided under Item #32 as to how the additional costs and/or training will be accommodated. *(See also Item #14.)*

BEST COPY AVAILABLE

COMPLIANCE

Does the program comply with any other laws applicable to it, including federal regulations, licensing requirements, and the particular legal requirements explained in 95 HB-I, §4.8?

33. Model Program Standards and Explanation

In applying for Model Approval (See Item #6), the college must reference a consortium, another college, or the professional body that developed the model standards. It is helpful to provide a copy of the model itself, or a summary or relevant excerpts. If the proposed new program departs little from the original model, that model may be incorporated as-is in a new application wherever the model addresses an item called for in the application.

In any case, the college should document the feasibility of their offering the model program as designed, and show that there is a local need sufficient to justify its establishment at this time and place. It should also justify any departures from that model to meet the particular needs of those served by the college, take advantage of the college's particular strengths, improve upon the original design, reduce costs, or accommodate other local constraints or practices.

34. Licensing or Accrediting Standards Where Required

The college should determine whether accrediting or licensing standards apply to the proposed program and include them, or a summary of them, in their application, together with information as to organizations or persons representing the field who may be contacted by the Chancellor's Office, if necessary. Where appropriate, the college should include a sign-off from a licensing agency. As with Item #33, any departures from the accrediting standards should be explained. The explanation should also clarify whether the college intends to function without accreditation in the area or expects to be accredited.

35. NCR 1000 Approval: Department of Apprenticeship Standards

A copy of the NCR 1000 form signed by the Division of Apprenticeship Standards approving establishment of the proposed program must be submitted for all other documentation in support of a proposed new apprenticeship program. Since that duplicates many of the approval issues for the Chancellor's Office, most items in the column marked "Apprenticeship" are blocked out. These forms are available from :

Division of Apprenticeship Standards
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA. 94142

BEST COPY AVAILABLE

SIGNATURES

All of the signatures specified on the back of the New Program Application/Report should be provided, except Item #37 can be omitted for non-vocational programs. The Chancellor's Office relies heavily upon these signatures in conducting its own review.

The purpose of the signatures is to assure that those most knowledgeable in each area on a campus have been significantly involved in the planning of the program. *The signature specifies a particular affirmation or commitment and should thus be made by the person in the specified position,* or by someone in another position that is as well or better equipped to make that affirmation or commitment.

The signature presupposes that the signatory had adequate information, adequate time to review that information, and adequate access to the process for developing and/or reviewing the program, as the basis for making the specified affirmation or commitment. If a given party has been involved in the review but is unavailable for signature at the time the college is to send in its application, an explanation should be provided and an updated signature page submitted later. If that party was not available, a qualified person designated by that party to conduct the review and sign in their stead may complete the form.

36. Library and Learning Resources

The process for determining the library and learning resources necessary to support the program as designed should involve a close partnership between the originating faculty and the library and learning resources staff. The signatures of the originating faculty (or division/department) and the library and learning resources manager affirm the collegiality of this process and the status of the resources proposed in relationship to program needs.

37. Occupational Advisory Committee Chair, Dean and Regional Chair

For vocational programs, it is essential that it have been designed in close cooperation with the industry it is to serve. The signature of these two parties is meant to assure this fact. (See also Items #20-22.)

Also for vocational programs only, the signature of the Chair of the Regional Occupational Deans should be included here, and if it is, Item #21 need not be included. *If Item #21 is included, the signature need not also be included here.*

BEST COPY AVAILABLE

38. Curriculum Committee Chair, Chief Instructional Officer, & Senate President

These signatures, as explained, affirm that the standards of CCR Title 5 §55002 and 55805.5 are met, together with any applicable transfer or licensing standards....**An associate degree credit course is a course which has been...recommended by the college and/or district curriculum committee and approved by the district governing board.... [CCR T5 §55002a]**

The courses for a new program, even existing courses, should be reviewed anew in connection with a new program application and recommended for approval for that purpose by the curriculum committee. *(See item #24 and 95 HB-I, and Appendix B)*

The college is also responsible for identifying where specific licensing or accreditation standards apply and determining that they have been met. (See Item #34.)

Ideally, the curriculum committee and the instructional office have also had a role in determining that the resource requirements necessary to conduct the program at the level of quality proposed have been adequately described. (See Items #29-32.)

The signature of the *Curriculum Committee Chair* affirms that state standards as explained in this Handbook have been adhered to in the committee's review and approval of the program proposal. The signature of the *Chief Instructional Officer* affirms that the college's need for the program, relative to other curricular needs and the required resources, has been demonstrated and that any other applicable local standards or procedures have been fulfilled.

39. Chief Executive Officer

This signature affirms that:

a. All standards in this Handbook have been adhered to.
b. The college can provide the qualified faculty, the essential facilities, equipment and media resources necessary to offer the courses required in the program as frequently as is presupposed in the program design.

40. Chief Executive Officer of the District

This signature affirms that the local governing board has approved the program, as required by law: **The governing board of each community college district shall... approve courses of instruction and educational programs [Ed.C. §70902(b)(2)]**

41. Address Labels

Final Notice is sent to the college president; interim notices to the college's Chief Instructional Officer. List here the names of any others should receive copies of these notices and for whom two sets of address labels are included in the application.

BEST COPY AVAILABLE

CHANCELLOR'S OFFICE ACTIONS

The gray areas of the form are not to be filled out by the college. These areas are used by the Chancellor's Office to notify colleges of actions regarding their applications.

Interim/Final DETERMINATION

If an interim notification is required, this form is copied, "Interim Notice" is checked, and the form is sent to the college part way through the process.

At the end of the process this form, the spaces to indicate Chancellor's Office action(s) and "Final Notice" are checked and the form is sent as the Final Notification. Once so checked, and signed by the Dean of Curriculum and Instructional Resources, this form constitutes the *documentation of approval* or other action. Although newly approved programs are recorded in the Inventory of Approved Degree and Certificate Programs maintained by the Chancellor's Office, this Final Notification should be *carefully maintained by the college* as backup documentation in the event of an audit or other question.

Approved with Commendation
The program is approved *(see below)* and the program application is regarded as exemplary in its objectives, design, and/or supporting documentation.

> *Note: The Chancellor's Office may share such commended program applications with other colleges seeking models unless the college writes the Chancellor's Office requesting that the application not be so used.*

Approved
The program is authorized at the level indicated in the box(es) checked at the bottom left of the page, as of the effective date indicated on the form. Details as to the scope of authority associated with the approval of a new program are provided in 95 HB-I, § 5.3 , under "Authorization to Offer a New Degree or Certificate Program".

Approved Conditionally
The college is given a limited approval. During that time, the college may obtain a full approval of unlimited duration by fulfilling whatever conditions are specified by the Chancellor's Office on the back of the Final Notification or in an letter accompanying that notification.

Termination Date
The date after which a college may no longer require courses which were authorized under a *limited* degree or certificate approval nor award that degree or

BEST COPY AVAILABLE

certificate to students other than those who were enrolled prior to this termination date. This space is left blank on notifications of full authorization.

Transfer Program Recorded
The new transfer program has been recorded in the Inventory of Approved Degree and Certificate programs with the TOP code indicated.

Forwarded for CPEC Review
The California Postsecondary Education Commission (CPEC) has a statutory obligation to review proposed new program approvals from each of the three segments of higher education and is given 60 days to do so. Their particular obligation is to review new program proposals across segments in order to minimize redundancy, facilitate transfer, and assure that state priorities are met. The standards that CPEC uses are included in Appendix C.

During the review period, you will receive an Interim Notice with this item checked once your program has been submitted to CPEC with a recommendation of approval. (See Item #1 for deadlines and turn-around times.)

Application Incomplete
Where no information at all has been provided on an item essential to conducting a fair review, this box is checked. The missing item is indicated by a check mark to the right of that item under the "Needed" column. Where not self-evident, further explanation of the documentation needed may be provided on the back of the form or in an accompanying letter.

Ordinarily when this box is checked, *no further action can be taken by the Chancellor's Office on the program until the college has forwarded the missing information.*

Additional Information Requested
This box is checked by the Chancellor's Office when the application includes documentation of an item, but the information contained therein is insufficient to determine whether or not approval of the program is justified with respect to the criterion under which the item falls. The insufficient item is identified by a check mark to the right of that item on the list of documentation, placed in the "?" column and the question explained on the back of the Interim Notice.

Depending upon the nature of the additional information needed, the program may be forwarded to CPEC at the same time as the Interim Notice is sent out. If so, that box under Item #36 will also be checked. If not, *no further action can be taken on the program until the college has forwarded the additional information.*

BEST COPY AVAILABLE

Revised Application Requested
This box is checked by the Chancellor's Office when the information contained therein could justify approval of the program, but only with modifications. In that case, the Chancellor's Office checks this box, indicates the insufficient item by a check mark to the right of that item on the list of documentation, placed in the "?" column, and explains the modifications needed.

Depending upon the nature of the changes needed, the program may be forwarded to CPEC at this time also. If so, that box under Item #36 will also be checked. If not, *no further action can be taken on the program until the college has forwarded the requested or required modifications, or an explanation rejecting them or proposing alternatives.*

Disapproved
Based upon the information provided in the application, the Chancellor's Office cannot justify that the objectives of the program requested fall within the *mission* of the community colleges, or that a program which meets these objectives is *needed* at this time, or that the *quality* of the program as designed would enable students to meet those objectives, or that it is *feasible* for the college to offer the program as designed, or that the design is in *compliance* with other relevant laws and standards, as explained on the back or in an accompanying letter.

Determination Delayed
On rare occasion, an Interim Notice may be checked, "Review Delayed." Such delay is occasioned when reviewers are unable to agree upon their recommendations or when a legal or policy question regarding the application is raised. Everything possible will be done in such circumstances to act upon the application promptly. Meanwhile, the college will be kept informed and should contact the Chancellor's Office as needed for an update.

Wherever appropriate, the college will be offered a limited approval to allow it to move forward while the supplementary review is carried out. It may be the case, however, that a limited approval is not deemed appropriate. In that case, the college cannot offer the program until the matter is resolved in a way that permits the program to be approved.

OTHER ACTION

Not Required
A college requests approval for an action not requiring state approval or for a program for which, according to Chancellor's Office records, it already has approval.

Withdrawn
A college decides not to seek approval and requests the Chancellor's Office not to act.

BEST COPY AVAILABLE

Closed
A college has not responded to a request for a missing part of the application, for additional information, or for a revised application, for six months or more since the request and is therefore presumed to be no longer interested in gaining approval to offer the program.

Terminated
The time for which a college was granted limited approval has elapsed. *(See Item #6.)*

CPEC Action
The determination of the California Postsecondary Education Commission (CPEC) is indicated as: **Concur, Information Needed, Nonaction, or Nonconcurrence.** In the event of a *non-concurrence* by CPEC, the Chancellor's Office will ordinarily approve the program only if the college successfully answers CPEC's concerns or if the program proposal itself is modified in such a way as to meet their objections.

Approved TOP
This code defines the category in the Taxonomy of Programs that the Chancellor's Office has determined best encompasses the objectives of the proposed program. *(See Item #7.)*

Effective Date
The date at which the authorization commences. This date is normally at the time of the approval. If the approval has been delayed, then the effective date is ordinarily six months from the time the application was received.

Authorization Granted
A check in one or more boxes at the bottom of the column indicates which level(s) of authority has been approved by the Chancellor's Office, as defined in Item #6.

BEST COPY AVAILABLE

California Community Colleges
Chancellor's Office

New Program Application
Chancellor's Office Review Checklist

This form will be used by the Chancellor's Office during new programs or course application review. It may also be useful as a quality control gauge to colleges preparing such applications.

Name of Program:	
Name of College:	
Name of Reviewer:	**Date of Review:**
Recommendation of Reviewer:	

Checklist Key			
+ =	Commended	? =	Too Little Information to determine
Yes =	Sufficient for Approval	No =	Insufficient for Approval

#	REQUIREMENTS	+	Yes	No	?
1.	**MISSION**				
	Are the objectives of the proposed program and its required courses consistent with the mission of the community colleges as formulated in Title 5/§55130(b)(5), 55180?				
2.	**NEED**				
	Is there a demonstrable need for a program that meets the objectives as stated at this time and in the region the college proposes to serve with the program?				
3.	**Quality** *(See Outlines of Record Checklist, 3a-d, on next two pages)*				
	Are the objectives of each required course clearly necessary to meet the stated goals and objectives of the program?				
	Are they sufficient? Will the successful completion of the work as laid out in the outlines of record submitted for each course required in the program be sufficient to enable students to fulfill the program goals and meet the state program objectives?				
	Are the outlines of record for each course complete, rigorous, current, and effective?				
4.	**FEASIBILITY**				
	Can the college commit the resources necessary to support the program for the proposed numbers of students at the level of quality presupposed in the program design and offer it with sufficient frequency to meet the program objectives and enrollment projections?				
5.	**COMPLIANCE**				
	Does the program comply with any other laws applicable to it, including federal regulations, licensing requirements, and the particular legal requirements explained in 4.8 of this Handbook?				

BEST COPY AVAILABLE

BEST COPY AVAILABLE

New Program Application
Checklist for Review of Course Outlines of Record
Criterion 3-QUALITY

3a.	COMPLETE?	+	YES	NO	?
	Does the standard format for outlines of record used by the college require all the information specified in Title 5 for such outlines, as follows: **The Course is described in a course outline of record which shall be maintained in the official college files and made available to each instructor. The course outline of record shall specify the unit value, scope, objectives, and content in terms of a specific body of knowledge. The course outline shall also specify types or provide examples of required reading and writing assignments, other outside of class assignments, instructional methodology and methods of evaluation for determining whether the stated objectives have been met by students....§55002(a)(3)**				
	Are the examples of textbooks, teaching methods, assignments, and evaluation prompts, etc. of sufficient substance and specificity, without being unduly prescriptive, to: • Guide the planning of instruction in different sections, by different instructors, some of whom may be new, such that the objectives can be equally well met by students of each section? • Enable students who read them to have a reasonable grasp of what will be expected of them? • Assure that student work will be assessed at comparable levels of rigor for those enrolled in different sections of the same course? • Permit the evaluation of the consistency and effectiveness of instruction in all sections of the course with respect to its agreed upon objectives?				
3b.	**RIGOROUS?**				
	Do the stated objectives of the course meet the standards expected by those who are accepting the course as fulfilling the purposes for which it is designed: including fulfilling a prerequisite for a subsequent course; meeting the general education, elective, or major requirements for the certificate, associate degree or baccalaureate; or fulfilling the requirement of the intended occupation?				
	Does the course meet the Standards of §55002a regarding critical thinking, writing, evaluation, and grading at the college level?				
	• Do the Objectives substantively integrate subject-specific critical thinking?				
	• Are these subject-specific objectives carried through in each of the other components of the outline, making it clear how critical thinking will be taught, required, and evaluated?				
	• Does the course require: **...a minimum of three hours of work per week, including class time, for each unit of credit, prorated for short term, laboratory and activity courses?** [CCR T5 §§55002a2B]				

BEST COPY AVAILABLE

New Program Application
Checklist for Review of Course Outlines of Record
Criterion 3-QUALITY

3b.	RIGOROUS?(cont.)	+	YES	NO	?
	• Does the Outline of Record provide a basis for determining comparable faculty and student achievement across sections? I.e. Does the outline of record indicate how the course will provide for: **"...measurement of student performance in terms of the stated course objectives ...culminating in a formal, permanently recorded grade based upon uniform standards...? [T.5 §55002(a)(2)(A)]**				
	• For a college level course, does the outline of record show that the grade a student earns will be: **"..based on demonstrated proficiency, at least in part, by means of essay, or, in courses where the curriculum committee deems them to be appropriate, problem solving exercises or skills demonstrations by students" [T5/§55002(a)(2)(A)]**				
	• Are these examples of evaluation methods substantive and course-specific enough to show how students will demonstrate fulfillment of the stated objectives of the course, especially as they apply to critical thinking?				
3c.	**CURRENT**				
	Do the course content, textbooks, software, adapted equipment, and other materials, including library assignments, represent current or emerging knowledge and practice?				
3d.	**EFFECTIVE**				
	Are the course objectives comprehensive enough that it is possible to trace the reason for *each* of the course specifications by reference to at least one course objective? Is each objective implemented in at least one course specification?				
	Are the course specifications *sufficiently coherent?* I.e.,**"Taken together, [will] these course specifications...typically enable any student who successfully completes all of the assigned work prescribed in the outline of record to successfully meet the course objectives.? " [T.5/§55002(a)(3)]**				
	That is, of these items required by law *can it be said that*: (a) The stated *evaluation methods* adequately indicate fulfillment of the course objectives as stated: *and*				
	b) The presentation to be made by the instructor, (i) of the required *content* (ii) in the required sequence (if any) and (iii) in the required amount (iv) with whatever *instructional methods* the instructor must employ; *and*				
	(c) The completion by the students (i) of the *assignments* (ii) to the required standard, (iii) using the required *materials,* (iv) in the specified instructional *setting,* (v) with the specified *equipment*				
	d) Are sufficient to enable (i) those students who would originally have been unable to do so (ii) to *meet the course objectives* (iii) as indicated by the specified *evaluation* process (iv) by the end of the course?				

BEST COPY AVAILABLE

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
The Commission's Role in the Review of Degree and Certificate Programs

II. Guiding Principles

In a system of postsecondary education consisting of a diversity of institutions offering a wide range of programs and services, the review of plans and programs must be guided by a concern for the broad public interest. It must encourage programs that will increase the knowledge and skills of individual citizens and be accessible to everyone with the ability and desire to benefit from them. It must support programs and activities that promise to advance the frontiers of knowledge. And it must seek to foster quality within each segment and institution, preserving institutional identity, initiative, and vitality in the process.

At the same time, it must be alert to possible unnecessary duplication of effort, excessive costs, and inefficiencies in the allocation of resources.

As defined in statute, the Commission's role in the review process is advisory. The Commission's recommendations will be based on criteria which, to varying degrees, should guide the process at all levels. While all of the criteria listed below must be taken into account, they cannot be assigned fixed weight in determining the need for every degree or certificate program. The criteria to be employed by the Commission in defining the public interest as it relates to academic and occupational programs, not necessarily listed in order of importance, are the following:

1. **Student Demand**

Within reasonable limits, students should have the opportunity to enroll in programs of study in which they are interested and for which they are qualified. Therefore, student demand for programs, indicated primarily by current and projected enrollments, is an important consideration in determining the need for a program.

2. **Societal Needs**

Postsecondary education institutions bear a responsibility to fulfill societal needs for trained manpower and for an informed citizenry. Even though projecting manpower needs is far from being an exact science, such projections serve as one indication of the need for an existing or proposed program. As a general rule, employment prospects for graduates constitute a more important consideration in those programs oriented toward specialized occupational fields; with certificate or associate degree programs, the local employment market tends to be more significant than in the case of graduate programs where the state and national manpower situation assumes more importance.

BEST COPY AVAILABLE

Recognizing the impossibility of achieving and maintaining a perfect balance between manpower supply and demand in any given career field, it nevertheless is important to both society and the individual student that the number of persons trained in a field and the number of job openings remain in reasonable balance.

3. Appropriateness to Institutional and Segmental Mission

Programs offered by any institution within a given segment must comply with the delineation of function for that segment set forth in the *California Master Plan*, as well as with its own statement of mission and special emphasis approved by the segmental governing body.

4. The Number of Existing and Proposed Programs in the Field

An inventory of existing and proposed programs, compiled by the Commission staff from the plans of all segments of postsecondary education, provides the initial indication of apparent duplication or undue proliferation of programs, both within and among the segments. The number of programs alone, of course, cannot be regarded as an indication of unnecessary duplication. Programs with similar titles may have varying objectives; the regional distribution of programs in public institutions is a consideration; and the level of instruction is a factor. In general, each program should be evaluated in relation to all other programs in the subject in order to ascertain if the program under review represents a responsible use of public resources.

5. Total Costs of the Program

The relative costs of a program, when compared with other programs in the same or different program areas, constitute another criterion in the program review process. Included in the consideration of costs are the number of new faculty required and the student/faculty rations; and the equipment, library resources, and facilities necessary to conduct the program. For a new program, it is necessary to know the source of the funds required for its support, both initially and in the long run.

6. The Maintenance and Improvement of Quality

The public interest demands that education programs at all levels be of the highest possible quality. While primary responsibility for the quality of programs rests with the institution and the segment, the Commission, for its part, is interested in indications that high standards have been established for the operation and evaluation of the program,. In the process, it is necessary to recognize that a proper emphasis on quality may require more than a minimal expenditure of resources.

7. The Advancement of Knowledge

The program review process should encourage the growth and development of creative scholarship. When the advancement of knowledge seems to require the continuation of existing programs or the establishment of programs in new disciplines or in new combinations of existing disciplines, such considerations as costs, student demand, or employment opportunities may become secondary.

BEST COPY AVAILABLE

DELEGATION CHECKLIST

This Form should be completed by college personnel and submitted to the Chancellor's Office annually according to a schedule to be published during 1995.

College Name:	**DATE:**
Name of Chief Instructional Officer	**Name of Academic Senate President:**
Signature of Chief Instruction Officer	***Signature of Academic Senate President***

First Condition	**KNOWLEDGE** on the part of all faculty and staff charged with curriculum review, of state standards and requirements for curriculum review and approval, and of the information in this Handbook, addenda, and related materials on curriculum design and instructional methods.
❑	***Availability of Materials*** This Handbook and/or locally developed handbooks or other materials are readily available to all those responsible for reviewing and recommending or approving curriculum. Local materials incorporate complete and correct explanations of the state standards as covered in the current version of the Curriculum Standards Handbook and addenda.
❑	***Reviewer Training*** As indicated in records maintained by the college, the training afforded the reviewers at a minimum includes current state standards, intersegmental expectations, and standards of good practice covered in the current version of the Curriculum Standards Handbook and addenda.
❑	***Updates & New Reviewer Orientation*** Maintained records also indicate that reviewers are regularly updated and new reviewers are provided with appropriate materials and training.
Second Condition	**PROCEDURES** employed by the curriculum committee and in other phases of the local curriculum development and approval process assure that standards will be applied with consistency and rigor to different cases, based upon input from all appropriate parties.
❑	***Identification of Reviewer Roles*** The roles and functions of all who review and recommend curriculum, including both curriculum committee members and those who are part of the process, even when not on the curriculum committee, are identified in the college handbook and are trained on this material wherever it falls within their responsibilities.
❑	***Course Review Materials*** Handbooks, checklists, sample outlines, and other aids used in the approval of courses correctly embody the five criteria for Chancellor's Office approval defined in Volume I and in: ♦ CCR §51022 Instructional Programs ♦ CCR §55002 Standards and Criteria for Courses and Classes ♦ CCR §55805.5 Types of Courses Appropriate to the Associate Degree ♦ CCR §55182 On the Reinstatement of Deleted Courses
❑	***Locally Developed Course Standards*** The materials provide the definitions mandated in CCR §55002 to local curriculum committees. They explicitly define end/or operationalize 'critical thinking' and 'college level'. Insofar as possible, they also explain when a degree credit course is sufficiently independent of reading or calculation skills as not to be covered by the requirement for essays or basic skills prerequisites (per CCR 55002)

BEST COPY AVAILABLE

DELEGATION CHECKLIST
(Continued)

Second Condition	**PROCEDURES** employed both by the curriculum committee and in other phases of the local curriculum development and approval process assure that standards will be applied with consistency and rigor to different cases. (CONTINUED)
☐	***Formats and Instructions*** Formats used for presenting course Outlines of Record or new programs assure that all components required in law are addressed. Forms require enough detail that the adequacy of each component may be fairly assessed and instructors and students using Outlines of Record may readily understand what is expected of them. Instructions for completion of course outlines and new program applications are complete and accurate.
☐	***Approval Process*** The local handbook or other materials clearly explain the process for new course and program approval including who is to be included, the criteria to be used, what information is to be supplied, the reasons for the required information, and the time frame.
☐	***Cross Discipline Review*** The process provides for input from those with discipline-specific expertise, resource expertise, and those outside the discipline who are affected by the course, such as instructors in courses specified as a prerequisite to the course in question, or who teach in a degree or certificate program serviced by that course, or who are at transfer institutions.
☐	***Time Allowance*** The time frame is sufficient to allow those included in the process to apply the standards responsibly.
☐	***Committee Composition and Charge*** The curriculum committee is constituted according to CCR §55002(a)1, is charged with determining the approvability of courses and otherwise affords faculty the scope of responsibilities mandated in CCR §53200, §53203, and §55002.
Third Condition	**CURRICULUM** ***Course Outlines of Record are in compliance with the criteria and standards specified in Sections 3 and 4 of the Curriculum Standards Handbook.***
☐	***Availability of Outlines of Record*** Outlines of Record on file at the college are current, are routinely distributed to faculty assigned to teach the courses they govern, and are made available to students.
☐	***Frequency of Curriculum Review*** Outlines of Record are reviewed frequently and thoroughly enough to assure rigor, effectiveness, and currency in the curriculum and continuing conformity with the standards defined in this Handbook and its updates. Prerequisites are reviewed at least every six years.
☐	***Outlines of Record in New Program Applications*** Outlines of Record included in applications for the approval of new programs, when submitted to the Chancellor's Office for approval, are judged to be an acceptable part of the application, relative to the general standards for courses explained in Sections 3 and 4 of this Handbook.
☐	***Intersegmental Review Results*** General education courses submitted for intersegmental review in connection with the Intersegmentel General Education Transfer Core or Executive Order 595 of the California State University system are usually accepted.

BEST COPY AVAILABLE

BEST COPY AVAILABLE

Examples of Program Modifications and New Programs

Non-Substantial Modifications

Changes to existing programs covered under the prior approval of an existing program and NOT requiring application to the Chancellor's Office for approval of a new program.

The following examples suggest the types of changes that are permissible under the general obligation of a college to maintain the currency and continuously improve the effectiveness of educational programs, with respect to the goals for which the program was originally approved:

- Fundamentally revising the curriculum and changing the program name of, for example, Secretarial Studies, Hotel Management, Auto Body Repair, or Drafting to reflect shifts in the industry based upon the adoption of technology
- Changing the emphasis in Journalism from print media to computer media and changing most courses accordingly
- Changing core course emphasis in Biology from studies of whole organisms and taxonomies to studies of molecular biology
- Combining CAD and CAM programs and changing the title of the Degree or Certificate to reflect the integration of those occupations occurring in the field.

These examples are meant to be illustrative only. The list is certainly not exhaustive of cases that would fall under this obligation. Nor, on the other hand, would all cases of the sort mentioned necessarily fall under it.

Substantial Modifications

Changes not covered under the prior approval of an existing program and requiring application to the Chancellor's Office for approval of a new program.

The following examples suggest the types of changes that go beyond the general obligation of a college to maintain currency and improve the effectiveness of educational programs, in that they define or are designed to meet a different set of goals from those for which the program was originally approved.

The approval questions that the substantial changes in the following examples would raise are included in *italics:*

BEST COPY AVAILABLE

- Combining existing courses in arts and humanities, social services, and biology, women's and ethnic studies to create a new Associate Degree in Women's Studies. *Would it meet the lower division requirements of a transfer major?*

- Adding an occupational certificate to a transfer broadcasting program. *Is there a viable job market?*

- Reducing the number of required courses for Industrial Supervision and splitting one program into two shorter term certificates, one in Quality Control and one in Industrial Relations, in order to attract more enrollments. *Will each of the new shorter certificates be adequate to the needs of the intended job market and will it have credibility in that market?*

Under such circumstances, the italicized questions would have to be addressed by the college, but if the resulting certificates were each under 18 units, they would not have to be submitted for Chancellor's Office approval.

- Instituting a new certificate in Restaurant Management, Photography, or any other specific industry that requires specialized expertise among faculty, new kinds of equipment or facilities, etc., as part of a Business Program. *Are the existing expertise, equipment and facilities adequate to the demands of these specialized fields?*

- Creating a new Paralegal Studies from existing courses in administration of justice, political science, and word processing; or a new Graphic Arts from existing art and computer courses. *Are the existing courses adequate for the* respective job markets?

- Changing the emphasis in a Child-Care certificate from parental care at home to day care as an occupation, in the home or onsite. *How adequate is the new certificate relative to state licensing requirements? What is the local demand for services?*

- Changing the emphasis in a transfer Journalism program, and combining existing courses in art, journalism, cinema, radio, and video, to create a new degree and certificate in Media Communications, with a new "capstone" course integrating these subjects. *Will this set of requirements be adequate to the job market and yield a certificate with sufficient credibility? Will the equipment be sufficiently current and can the college afford to keep it so?*

BEST COPY AVAILABLE

These examples are meant to be illustrative only. The list is certainly not exhaustive of cases that would constitute substantial changes. Nor, on the other hand, would all cases of the sort mentioned necessarily constitute such changes. Under circumstances peculiar to a given case, that seemed similar to those listed here, the Chancellor's Office might nonetheless determine that new approval was not needed.

The guiding principle is whether the changes are such as to make irrelevant the documentation originally submitted for approval of the existing program and thus to call into question whether one or more of the five criteria for approval (mission, need, quality, feasibility, and compliance) would still be met once the proposed changes have been implemented.

BEST COPY AVAILABLE

TITLE 5. EDUCATION

NOMENCLATURE CROSS–REFERENCE

(NOTE: Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross–Reference Table for the new organizational headings used in this Title.)

OLD HIERARCHY	REVISED HIERARCHY
Part	Division
Division	Chapter
Chapter	Subchapter
Subchapter	Article
Article	Subarticle
Section	Section

SENATE RULES COMMITTEE Office of Senate Floor Analyses 1020 N Street, Suite 524 (916) 445-6614 Fax: (916) 327-4478	AB 1918

THIRD READING

Bill No: AB 1918
Author: Romero (D)
Amended: 4/24/00 in Assembly
Vote: 21

SENATE EDUCATION COMMITTEE : 14-0, 6/14/00
AYES: Alpert, McPherson, Alarcon, Chesbro, Dunn, Hayden, Haynes, Hughes, Knight, Monteith, O'Connell, Ortiz, Sher, Vasconcellos

SENATE APPROPRIATIONS COMMITTEE : 11-0, 6/26/00
AYES: Johnston, Alpert, Bowen, Burton, Escutia, Johnson, Karnette, Kelley, Leslie, McPherson, Mountjoy
NOT VOTING: Perata, Vasconcellos

ASSEMBLY FLOOR : 73-0, 5/11/00 - See last page for vote

SUBJECT : Public postsecondary education: Access to Transfer Information for Community College Students Act

SOURCE : Author

DIGEST : This bill establishes the "Access to Transfer Information for Community College Students Act" to provide community college students with copies of the transfer core curriculum, as specified.

ANALYSIS : Current law requires the University of California (UC), the California State University (CSU) and the California Community Colleges (CCCs) to jointly

CONTINUED

develop, maintain and disseminate a common core curriculum in general education courses for the purposes of transfer. Anyone who has successfully completed this transfer core curriculum is deemed to have completed all lower division general education requirements for UC and CSU. This transfer core curriculum is commonly referred to as "IGETC" - the Intersegmental General Education Transfer Curriculum.

This bill creates the "Access to Transfer Information for Community College Students Act" to promote the dissemination of transfer related curriculum information to CCC students. Specifically, the bill:

1. Requires community college districts to provide each CCC student with a copy of the current transfer core curriculum, as defined.

2. Requires that a copy of the transfer core curriculum be distributed to each newly admitted CCC student who is enrolled in a degree or certificate program, as specified.

3. Requires CCC governing boards to publish the current transfer core curriculum in the class schedule each academic term.

4. Allows, as an alternative to publishing the transfer core curriculum in the class schedule pursuant to #3 above, CCC governing boards to distribute copies of the transfer core curriculum by any of the following means:

   A. During the registration process.

   B. By mail, as specified.

   C. Along with the issuance of student identification cards.

   D. During student orientation programs.

5. Specifies that these dissemination requirements not be construed to limit distribution.

Comments

Little Hoover Commission Findings . In March 2000, the Little Hoover Commission released a report entitled " Open Doors, Open Minds: Improving Access and Quality in California's Community Colleges ." Following are some of the points this report found:

1."The number of students who transfer is below expectations - despite a steady stream of legislative efforts and despite the fact that nearly a third of all CCC students say they want to transfer and 64% take transfer courses."

2."The effectiveness of transfer programs is a persistent issue."

3."Although a relatively small percentage of CCC student transfer to UC and CSU (3% or 65,756 students in 1996-97), in 1997-98, they comprised 32% of UC students awarded a BA degree and 60% of CSU graduates."

Intent . This bill appears to be an effort to facilitate the successful transfer of CCC students to UC and CSU. _

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: Yes

There are 107 community college districts with more than 1.5 million students enrolled. To provide these students with a copy of the transfer core curriculum is estimated to cost approximately $75,000 statewide in the first year. Each year the community colleges enroll approximately 50,000 new students. Providing this information to these students would result in minimal costs.

SUPPORT : (Verified 6/27/00)

California School Employees Association

ASSEMBLY FLOOR :
AYES Aanestad, Ackerman, Alquist, Aroner, Ashburn, Baldwin, Bates, Battin, Baugh, Bock, Briggs, Calderon, Campbell, Cardenas, Cardoza, Cedillo, Corbett, Correa,

Cox, Cunneen, Davis, Ducheny, Dutra, Firebaugh, Gallegos, Granlund, Havice, Honda, House, Jackson, Kaloogian, Keeley, Knox, Kuehl, Leach, Lempert, Leonard, Longville, Lowenthal, Machado, Maddox, Maldonado, Margett, Mazzoni, McClintock, Migden, Nakano, Olberg, Oller, Robert Pacheco, Rod Pacheco, Papan, Pescetti, Reyes, Romero, Runner, Scott, Shelley, Steinberg, Strickland, Strom-Martin, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wesson, Wiggins, Wildman, Zettel, Hertzberg
NOT VOTING: Brewer, Dickerson, Florez, Floyd, Frusetta, Wright, Vacancy

NC:cm 6/27/00 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

new senses was completely supplanted by *prize*, which is now a
nate word.
prize (prīz) *n.* [ME *prise* < OFr. < VLat. **presa* < Lat. *prehendere*, to
prize (prīz) *n.* [ME *prise* < OFr. < VLat. **presa* < Lat. *prehendere*, to
cal] 1. Something seized by force or taken as booty, esp. an enemy
p and cargo captured at sea during wartime. 2. An act of seizing :
carriage.
prize² *also* **prise** (prīz) *vt.* **prized, priz·ing, priz·es** *also*
prised, pris·ing, pris·es. [< obs. *prize*, instrument for prizing <
ch *prise* < OFr., grasp. —see PRIZE².] To move or force with or as if
ith a lever : PRY. —*n.* 1. Leverage. 2. *Regional.* Something used as a
ever.
prize·fight (prīz′fīt′) *n.* A match between professional boxers for
ney. —**prize′fight′er** *n.* —**prize′fight′ing** *n.*
prize ring *n.* 1. The platform enclosed by ropes in which boxers
ght. 2. Professional boxing.
prize·winner *n.* A winner of a prize.
prize-win·ning (prīz′wĭn′ĭng) *adj.* Having won a prize or being
ught deserving of such <*a prize-winning* performance>
pro (prō) *n., pl.* **pros.** [ME < Lat., for.] 1. An argument in support of
mething. 2. One who favors a proposal or takes the affirmative side
debate. —*adv.* In favor of. —*adj.* Supporting : favoring.
pro² (prō) [Short for PROFESSIONAL.] *Informal.* —*n., pl.* **pros.** 1. A
ofessional, esp. in sports. 2. An expert in a given field. —*adj.* Pro-
ofessional <*pro* tennis>
pro- *pref.* [ME < Lat. *pro*, for.] 1. Acting in the place of : substituting
r <*progesterone*> 2. Supporting : favoring <*pro*revolutionary>
pro- *pref.* [< Gk. *pro*, before, in front of.] 1. a. Earlier : prior to <*pro*-
ambin> b. Rudimentary <*pro*nucleus> 2. Anterior : in front of
<*pro*cambium>
pro·a (prō′ə) *n.* [< Malay *pĕrāhū*, prob. Marathi *padāv*.] A swift Ma-
ayan sailboat having a triangular sail and a single outrigger.
pro-abor·tion (prō′ə-bôr′shən) *adj.* Favoring or supporting legal-
zed clinical abortions. —**pro-a·bor′tion·ist** *n.*
pro·ac·tive or **pro-ac·tive** (prō-ăk′tĭv) *adj.* Acting in advance to
al with an expected difficulty : ANTICIPATORY. —**pro·ac′tion** *n.*
pro·ac′tive·ly *adv.*
pro·ba·bi·lism (prŏb′ə-bə-lĭz′əm) *n.* 1. *Philos.* The doctrine that
obability is adequate basis for belief and action, since certainty in
owledge cannot be attained. 2. *Rom. Cath. Ch.* The doctrine that
en there is uncertainty as to the moral rectitude of an action, the
inion that supports liberty may be followed, if it is substantially
obable, even though the contrary may be equally or even more prob-
. —**prob′a·bi·list** *n.* —**prob′a·bi·lis′tic** *adj.*
pro·ba·bil·i·ty (prŏb′ə-bĭl′ĭ-tē) *n., pl.* **-ties.** 1. The quality or
te of being probable : LIKELIHOOD. 2. A probable situation or event.
Math. A number expressing the likelihood of occurrence of a spe-
ic event, such as the ratio of the number of experimental results
at would produce the event to the total number of results considered
ssible. —**in all probability.** Most probably.
probability density *n.* 1. A function of a continuous random var-
ble, the integral of which, over a given interval, gives the probability
at the value of the variable will fall within the interval. 2. Calcu-
ted value of a probability density.
probability distribution *n.* 1. Probability density. 2. A function
a discrete random variable yielding the probability that the variable
ll have a given value.
probability theory *n.* A branch of mathematics that studies the
elihood of occurrence of random events for the purpose of predict-
g the behavior of defined systems.
pro·ba·ble (prŏb′ə-bəl) *adj.* [ME, provable < OFr. < Lat. *probabilis*
< *probare*, to prove.] 1. Apt to occur or to be true. 2. Relatively likely
t not certain : PLAUSIBLE. 3. Of or relating to moral opinions and
ctions for the lawfulness of which intrinsic reasons or extrinsic au-
rity may be adduced : PROVABLE.
probable cause *n. Law.* Reasonable grounds for belief that an ac-
used person is guilty as charged.
pro·ba·bly (prŏb′ə-blē) *adv.* Most likely : PRESUMABLY.
probang (prō′băng′) *n.* [Alteration of obs. *provang*.] A long slender
exible rod with a tuft or sponge at the end, for removing foreign bod-
es from the larynx or esophagus.
pro·bate (prō′bāt′) *n.* [ME *probat* < Lat. *probatum*, something
proved < *probare*, to prove < *probus*, good.] 1. a. Legal establishment
f the validity of a will. b. The process of legally establishing the va-
idity of a will. 2. The right to validate wills. —*vt.* **-bat·ed, -bat·**
ing, -bates. To establish the validity of (a will).
probate court *n.* A court with jurisdiction over probating wills and
dministering estates.
pro·ba·tion (prō-bā′shən) *n.* [ME *probacion* < OFr. < Lat. *probatio*,
< *probāre*, to test < *probus*, good.] 1. A period for testing one's
itness for membership in a working or social group. 2. *Law.* The ac-
ion of suspending the sentence of one convicted of a minor offense
nd granting the offender provisional freedom on the promise of good
ehavior. 3. A period when a student is allowed to redeem failing
grades or bad conduct. 4. The status of a probationer. —**pro·ba′-**
tion·al, pro·ba′tion·ar′y *adj.* —**pro·ba′tion·al·ly** *adv.*
pro·ba·tion·er (prō-bā′shə-nər) *n.* One on probation.
probation officer *n.* 1. An official charged with the care of juve-
nile delinquents. 2. A court officer who investigates, reports on, and
supervises convicted offenders on probation.
pro·ba·tive (prō′bə-tĭv) *also* **pro·ba·to·ry** (-tôr′ē, -tōr′ē) *adj.*
[ME *probatiffe* < Lat. *probativus* < *probare*, to prove < *probus*, good.]
1. Serving to test, try, or prove. 2. Supplying evidence or proof.
probe (prōb) *n.* [< Med. Lat. *proba*, examination < Lat. *probare*, to
test < *probus*, good.] 1. An object or device for investigating an un-
known configuration, condition, or region <a space *probe*> 2. A slen-
der flexible instrument for exploring a wound or body cavity. 3. The
act of exploring or searching with the aid of a probe. 4. An investiga-
tion, esp. an investigation of illegal practices <a congressional *probe*>
—*v.* **probed, prob·ing, probes.** —*vt.* 1. To explore with a probe.
2. To examine or investigate : delve into. —*vi.* To carry on an explor-
atory investigation : SEARCH. —**prob′er** *n.*
pro·ben·e·cid (prō-bĕn′ĭ-sĭd) *n.* [PRO(PYL) + BEN(ZOIC) + (A)CID.] A
derivative of benzoic acid, $C_{13}H_{19}NO_4S$, used medically as a drug
treating gout.
pro·bi·ty (prō′bĭ-tē) *n.* [OFr. *probite* < Lat. *probitas* < *probus*, hon-
est.] Complete integrity : UPRIGHTNESS.
prob·lem (prŏb′ləm) *n.* [ME *probleme* < OFr. < Lat. *problema* <
Gk. *problēma* < *proballein*, to throw out : *pro-*, forward + *ballein*,
to throw.] 1. A question or situation that presents doubt, perplexity, or
difficulty. 2. One who is difficult to deal with. 3. A question offered for
consideration, discussion, or solution.
prob·lem·at·i·cal (prŏb′lə-măt′ĭ-kəl) *also* **prob·lem·at·ic**
(-ĭk) *adj.* 1. Posing a problem. 2. Open to doubt : DEBATABLE.
—**prob′lem·at′i·cal·l y** *adv.*
prob·lem-o·ri·ent·ed language (prŏb′ləm-ôr′ē-ĕn′tĭd, -ōr′-)
n. Computer Sci. A programming language intended for use in solv-
ing a given set of problems.
pro bo·no (prō bō′nō) *adj.* [Lat., for the (public) good.] Done with-
out compensation for the public good.
pro·bos·cid·i·an (prō′bŏs-ĭd′ē-ən) *also* **pro·bos·ci·de·an**
(prō-bŏs′ĭ-dē′ən) *adj.* [< NLat. *Proboscidea*, order name < Lat. *pro-*
boscis, proboscis.] Of or belonging to the Proboscidea, an order of
mammals typified by a trunk or proboscis and including the elephant.
—*n.* An animal of the order Proboscidea.
pro·bos·cis (prō-bŏs′ĭs) *n., pl.* **-cis·es** *or* **-ci·des** (-ĭ-dēz′) [Lat. <
Gk. *proboskis* : *pro-*, in front + *boskein*, to feed.] 1. A long flexible
snout or trunk, as of an elephant. 2. The slender tubular feeding and
sucking structure of some insects and worms. 3. A human nose, esp.
a prominent one.
pro-bus·ing (prō-bŭs′ĭng) *adj.* Favoring or supporting the busing of
children to schools outside their neighborhoods as a way of achieving
racial integration.
pro·caine hydrochloride (prō′kān′) *n.* [PRO-¹ + (CO)CAIN.] A
white crystalline powder, $C_{13}H_{21}ClN_2O_2$, used as a local anesthetic.
pro·cam·bi·um (prō-kăm′bē-əm) *n. Bot.* A layer of undifferenti-
ated plant cells from which the vascular tissue is formed. —**pro·**
cam′bi·al *adj.*
pro·carp (prō′kärp′) *n. Bot.* A specialized female sex organ in cer-
tain algae.
pro·car·y·ote *also* **pro·kar·y·ote** (prō-kăr′ē-ōt′) *n.* [PRO-² +
Gk. *karuōtos*, having nuts.] A cellular organism, as a bacterium or
blue-green alga, the nucleus of which has no limiting membrane.
—**pro·car′y·ot′ic** (-ŏt′ĭk) *adj.*
pro·ce·dur·al (prə-sē′jər-əl) *adj.* Of or concerning procedure, esp.
of a court of law or parliamentary body. —**pro·ce′dur·al·ly** *adv.*
pro·ce·dure (prə-sē′jər) *n.* [Fr. *procédure* < OFr. < *proceder*, to pro-
ceed.] 1. A way of performing or effecting something. 2. A course of
action. 3. A set of established forms or methods for carrying on the
affairs of a business, legislative body, or court of law.
pro·ceed (prō-sēd′, prə-) *vi.* **-ceed·ed, -ceed·ing, -ceeds.** [ME
proceden < OFr. *proceder* < Lat. *procedere* : *pro-*, forward + *cedere*, to
go.] 1. To advance, esp. after an interruption : CONTINUE. 2. To under-
take and carry on an act or process. 3. To move on in a methodical
way. 4. To issue forth : ORIGINATE. 5. To institute and conduct legal
action. —**pro·ceed′er** *n.*
pro·ceed·ing (prō-sē′dĭng, prə-) *n.* 1. A course of action. 2. Con-
tinuation of an action. 3. **proceedings.** A succession of events tak-
ing place at a specific place or occasion. 4. **proceedings.** An official
record of business conducted by an organization : MINUTES. 5. *Law.* a.
proceedings. Litigation. b. The act of instituting or conducting lit-
igation.
pro·ceeds (prō′sēdz′) *pl.n.* The money obtained from a commercial
or fund-raising venture : YIELD.
pro·ce·phal·ic (prō′sə-făl′ĭk) *adj. Anat.* Situated on or close to
the front of the human head.
proc·ess¹ (prŏs′ĕs′, prō′sĕs′) *n., pl.* **proc·ess·es** (prŏs′ĕs′ĭz,
prō′sĕs′-, prŏs′ĭ-sēz′, prō′sĭ-) [ME *proces* < OFr. < Lat. *processus*,
advance < p.part. of *procedere*, to advance. —see PROCEED.] 1. A sys-
tem of operations in producing something. 2. A series of actions,
changes, or functions that achieve an end or result. 3. Passage of time.
4. Ongoing movement : PROGRESSION. 5. *Law.* a. A summons or writ